

APPENDIX A - ZONING ORDINANCE

*Footnotes:**--- (1) ---*

Editor's note— *Ord. No. 2001-4, adopted Aug. 13, 2001, amended in its entirety App. A, Zoning Ordinance of the City of Eaton Rapids, Michigan which has been passed and approved on March 22, 1971. The original arrangement, including article and section numbers, headings and catchlines, has been retained. The editor has made no changes in substantive provisions of the ordinance, but has added clarifying words, when necessary, with appropriate indications. Where appropriate, capitalization of words has been changed so as to provide for uniformity throughout this appendix.*

Cross reference— *Buildings and building regulations, Ch. 7.*

ARTICLE I. - GENERAL PROVISIONS AND DEFINITIONS

Sec. 1.10. - Preamble.

Pursuant to the authority conferred by Public Act 207, P.A. 1921 (P.A. 285), as amended, of the State of Michigan and for the purpose of promoting and protecting the public health, safety, peace, comfort, convenience, and general welfare of the inhabitants of the City of Eaton Rapids by protecting and conserving the character and social and economic stability of the residential, commercial, industrial, and other use areas, by securing the most appropriate use of land; preventing overcrowding; and facilitating adequate and economical provision of transportation, water, sewers, schools, recreation, and other public requirements; and by other means, all in accordance with a comprehensive plan. Now therefore the City of Eaton Rapids ordains:

Sec. 1.20. - Short Title.

This Ordinance shall be known and may be cited as the "City of Eaton Rapids Zoning Ordinance," and will be referred to herein as: "this Ordinance."

Sec. 1.30. - Construction of Language.

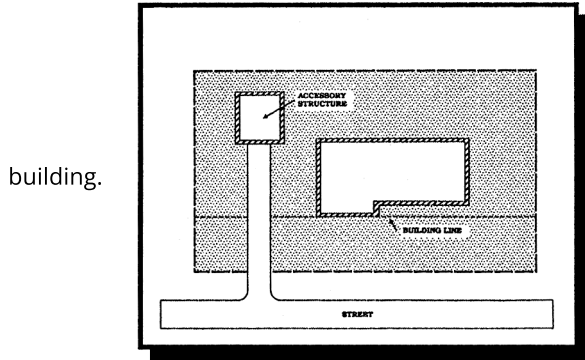
- A. For the purposes of this Ordinance, certain terms or words herein shall be interpreted as follows:
1. Words used in the present include the future tense, unless context clearly indicates the contrary.
 2. The singular includes the plural, unless the context clearly indicates the contrary.
 3. The word "person" includes an individual, a firm, an association, an organization, a corporation (public or private), a partnership or co-partnership, a limited liability company, an incorporated or unincorporated association, a trust, or any other entity recognizable as a "person" under the laws of the State of Michigan.
 4. The word "lot" is intended to mean the word "plot" or "parcel."
 5. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended", "arranged", or "designed to be used or occupied."
 6. The word "dwelling" includes "residence."
 7. The terms "abutting" or "adjacent to" include property "across from", such as across a street, alley, or an easement. This term shall also apply to adjacent zoning districts in an adjacent community.
 8. The term "act" or "doing of an act" includes "omission to act."
 9. The term "occupied" shall include "arranged," "designed," "built," "altered," "converted to," "rented," "leased," or "intended to be inhabited," not necessarily for dwelling purposes.
 10. Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either...or," the conjunction shall be interpreted as follows:

- a. "And" indicates that all the connected items, conditions, provisions or events shall apply.
 - b. "Or" indicates that all the connected items, conditions, provisions, or events shall apply singly or in any combination (i.e., "or" also means "and/or").
 - c. "Either...or" indicates that the connected items, conditions, provisions, or events may apply singly.
- B. The particular shall control the general.
 - C. In case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
 - D. The word "shall" is also mandatory and not discretionary. The word "may" is permissive.
 - E. The word "building" includes the word "structure." A "building" or "structure" includes any part thereof.
 - F. For the purposes of this Ordinance, terms not herein defined shall have the meaning customarily assigned to them.

Sec. 1.40. - Definitions.

For the purpose of this Ordinance, certain terms or words shall be defined as follows:

Accessory building: An accessory building or structure is a subordinate building or structure (e.g., gazebos, storage sheds, and garages) on the same lot, not a part of the main building, occupied by or devoted exclusively to an accessory use. A garage or utility area attached to a residence or connected to it by a common roof or covered breezeway is not considered to be an accessory



building.

Accessory Structure

Accessory use: An accessory use is a use naturally and normally incidental to, subordinate to, and auxiliary to the permitted use of the premises.

Adult day care facility: A facility which provides daytime care for any part of a day but less than twenty-four (24) hour care for functionally impaired elderly persons provided through a structured program of social and rehabilitative or maintenance services in a supportive group setting other than the client's home. Such facilities are not licensed, however those receiving funds through an area agency on aging must comply with adult day care standards promulgated by the Michigan Office of Services to the Aging.

Adult foster care facility: A governmental or nongovernmental establishment that provides supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks for compensation for adults over eighteen (18) years of age. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an on-going basis but who do not require continuous nursing care. An adult foster care facility does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation centers, or residential centers for persons released or assigned to a correctional facility. These facilities are licensed and regulated by the state under Michigan Public Act 218 of 1979, as amended, and rules promulgated by the Michigan Department of Consumer and Industry Services. Such facilities are classified further as follows:

1. *Adult foster day care congregate facility:* An adult foster care facility with the approved capacity to receive more than twenty (20) adults to be provided with foster care.

2. *Adult foster care small group home*: An adult foster care facility with the approved capacity to receive twelve (12) or few to be provided with foster care.
3. *Adult foster care large group home*: A private residence with the approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided with foster care.
4. *Adult foster care family home*: A private residence with the approved capacity to receive six (6) or fewer adults to be provided with foster care for twenty-four (24) hours a day for five (5) or more days a week and for two (2) or more consecutive weeks. The adult foster care family home licensee must be a member of the household and an occupant of the residence.

Adult regulated uses or sexually oriented businesses: Any business which primarily features sexually stimulating material and/or performances, including the following:

1. *Adult bookstore*: An establishment having a substantial portion [more than twenty (20) per cent] of its stock in trade books, magazines, and other periodicals, and/or photographs, drawings, slides, films, video tapes, recording tapes, and novelty items which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," (as defined herein) or an establishment with a segment or section devoted to the sale or display of such material, which segment or section exceeds ten (10) per cent of the useable floor area of the establishment.
2. *Adult cabaret*:
 - a. *Group A cabaret*: An establishment which features nude or semi-nude entertainers, topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, nude or semi-nude waitresses or waiters, or similar entertainers, or an establishment which features live entertainment distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas," (as defined herein) for observation by patrons therein.
 - b. *Group B cabaret*: An establishment licensed by the Michigan Liquor Control Commission, which offers beer or intoxicating liquor for consumption on the premises and features nude or semi-nude entertainers, topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, nude or semi-nude waitresses or waiters, or similar entertainers, or which features live entertainment distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas," (as defined herein) for observation by patrons therein.
3. *Adult model studio*: Any place where models who display "specified anatomical areas," (as defined herein) are present to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons who pay some form of compensation or gratuity. This definition shall not apply to any accredited art school or similar educational institution.
4. *Adult motion picture arcade or miniature motion picture theater*: Any place where motion picture machines, projectors, or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images displayed depict, describe, or relate to "specified sexual activities" or "specified anatomical areas," (as described herein).
5. *Adult movie theater or adult live stage performing theater*: An enclosed building or room used for presenting motion picture films, video tapes, cable or satellite television, or any other visual media having as a dominant theme, materials distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activity" or "specified anatomical areas," (as defined herein) for observation by patrons therein. Such an establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.
6. *Adult outdoor motion picture theater*: A drive-in theater where a substantial portion of the material presented is

distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" (as defined herein) for observation by patrons of the theater. Such establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.

7. *Adult personal service business:* A business having as its primary activity a person, while nude or while displaying "specified anatomical areas," (as defined herein), providing personal services for another person. Such a business includes, but is not limited to, modeling studios, body painting studios, wrestling studios, and conversation parlors. Any establishment, club, or business by whatever name designated, which offers or advertises, or is equipped or arranged to provide as part of its services; massages, body rubs, body painting, alcohol rubs, physical stimulation, baths, or other similar treatment by any person. An adult personal service establishment may include, but is not limited to, establishments commonly known as massage parlors, health spas, sauna baths, Turkish bathhouses, and steam baths. The following uses shall not be included within the definition of an adult personal service establishment:
 - a. Establishments that routinely provide such services by a licensed physician, a licensed chiropractor, a licensed physical therapist, a licensed nurse practitioner, or any other similarly licensed or certified medical professional;
 - b. Establishments which offer massages performed by certified massage therapists;
 - c. Gymnasiums, fitness centers, and health clubs;
 - d. Electrolysis treatment by a licensed operator of electrolysis equipment;
 - e. Continuing instruction in martial or performing arts, or in organized athletic activities;
 - f. Hospitals, nursing homes, medical clinics, or medical offices;
 - g. Barber shops, beauty parlors, hair stylists and salons which offer massages by certified massage therapists; and
 - h. Adult photography studios whose principal business does not include the taking of photographs of "specified anatomical areas," (as defined herein).
8. *Adult video store:* An establishment having a substantial portion of its stock in trade devoted to the distribution, display, storage, or on-premises viewing of films, movies, motion pictures, video tapes, slides, or other visual representations which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," (as defined herein), or an establishment with a segment or section devoted to the sale or display of such material.
9. *Sexual paraphernalia store:* An establishment having a substantial portion of its stock in trade devoted to the distribution, display, or storage of instruments, devices, or paraphernalia designed for use related to "specified anatomical areas" or as part of, in connection with, or related to "specified sexual activities," (as defined herein), or an establishment with a segment or section devoted to the sale or display of such material.
10. *Special definitions.* With respect to adult regulated uses or sexually oriented businesses, the following terms and phrases shall have the following meanings:
 - a. *Substantial portion:* A use or activity accounting for more than twenty (20) per cent of any one or more of the following: stock in trade, sales revenue, display space, floor space, viewing time, movie display time, or entertainment time measured per month.
 - b. *Specified anatomical areas:* Portions of the human body defined as follows:
 - 1) Less than completely and opaquely covered:
 - a) Human genitalia and pubic region;
 - b) Buttock and anus; and
 - c) Female breast below a point immediately above the top of the areola; or

- 2) Human male genitalia in a discernibly turgid state, even if completely and opaquely covered.
- c. *Specified sexual activities:* The explicit display of one or more of the following:
 - 1) Human genitals in a state of sexual stimulation or arousal;
 - 2) Fondling or other erotic touching of human genitalia, pubic region, buttocks, anus, or female breast;
 - 3) Human sex acts, normal or perverted, actual or simulated including, but not limited to human masturbation, oral copulation, sexual intercourse, or sodomy;
 - 4) Human excretory functions as part of, or as related to, any of the activities described above;
 - 5) Physical violence, bondage, mutilation, or rape, actual or simulated, as part of or related to, any of the activities described above.
- d. *Sexual intercourse:* Fellatio, cunnilingus, anal intercourse, or any other intrusion, however slight, of any part of a persons body, or of any object, into the genital or anal openings of another's body.
- e. *Sodomy:* Sexual bestiality.
- f. *Buttock:* The anus and perineum of any person.
- g. *Massage parlor:* An establishment wherein private massage is practiced, used, or made available as a principal use of the premises.
- h. *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 for a fee.
- i. *Nude modeling studio:* Any building, structure, premises, or a part thereof used primarily as a place which offers as its principal activity the providing of models to display specified anatomical areas for artists and photographers for a fee.

Agricultural use: An agricultural use is any land or building used for a purpose of producing grain, fruit, nursery stock, dairy products, vegetables, livestock or fowl, or other crops and animal husbandry.

Alley: An alley is a dedicated public way providing a secondary means of ingress to or egress from land or structures thereon, as designated upon the zoning map.

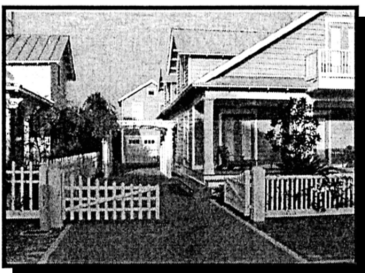
Alteration: The term alteration means any change, additional, or modification in construction or type of occupancy; any change in structural members of a building, such as walls, partitions, columns, beams, girders, or any changes which may be referred to herein as "altered" or reconstructed.

Antenna: Any exterior transmitting or receiving device mounted on a tower, 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.

Apartment: A room or suite of rooms used as dwelling for one (1) family or a group of individuals living together as a single housekeeping unit, which does its cooking therein.

Apartment, accessory: A single apartment unit contained within a single-family home or separate from, but contained within the same lot as a single-family home, meeting the regulations of this Ordinance. Commonly referred to as a "mother-in-law"

apartment.



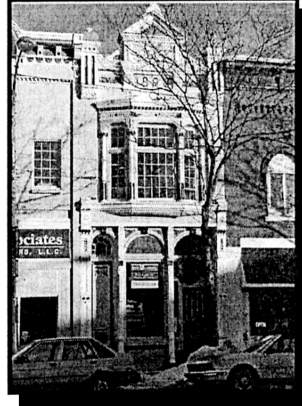
Accessory Apartment

Apartment house: An apartment house is a residential structure containing three (3) or more apartments.

Appeal: An entreaty or demand for a hearing or review of facts and/or actions in connection with the public enforcement of this Ordinance.

Architectural features: Shall include cornices, eaves, gutters, belt courses, sills, lintels, bay windows, chimneys, and decorative

ornaments found on buildings, residential or nonresidential.

Architectural Features

Arcade: A building or portion thereof which contains coin-operated mechanical amusement devices, video games, etc. for use by the general public.

Art gallery: A building or portion thereof used for the display of paintings, photographs, textiles, etc., which may or may not include retail sales related to the art work.

Area, gross site: The total area of a planned unit development site including flood plains and water bodies.

Automotive fueling station: A place where engine fuels are offered for sale (stored only in underground tanks), excluding facilities for automotive repair or servicing, and with or without accessory space for the retail sale of automotive or general merchandise.

Automotive repair station: A place, where along with or without the sale of engine fuels, the following services may be carried out in a completely enclosed building: general repair; engine and transmission rebuilding, or recondition or motor vehicles; collision services, such as body, frame, or fender straightening and repair, steam cleaning, or undercoating and rust proofing; overall painting and undercoating of automobiles; clutch, differential, axle, and spring repairs; repairs of the radiator that require removal; recapping or retreading of tires; and similar servicing, rebuilding or repairs that normally require significant disassembly or storing the automobiles on the premises overnight.

Automotive service center/station: A building or structure designed or used for the retail sale or supply of fuels, lubricants, air, water, and other operating commodities for motor vehicles, aircraft, or boats, and including the customary space and facilities for the installation of such commodities on or in such vehicles, and including space for facilities for the temporary storage of vehicles not over forty-eight (48) hours, minor repair, or servicing that do not normally require any significant disassembly of the vehicle.

Automobile wash establishment: A building, or portion thereof, the primary purpose of which is washing motor vehicles, either with self-service mechanisms or with the use of a chain conveyor and blower.

Bank: An establishment for the custody, loan, exchange, or issue of money, for the extension of credit, and for facilitating the transmission of funds by drafts or bills of exchange. May not include drive-in teller windows, booths, and accessory buildings, automated teller machines, etc. designed to serve customers either in their automobiles or on foot.

Bar, cocktail lounge, or night club: An establishment licensed by the State of Michigan to sell at retail and serve alcoholic beverages on the premises where more than thirty (30) per cent of the gross floor area is made up of a bar, being a barrier or counter at which any alcoholic beverages are sold or served to and consumed by customer, and also including areas dedicated for the use of stages, dance floors, standing-room areas, pool tables, and similar mechanical amusement devices.

Base flood: A flood having a one (1) per cent chance of being equaled or exceeded in any given year.

Basement: A portion of a building partly or wholly below the finished grade level and so located that the vertical distance from said grade level to its floor is greater than the vertical distance from said grade level to its ceiling. A basement shall not be counted as a story unless over fifty (50) per cent of its height is above the level from which the height of the building is measured, or it is used for dwelling purposes by other than a janitor or domestic servant in the same building, including the family of the same.

Bedroom: A room in a dwelling unit used for or intended to be used solely for sleeping purposes by human beings.

Berm: A mound of soil graded, shaped, and improved with landscaping in such a fashion so as to be utilized for screening purposes.

Billboard (off-premises signs): A type of advertising that is either erected on the ground or attached to, painted on, or supported by a building, which directs attention to a business commodity, service, entertainment, or other activity conducted, sold, or offered at a place other than on the premises on which the sign is located.

Block: The property abutting one (1) side of a street and lying between the two (2) nearest intersecting streets and unsubdivided acreage, lake; or between any of the foregoing, and any other barrier, to the continuity of development.

Board of zoning appeals: The board of zoning appeals of the City of Eaton Rapids.

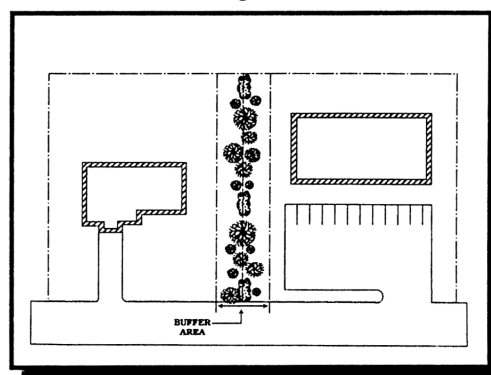
Boarding house: A boarding house is a dwelling where meals, or lodging and meals, are provided for compensation to three (3) or more persons by pre-arrangement for definite periods of not less than one (1) week. A boarding house is to be distinguished from a hotel, motel, or a convalescent or nursing home.

Boat: Boats, floats, rafts, and the attached normal equipment to transport the same on highways.

Brewpub: A restaurant or tavern (as defined in this Ordinance), licensed by the State of Michigan to produce and manufacture not more than five thousand (5,000) barrels of beer per calendar year in Michigan, and sell at retail on the premises the beer produced and manufactured for consumption on or off the premises in the manner provided for in MCLA 436.31b and 426.31c.

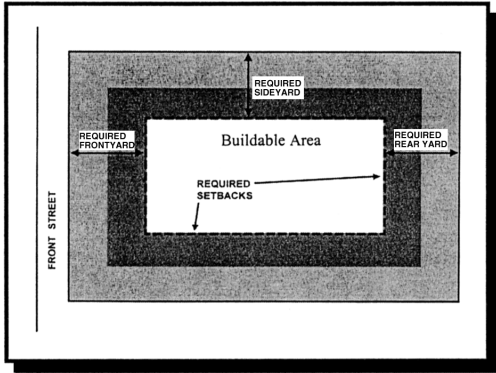
Buffer zone: A strip of land often required between certain zoning districts or land uses reserved for plant material, berms,

walls, or fencing to serve as a visual barrier.



Buffer Zone

Buildable area: The space remaining after the minimum setback requirements of the Ordinance have been met.

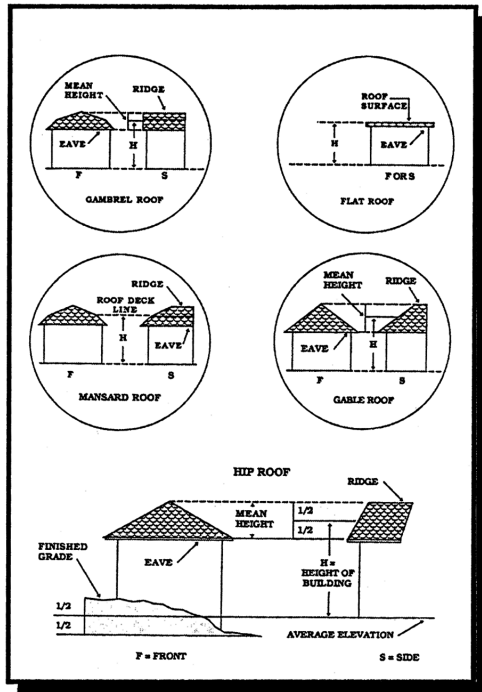


Buildable Area

Building: A structure, either temporary or permanent, having a roof supported by columns or walls for the shelter, support, or enclosure of persons, animals, or chattel, is a building. This shall include tents, awnings, or vehicles situated on private property and used for the purposes for a building. When any portion thereof is completely separated from every other part thereof, by division, walls from the ground up, and without openings, each portion of the such building shall be deemed a separate building.

Building, accessory: A supplementary building or a portion of a main building, the use of which is incidental to, customarily found in connection with, devoted exclusively to, and subordinate to that of the main building. "Accessory building", includes garages, garden equipment sheds, small greenhouses, swimming pools, and accessory apartments.

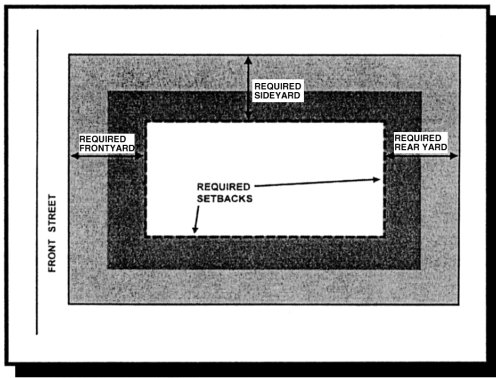
Building height: The vertical distance measured from the reference level to the highest point of the roof surface if a flat roof; to the deck of mansard roofs; and to the mean height level between eaves and ridge of gable, hip, and gambrel roofs.



Building Height

Building inspector: The building inspector of the City of Eaton Rapids or his authorized representative.

Building line (setback line): A line established in general, parallel to the front street right-of-way line between which line and the front line, no part of a building shall project, except as otherwise provided in this Ordinance.



Setback Lines

Building permit: The written authority issued by the building inspector permitting the construction, removal, moving, alteration, or use of a building in conformity with the provision of this Ordinance.

Building, public and semi-public institutional: Buildings and structures of governmental agencies, and non-profit organizations including, but not limited to office buildings (used exclusively for this purpose), churches, municipal parking lots, post offices, libraries, and community centers.

Build-to line: An alignment that dictates the front yard setback from a street or public right-of-way to be followed by buildings or structures fronting thereon. The build-to line does not apply to building projections or recesses.

Building supply center: A commercial enterprise that sells building materials including, but not limited to lumber, plumbing supplies, electrical supplies, etc., to either the general public or to contractors.

Camper, pick-up: A recreational unit designed to be mounted on a pick-up or truck chassis, with sufficient equipment to render it suitable for use as a temporary lodging for travel, recreational, and vacation uses.

Canopy tree: A deciduous tree whose mature height and branch structure provide foliage primarily on the upper half of the tree. The purposes of a canopy tree are to shade to adjacent ground areas and to enhance aesthetics.

Catering establishment: A building or portion thereof used for the preparation of food for consumption on the premises of the same by those who have rented or leased the facility. Also referred to as a banquet center.

Cellar: A portion of a building having more than one-half ($\frac{1}{2}$) of its height below grade (see also Basement).

Cemetery: Land used or intended to be used for burial of the human dead and dedicated for such purpose.

Certificate of occupancy: A certificate issued by the building inspector, after final inspections, indicating his or her opinion that all the provisions of this Ordinance are being complied with and met. No building or structure or use for which a zoning permit has been issued shall be occupied until the building inspector has, after final inspection, issued a certificate of occupancy (CO). The issuance of a certificate of occupancy shall in no case be construed as waiving any provisions of this Ordinance.

Child care organization: A governmental or nongovernmental organization having as its principal function, the receiving of minor children for care, maintenance training, and supervision, notwithstanding that educational instruction may be given. These facilities care for children under the age of eighteen (18) years of age, and are licensed and regulated by the State under Act No. 116 of the Public Acts of 1973, as amended and Act No. 218 of the Public Acts of 1979, as amended, and the associated rules promulgated by the State Department of Consumer and Industry Services. Such care organizations are classified as below:

1. *Child care center or day care center:* A facility other than a private residence, receiving one (1) or more pre-school or school aged children for group day care for periods of less than twenty-four (24) hours a day, and where the parents

or guardians are not immediately available to the child. It includes a facility which provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day.

The facility is generally described as a child care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. "Child care center" or "day care center" does not include a Sunday school conducted by a religious institution or a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.

2. *Child caring institution*: A child care facility which is organized for the purpose of receiving minor children for care, maintenance, and supervision, usually on a twenty-four (24) hour basis, in a building maintained for that purpose, and operate throughout the year. It includes a maternity home for the care of unmarried mothers who are minors, an agency group home, and institutions for mentally retarded or emotionally disturbed minor children. It does not include hospitals, nursing homes, boarding schools, or an adult foster care facility in which a child has been placed.
3. *Foster family home*: A private home in which one (1) but not more than four (4) minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.
4. *Foster family group home*: A private home in which more than four (4) but less than seven (7) children, who are not related to an adult member of the household by blood, marriage, or adoption, are provided care for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.
5. *Family day care home*: A private home in which more than one (1) but less than seven (7) minor children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks during a calendar year.
6. *Group day care home*: A private home in which more than six (6) but not more than twelve (12) children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian except children related to an adult member of the family by blood, marriage, or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks during a calendar year.

Church: A building, the primary use of which is regular assembly of persons for religious worship or services, together with accessory uses.

Clinic: An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists, or similar professionals on an outpatient basis only. A clinic may incorporate customary laboratories and pharmacies incidental or necessary to its operation or to the service of its patients, but may not include facilities for inpatient care or major surgery.

Club: An organization of persons for special purposes or for the promulgation of agriculture, sports, arts, science, literature, politics, or the like, but not for profit.

Cluster housing: A group of buildings and especially houses built close together to form relatively compact units on a sizeable tract in order to preserve open spaces and environmentally sensitive areas larger than the individual yards for common recreation.

Commercial adult use marijuana establishment or facility means one (1) of the following:

1. *Marijuana retailer*, as that term is defined in the Michigan Regulation and Taxation of Marijuana Act, 2018 IL 1, MCL 333.27951, et seq. ("MRTMA");
2. *Marijuana processor*, as that term is defined in the MRTMA;
3. *Secure transporter*, as that term is defined in the MRTMA;

4. *Marihuana grower*, including Class A, Class B and Class C, as those terms are defined in the MRTMA;
5. *Safety compliance facility*, as that term is defined in the MRTMA.

Commercial medical marihuana facility or facility means one (1) of the following:

1. *Provisioning center*, as that term is defined in the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016 ("MMFLA");
2. *Processor*, as that term is defined in the MMFLA;
3. *Secure transporter*, as that term in the MMFLA;
4. *Grower*, including Class A, Class B and Class C, as those terms are defined in the MMFLA;
5. *Safety compliance facility*, as that term is defined in the MMFLA.

Commission: The City of Eaton Rapids Planning Commission.

Condominium: A system of separate ownership of individual units and/or multiple unit projects according to Public Act 59 of 1978, as amended. In addition to the interest acquired in a particular unit, each unit owner is also a tenant in common in the underlying fee and in the spaces and building parts used in common by all the unit owners.

Condominium Act: State of Michigan Public Act 59 of 1978, as amended.

Condominium, contractible: A condominium project from which any portion of the submitted land or building may be withdrawn in pursuant to express provisions in the condominium documents and in accordance with the City of Eaton Rapids Code of Ordinances.

Condominium, conversion: A condominium project containing condominium units some or all of which were occupied before the establishment of the condominium project.

Condominium, convertible area: A unit or portion of the common elements of the condominium project referred in the condominium documents within which additional condominium units or general or limited common elements may be created pursuant to provisions in the condominium documents and in accordance with this Ordinance and the Condominium Act.

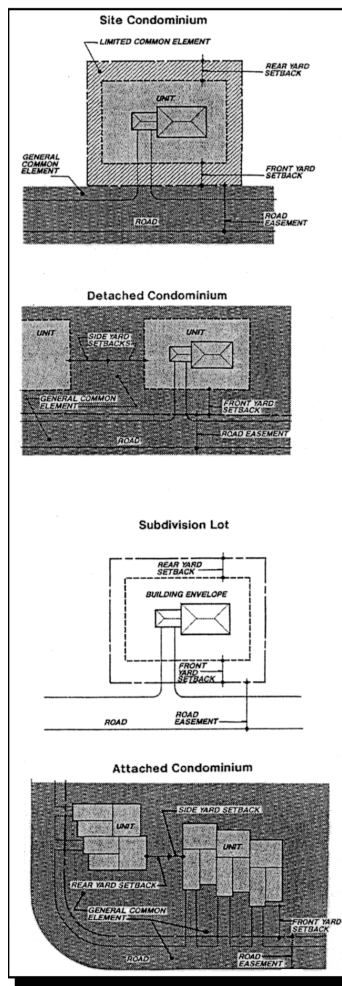
Condominium, expandable: A condominium project to which additional land may be added pursuant to express provision in the condominium documents and in accordance with this Ordinance and the Condominium Act.

Condominium, general common element: The common elements other than the limited common elements intended for the common use of all of the co-owners.

Condominium, limited common element: A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.

Condominium, site condominium project: A condominium project designed to function in a similar manner, or as an alternative to a platted subdivision. A residential site condominium project shall be considered as equivalent to a platted subdivision for purposes of regulation in this Ordinance.

Condominium subdivision plan: Drawings and information which show the size, location, area, and boundaries of each condominium unit, building locations, the nature, location, and approximate size of common elements, and other information required by Section 66 of Public Act 59 of 1978, as amended.



Condominium Terminology.

Condominium unit site (i.e., site condominium lot): The area designating the perimeter within which the condominium unit must be built. After construction of the condominium unit, the balance of the condominium site shall become a limited common element. The term "condominium unit site" shall be equivalent to the term "lot" for purposes of determining compliance of a site condominium subdivision with the provisions of this Ordinance pertaining to minimum lot size, minimum lot width, minimum lot coverage, and maximum floor area ratio.

Condominium unit: The portion of the condominium project designed and intended for separate ownership as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, time-share unit, or any other type of use.

Convalescent home or nursing home: A home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders, wherein two or more persons are cared for. Said homes shall conform and qualify for licenses under applicable state laws.

Convenience store: A retail establishment offering for sale pre-packaged food products, household items, newspapers, magazines, sandwiches and other freshly prepared foods, for off-site use and/or consumption.

Court: An open unoccupied space other than a yard on the same lot with a building or group of buildings and which is bounded on two or more sides by such building or buildings.

Cul-de-sac: A dead-end public or private street which terminates in a circular or semi-circular section of street which allows for vehicle turnaround.

Density: The number of dwelling units situated on or to be developed per net or gross acre of land.

Detention facility: A facility designed for holding stormwater runoff for a short period of time and then releasing it to the natural watercourse where it returns to the hydrologic cycle.

Development: The construction of a new building or other structures on a zoning lot, the relocation of an existing building on another zoning lot, or the use of open land for a new use.

Development plan: A scaled drawing which shows the existing conditions, the location and dimensions of improvements upon a parcel of land, including but not limited to, location and size of buildings, driveways, parking areas, landscaping, sidewalks, signs, sewage systems, and drainage facilities, environmental features, and other elements required herein as applicable to the proposed development to ensure compliance with this Ordinance.

District: A portion of the city within which, on a uniform basis, certain uses of land and buildings are permitted and within which certain yards, open spaces, lot areas, and other requirements are established. This term is synonymous with the terms "zone" or "zoning district."

Drainage ways and streams: Existing permanent or intermittent watercourses.

Drive-in establishment: A business establishment so developed that its principal retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicles. Examples include but are not limited to, restaurants, cleaners, banks, and theaters.

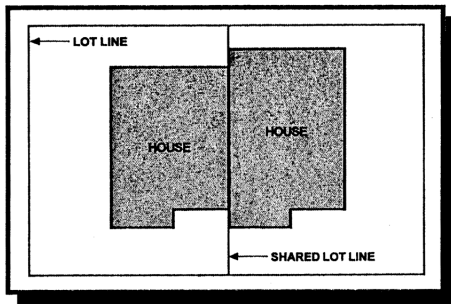
Drive-through establishment: A business establishment so developed that its principal retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles to service patrons from a window or booth while in their motor vehicles, rather than within a building or structure, so that consumption off-premises may be facilitated.

Dwelling: Any structure, building, or portion thereof, on-site built, pre-fabricated, pre-assembled, or pre-built, having cooking facilities and which is designed, used, and occupied wholly as a home, residence, or sleeping place for complete living accommodations of one (1) family, either permanently or transiently, complying with not less than the following minimum standards:

1. *Foundation:* The structure must be firmly and permanently attached to a solid block, poured-in-place concrete, stone foundation, or other suitable materials, set upon concrete footings, below the frost level. Said foundation shall completely extend from the structure to said footings and enclose the entire perimeter of the structure. Said foundation and footings shall be constructed in accordance with the building code and all pertinent state regulations, (except mobile homes located within a licensed mobile home park);
2. *Width:* The exterior width of any structure as measured along the width of the building site and also as measured along the depth of the building site shall not be less than twenty-four (24) feet, (except mobile homes located within a licensed mobile home park);
3. *Eaves:* All structures shall have an eave overhang of not less than one (1) foot as measured horizontally from the side of the structure to the outside edge of the eave, (except mobile homes located within a licensed mobile home park);
4. *Wheels:* No structure shall have exposed wheels, towing mechanism, or undercarriage, and
5. *Kitchen and bath:* The structure contains a full kitchen and a lavatory and bathing facilities in a separate room.

In no case shall a travel trailer, motor home, automobile chassis, tent, or other portable building be considered a dwelling. In cases of mixed occupancy, where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purposes of this Ordinance and shall comply with provisions hereof relative to dwellings.

Dwelling, attached: A dwelling unit attached to one (1) or more dwelling units by common major structural elements.



Attached Dwelling.

Attached Dwelling

Dwelling, detached: A dwelling unit which is not attached to any other dwelling unit by any means.

Dwelling, efficiency unit: A dwelling unit consisting of one (1) room, exclusive of a bathroom, kitchen, hallway, closet, or dining alcove directly off the principal room providing not less than three hundred fifty (350) square feet of floor area.

Dwelling, manufactured: A building or portion of a building designed for long-term residential use and characterized by all of the following:

1. The structure is produced in a factory in accordance with construction standards recognized by the Michigan Manufactured Housing Commission;
2. The structure is designed to be transported to the site in a nearly complete form, where it is placed on a foundation and connected to utilities; and
3. The structure is designed to be used as either an independent building or as a module to be combined with other elements to form a complete building on the site.

For purposes of this Ordinance, a mobile home is considered a type of manufactured dwelling.

Dwelling, mobile home: A structure, transportable in one (1) or more sections, which is built upon 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 within the structure. Recreational vehicles as described and regulated herein, shall not be considered "mobile homes" for the purposes of this Ordinance (see Mobile Home (Manufactured Housing Unit)).

Dwelling, multiple: A building or portion thereof used or designed as a residence for two (2) or more families living independently of each other and doing their own cooking in said building. This definition includes two-family houses, three-family houses, four-family houses, and apartment houses, but does not include hotels, motels, trailer camps, or mobile home parks.

Dwelling, row or terrace: A row of three (3) or more attached one-family dwellings, not more than two and one-half (2½) stories in height in which each dwelling has its own front and rear entrances.

Dwelling, single-family: A building designed for or occupied by only one (1) family.

Dwelling, site-built: A dwelling unit which is substantially built, constructed, assembled, and finished on the premises which are intended to serve as its final location. Site-built dwelling units shall include dwelling units constructed of pre-cut materials, and paneled wall, roof, and floor sections when such sections require substantial assembly and finishing on the premises which are intended to serve as its final location.

Dwelling, two-family: A building designed for or occupied exclusively by two (2) families living independently of each other.

Easement: A designated route or area granted to the city, a public entity, a private entity, or a private individual or reserved by the same across, into, and over a described area of a lot, yard, or other area of land either owned by the city or privately owned for use by the city, public entity, a private entity, or a private individual.

Erected: Built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage, and the like shall be considered a part of erection.

Essential public service building: A building or structure principal or accessory to an essential public service.

Essential public service building storage yard: An outdoor storage area principal or accessory to an essential public service.

Essential services: The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, towers poles, and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by public utilities or municipal department or commission or for the public health or general welfare, but not including buildings other than such buildings as are primarily enclosures or shelters of the above essential service equipment. Telecommunication towers or facilities, alternative tower structures, and wireless communication facilities antenna are specifically excluded from this definition.

Excavating: The removal of sand, stone, gravel, or fill dirt below the average grade of the surrounding land and/or road grade, whichever shall be the highest, excluding common household gardening and ground care.

Family: An individual or group of two (2) or more persons related by blood, marriage, or adoption, together with foster children or servants of the principal occupants, with not more than three (3) additional unrelated persons, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit; or a collective number of individuals domiciled together in one (1) dwelling unit whose relationship is of a continuous, nontransient, domestic character and who are cooking and living as a single, nonprofit housekeeping unit. This definition shall exclude any society, club, fraternity, sorority, association, lodge, coterie, organization or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms of other similar determinable periods.

Fence: An accessory structure of definite height and location intended to serve as a physical barrier to property ingress or egress, a screen from objectionable vista or noise, a marker, an enclosure in carrying out the requirements of this Ordinance, or for decorative use.

Filling: The depositing or dumping of any matter onto or into the ground, except common household gardening and general farm care.

Flood or flooding: A general and temporary condition of partial or complete inundation of normally dry areas from the overflow of inland or tidal waters or the unusual and rapid accumulation of runoff of surface waters from any source.

Flood hazard area: Land which on the basis of available flood plain information is subject to a one (1) per cent or greater chance of flooding in any given year.

Flood insurance rate map (FIRM): An official map of a community, issued by the Federal Insurance Administration, which has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood insurance study: The official report provided by the Federal Insurance Administration. The report contains flood profiles, as well as the flood hazard boundary-floodway map, and the water surface elevation of the base flood.

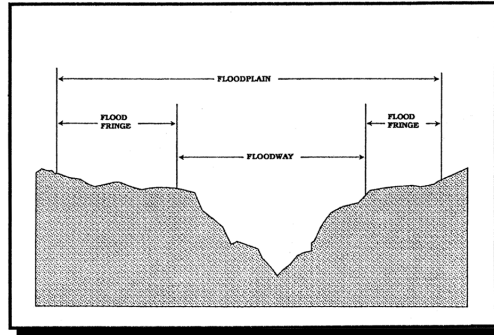
Flooding, area of shallow: A designated AO Zone on the flood insurance rate map (FIRM) with base flood depths from one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and indeterminate, and where velocity flow may be evident.

Flooding, ordinary high water mark: The line between upland and bottomland which persists through successive changes in water levels below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface soil, and the vegetation.

Floodplain: Any land area susceptible to being inundated by surface water from any source (see Flood).

Floodway: The channel of a river or other watercourse and the adjacent land areas designated in the flood insurance study

which must be reserved in order to discharge the base flood.



Floodway, Floodplain and Flood Fringe

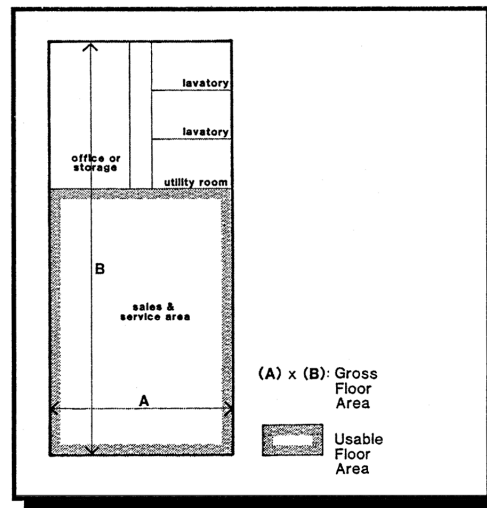
Floodway, Floodplain and Flood Fringe

Floor area, gross: The sum of the gross horizontal areas of the floors within outside walls of a building including basement, elevator shafts, and stairwells at each story, floor space used for mechanical equipment, penthouse, half-story, and mezzanine or interior balcony.

Floor area ratio (FAR): The ratio between the maximum allowable amount of floor space on all floors in a building and the total area of the lot on which the building is located.

Floor area, usable: Any floor area within outside walls of a building exclusive of areas in cellars, basements, utility areas,

unfinished attics, garages, open porches, and accessory buildings.



Floor Area Terminology

Floor Area Terminology

Food: As used in connection with restaurant facilities, this term includes frozen desserts and nonalcoholic beverages.

Frontage: All the property on one side of a street between two intersecting streets (crossing or terminating) measured along the right-of-way line of the street.

Garage, community: An accessory building for the storage of noncommercial vehicles, with no public shop or service facilities in connection therewith.

Garage, private: An accessory building designed for or used for the storage of nor more than three (3) motor vehicles owned and used by the occupants of the principal residence on a lot to which it is accessory.

Garage, public: A building or structure for the storage or parking of more than three (3) passenger motor vehicles or motor-powered boats, or more than one (1) commercial motor vehicle, and in which provision may be made for the dispensing of gasoline, oil, or similar products for the servicing of such vehicles. A public garage shall be classified according to its specific use in one (1) of the following groups:

1. *Group 1:* A public garage in which provision is made for the care, storage, repair, or painting of motor vehicles; or
2. *Group 2:* A public garage used exclusively for passenger vehicles that will accommodate not more than nine (9) passengers.

Garbage: All wastes, animal, fish, fowl, or vegetable matter incident to the preparation, use, and storage of food for human consumption, spoiled food, animal, and fowl manure.

Garden center: An establishment with retail sales of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies, landscaping materials, and equipment.

Glare: The effect produced by brightness or a source of illumination sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

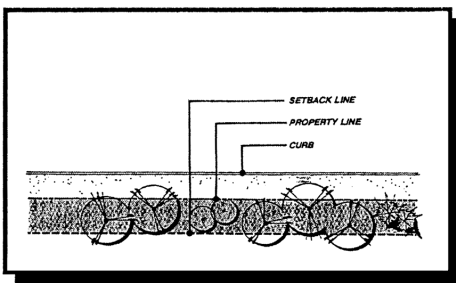
Grade: The grade of the street or sidewalk shall be the elevation of the curb at the mid-point of the front of the lot. The elevation is established by the building inspector.

Grade, average: The arithmetic average of the lowest and highest grade elevations in an area within five (5) feet of the foundation line of a building or structure.

Grade, finished: The lowest point of elevation between the exterior wall of the structure and a line five (5) feet from the exterior wall of the structure.

Grade, natural: The elevation of the ground surface in its natural state, before construction begins.

Greenbelt: A strip of land, not less than ten (10) feet in width, which is planted with trees or shrubs acceptable in species and caliper to the planning commission and/or building inspector and in compliance with the requirements of this Ordinance.



Greenbelt

Greenbelt

Harmful increase: An unnaturally high stage on a river, stream, or lake that causes, or may cause damage to property, threat to life, personal injury, or damage to land or water resources.

Hazardous materials: Any substance or material, that, by reason of its toxic, caustic, corrosive, abrasive, or otherwise injurious properties, may be detrimental or deleterious to the health of any person handling or otherwise coming into contact with such material or substance.

Historical feature, significant: Any site or structure which is located in a designated local historic district or listed in the state or national register of historic places.

Home occupation: Any occupation or profession carried on by one or more members of a family, residing on the premises; provided that no commodity other than those customarily associated with the business is sold on the premises; provided further that no person other than the member of the immediate family residing on the premises; provided, further that no mechanical equipment is installed except such is normally used for purely domestic or household purposes; provided further, that not over twenty-five (25) per cent of the total actual floor area of any story is used for home occupation or professional purposes.

Permitted home occupations shall exhibit no evidence that a business is being conducted on the premises. Furthermore, the permitted home occupation shall not negatively impact the residential character of the neighborhood in which it is located. No outdoor storage nor use of any accessory building is permitted in the operation of a home occupation.

Home based business: A business in any occupation or profession carried on by one or more members of a family, residing on the premises, plus one additional nonresident employee, provided that no commodity other than those customarily associated with the business is sold upon the premises; provided further, that no mechanical equipment is installed except such as is normally used for purely domestic or household purposes; provided further, that not over twenty-five (25) per cent of the total actual floor area of any story of the dwelling or fifty (50) per cent of an on-site accessory building is used for the operation or storage of a permitted home based business or professional purposes. No outdoor storage is permitted in association with the operation of a permitted home based business.

Permitted home based businesses shall exhibit no evidence that a business is being conducted on the premises excepting the limited outdoor signage as may be permitted by this ordinance. Furthermore, the permitted home based business occupation shall not negatively impact the residential character of the neighborhood in which it is located.

Hospital: An institution providing health services, primarily for in-patients and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, out-patient departments, training facilities, central service facilities, and staff offices.

Hotel: A building occupied or used as a more or less temporary abiding place for individuals or groups of individuals with or without meals, and in which there are more than five (5) sleeping rooms, and in which no provision is made for cooking in any individual room.

Housing for the elderly: An institution other than a hospital or hotel, which provides room and board to nontransient persons primarily sixty (60) years of age and older. Housing for the elderly may include:

1. *Senior apartments:* Multiple-family dwelling units occupied by persons fifty-five (55) years of age or older.
2. *Elderly housing complex:* A building or group of buildings containing dwellings where the occupancy is restricted to persons sixty (60) years or older or couples where either the husband or wife is sixty (60) years of age or older.
3. *Congregate or interim care housing:* A semi-independent housing facility containing congregate kitchen, dining, and living areas, but with separate sleeping rooms. Such facilities typically provide special support services, such as transportation and limited medical care.
4. *Dependent housing facilities:* Facilities such as convalescent homes and nursing homes which are designed for older persons who need a wide range of health and support services, including personal nursing care.

Junk: Any motor vehicle, machinery, appliance, product, or merchandise with parts missing or scrap metals, or other scrap materials that are damaged, deteriorated, or are in a condition which cannot be used for the purpose for which the product was manufactured.

Junk yard: Automobile wrecking yards and salvage areas and any area of more than two hundred (200) square feet for the storage, keeping, or abandonment of junk, including scrap metals, other scrap materials, or reclaimed materials, or for the dismantling, demolition, or abandonment of automobiles, or other vehicles, or machinery, or parts thereof, but does not include uses established entirely within enclosed buildings.

Kennel: Any lot or premises on which three (3) or more dogs are either permanently or temporarily quartered.

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

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

Landfill: A parcel of land or part thereof used primarily for the disposal by abandonment, burial, dumping, burning, or any other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

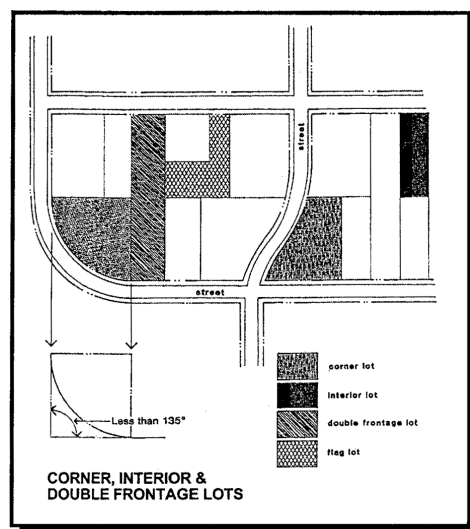
License means a current and valid license for a commercial adult use marihuana establishment issued under City of Eaton Rapids [Code of] Ordinance[s] section 23-15, et seq., which shall be granted to a license holder only for and limited to a specific licensed property. Said license shall be in addition to the conditional use permit required to be obtained under this Zoning Ordinance.

Loading space: An off-street space on the same parcel of property with a building or group of buildings, for temporary parking of commercial vehicles while loading and unloading merchandise or materials.

Lot: Land occupied or to be occupied by a use, building, or structure and permitted accessory buildings together with such open spaces, lot width and lot area as are required by this Ordinance and having its principal frontage upon a public street or upon a private way used for street purposes. A lot need not be a lot of record to be included in this definition.

Lot, area: The total horizontal area within the lot lines of a lot.

Lot, corner: A lot having at least two (2) adjacent sides abut for their full length upon a street, provided that such two (2) sides intersect at an angle of not more than one hundred thirty-five (135) degrees. Where a lot is on a curve, if tangents through the extreme point of the street line of such lot make an interior angle of not more than one hundred thirty-five (135) degrees, it is a corner lot. In the case of a corner lot with a curved street line, the corner is that point in the street lot line nearest to the point of intersection of the tangents described above.



Lot Types

Lot, interior: Any lot other than a corner lot.

Lot, nonconforming: A lot of record which does not meet the dimensional requirements of this Ordinance.

Lot, through or double-frontage: Any interior lot having frontage on two (2) more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, one (1) street will be designed as the front street in the plat and the request for a building permit.

Lot coverage: The part or per cent of the lot occupied by buildings or structures, including accessory buildings or structures.

Lot depth: The mean horizontal distance from the front street line to the rear lot line.

Lot frontage: The length of the front lot line (see Frontage).

Lot lines: The lines bounding a lot as defined herein:

1. *Front lot line:* In the case of an interior lot, is that line separating said lot from the street. In the case of a corner lot, or a double-frontage lot, it is that line separating said lot from that street which is designated as the front street on the plat or in the request for the zoning permit.
2. *Rear lot line:* That lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front line, not less than ten (10) feet long, lying farthest from the front lot line and wholly within the lot.
3. *Side lot line:* Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

Lot of record: A lot which actually exists as shown on the records of the county register of deeds, either in the form of a recorded map depicting the dimensions and configuration of the lot or as described by metes and bounds, the accuracy of which is attested to by a professional engineer or land surveyor, registered and licensed in the State of Michigan.

Lot, waterfront: Any lot having frontage on a lake, pond, river or stream in addition to frontage on a public or private street.

Lot width: The mean horizontal distance between the side lot lines, measured at right angles to the side lot lines. Where the side lot lines are not parallel, the lot width shall be considered as the average of the width between such side lot lines.

Marihuana means that term as defined in Section 7106 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7106.

Marquee: A roof-like structure of a permanent nature, projecting from the wall of a building.



Marquee

Massage therapist (certified): An individual specifically trained and certified in massage therapy and the healing arts by the American Massage Therapy Association or similar organization.

Master plan or comprehensive plan: The master plan including graphic and written proposals indicating the development goals and objectives, the planned future use of all land with the city, as well as the general location for streets, parks, schools, public buildings, and all physical development of the City of Eaton Rapids, and includes any unit or part of such plan, and any amendment to such plan or parts thereof.

Medical marihuana means that term as defined in MCL 333.26423.

Mezzanine: An intermediate or fractional story between the floor and ceiling of any story occupying not more than one-third ($\frac{1}{3}$) of the floor area of such story. A mezzanine shall be a full story when it covers more than fifty (50) per cent of the area of the story underneath such mezzanine or if the vertical distance from the floor next below it to the floor next above it is twenty-four (24) feet or more.

Microbrewery: A brewer licensed by the State of Michigan which produces and manufactures in total, less than thirty thousand (30,000) barrels of beer per year, and who may sell at the licensed brewery premises the beer produced and manufactured to consumers for consumption on or off the licensed brewery premises. In determining the thirty thousand (30,000) barrel threshold, all brands and labels of a brewer whether brewed in this state or outside this state, shall be combined and all facilities for the production and manufacture of beer that are owned or controlled by the person(s) shall be treated as a single facility.

Mobile home (manufactured housing unit): A structure, transportable in one (1) or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. Mobile home does not include a recreational vehicle as described and regulated herein for the purposes of this Ordinance (see Dwelling, Manufactured, and Dwelling, Mobile Home).

Mobile home park (manufactured housing development): A parcel or tract of land under the control of a person upon which three (3) or more mobile homes are located on a continual nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home and which is not intended for use as a temporary trailer park, subject to the conditions set forth in the Michigan Manufactured Housing Commission Rules and Michigan Public Act 96 of 1987, as amended.

Modular home: A dwelling which consists of pre-fabricated units transported to the site in two (2) or more sections on a removable undercarriage or flat bed and assembled for permanent location upon a permanent foundation on the lot, and to which such major elements as the heating system or a substantial portion of the siding are installed after transport, and which shall not be considered a mobile home.

Motel: A series of attached, semi-detached, or detached rental units containing bedroom, bathroom, and closet space wherein each unit has a separate individual entrance leading directly from the outside of the building.

Motor home park (trailer court): Any plot of ground upon which two (2) or more motor homes occupied for dwelling or sleeping purposes are located.

Municipality: The City of Eaton Rapids.

Nuisance: An offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of an activity or use across a property line which may be perceived by or affect a human being, or the generation of an excessive or concentrated movement of people or things such as: noise, dust, smoke, odor, glare, fumes, flashes, vibration, shock waves, heat, electronic or atomic radiation, objectionable effluent, noise of congregation of people, particularly at night, passenger traffic, or invasion of nonabutting street frontage by traffic.

Nursery: An establishment where three (3) or more children not related by bonds of consanguinity or fostership to the family residing on the same premises, are for remuneration, cared for. Such facilities need not have a resident family on the premises (see Child Care Organization).

Nursing home: A home for the care of the aged, infirm, or those suffering from bodily disorders, wherein two (2) or more persons are housed or lodged and furnished with nursing care. Such facilities are licensed in accordance with Michigan Public Act 139 of 1956, as amended, including convalescent homes or rest homes.

Occupancy: The purpose for which a building or part thereof is used or intended to be used.

Occupancy load: The number of individuals normally occupying a building or part thereof or for which the exitway facilities have been designed.

Offset: The distance between the center lines of driveways or streets across the street from one another.

Off-street parking lot: A facility providing vehicular parking spaces along with adequate drives and aisles for maneuvering so as to provide access for entrance and exit for parking or more than two (2) automobiles.

Open air business: Shall include the following:

1. *Garden supplies:* The retail sale of trees, shrubbery, plants, flowers, seed, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.
2. *Fruits and vegetables:* The retail sales of fruit and vegetables.
3. *Recreational uses:* Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, driving range, children's amusement park, or similar recreation uses.
4. *Sales, servicing, and rentals:* Bicycle, trailer, motor vehicle, boats or home equipment sales, service or rental services.
5. *Accessory buildings:* Outdoor display and sale of garages, swimming pools, and similar uses.

Open front store: A business establishment so developed that service to the patron may be extended beyond the walls of the structure, not requiring the patron to enter said structure.

Open space: Lands open from ground to sky and devoted to outdoor recreation space, greenery, and resource protection. Developed open spaces may include, but is not limited to, playground fixtures, shelter, and tennis courts.

Open space, common: An unoccupied area within a planned unit development which is reserved primarily for the leisure and recreational use of all the planned unit development residents, owners, and occupants, and generally owned and maintained in common by them, often through a home owners or property owners association.

Open space, public: Any primarily undeveloped land intended for passive recreational pursuits, within the jurisdiction and control of a governmental agency.

Open storage: Any outdoor storage of building materials, sand, gravel, stone, lumber, equipment, or other supplies.

Outlot: A parcel of land which must be designated on a recorded plat as an outlot before it may be legally considered as such.

Parcel of record: An area described by metes and bounds description and which is not necessarily a lot of record in a subdivision plat (see Lot of Record).

Park, municipal: A parcel of land that is used as a park and is operated under the supervision of the city.

Park, public: Any developed park, playground, beach, outdoor swimming pool, golf course, tennis courts, or otherwise intended for active recreational pursuits, within the jurisdiction and control of a governmental agency.

Parking space: An area for each automobile or motor vehicle, such spaces being exclusive of necessary drives, aisles, entrance or exits, and being fully accessible for the storage or parking of permitted vehicles.

Party store: A retail establishment licensed by the State of Michigan where more than ten (10) per cent of the gross floor area is utilized for the storage, display, and sale of alcoholic liquor, wine, beer, and other alcoholic beverages in the original package for consumption off the premises.

Patient means a "registered qualifying patient" or a "visiting qualifying patient" as those terms are defined by MCL 333.26421, et seq.

Pawnbroker: A person, corporation, or member, or members of a copartnership or firm, who loans money on deposit or pledge of personal property, or other valuable thing, other than securities or printed evidence of indebtedness, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price.

Permit means a current and valid permit for a commercial medical marihuana facility issued under City of Eaton Rapids Ordinance [section 23-1](#), which shall be granted to a permit holder only for and limited to a specific permitted premises and a specific permitted property. Said permit shall be in addition to the conditional use permit required to be obtained under this zoning ordinance.

Person means a natural person, company, partnership, profit or non-profit corporation, limited liability company, or any joint venture for a common purpose.

Planned Unit Development (PUD): A form of land development that is comprehensively planned as an entity via a unitary development plan which permits flexibility in building, siting, usable open spaces, and the preservation of significant natural features, which may contain a mixture of housing units and nonresidential uses.

Plant nursery: The retail handling of any article, substance, or commodity related to the planting, maintenance, or harvesting of garden plants, shrubs, trees, packaged fertilizers, soils, chemicals, or other nursery goods and related products in small quantities directly to the consumer.

Plat: A map of a subdivision of land.

Pool, wading: Any receptacle utilized for holding water which has a water depth not exceeding two (2) feet.

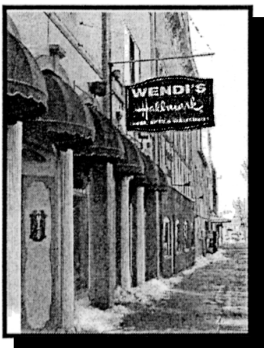
Pool, swimming: Any structure or container located above or below grade designed to hold water to a depth of greater than twenty-four (24) inches and intended for swimming or bathing.

Porch: An exterior appendage to a building which has a separate roof or a roof integral with the building which forms a covered approach to a doorway or vestibule.

Porch, enclosed: A porch separated from the outside by an all-weather partition or a partition which renders the area inside the partition habitable.

Porch, open: A porch not separated from the outside by either an all-weather partition or a partition rendering the area inside the partition habitable.

Projecting sign: A sign attached to a wall and projecting away from the face of that wall.



Projecting Signs

Property line: The lines bounding a lot, the lot line.

Public notice: A notice of the time, place, and purpose of a public hearing, which notice shall be posted in a manner and within a time frame as prescribed in this Ordinance or in applicable state law.

Public house (pub) or tavern: A restaurant licensed by the State of Michigan to sell at retail and serve alcoholic beverages on the premises where less than thirty (30) per cent of the gross floor area is made up of a bar, being a barrier or counter at which any alcoholic beverages are sold or served to an consumed by customers, and also including areas dedicated for the use of stages, dance floors, standingroom areas, pool tables, and other mechanical amusement devices.

Recreation establishment, indoor: A privately owned facility designed and equipped for the conduct of sports, amusement, or leisure time activities and other customary recreational activities indoors (within an enclosed building) and operated as a business and open for use by the public for a fee, such as gymnasiums and fitness centers, bowling alleys, indoor soccer facilities, racquetball and tennis clubs, ice and roller skating rinks, curling centers, and firearms ranges.

Recreation establishment, outdoor: A privately owned facility designed and equipped for the conduct of sports, amusements, or leisure time activities and other customary recreational activities outdoors (outside of an enclosed building) and operated as a business and open for use by the public for a fee such as tennis clubs, archery ranges, golf courses, miniature golf courses, golf driving ranges, water slides, batting cages and machines, skateboarding parks, and children's amusement parks.

Recreation land: Any public or private owned lot or parcel that is utilized for recreation activities such as, but not limited to camping, swimming, picnicking, hiking, nature study, hunting, boating, and fishing.

Recreational vehicle: Recreational vehicles shall include the following:

1. *Travel trailer:* A portable vehicle on a chassis, which is designed to be used as a temporary dwelling during travel, recreational, and vacation uses, and which may be identified as a travel trailer by the manufacturer. Travel trailers generally contain sanitary, water, and electrical facilities.
2. *Pickup camper:* A structure designed to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling during the process of travel, recreational, and vacation uses.
3. *Motor home (trailer coach):* A self-propelled motorized recreational vehicle intended, designed, used, or constructed, and duly licensable for travel and/or recreational usage, and for temporary human habitation, sleeping, and/or cooking and eating for one (1) or more persons, mounted upon a chassis with wheels and capable of being moved from place to place under its own power. Motor home generally contain sanitary, water, and electrical facilities.
4. *Folding tent trailer:* A folding structure, mounted on wheels and designed for travel and vacation use.
5. *Boats and boat trailers:* Boats, floats, rafts, canoes, plus the normal equipment to transport them on the highway.
6. *Other recreational equipment:* Snowmobiles, all terrain vehicles, special terrain vehicles, utility trailers, plus normal equipment to transport them on the highway.

Resource recovery facility: A lot or parcel of land with or without buildings, upon which used materials are deposited, separated, and processed for shipment for eventual reuse in new products, except that such facility shall not include the storage of inoperable automobiles and/or their parts.

Restaurant, carry-out: Any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state, and whose design or method of operation includes both of the following characteristics:

1. *Containers:* Foods, frozen desserts, or beverages are usually served in edible containers, or in paper, plastic, or other disposable containers.
2. *Consumption:* The consumption of foods, frozen desserts, or beverages within the restaurant building, within a motor vehicle parked upon the premises, or at other facilities on the premises outside the restaurant building is posted as being prohibited, and such prohibition is strictly enforced by the restaurateur.

Restaurant, drive-in: Any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the consumer in a ready-to-consume state, and whose design or method of operation, or any portion of whose business, includes one (1) or both of the following characteristics:

1. *Service:* Foods, frozen desserts, or beverages are served directly to the customer in a motor vehicle either by car-hop or means which eliminates the need for the customer to exit the motor vehicle.
2. *Consumption:* The consumption of foods, frozen desserts, or beverages within a motor vehicle parked upon the premises or at other facilities on the premises outside the restaurant building is allowed, encouraged, or permitted.

Restaurant, fast-food: Any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state for consumption either within the restaurant building or for carry-out with consumption off the premises, and whose design or principal method of operation includes both the following characteristics:

1. *Containers:* Foods, frozen desserts, or beverages are usually served in edible containers, or in paper, plastic, or other disposable containers.
2. *Consumption:* The consumption of foods, frozen desserts, or beverages within a motor vehicle parked upon the premises or at other facilities on the premises outside the restaurant building is posted as being prohibited, and such prohibition is strictly enforced by the restaurateur.

Restaurant, standard: Any establishment whose principal business is the sale of food, frozen desserts, or beverages to the customer in a ready-to-consume state, and whose design or principal method of operation includes one (1) or both of the following:

1. *Service:* Customers are normally provided with an individual menu, are served their foods, frozen desserts, or beverages by a restaurant employee at the same table or counter at which such items are consumed.
2. *Consumption:* A cafeteria style operation, where foods, frozen desserts, or beverages generally are consumed within the restaurant building.

Right-of-way: A street, alley, or other thoroughfare or easement permanently established for passage of persons or vehicles or placement of public and semi-public utilities and under the legal authority of the agency having jurisdiction over the right-of-way.

Roadside stand: A temporary or existing permanent building operated for the purpose of selling only produce raised or produced by the proprietor of the stand or his family on the premises, and its use shall not make into a commercial district, land which would otherwise be an agricultural or residential district, nor shall its use be deemed a commercial activity for purposes of this Ordinance.

Row houses: An attached dwelling separated from others in a row by a vertical unpierced wall extending from basement to roof, also known as a townhouse.

Rubbish: The miscellaneous waste materials resulting from housekeeping, mercantile enterprises, trades, manufacturing and offices, including other waste matter such as slag, stone, broken concrete, fly ash, ashes, tin cans, glass, etc.

Satellite dish antenna: A device incorporating a reflective surface that is solid, open mesh, or bar configured, and is in the shape of a shallow dish, parabola, cone, or horn used to transmit and/or receive television, radio, and other electromagnetic communication signals between terrestrially and/or extraterrestrially based sources. This definition includes, but is not limited to, what are commonly referred to as satellite earth stations, television reception only satellite antennas (TVRO), and satellite microwave antennas.

School, charter (public school academy): A public school and a school district, subject to the leadership and general supervision of the state board over all public education. A charter school or public school academy is authorized by the executive action of authorizing board which may be the board of a school district, an intermediate school board, or the board of a community college or a state public university.

School, home: A school which enables a child to be educated at the child's home by his or her parent or legal guardian in an organized educational program in the subject areas of reading, spelling, mathematics, science, history, civics, literature, writing, and English grammar. The home school family may choose whether to operate as a nonpublic school. If a home school family

chooses to operate as a nonpublic school, it must register with the Michigan Department of Education.

School, nonpublic: A nonpublic school is any school other than a public school giving instruction to children below the age of sixteen (16) years and not under the exclusive supervision and control of the officials having charge of the public schools of the state. Nonpublic schools include private, denominational, and parochial schools.

School, public: A public elementary or secondary educational entity or agency that has as its primary mission the teaching and learning of academic and vocational-technical skills and knowledge, and is operated by a school district, local act school district, special act school district, intermediate school district, public school academy corporation, public state university, or by the department or state board.

Screen, obscuring: A visual barrier between adjacent area or uses consisting of structures, such as a wall or fence, or living plant material.

Secondhand dealer: Any person whose business is that of dealing in, buying, selling, storing and exchanging secondhand goods, articles or merchandise of any kind, including lead pipe, tools, lighting fixtures, plumbing fixtures, radios, watches, jewelry, precious stones, musical instruments, electrical motors, electrical appliances, firearms, automotive parts and accessories, bicycles, clothing, wearing apparel, micrometers, typewriters, or any article of personal property or other valuable thing. This definition does not include:

- (1) New articles, wares or merchandise purchased at wholesale from manufacturers, wholesale distributors or jobbers for retail sale to customers;
- (2) Motor vehicles, old rags, waste paper, books, magazines, tapestries, antiques or household furniture; or
- (3) Secondhand or used tires when such tires are removed from the vehicle to which such tires are attached in the presence of the person receiving them.

Setback: The minimum horizontal distance between the front of the building, excluding steps and open porches and the front street or right-of-way line.

Setback, parking lot: The minimum horizontal distance between the street right-of-way or property line and the near edge of the parking lot, excluding necessary and/or approved driveways, frontage roads, and landscaping areas.

Setback, waterfront lot: The minimum horizontal distance between the front of the building, excluding steps and open porches and the average shoreline of the lake, pond, river or stream upon which the lot fronts.

Sign: Any fabricated sign or outdoor display structure, including its structure, consisting of any letter, figure, character, mark, point, plane, marquee sign, design, poster, pictorial, picture, stroke, stripe, line, trademark, reading matter, or illuminating device, which sign is constructed, attached, erected, fastened, or manufactured in any manner whatsoever, and which is displayed in any manner out of doors for recognized advertising purposes.

Stable, private: A stable for the keeping of horses for the use of residents of the principal use and shall not include the keeping of horses for others, or for commercial boarding, and with a capacity for not more than two (2) horses; provided, however, that the capacity of a private stable may be increased if the lot whereon such stable is located contains at least one (1) acre of land for each additional horse stabled thereon.

Stable, public: A stable other than a private stable, with a capacity for more than two (2) horses, and carried on within an unplatted tract of land of not less than ten (10) acres.

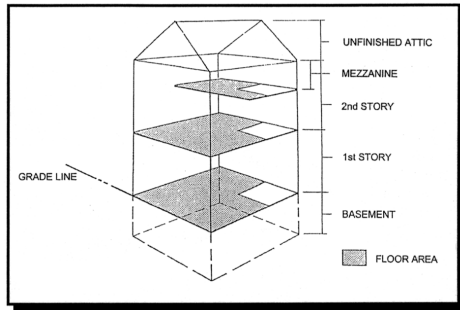
State equalized valuation: The value shown on the city assessment roll as equalized through the process of state and county equalization.

Steep slopes: Slopes with a grade of twelve (12) per cent or more.

Story: That portion of a building, other than a cellar or mezzanine, included between the surface of any floor and the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

A mezzanine shall be deemed a full story when it covers more than fifty (50) per cent of the area of the story underneath said mezzanine, or if the vertical distance from the floor next above it is twenty-four (24) feet or more.

For the purpose of this Ordinance, a basement or cellar shall be counted as a story if over fifty (50) per cent of its height is above the level from which the height of the building is measured, or, if it is used for dwelling purposes by other than a janitor or domestic servants employed in the same building, including the family of the same.



Basic Structural Terms

Story, half: A half story is the part of a building between a pitched roof and the uppermost full story, said part having a floor area which does not exceed one-half ($\frac{1}{2}$) the floor area of said full story.

Street: A street is a public thoroughfare which affords traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and any other thoroughfare, except an alley.

Structure: Anything constructed or erected which requires permanent location on the ground or attachment or something having such location.

Structural alteration: Any change in the supporting members of a building or structure, such as bearing walls, partitions, columns, beams, or girders, or any change in the width or number of exits, or any substantial change in the roof.

Structure, outdoor advertising: Any structure of any kind or character erected or maintained for outdoor advertising purposes, upon which any outdoor advertising sign may be placed, including outdoor advertising statuary.

Subdivision: A subdivision as defined in the City of Eaton Rapids Code of Ordinances.

Substantial improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) per cent of the market value of the structure either, (1) before the improvement or repair is started or (2) if the structure has been damaged and is being restored, before the damage occurred. This definition is applicable whether or not the alteration affects the external dimensions of the structure. This definition, does not however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration or a structure listed on the National Register of Historic Places or a state inventory of historic places.

Telecommunications towers and facilities or tower: All structures and accessory facilities, including alternative tower structures, relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals; including, but not limited to radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment buildings, private and commercial mobile radio service facilities, personal communication services towers (PCS), and cellular telephone towers. Not included in this definition are: citizen band radio facilities, short wave receiving facilities, radio and television broadcast reception facilities, satellite dishes, federally licensed amateur (HAM) radio facilities, and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

Temporary use or building: A structure or use permitted by the building inspector to exist during periods of construction of the main use for special events.

Tents: A shelter of canvas or the like supported by poles and fastened by cords or pegs driven into the ground and shall not include those types of tents used solely for children's recreational purposes.

Thoroughfare, major: An arterial street which is intended to serve as a large volume traffic way for both the immediate city area and the region beyond, and may be designated as a major thoroughfare, parkway, freeway, or equivalent term.

Thoroughfare, secondary: An arterial street which is intended to serve as a traffic way serving primarily the immediate city area and serving to connect with major thoroughfares.

Tourist home or bed and breakfast inn: A use which is subordinate to its principal use as a private residence, owned by the operator and within which the operator resides while offering sleeping accommodations and serving breakfast at no extra charge to transient tenants for not more than fourteen (14) consecutive days.

Townhouses: A residential structure or group of structures, each of which contains three (3) or more attached single-family dwelling units with individual rear yards and/or front yards designed as an integral part of each single-family dwelling unit.

Truck gardening: Use of a lot or parcel for the raising of produce, that is customarily a small scale operation and often sold directly to the public on the premises.

Truck storage: An area used for the temporary storage of private trucks or trucks for hire.

Truck terminal: A structure to which goods, except raw or unprocessed agricultural products, natural minerals, or other resources, are delivered for immediate distribution to other parts of the city or to be amalgamated for delivery in larger units to other points in the metropolitan area; or for distribution or amalgamation involving transfer to other modes of transportation.

Use: The purpose for which land or premises, or a building thereon, is designed, arranged, or intended, or for which it is occupied, maintained, let, or leased.

Use, conditional: A use of land which is permitted within a particular zoning district only if the applicable standards have been met and a site plan has been approved.

Use, illegal nonconforming: An existing use of land and/or structures, on the effective date of this Ordinance considered a nuisance, damaging to abutting property or hazardous to persons. Such use shall be discontinued and abated.

Use, legal nonconforming: An existing use of land and/or structures on the effective date of this Ordinance, which does not conform to the uses specified as permitted in a district, but which is not construed by this Ordinance to be a nuisance, damaging to abutting property, or hazardous to persons.

Variance: A modification of the literal provisions of the ordinance granted when strict enforcement of the ordinance would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted. The characteristics of a variance are: (a) undue hardship, (b) unique circumstances, and (c) peculiar to the specific property involved.

Vehicle, commercial: Any one of a class of vehicles and similar vehicles whose characteristics are described below which have or require commercial license plates and have a gross vehicle weight in excess of six thousand five hundred (6,500) pounds. Any commercially licensed vehicle which does not possess the characteristics of a commercial vehicle, as defined below, shall not be subject to the restrictions applying to commercial vehicles:

1. *Semi-trailer:* A trailer unit which is customarily attached to and propelled by a truck tractor vehicle, but which can be detached to stand alone. Semi-trailer shall include trailers with flat beds, stake beds, roll-off beds, tanker bodies, dump bodies, and full or partial box-type enclosures, any of which above units exceed twelve (12) feet in height.
2. *Truck tractor:* A commercial vehicle which is capable of attaching to and propelling semi-trailers, mobile homes,

modular homes, boat trailers and similar units, and which is not customarily operated without an attached trailer.

3. *Other commercial vehicles:* Any truck or motor vehicle with a cab and chassis with a stake, rack, dump body, wrecker body, tanker body, or any other body, the mounted height of which exceeds the height of the cab roof more than eight (8) inches. This shall include any vehicle which has a commercial license plate and which is designed to accommodate a body length in excess of nine (9) feet. Commercial vehicles do not include motor homes or recreational vehicles, but does include construction equipment such as backhoes, power shovels, bulldozers, earth moving equipment, and similar vehicles.

Veterinary clinic or hospital: An office of a duly licensed veterinary professional where diagnosis, treatment, surgery, and other veterinary care for domestic animals, horses, and livestock, and all other activities and rooming of animals are conducted within a completely enclosed building, except that a veterinary hospital may include outdoor boarding incidental to treatment.

Wall, solid masonry decorative: A wall made of stone or brick that is permanent in nature and is set upon footings or a foundation, and used for the purpose of screening one land use from the view of another.

Wall, parapet: An extension of a building wall above the roof which may serve to screen roof mounted mechanical equipment.

Wall, retaining: A permanent solid barrier of brick, stone, or other opaque material intended to enclose an area. For the purpose of this Ordinance, all supporting members, posts, stringers, braces, pilasters, or other construction features of a retaining wall shall be located and placed on the inside of the wall away from public view. Moreover, all retaining walls shall be constructed and/or painted, tinted, or colored in one color only for their exterior surface, and no sign or advertising shall be placed, affixed, painted, or designed thereon.

Warehouse, miniature or self-storage: A building or group of buildings in a controlled access and/or fenced compound that contains varying sizes of individualized, compartmentalized, and controlled-access stalls or lockers for the storage of customers goods or wares.

Waste receptacle station: Any exterior space which is not a principal use for containers, structures, or other receptacles intended for temporary storage of solid waste materials.

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

Wholesale store: Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Wine shop (specialty): A retail establishment licensed by the State of Michigan where more than ten (10) per cent of the gross floor area is utilized for the storage, display, and sale of wine or beer with an alcohol content under twenty-one (21) per cent by volume for consumption off the premises, however no more than ten (10) per cent of the gross floor area shall be dedicated for the storage, display, and sale of beer.

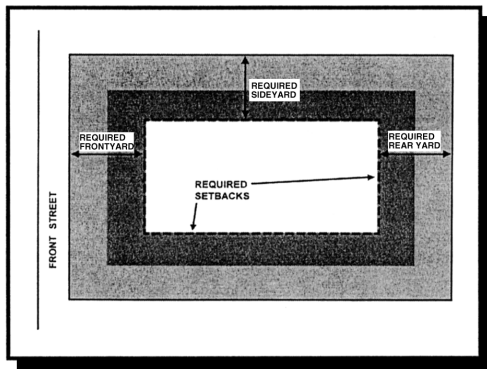
Wireless communication facilities: All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, microwave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

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

3. *Co-location*: The location of two (2) or more wireless communication providers of wireless communication facilities on a structure, tower, or building, with the view toward reducing the overall number of structures required to support wireless communication antennae within the city.
3. *Wireless communication support structures (towers)*: Structures erected or modified to support wireless communication antennae. Support structures within this definition include, but shall not be limited to, monopoles, lattice towers, light poles, wood poles, and guyed towers, or other structures which appear to be something other than a mere support structure.

Yard: An open space of prescribed width or depth on the same land with a building or group of buildings, which open space lies between the building or group of buildings, and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as otherwise provided herein. This regulation shall not exclude eaves provided that an eight (8) foot height clearance is provided above the adjacent ground level.

1. *Front yard*: A yard extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest line of the main building.
2. *Rear yard*: A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest line of the main building.
3. *Side yard*: A yard between a main building and the side lot line, extending from the front yard to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line to the nearest point of the main building.



Yards

Zoning permit: The written authority issued by the building inspector permitting the construction, removal, moving, alteration, or use of a building in conformity with this Ordinance.

(Ord. No. 2002-8, 8-26-02; Ord. No. 2009-6, 7-27-09; Ord. No. 2009-8, 7-27-09; Ord. No. 2021-5, § 1, 5-10-21; Ord. No. 2021-9, § 1, 10-25-21)

ARTICLE II. - DISTRICT DESCRIPTIONS AND AMENDMENT PROCEDURES

Sec. 2.10. - Zoning Districts.

For the purposes of this Ordinance, the City of Eaton Rapids is hereby divided into thirteen (13) classes of districts known as follows:

- Flood Plain District - (FPD)
- Traditional Residential District - (TRD)
- Low Density Single-Family Residential District - (RD1)

Single-Family and Two-Family Residential District - (RD2)

Multiple-Family Residential District - (MFRD)

Manufactured Housing Park District - (MHPD)

Central Business District - (CBD)

Local Business District - (LBD)

General Business District - (GBD)

Limited Industrial District - (LID)

General Industrial District - (GID)

Mixed Use District - (MXD)

Planned Unit Development - (PUD)

Sec. 2.20. - Zoning Map.

The boundaries of the zoning districts are hereby established as shown on the zoning map, City of Eaton Rapids, Michigan, which is hereby made an integral part of this Ordinance. All references, notations, and information shown thereon shall be as much a part of this Ordinance as if fully described herein.

Editor's note— The zoning map referred to in this article and through-out the zoning ordinance is on file in the office of the city clerk.

Sec. 2.30. - Boundaries of the District.

The boundaries of zoning districts, as shown on the zoning map, unless otherwise shown by dimensions from street lines or other designated lines, follow the center of the streets or alleys or lot lines, and such lines extended and the corporate limits of the city as they exist at the time of adoption of this Ordinance.

Where a district boundary line, as established in the above paragraph or as shown on the zoning map, divides a lot which was in single ownership and of record at the time of enactment of this Ordinance, a district boundary shall be fixed from the scale of the zoning map. The use authorized thereon and the other district requirements applying to the most restricted portion of such lot shall be considered as extending to the entire lot. The use so extended shall be deemed to be conforming.

All street and alley rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such street and alley rights-of-way. Where the centerline of a street or alley serves as a district boundary, the zoning of such street or alley, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such centerline.

Questions concerning the exact location of district boundary lines shall be determined by the zoning board of appeals after recommendation from the planning commission, according to rules and regulations which may be adopted by it.

Sec. 2.40. - Amendment Procedures.

A. Amendments or supplements to this Zoning Ordinance may be made from time to time in the manner provided by law.

The regulations and provisions stated in the text of this Ordinance and the boundaries of zoning districts shown on the zoning map may be amended, supplemented, or changed by ordinance of the city council.

Proposals for amendments, supplements, or changes may be initiated by the city council on its own motion, by the planning commission, or by petition of a property owner or their designated representative.

The procedure to be followed for initiating and processing an amendment shall be as follows:

1. Each petition by one (1) or more persons for an amendment shall be submitted by application to the building

inspector on a standard form as provided.

2. The planning commission shall conduct at least one (1) public hearing, notice of the time and place of which shall be given by publication in the official newspaper at least fifteen (15) days before the date of such hearing. In addition, all persons who own real property or are occupants of structures within three hundred (300) feet of the property to be rezoned shall be notified of the hearing by personal delivery or the mail. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organization, one (1) occupant of each unit or spatial area shall receive notice. In the case of a structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals or businesses, 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. The notice shall be given at least five (5) and not more than fifteen (15) days before the application will be considered. Notice of such public hearing shall also be given by mail to each public utility and/or railroad within the districts or zones affected.
 3. The planning commission shall review each proposal in terms of particular factors related to the individual proposal and in terms of the most likely effect on the community's physical development. Following review, the planning commission shall submit their recommendation to the city council. The city council will act upon the request by granting approval, disapproval, or referral back to the planning commission for additional study.
 4. Upon presentation of a protest petition meeting the requirements of this subsection, an amendment to a zoning ordinance which is the object of the petition shall be passed only by a two-thirds ($\frac{2}{3}$) majority vote of the legislative body, unless a larger vote, but not to exceed a three-quarters ($\frac{3}{4}$) vote, is required by ordinance or charter. The protest petition shall be presented to the legislative body before final legislative action on the amendment and shall be signed by one (1) of the following:
 - a. The owners of at least twenty (20) per cent of the area of land included in the proposed change.
 - b. The owners of at least twenty (20) per cent of the area of land included within an area extending outward one hundred (100) feet from any point on the boundary of the land included in the proposed change.
- B. No application for commission approval which has been wholly or in part denied shall be resubmitted until the expiration of one (1) year or more from the date of denial, except on the grounds of newly discovered evidence or proof of changed conditions found to be sufficient to justify reconsideration by the planning commission.

Sec. 2.50. - Amendment Criteria.

- A. For amendment requests to add uses to a zoning district, the planning commission and city council shall use the following as a guide:
 1. The proposed use is not already provided for elsewhere in the Ordinance.
 2. The proposed use is compatible with uses already permitted in that district.
 3. The proposed use relates well with the city's land use plan and/or master plan.
 4. The proposed use relates well with the spirit and intent of this Ordinance, and with the objectives of the zoning district.
 5. The proposed use is properly located in the district.
 6. The proposed use is most appropriate in the district if permitted by special conditional land use permits.
 7. There is a need to add the proposed use.
- B. For amendment requests to change or to add additional regulations or standards to a district or a use, the planning commission and city council shall use the following as a guide:
 1. The proposed rule, change, or addition helps to reinforce the land use plan and/or master plan.

2. The proposed rule, change, or addition is in keeping within the spirit and intent of this Ordinance, and with the objective zoning district.
 3. The problem or issue which the change is intended to address cannot be accomplished in another, more appropriate fashion.
 4. The proposed amendment would correct an error in the Ordinance.
 5. The proposed amendment would clarify the intent of the Ordinance.
 6. Documentation has been provided indicating problems and conflicts in implementation or interpretation of specific sections of this Ordinance.
 7. The proposed amendment would address changes to state or federal legislation.
 8. The proposed amendment would address potential legal issues or administrative problems with this Ordinance based on recent case law or opinions rendered by the Attorney General of the State of Michigan.
 9. The proposed amendment would promote compliance with changes in other city ordinances and/or county, state, or federal regulations.
 10. The proposed amendment is supported by the findings or reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements, and similar technical items.
 11. Other criteria as determined by the planning commission or city council which would protect the health, safety, and welfare of the public, protect public and private investment in the city, promote implementation of the goals and policies of the land use plan and/or master plan, and enhance the overall quality of life in the city.
- C. For amendment requests to change, create, extend, or reduce a mapped zoning district, the planning commission and city council shall use the following as a guide:
1. The proposed zoning district is more appropriate than any other zoning district, or more appropriate than adding the desired use as a conditional land use in the existing zoning district.
 2. The property cannot be reasonably used as zoned, and the applicant cannot receive a reasonable return on investment through developing the property with one (1) of the uses permitted under current zoning.
 3. The proposed zone change is supported by and consistent with the goals, policies, and future land use maps of the adopted city land use plan and/or master plan, including any subarea or corridor studies. If conditions have changed since the master plan was adopted, as determined by the planning commission, the consistency with recent development trends in the area shall be considered.
 4. The proposed zone change is compatible with the established land use pattern, surrounding uses, and surrounding zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure, and potential influence on property values, and is not consistent with the needs of the community.
 5. All the potential uses allowed in the proposed zoning district are compatible with the site's physical, geological, hydrological, and other environmental features.
 6. The change would not severely impact traffic, public facilities, utilities, and the natural characteristics of the area, or significantly change population density, and would not compromise the health, safety, and welfare of the city. The planning commission may require a general impact assessment in accordance with the requirements of this Ordinance if it determines the proposed zoning change could have a negative impact upon traffic, public facilities, utilities, natural characteristics, population density, or other concerns.
 7. The rezoning would constitute and create an isolated and unplanned "spot zone" granting a special privilege to one land owner not available to others.
 8. The change of present district boundaries is consistent in relation to existing uses, and construction on the site will be able to meet the dimensional regulations for the proposed zoning district listed in the schedule of regulations.

9. There has been a change of conditions in the area supporting the proposed rezoning.
 10. Adequate sites are neither properly zoned nor available elsewhere to accommodate the proposed uses permitted in the requested zoning district.
 11. There was a mistake in the original zoning classification.
 12. The request has not previously, within the past one (1) year been submitted, unless conditions have changed or new information has been provided.
- D. Any amendment for the purpose of conforming to a decree of a court of competent jurisdiction shall be adopted by the city council and published, without necessity of a public hearing or referral thereof to any other board or agency.

Sec. 2.60. - Principal Permitted Uses in Districts.

Within each zoning district there are uses which when developed in accordance with sound planning and site plan principles are consistent with the purposes and objectives of the district. For the purposes of this Ordinance, these uses shall be known as principal permitted uses as set forth in the individual district and shall be allowed within that particular district subject to the development requirements for the district.

Sec. 2.70. - Conditional Uses in Districts.

- A. *Purpose and Intent.* Within each zoning district it is recognized that there are uses, because of their unique characteristics, [which] cannot be properly classified in any particular district or districts without consideration in each case of the impact of such uses upon neighboring land, and of the public need for the particular use at the particular location. Such uses may be consistent with the purpose and objectives of the particular zoning district only in specific location, under specific conditions and when developed in accordance with sound planning and site planning principals.

The intent of this section is to provide regulation for uses which are essentially compatible with principal permitted uses in a given district, but which, by reason of the special nature of such uses or their particular location in relation to neighboring properties, require a stricter level of review by the city. Accordingly, conditional uses should not be permitted without consideration of relevant restrictions or conditions being imposed which address their unique characteristics.

- B. *Authorization.* The conditional use approval of specific land uses and activities, as required under this Ordinance, all titled "Conditional Uses", may be authorized by the city council following recommendation from the planning commission, provided that no application for conditional use approval shall be acted upon until after a public hearing is held in accordance with the provisions of state law and this Ordinance. The city council shall take final action on all conditional uses.
- C. *Applications.* An application for conditional use approval for a land use shall be filed and processed in the manner prescribed for an application for development plan review in Article XXIII of this Ordinance, and shall be accompanied by the payment of a fee as established by resolution of the city council. Any application for conditional use approval shall be filed simultaneously with an application for development plan review for the subject use.

[D., E. *Reserved.*]

- F. *Conditions of Approval.* The city council may impose such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights on nearby parcels, and for insuring that the purposes of this Ordinance and the general spirit and purpose of the district in which the special use is proposed will be observed. Conditional use approvals may be granted for a specific time period as determined by the city council.
- G. *Approval.* The city council may deny, approve, or approve with conditions any request for conditional use approval of a land use. The decision on a conditional use approval shall be incorporated in a statement of conclusions relative to the specific land use under consideration. The decision shall specify the basis for the decision and any conditions imposed.
1. Prior to granting any conditional use approval, the city council may impose any additional conditions or limitations

as, in its judgement, may be necessary for protection of the public interest. Such conditions shall be related to and ensure that the review considerations and applicable regulations of this Ordinance are met.

2. Approval of a conditional use, including conditions made as part of the approval, is attached to the property described as part of the application and not to the owner of such property.
3. A record of decision or recommendation of the planning commission and the city council, the reasons for the decision reached, and any conditions attached to such decision shall be kept and made a part of the minutes of the planning commission and the city council.
4. The building inspector shall make periodic investigations of developments authorized by conditional use approval to determine continued compliance with all requirements imposed by the city council. Noncompliance with the requirements and conditions approved for the conditional use shall constitute grounds for the planning commission to terminate the approval following a public hearing. Such hearing shall be held in accordance with the procedures used for the original hearing as required by this Ordinance.

H. *Records.* The conditions imposed with respect to the conditional use approval of a land use or activity shall be recorded in the record of the conditional use approval action and shall remain unchanged except upon the mutual consent of the city council and the landowner. The city council shall maintain a record of changes granted with conditions.

Sec. 2.80. - Zoning of Land Acquired Thru Land Transfer Agreements.

All parcels of land that are brought under control of the city thru land transfer agreements shall be zoned RD-1, Single - Family Residential District unless there is a provision in the land transfer agreement determining the zoning of those parcels.

(Ord. No. 2002-5, 8-26-02)

ARTICLE III. - FLOOD PLAIN DISTRICT (FPD)

Sec. 3.10. - Purpose.

The purpose of the flood plain district is to protect the natural, human, and economic resources of the city and to promote the public health, safety, and general welfare, by application of special regulations to the use of land which may be subject to periodic inundation at predictable intervals. Said regulations, while permitting reasonable economic use and considering the physical limitations of such land, will help to protect the public health, public safety, and general welfare, and will reduce the financial burdens imposed upon the community which may result from the improper use of land. All lands included in said district shall be subject to the terms imposed herein in addition to the terms imposed by any other district in which said lands may be located.

Further, the objectives of this Article include:

- A. The protection of human life, health, and property from the dangerous and damaging effects of flood conditions;
- B. The minimization of public expenditures for flood control projects, rescue, and relief efforts in the aftermath of flooding, repair of flood damaged public facilities and utilities, and the redevelopment of flood damaged homes, neighborhoods, commercial, and industrial areas;
- C. The prevention of private and public economic loss and social disruption as a result of flood conditions;
- D. The maintenance of stable development patterns, not subject to the blighting influence of flood damage;
- E. To ensure that the public access to information indicating the location of land areas subject to periodic flooding; and
- F. To preserve the ability of flood plains to carry and discharge a base flood.

Sec. 3.20. - Delineation of the Flood Plain District Overlay Area.

- A. The flood plain district area shall be considered an overlay to existing zoning districts delineated on the official City of Eator Zoning Map. The areas of the flood plain district shall coincide with the boundaries of the areas of special flood hazards (A ; and area indicated as within the limits of the one hundred (100) year flood area designated by the Federal Emergency Management Agency (FEMA) in the flood insurance study, dated October 15, 1982, with accompanying flood insurance rate and flood boundary and floodway maps, and amendments thereto, which are adopted by reference, appended, and declared to be a part of this Ordinance.
- B. Where there are disputes as to the location of a flood hazard area zone boundary, the zoning board of appeals shall resolve the dispute, based upon the following:
1. Where disputes arise as to the location of the flood hazard area boundary or the limits of the floodway, the zoning board of appeals shall resolve the dispute and establish the boundary location. In all cases, the decision of the board of appeals shall be based upon the most current flood plain studies issued by the FEMA. Where FEMA information is not available, the best available floodplain information should be utilized.
 2. Where a dispute involves an allegation that the boundary is incorrect as mapped and FEMA flood plain studies are being questioned, the zoning board of appeals shall modify the boundary of the flood hazard area or the floodway only upon receipt of an official letter of map amendment or letter of map revision issued by the FEMA or the designee.
 3. All parties to a map dispute may submit technical evidence to the zoning board of appeals.

Sec. 3.30. - Development/Permit.

- A. Development, including the erection of structures and placement of mobile homes, within a flood hazard area shall not occur except upon issuance of a local permit in accord with the requirements of this Ordinance and the following standards:

The term "development," as used in this section, shall mean any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operation located within the area of special flood hazard.

1. The requirements of this section shall be met.
2. The requirements of the underlying zoning district and applicable general provisions of this Ordinance must be met.
3. All necessary development permits shall have been issued by appropriate local, state, and federal authorities including a flood plain permit, approval, or letter of no authority from the Michigan Department of Environmental Quality under authority of Public Act 451, as amended. Where a development permit cannot be issued prior to the issuance of a local permit, a letter from the issuing agency indicating intent to issue contingent only upon proof of zoning compliance shall be acceptable.
4. General standards for flood hazard reduction.
 - a. All new construction and substantial improvements, including the placement of prefabricated buildings and mobile homes, in the flood hazard area shall:
 - i. Be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure;
 - ii. Be constructed with materials and utility equipment resistant to flood damage.
 - iii. Be constructed by methods and practices that minimize flood damage.
 - b. All subdivision proposals and other proposed new development in the floodplain district shall be reviewed by the building inspector to assure that:
 - i. All such proposals are consistent with the need to minimize flood damage in the floodplain district;

- ii. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to eliminate flood damage;
 - iii. Adequate drainage is provided to reduce flood hazards.
 - c. All new and replacement water supply system in the flood plain district shall be designed to minimize or eliminate infiltration of flood waters into the system.
 - d. All new and replacement sanitary sewage systems in the flood plain district shall be designed to minimize or eliminate infiltration of flood water into the systems and discharges from the systems into flood waters. All on-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
 - e. All public utilities and facilities shall be designed, constructed, and located to minimize or eliminate flood damage.
 - f. Adequate drainage shall be provided to reduce exposure to flood damage.
 - g. Development plans shall be reviewed in accordance with this Ordinance to determined compliance with the standards in this Ordinance. The building inspector shall review development proposals to determine compliance with the standards of this Article.
 - h. The flood carrying capacity of any altered or relocated watercourse not subject to state or federal regulations designed to insure flood carrying capacity shall be maintained. If any alteration or relocation of any watercourse shall be proposed, then prior thereto, the building inspector shall notify adjacent communities and the state coordinating agency and shall submit copies of such notifications to the Federal Emergency Management Agency, prior to any alteration or relocation of a watercourse.
 - i. Available flood hazard data from federal, state, or other sources shall be reasonably utilized in meeting the standards of this section. Data furnished by the FEMA shall take precedence over data from other sources.
 - j. All subdivision proposals and other proposed new development in the flood plain district, greater than fifty (50) lots or five (5) acres, whichever is less, shall include within such proposals the base flood elevation data (that flood having at least a one (1) per cent chance of being equaled or exceeded in any given year).
 - k. Land shall not be divided in such a manner so as to create parcels or lots that cannot be used in conformance with the requirements of this section.
5. Obstruction of floodways. Located within areas of special flood hazard are areas designated as floodways. Since the floodway is extremely hazardous due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:
 - a. Encroachments are prohibited, including fill, new construction, substantial improvements, and other development unless a technical evaluation demonstrated that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharges.
 - b. If the preceding is satisfied, all new construction and substantial improvement shall comply with all applicable flood hazard reduction provisions of this Ordinance and the city's Code of Ordinances.
6. Filling and dumping. Dredging, filling, dumping, and/or backfilling with any material in any manner is prohibited unless through compensating excavation and shaping of the floodplain, the flow, and impoundment capacity of the floodplain will be maintained or improved, and unless all applicable federal, state, and city regulations are met.
7. Specific base flood elevation standards.
 - a. On the basis of the most recent available base flood elevation data, the following standards shall apply in the flood hazard area zones A1, A2, and A5:
 - i. All new construction and substantial improvement of residential structures shall have the lowest floor,

- including basement, elevated to one (1) foot or above the base flood level.
- ii. All new construction and substantial improvement of nonresidential structures shall have either:
 - 1) The lowest floor, including basement, elevated to one (1) foot or above the base flood level; or
 - 2) Be constructed such that below the base flood level, together with attendant utility and sanitary facilities, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subparagraph are satisfied. Said certification shall be submitted as provided and shall indicate the elevation to which the structure is flood proofed.
 - b. On the basis of the most recent available base flood elevation data, the following standards shall apply in the flood hazard area zone AO:
 - i. All new construction and substantial improvement of residential structures shall have the lowest floor, including basement, elevated above the crown of the nearest street or above the depth number specified on the applicable flood insurance rate map.
 - ii. All new construction and substantial improvement of nonresidential structures shall have either:
 - 1) The lowest floor, including basement elevated above the crown of the nearest street or above the depth number specified on the applicable flood insurance rate map; or
 - 2) Be constructed such that below the base flood level, together with attendant utility and sanitary facilities, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subparagraph are satisfied. Said certification shall be submitted as provided and shall indicate the elevation to which the structure is flood proofed.
 - c. The most recent base flood elevation data received from the FEMA shall take precedence over data from other sources.
8. Mobile home standards.
- a. All mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties in accord with the following specifications:
 - i. Over-the-top ties shall be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, except that on mobile homes less than fifty (50) feet in length, one tie per side shall be required.
 - ii. Frame ties shall be provided at each corner of the home with five (5) additional ties per side at intermediate points, except that on mobile homes less than fifty (50) feet in length, four (4) ties per side shall be required.
 - iii. All components of the anchoring system shall be capable of carrying a force of four thousand eight hundred (4,800) pounds.
 - iv. All additions to a mobile home shall be similarly anchored.
 - b. For mobile home parks and mobile home subdivisions located within the flood plain district, an evacuation plan indicating an alternate vehicular access and escape routes shall be filed with the fire chief and the Eaton County Civil Defense Director and/or Emergency Management Director.
 - c. For all new mobile home parks and mobile home subdivisions, expansions to existing mobile home parks and mobile home subdivisions, existing mobile home parks and mobile home subdivisions where the repair, reconstruction, or improvement of the streets, utilities, and pads equals or exceeds fifty (50) per cent of the value

of the streets, utilities, and pads before the repair, reconstruction, or improvement has commenced, and all individual mobile homes not in a mobile home park or mobile home subdivision within the flood plain district require that:

- i. Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be one (1) foot or above the base flood level;
- ii. Adequate surface drainage and access for a hauler are provided; and
- iii. In the instance of elevation on pilings, that:
 - 1) Lots are large enough to permit steps;
 - 2) Piling foundations are placed in stable soils no more than ten (10) feet apart; and
 - 3) Reinforcement is provided for pilings more than six (6) feet above the ground level.
- d. No mobile home shall be placed in a floodway, except in an existing mobile home park or existing mobile home subdivision.

Sec. 3.40. - Floodplain District Zone Variances.

- A. Variances from the provisions of this Article shall only be granted by the zoning board of appeals for new construction and substantial improvements to be erected on a lot one-half (½) acre or less in size, contiguous to and surrounded by lots within existing structures constructed below the base flood level and upon a determination of compliance with the general standards for variances contained in this section and each of the following specific standards:
 1. Good and sufficient cause is shown;
 2. Determination is made that failure to grant the variance would result in exceptional hardship to the applicant;
 3. Determination is made that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
 4. Determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
 5. The building inspector notifies the applicant in writing that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance and that such construction below the base flood level, increases risk to life and property.
- B. Variances may be granted for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the Michigan Inventory of Historic Places without regard to the procedures set forth in this section.
- C. The building inspector shall maintain a permanent record of all variance actions, including justification for their issuance and the notification required in this section, and shall report such variances granted in the annual report submitted to the Federal Emergency Management Agency.

Sec. 3.50. - Warning and Disclaimer of Liability.

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes, and for promotion of the public health, safety, and general welfare, and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. Approval of the use of land or premises under this Article shall not be considered approval, guarantee, or warranty of safety or suitability.

This Ordinance does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Eaton Rapids or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

Sec. 3.60. - Principal Permitted Uses.

Within the flood plain district zone, no land use shall be used and no building shall be erected, except for one (1) of the uses identified in the underlying zoning district as a principal permitted use, unless otherwise provided for as a conditional use.

Sec. 3.70. - Conditional Uses.

Within the flood plain district zone, the uses identified as conditional uses in the underlying zoning district shall require a conditional use approval and shall comply with any applicable conditional use requirements identified in Article XXIII of this Ordinance.

Sec. 3.80. - [Flood Plain Management Provision of the State Construction Code.]

- A. *Agency designated.* Pursuant to the provisions of the State Construction Code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the Building Official of the City of Eaton Rapids is hereby designated as the enforcing agency to discharge the responsibility of the City of Eaton Rapids under Act 230, of the Public Acts of 1972, as amended, State of Michigan. The City of Eaton Rapids assumes responsibility for the administration and enforcement of said Act through out the corporate limits of the community adopting this ordinance.
- B. *Code Appendix enforced.* Pursuant to the provisions of the State Construction Code, in accordance with Section 9b(6) of Act 230, of the Public Acts of 1972, as amended, Appendix G of the Michigan Building Code shall be enforced by the enforcing agency within the City of Eaton Rapids.
- C. *Designation of regulated flood prone hazard areas.* The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) Entitled Eaton County, Michigan (All Jurisdictions) and dated 11/26/10 and the Flood Insurance Rate Map(s) (FIRMS) panel number(s) of 26056C; 0343E, 0344E, 0456E, and 0457E and dated 11/26/10 are adopted by reference for the purposes of administration of the Michigan Construction Code, and declared to be a part of Section 1612.3 of the Michigan Building Code, and to provide the content of the "Flood Hazards" section of Table R301.2(1) of the Michigan Residential Code.

(Ord. No. 2010-6, §§ 1—3, 11-22-10; Ord. No. 2010-7, §§ 1—3, 12-28-10)

Editor's note— Ord. No. 2010-6, §§ 1—3, adopted Nov. 22, 2010, amended the Code by adding provisions designated as App. A, § 3.60. Inasmuch as § 3.60 already exists, the provisions have been redesignated as App. A, § 3.80, at the discretion of the editor.

ARTICLE IV. - TRADITIONAL RESIDENTIAL DISTRICT (TRD)

Sec. 4.10. - Purpose.

The purpose of this district is to provide an environment in which the principal use of land is for single-family dwellings, characterized by a compact and concentrated development pattern. It is further the intent of this district to provide for such uses as schools, churches, libraries, parks, playgrounds, and other public and semi-public uses, along with certain home occupations, accessory buildings, and others to coexist on a limited and structured basis adjacent to residential uses.

Further, the objectives of this Article include:

- A. To encourage the construction of, and the continued use of the land for single-family dwellings in a traditional development pattern;
- B. To prohibit intensive business, commercial, or industrial uses of the land, and to prohibit any other use which would substantially interfere with development or maintenance of single-family dwellings in the district.
- C. To encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this Ordinance.
- D. To discourage any land use which would generate volumes of traffic on minor or local streets, greater than that normally associated with residential streets.
- E. To discourage any use which, because of its character or size, would create requirements and costs for public services such as fire and police protection, water supply, and sewer treatment substantially in excess of such requirements and costs normally associated with single-family dwellings.

Sec. 4.20. - Principal Permitted Uses.

No building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses, unless otherwise provided in this Ordinance.

- A. Single-family detached dwellings.
- B. Home occupations.
- C. Adult foster care family homes, provided, this subsection shall not apply to adult foster care facilities, licensed by a state agency, for the care and treatment of persons released from or assigned to adult correctional institutions.
- D. Public, quasi-public, and institutional uses such as, but not limited to, municipal buildings and offices, courthouses, public off-street parking facilities, libraries, museums, public safety facilities, parks, post offices, and civic centers, (excluding storage yards for the same).
- E. Essential public services when conducted within a completely enclosed building, excluding storage yards.
- F. Churches and other facilities normally incidental thereto.
- G. Off-street parking.
- H. Accessory structures and uses customarily incidental to the above permitted uses.

Sec. 4.30. - Conditional Uses.

The following uses shall be considered conditional and shall require a conditional use approval, and shall comply with any applicable conditional use requirements of Article XXIII:

- A. Tourist homes and bed and breakfast inns.
- B. Home-based businesses.
- C. Public, parochial, and private elementary, intermediate, and/or high schools offering courses in general education, not operated for profit.
- D. Public hospitals, but not including institutions for the care of the insane, provided that the hospital is adjacent to an arterial roadway as defined in the Eaton Rapids Comprehensive Plan.
- E. Private recreation areas, uses, and facilities including country clubs golf courses, and swimming pools.
- F. Public utility buildings, telephone exchange buildings, electric transformer stations and substations, and gas regulator stations, but not including service or storage yards, when operating requirements necessitate the locating within the district in order to serve the immediate vicinity.
- G. Cemeteries.

Sec. 4.40. - Development Requirements.

The following requirements shall be met within a Traditional Residential District (TRD):

- A. Development plan approval for all non-single-family residential uses as specified in Article XVI of this Ordinance.
- B. Off-street parking, loading, and access management standards for all uses specified in Article XXI of this Ordinance.
- C. Signs for all uses as specified in Article XXII of this Ordinance.
- D. Height, area, lot coverage, and yard regulations as specified in Article XVII of this Ordinance.
- E. Landscaping requirements as specified in Article XX of this Ordinance.

ARTICLE V. - LOW DENSITY SINGLE-FAMILY RESIDENTIAL DISTRICT (RD1)

Sec. 5.10. - Purpose.

The purpose of this district is to provide an environment in which the principal use of land is for single-family dwellings of a relatively low density. It is further the intent of this district to provide for such uses as schools, churches, libraries, parks, playgrounds, and other public and semi-public uses, along with certain home occupations, accessory buildings, and others to coexist on a limited and structured basis adjacent to residential uses.

Further, the objectives of this Article include:

- A. To encourage the construction of, and the continued use of the land for single-family dwellings;
- B. To prohibit intensive business, commercial, or industrial use of the land, and to prohibit any other use which would substantially interfere with development or maintenance of single-family dwellings in the district.
- C. To encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this Ordinance.
- D. To discourage any land use which would generate volumes of traffic on minor or local streets, greater than that normally associated with residential streets.
- E. To discourage any use which, because of its character or size, would create requirements and costs for public services such as fire and police protection, water supply, and sewer treatment substantially in excess of such requirements and costs normally associated with single-family dwellings.
- F. To permit the continuation of the agricultural use of open lands in such a manner that their future use as desirable residential areas will be guaranteed.

Sec. 5.20. - Principal Permitted Uses.

No building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses, unless otherwise provided in this Ordinance:

- A. Single-family detached dwellings.
- B. Home occupations.
- C. Adult foster care family homes, provided, this subsection shall not apply to adult foster care facilities, licensed by a state agency, for the care and treatment of persons released from or assigned to adult correctional institutions.
- D. Public, quasi-public, and institutional uses, such as, but not limited to, municipal buildings and offices, courthouses, public off-street parking facilities, libraries, museums, public safety facilities, parks, post offices, and civic centers, (excluding storage yards for the same).
- E. Essential public services when conducted within a completely enclosed building, excluding storage yards.

- F. Churches and other facilities normally incidental thereto.
- G. Off-street parking.
- H. Accessory structures and uses customarily incidental to the above permitted uses.

Sec. 5.30. - Conditional Uses.

The following uses shall be considered conditional and shall require a conditional use approval, and shall comply with any applicable conditional use requirements of Article XXIII:

- A. Home-based businesses.
- B. Public, parochial, and private elementary, intermediate, and/or high schools offering courses in general education, not operated for profit.
- C. Public hospitals, but not including institutions for the care of the insane, provided that the hospital is adjacent to an arterial roadway as defined in the Eaton Rapids Comprehensive Plan.
- D. Private recreation areas, uses, and facilities including country clubs, golf courses, and swimming pools.
- E. Public utility buildings, telephone exchange buildings, electric transformer stations and substations, and gas regulator stations, but not including service or storage yards, when operating requirements necessitate the locating within the district in order to serve the immediate vicinity.
- F. Cemeteries.
- G. Plant nurseries and greenhouses.
- H. Private stables for the keeping of horses and ponies for private use.
- I. Truck gardening and associated road stand solely for the sale of produce grown on the land used for agricultural purposes.
- J. Daycare center.
 - 1. The site shall be evaluated for the degree of potential residential and institutional use conflicts.
 - 2. The site should preferably be located at the edge of residential districts.
 - 3. The site shall have a minimum lot area of sixty-five thousand (65,000) square feet.
 - 4. Site locations should offer natural or manmade barriers that would lessen the impact of the institutional intrusion upon a residential area.
 - 5. The building shall use massing, building materials and architectural elements to blend in with the surrounding residential areas, such as peaked roofs and porches.
 - 6. All playground equipment and areas for playing and exercise shall be in the side and/or rear yard of the property. This area shall contain a minimum of five thousand (5,000) square feet per twelve (12) children and be screened from abutting residential uses and districts.
 - 7. Motor vehicle ingress and egress shall be made directly to an arterial street as defined in the Eaton Rapids Comprehensive Plan and setback a minimum of twenty (20) feet from abutting residential properties or uses.
 - 8. The building front, side and rear setbacks shall be thirty (30) feet minimum from the property or street lines unless determined by the Planning Commission a greater setback is needed.
 - 9. Parking and drop off/pick up areas shall be located in the side and rear yards with a setback of twenty (20) feet minimum from the property lines and screened in accordance with Section 21.10.
 - 10. One nonilluminated wall sign not to exceed six (6) square feet shall be the only signage permitted.
 - 11. Paved walkways shall be provided from the main building entrance(s) to any sidewalks along the adjacent public street.

12. Waste receptacles and mechanical equipment shall be screened in accordance with the standards identified in Section 20.30.
- K. Convalescent or nursing homes, housing for the elderly.
1. The site shall be evaluated for the degree of potential residential and institutional use conflicts.
 2. The site should preferably be located at the edge of residential districts.
 3. The site shall have a minimum lot area of two (2) acres.
 4. Site locations should offer natural or manmade barriers that would lessen the impact of the institutional intrusion upon a residential area.
 5. The building shall use massing, building materials and architectural elements to blend in with the surrounding residential areas, such as peaked roofs and porches.
 6. The allowable density of the underlying zoning district may be increased by no more than fifty (50) per cent for all nursing care units licensed by the State of Michigan, or twenty-five (25) per cent for nonlicensed nursing care and supportive care units.
 7. All dwelling units shall have a minimum of four hundred fifty (450) square feet per unit.
 8. Motor vehicle ingress and egress shall be made directly to an arterial street as defined in the Eaton Rapids Comprehensive Plan and setback a minimum of twenty (20) feet from abutting residential properties or uses.
 9. The building front, side and rear setbacks shall be thirty (30) feet minimum from the property or street lines unless determined by the Planning Commission a greater setback is needed.
 10. Parking shall be located in the side and rear yards with a setback of twenty (20) feet minimum from the property lines and screened in accordance with Section 21.10.
 11. Retail and service uses may be permitted on the site, if such uses are accessory to the elderly housing use. All such uses shall be within the residential building. Nonilluminated wall signs not to exceed twelve (12) square feet are the only signage permitted for these accessory uses.
 12. Signage for the main use shall be a monument sign not to exceed six (6) feet in height and twenty-five (25) square feet in area.
 13. Paved walkways shall be provided from the main building entrance(s) to any sidewalks along the adjacent public street.
 14. Ambulance and delivery areas shall be obscured from adjoining residential properties in accordance with the standards identified in Article XX.
 15. Waste receptacles and mechanical equipment shall be screened in accordance with the standards identified in Section 20.30.

(Ord. No. 2016-3, 4-11-16)

Sec. 5.40. - Development Requirements.

The following requirements shall be met within a Low Density Single-Family Residential District (RD1):

- A. Development plan approval for all non single-family residential uses as specified in Article XVI of this Ordinance.
- B. Off-street parking, loading, and access management standards for all uses specified in Article XXI of this Ordinance.
- C. Signs for all uses as specified in Article XXII of this Ordinance.
- D. Height, area, lot coverage, and yard regulations as specified in Article XVII of this Ordinance.
- E. Landscaping requirements as specified in Article XX of this Ordinance.

ARTICLE VI. - SINGLE-FAMILY AND TWO-FAMILY RESIDENTIAL DISTRICT (RD2)

Sec. 6.10. - Purpose.

The purpose of this district is to provide an environment in which the principal use of land is for single-family dwellings and two-family dwellings of a medium density. It is further the intent of this district to provide for such uses as schools, churches, libraries, parks, playgrounds, and other public and semi-public uses, along with certain home occupations, accessory buildings, and others to coexist on a limited and structured basis adjacent to residential uses.

Further, the objectives of this Article include:

- A. To encourage the construction of, and the continued use of the land for single- and two-family dwellings.
- B. To achieve the same character, stability, and sound residential environment as in the Low Density Single-Family Residential district while permitting a slightly higher density of people through the construction of two-family dwellings.
- C. To provide an affordable housing alternative in a residential neighborhood for those persons who do not require or desire a single-family residence.
- D. To encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this Ordinance.
- E. To discourage any land use which, because of its character or size, would create requirements and costs for public services such as fire and police protection, water supply, and sewer treatment substantially in excess of such requirements and costs normally associated with single-family dwellings.
- F. To prohibit intensive business, commercial, or industrial use of the land, and to prohibit any other use which would substantially interfere with the development or maintenance of single-family dwellings in the district.

Sec. 6.20. - Principal Permitted Uses.

No building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses, unless otherwise provided in this Ordinance:

- A. Single-family detached dwellings.
- B. Two-family detached dwellings (commonly referred to as duplexes).
- C. Home occupations.
- D. Adult foster care family homes, provided, this subsection shall not apply to adult foster care facilities, licensed by a state agency, for the care and treatment of persons released from or assigned to adult correctional institutions.
- E. Public, quasi-public, and institutional uses such as, but not limited to, municipal buildings and offices, courthouses, public off-street parking facilities, libraries, museums, public safety facilities, parks, post offices, and civic centers, (excluding storage yards for the same).
- F. Essential public services when conducted within a completely enclosed building, excluding storage yards.
- G. Churches and other facilities normally incidental thereto.
- H. Off-street parking.
- I. Accessory structures and uses customarily incidental to the above permitted uses.

Sec. 6.30. - Conditional Uses.

The following uses shall be considered conditional and shall require a conditional use approval, and shall comply with any applicable conditional use requirements of Article XXIII:

- A. Attached or detached accessory apartments, provided the site contains a single-family dwelling only, and is limited to one accessory apartment per site. Accessory apartments may be attached to either a single-family dwelling or a detached garage.
- B. Home-based businesses.
- C. Public, parochial, and private elementary, intermediate, and/or high schools offering courses in general education, not operated for profit.
- D. Public hospitals, but not including institutions for the care of the insane, provided that the hospital is adjacent to an arterial roadway as defined in the Eaton Rapids Comprehensive Plan.
- E. Private recreation areas, uses, and facilities including country clubs, golf courses, and swimming pools.
- F. Public utility buildings, telephone exchange buildings, electric transformer stations and substations, and gas regulator stations, but not including service or storage yards, when operating requirements necessitate the locating within the district in order to serve the immediate vicinity.
- G. Cemeteries.

Sec. 6.40. - Development Requirements.

The following requirements shall be met within a Single-Family and Two-Family Residential District (RD2):

- A. Development plan approval for all non-single- or two-family residential uses as specified in Article XVI of this Ordinance.
- B. Off-street parking, loading, and access management standards for all uses as specified in Article XXI of this Ordinance.
- C. Signs for all uses as specified in Article XXII of this Ordinance.
- D. Height, area, lot coverage, and yard regulations as specified in Article XVII of this Ordinance.
- E. Landscaping requirements as specified in Article XX of this Ordinance.

ARTICLE VII. - MULTIPLE-FAMILY RESIDENTIAL DISTRICT (MFRD)

Sec. 7.10. - Purpose.

The purpose of this district is to provide an environment in which higher density residential uses are accommodated with a variety of housing types. It is further the intent of this district to provide for such uses as schools, churches, libraries, parks, playgrounds, and other public and semi-public uses, along with certain home occupations, accessory buildings, and others to coexist on a limited and structured basis adjacent to residential uses.

Further, the objectives of this Article include:

- A. To serve as a transitional use between single- and two-family residential areas and nonresidential development.
- B. To prohibit intensive business, commercial, or industrial use of the land, and to prohibit any other use which would substantially interfere with the development or maintenance of residential dwellings in the district.
- C. To encourage the discontinuation of existing uses that would not be permitted as new uses under the provisions of this Ordinance.
- D. To discourage any land use which would generate volumes of traffic on minor or local streets, greater than that normally associated with residential streets.
- E. To achieve the same stability and sound residential environment as in the single- and two-family residential areas while permitting a higher density of people.

- F. To provide a housing alternative in a residential neighborhood for those persons who do not require or desire a single-family residence.

Sec. 7.20. - Principal Permitted Uses.

No building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses, unless otherwise provided in this Ordinance:

- A. Single- and two-family detached dwellings.
- B. Multiple-family dwellings, including but not limited to, apartments, apartment houses, townhouses, terrace apartments, efficiency units, and row houses.
- C. Home occupations.
- D. Adult foster care family homes, provided, this subsections shall not apply to adult foster care facilities, licensed by a state agency, for the care and treatment of persons released from or assigned to adult correctional institutions.
- E. Public, quasi-public, and institutional uses such as, but not limited to, municipal buildings and offices, courthouses, public off-street parking facilities, libraries, museums, public safety facilities, parks, post offices, and civic centers, (excluding storage yards for the same).
- F. Accessory structures and uses customarily incidental to the above permitted uses, including but not limited to:
 - 1. Community garages, serving the principal residential building, containing space for no more than two (2) passenger vehicles for each dwelling unit in the principal building on the lot.
 - 2. Maintenance and management buildings to serve the multiple dwellings.
 - 3. Private swimming pool, clubhouse, or other recreational facility designed and operated only for the occupants of the principal building and their personal guests.
- G. Essential public services when conducted within a completely enclosed building, excluding storage yards.
- H. Churches and other facilities normally incidental thereto.
- I. Off-street parking.

Sec. 7.30. - Conditional Uses.

The following uses shall be considered conditional and shall require a conditional use approval, and shall comply with any applicable conditional use requirements of Article XXIII:

- A. Child care centers, day care centers, or child caring institutions.
- B. Home-based businesses.
- C. Public, parochial, and private elementary, intermediate, and/or high schools offering courses in general education, not operated for profit.
- D. Public hospitals, but not including institutions for the care of the insane, provided that the hospital is adjacent to an arterial roadway as defined in the Eaton Rapids Comprehensive Plan.
- E. Private recreation areas, uses, and facilities including country clubs, golf courses, and swimming pools.
- F. Public utility buildings, telephone exchange buildings, electric transformer station and substations, and gas regulator stations, but not including service or storage yards, when operating requirements necessitate the locating within the district in order to serve the immediate vicinity.
- G. Cemeteries.
- H. Adult foster care group homes and congregate facilities.
- I. Daycare center.

1. The site shall be evaluated for the degree of potential residential and institutional use conflicts.
 2. The site should preferably be located at the edge of residential districts.
 3. The site shall have a minimum lot area of sixty-five thousand (65,000) square feet.
 4. Site locations should offer natural or manmade barriers that would lessen the impact of the institutional intrusion upon a residential area.
 5. The building shall use massing, building materials and architectural elements to blend in with the surrounding residential areas, such as peaked roofs and porches.
 6. All playground equipment and areas for playing and exercise shall be in the side and/or rear yard of the property. This area shall contain a minimum of five thousand (5,000) square feet per twelve (12) children and be screened from abutting residential uses and districts.
 7. Motor vehicle ingress and egress shall be made directly to an arterial street as defined in the Eaton Rapids Comprehensive Plan and setback a minimum of twenty (20) feet from abutting residential properties or uses.
 8. The building front, side and rear setbacks shall be thirty (30) feet minimum from the property or street lines unless determined by the Planning Commission a greater setback is needed.
 9. Parking and drop off/pick up areas shall be located in the side and rear yards with a setback of twenty (20) feet minimum from the property lines and screened in accordance with Section 20.30.
 10. One nonilluminated wall sign not to exceed six (6) square feet shall be the only signage permitted.
 11. Paved walkways shall be provided from the main building entrance(s) to any sidewalks along the adjacent public street.
 12. Waste receptacles and mechanical equipment shall be screened in accordance with the standards identified in Section 20.30.
- J. Convalescent or nursing homes, housing for the elderly.
1. The site shall be evaluated for the degree of potential residential and institutional use conflicts.
 2. The site should preferably be located at the edge of residential districts.
 3. The site shall have a minimum lot area of two (2) acres.
 4. Site locations should offer natural or manmade barriers that would lessen the impact of the institutional intrusion upon a residential area.
 5. The building shall use massing, building materials and architectural elements to blend in with the surrounding residential areas, such as peaked roofs and porches.
 6. The allowable density of the underlying zoning district may be increased by no more than fifty (50) per cent for all nursing care units licensed by the State of Michigan, or twenty-five (25) per cent for nonlicensed nursing care and supportive care units.
 7. All dwelling units shall have a minimum of four hundred fifty (450) square feet per unit.
 8. Motor vehicle ingress and egress shall be made directly to an arterial street as defined in the Eaton Rapids Comprehensive Plan and setback a minimum of twenty (20) feet from abutting residential properties or uses.
 9. The building front, side and rear setbacks shall be thirty (30) feet minimum from the property or street lines unless determined by the Planning Commission a greater setback is needed.
 10. Parking shall be located in the side and rear yards with a setback of twenty (20) feet minimum from the property lines and screened in accordance with Section 21.10.
 11. Retail and service uses may be permitted on the site, if such uses are accessory to the elderly housing use. All such uses shall be within the residential building. Nonilluminated wall signs not to exceed twelve (12) square feet

are the only signage permitted for these accessory uses.

12. Signage for the main use shall be a monument sign not to exceed six (6) feet in height and twenty-five (25) square feet in area.
13. Paved walkways shall be provided from the main building entrance(s) to any sidewalks along the adjacent public street.
14. Ambulance and delivery areas shall be obscured from adjoining residential properties in accordance with the standards identified in Article XX.
15. Waste receptacles and mechanical equipment shall be screened in accordance with the standards identified in Section 20.30.

(Ord. No. 2016-4, 4-11-16)

Sec. 7.40. - Development Requirements.

The following requirements shall be met within a Multiple-Family Residential District (MFRD):

- A. Development plan approval for all non-single- or two-family residential uses as specified in Article XVI of this Ordinance.
- B. Off-street parking, loading, and access management standards for all uses as specified in Article XXI of this Ordinance.
- C. Signs for all uses as specified Article XXII of this Ordinance.
- D. Height, area, lot coverage, and yard regulations as specified in Article XVII of this Ordinance.
- E. Landscaping requirements as specified in Article XX of this Ordinance.

ARTICLE VIII. - MANUFACTURED HOUSING PARK DISTRICT (MHPD)

Sec. 8.10. - Purpose.

The purpose of this district is to provide an environment in which persons and families, who by preference choose to live in manufactured housing rather than in a conventional single-family structure. It is further the intent of this district to provide for parks, playgrounds, and other public and semi-public uses, along with certain home occupations, accessory buildings, and others to coexist on a limited and structured basis.

Further, the objectives of this Article include:

- A. To prohibit intensive business, commercial, or industrial use of the land, and to prohibit any other use which would substantially interfere with the development or maintenance of residential dwellings in the district.
- B. To discourage the discontinuation of existing uses that would not be permitted as new uses under the provisions of this Ordinance.
- C. To discourage any land use which would generate volumes of traffic on minor or local streets greater than that normally associated with residential streets.
- D. To achieve the same stability and sound residential environment as in the single- and two-family residential areas while permitting a higher density of people.
- E. To provide a housing alternative in a residential neighborhood for those persons who do not require or desire a single-family or two-family residence.
- F. The regulations established by state law (Public Act 96 of 1987, as amended) and the manufactured housing

commission rules govern all manufactured housing parks. When regulations in the Article exceed the state law or the manufactured housing commission rules, it is to insure that manufactured housing parks meet minimum standards comparable to other residential districts and to promote the health, safety, and welfare of the city's residents.

Sec. 8.20. - Principal Permitted Uses.

[The following are principal permitted uses in Manufactured Housing Park Districts:]

- A. Manufactured Homes, provided they are in conformance with all applicable state laws, rules, and regulations governing mobile home developments, and this Ordinance.
Model manufactured homes, when in conjunction with sales within a specific manufactured housing park.
No trailer, recreational vehicle, or dwelling other than a manufactured home shall be permitted to be used as a dwelling in a manufactured housing park.
- B. Adult foster care family homes, provided this subsection shall not apply to adult foster care facilities, license by a state agency, for the care or treatment of persons released from or assigned to adult correctional institutions.
- C. Home occupations.
- D. Accessory structures and uses customarily incidental to the above permitted uses, including but not limited to:
 - 1. Community garages and/or storage units serving multiple dwellings or individual units.
 - 2. Maintenance and management buildings to serve multiple dwellings.
 - 3. Private swimming pool, clubhouse, or other recreational facility designed and operated only for the occupants of the manufactured housing park and their personal guests.
- E. Public, quasi-public, and institutional uses such as, but not limited to, municipal buildings and offices, courthouses, public off-street parking facilities, libraries, museums, public safety facilities, parks and playgrounds, post offices, and civic centers, but excluding storage yards for any use.
- F. Essential public services when conducted within a completely enclosed building, excluding storage yards.
- G. Churches and other facilities normally incidental thereto.
- H. Off-street parking lots and structures.

Sec. 8.30. - Conditional Uses.

The following uses shall be considered conditional and shall require a conditional use permit, and shall comply with any applicable conditional use requirements of Article XXIII:

- A. Child care center, day care center, or child caring institution.
- B. Public, parochial, and private elementary, intermediate, and/or high schools offering courses in general education, not operated for a profit.
- C. Public utility buildings, telephone exchange buildings, electric transformer station and substations, gas regulator stations, but not including service or storage yards, when operating requirements necessitate the locating within the district in order to serve the immediate vicinity.

Sec. 8.40. - Development Requirements.

[(1)] Manufactured housing parks shall be subject to all the rules and requirements as established and regulated by Michigan law including, by the way of example, Public Act 96 of 1987, as amended, and the Manufactured Housing Commission Rules, and in additions shall satisfy the following requirements:

- A. All preliminary plans (which for the purposes of this Article is as defined in Public Act 96 of 1987, as amended)

submitted to the mobile home commission for review shall also be reviewed and approved by the planning commission and shall demonstrated compliance with the applicable requirements of this Ordinance and those set by the state mobile home commission.

In preparing the preliminary plan and when reviewing the plan, the applicant and the planning commission of Section 11 of Public Act 96 of 1987, as amended, and the planning commission shall take action on the preliminary plan within sixty (60) days after the city has received the plans.

- B. Parking shall be provided either with community parking areas or garages, on the street, or on individual manufactured housing sites, with a minimum of two (2) parking spaces for each manufactured housing unit. In addition, a minimum of one (1) parking space for every three (3) manufactured housing sites shall be provided for visitor parking within five hundred (500) feet.
- Off-street parking in accordance with Article XXI of this Ordinance shall be provided for all community buildings, recreational facilities, office buildings, etc. located within the manufactured housing park.
- Common areas for the storage of boats, motorcycles, recreation vehicles, and similar equipment may be provided in manufactured housing parks, but shall be limited to use only by residents of the manufactured housing park. The location of such storage areas shall be shown on the development plan and shall be prohibited on manufactured housing sites and in designated open space areas. No part of any such storage area shall be located in any yard required along the perimeter of the manufactured housing park. Such storage areas shall be screened form view through the use of a buffer strip or a decorative solid masonry wall as specified in Article XX of this Ordinance.
- C. One identification sign not to exceed twenty (20) square feet shall be permitted at each point of entry for the manufactured housing park. The placement of the sign, lighting of the sign, etc. shall be consistent with Article XXII of this Ordinance.
- D. Height of buildings and structures within the Manufactured Housing District shall not exceed thirty-five (35) feet.
- E. Landscaping shall be provided for all manufactured housing park as follows:
1. Where the manufactured housing park adjoins existing development in the Traditional Residential District (TRD), the Low Density Single-Family Residential District (RD1), or the Single-Family and Two-Family Residential District (RD2), screening shall be provided in one of the following forms or a combination thereof:
 - a. Berm, as specified in Article XX of this Ordinance;
 - b. Buffer strip, as specified in Article XX of this Ordinance; or
 - c. Greenbelt, as specified in Article XX of this Ordinance.

Screening shall also be provided in one (1) of the above forms or a combination thereof, where the manufactured housing park adjoins a public right-of-way.

A minimum of two (2) per cent of the manufactured housing park's gross acreage shall be dedicated to well drained, useable open space, provided that a minimum of twenty-five thousand (25,000) square feet of contiguous open space shall be provided, for all developments containing fifty (50) or more units.
- F. Ownership of the manufactured housing park shall be by one (1) entity or person as defined in Section 2(k) of Public Act 96 of 1987, as amended.
- G. The business of selling new or used manufactured housing as a commercial operation shall not be permitted after the complete occupancy of a new or expanded manufactured housing park has been achieved. Thereafter, new or pre-owned manufactured homes which are to remain on-site in a manufactured housing park may be sold by the resident, owner, licensed dealer, or broker, provided the manufactured housing development management permits such sales activities.

- [(2)] The following requirements shall be met for all uses other than manufactured homes and the uses accessory thereto:
- A. Development plan approval for all nonresidential uses as specified in Article XVI of this Ordinance.
 - B. Off-street parking, loading, and access management standards for all uses specified in Article XXI of this Ordinance.
 - C. Signs for all uses as specified in Article XXII of this Ordinance.
 - D. Height, area, lot coverage, and yard regulations as specified in Article XVII of this Ordinance.
 - E. Landscaping requirements as specified in Article XX of this Ordinance.

ARTICLE IX. - CENTRAL BUSINESS DISTRICT (CBD)

Sec. 9.10. - Purpose.

The purpose of this district is to provide a concentration of retail and service establishments. Collectively, the uses permitted in this district are intended to provide a convenient and attractive retail and service center for the City of Eaton Rapids and the surrounding area. A prime characteristic of this district is the offering of a variety of goods and services directed primarily at the pedestrian shopper. This district is designed and intended to promote the development of a pedestrian oriented and accessible central commercial district where a variety of mutually supporting retail, commercial, office, civic, and limited residential uses are permitted.

Further objectives of this Article include:

- A. Encourage a lively social environment and economically viable downtown with a wide variety of uses in a pedestrian oriented setting, with shared parking.
- B. Discourage the development of separate off-street parking facilities for each individual use, and to encourage the development of off-street parking facilities designed to accommodate the needs of several individual uses.
- C. Discourage uses that do not deal directly with consumers and are disruptive to pedestrian activities.
- D. Promote the creation of urban places that are oriented to the pedestrian thereby promoting citizen security and social interaction.
- E. Promote developments where the physical, visual, and spatial characteristics are established and reinforced through the consistent use of compatible urban design and architectural design elements that improve the visual character of downtown.
- F. Discourage commercial and business uses that create objectionable noise, glare, odors, or other nuisances.
- G. Encourage development of an urban "Main Street" with mixed land uses, shared parking, and continuous frontage which not only serves the needs of the immediate neighborhood, but also the city and surrounding areas as a whole.

Sec. 9.20. - Principal Permitted Uses.

No building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses, unless otherwise provided in this Ordinance.

- A. Art galleries.
- B. Tourist homes and bed and breakfast inns.
- C. Business establishments that perform services on premises such as, but not limited to: banks, savings and loans, and credit unions; brokerage houses; insurance, real estate, and travel agencies; pedestrian-oriented automated teller machine facilities, excluding drive-in or drive-through facilities.
- D. Catering establishments.

- E. Data processing and computing centers with up to ten thousand (10,000) square feet gross floor area.
- F. Essential public services when conducted within a completely enclosed building, excluding storage yards.
- G. Business service establishments, such as office machine and typewriter repair, printing, and blueprinting.
- H. Medical offices with up to ten thousand (10,000) square feet gross floor area.
- I. Mixed use buildings with business, commercial, or service uses on the ground floor and residential, office, or accessory warehouse uses on upper floors.
- J. Newspaper offices, printing, and publishing of up to ten thousand (10,000) square feet of gross floor area.
- K. Offices of an executive, administrative, or professional nature with up to ten thousand (10,000) square feet gross floor area.
- L. Outdoor cafes and outdoor eating areas.
- M. Personal fitness centers up to ten thousand (10,000) square feet of gross floor area.
- N. Personal service establishments within a completely enclosed building, including but not limited to such uses as: repair shops (watches, radio, television, shoes, etc.), tailor and dressmaking shops, beauty parlors and styling salons, barber shops, photographic studios, film processing outlets, copy centers, interior decorators, and postal centers, provided that each occupies a total useable floor area of not more than four thousand (4,000) square feet.
- O. Public, quasi-public, and institutional uses such as, but not limited to, municipal buildings and offices, courthouses, public off-street parking facilities, libraries, museums, public safety facilities, parks and playgrounds, post offices, and civic centers, but excluding storage yards for any use.
- P. Restaurants (excluding drive-in restaurants and those with drive-through facilities), where the patrons are served while seated within the building occupied by such establishments.
- Q. Retail businesses which supply commodities on the premise of up to ten thousand (10,000) square feet of gross floor area, such as, but not limited to: groceries, meats, fruits and produce, dairy products, baked goods, candies, specialty wines, specialty food products, and stores selling drugs, dry goods, flowers, clothing, notions, books and magazines, toys, sporting goods, shoes, tobacco products, musical instruments, recorded music, video rentals and sales, gifts souvenirs, antiques, furniture, and hardware.
- R. Retail sales in which both a workshop and retail outlet or showroom are required, such as, but not limited to plumbing, electrician, interior decorating, upholstering, printing, photographic-reproducing, radio, and home appliance, and similar establishments of similar character subject to the provision that not more than eighty (80) per cent of the total useable floor area of the establishment shall be used for servicing, repairing, or processing activities and further provided that such retail outlet or showroom activities area shall be provided in that portion of the building where the customer entrance is located.
- S. Studios for art, music, dance, or theatrical instruction.
- T. Theaters, cinemas, assembly halls, community centers or similar places of assembly, when conducted completely within enclosed buildings and not more than ten thousand (10,000) square feet gross floor area.
- U. Veterinary clinics and animal grooming, provided all activities are conducted within an enclosed building, with a maximum of ten thousand (10,000) square feet gross floor area.
- V. Churches and other facilities normally incidental thereto.
- W. Accessory structures and uses customarily incidental to the above permitted uses.

Sec. 9.30. - Conditional Uses.

The following uses shall be considered conditional and shall require a conditional use approval, and shall comply with any applicable conditional use requirements of Article XXIII:

- A. Bars, taverns, pubs, and brewpubs, cocktail lounges, and nightclubs.
- B. Business schools and colleges, or private schools operated for a profit.
- C. Off-Street parking lots and structures.
- D. Indoor recreational centers such as, but not limited to bowling alleys, roller and ice skating rinks, pool or billiard halls, pinball and mechanical device arcades, and other general indoor recreation facilities.
- E. Mortuaries and funeral homes.
- F. Party stores.
- G. Other commercial uses not specifically stated or implied elsewhere which, in the determination of the planning commission, are similar to the principal permitted uses provided herein, and in harmony with the character of the district and the purpose and intent of this Article and the Eaton Rapids Comprehensive Plan.

Sec. 9.40. - Development Requirements.

The following requirements shall be met within a Central Business District (CBD):

- A. Development plan approval for all permitted and conditional uses as specified in Article XVI of this Ordinance.
- B. Off-street parking, loading, and access management standards for all uses as specified in Article XXI of this Ordinance.
- C. Signs for all uses as specified in Article XXII of this Ordinance.
- D. Height, area, lot coverage, yard regulations, building mass, and yard regulations as specified in Article XVII of this Ordinance.
- E. Landscaping requirements as specified in Article XX of this Ordinance.
- F. Design, architectural, and building material standards as specified in Article XIX of this Ordinance.

ARTICLE X. - LOCAL BUSINESS DISTRICT (LBD)

Sec. 10.10. - Purpose.

The purpose of this district is to provide retail and service uses which are needed to serve the nearby residential areas. It is further the intent of this district to encourage a concentration of such uses for the mutual advantage of both merchants and consumers and to avoid strip commercial development along major streets located within the city.

Further objectives of this Article include:

- A. To serve as a buffer between the Central Business District (CBD) and the Traditional Residential District (TRD).
- B. To avoid development that would result in hazards, offensive and loud noises, vibration, smoke, glare, heavy truck traffic, or late hours of operation.

Sec. 10.20. - Principal Permitted Uses.

No building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses, unless otherwise provided in this Ordinance:

- A. Adult foster care group homes and congregate facilities.
- B. Art galleries.
- C. Tourist homes and bed and breakfast inns.
- D. Business establishments that perform services on premises such as, but not limited to: banks, savings and loans, and

credit unions; brokerage houses; insurance, real estate, and travel agencies; pedestrian-oriented automated teller machine facilities, excluding drive-in or drive-through facilities.

- E. Child care centers, day care centers, and child caring institutions.
- F. Essential public services when conducted within a completely enclosed building, excluding storage yards.
- G. Medical offices with up to ten thousand (10,000) square feet gross floor area.
- H. Mixed-use buildings with business, commercial, or service uses on the ground floor and residential, office, or warehouse uses on upper floors.
- I. Offices of an executive, administrative, or professional nature with up to ten thousand (10,000) square feet gross floor area.
- J. Personal fitness centers up to ten thousand (10,000) square feet gross floor area.
- K. Personal service establishments within a completely enclosed building, including but not limited to such uses as: repair shops (watches, radio, television, shoes, etc.), tailor and dressmaking shops, beauty parlors and styling salons, barber shops, photographic studios, film processing outlets, copy centers, interior decorators, and postal center; provided that each occupies a total usable floor area of not more than four thousand (4,000) square feet.
- L. Public, quasi-public, and institutional uses such as, but not limited to, municipal buildings and offices, courthouses, public off-street parking facilities, libraries, museums, public safety facilities, parks and playgrounds, post offices, and civic center, but excluding storage yards for any use.
- M. Retail businesses which supply commodities on the premise of up to ten thousand (10,000) square feet of gross floor area, such as but not limited to groceries, meats, fruits and produce, dairy products, baked goods, candies, specialty wines, and other specialty food products; and stores selling drugs, dry goods, flowers, clothing, notions, books and magazines, toys, sporting goods, shoes, tobacco products, musical instruments, recorded music, video rentals and sales, gifts and souvenirs, antiques furniture, and hardware.
- N. Retail sales in which both a workshop and retail outlet or showroom are required, such as but not limited to, plumbing, electrician, interior decorating, upholstering, printing, photographic-reproducing, radio, and home appliance and similar establishments of similar character, subject to the provision that not more than eighty (80) per cent of the total useable floor area of the establishment shall be used for servicing, repairing, or processing activities and further provided that such retail outlet or showroom activities shall be provided in that portion of the building where the customer entrance is located.
- O. Studios for art, music, dance, or theatrical instruction.
- P. Veterinary clinics and animal grooming, provided that all activities are conducted within an enclosed building, with up to ten thousand (10,000) square feet gross floor area.
- Q. Off-street parking lots and structures.
- R. Churches and other facilities normally incidental thereto.
- S. Accessory buildings and uses customarily incidental to the above permitted uses.

Sec. 10.30. - Conditional Uses.

The following uses shall be considered conditional and shall require a conditional use approval, and shall comply with any applicable conditional use requirements of Article XXIII:

- A. Automotive fueling stations, automotive service centers/stations, without accessory or combined convenience stores.
- B. Mortuaries and funeral homes.
- C. Outdoor cafes and outdoor eating areas.

- D. Restaurants (excluding drive-in restaurants and those with drive-through facilities), where the patrons are served while within the building occupied by such establishments.
- E. Other commercial uses not specifically stated or implied elsewhere which, in the determination of the planning commission, are similar to the principal permitted uses provided herein, and in harmony with the character of the district and the purpose and intent of this article and the Eaton Rapids Comprehensive Plan.

Sec. 10.40. - Development Requirements.

The following requirements shall be met within a Local Business District (LBD):

- A. Development plan approval for all permitted and conditional uses as specified in Article XVI of this Ordinance.
- B. Off-street parking, loading, and access management standards for all uses as specified in Article XXI of this Ordinance.
- C. Signs for all uses as specified in Article XXII of this Ordinance.
- D. Height, area, lot coverage, yard regulations, building mass, and yard regulations as specified in Article XVII of this Ordinance.
- E. Landscaping requirements as specified in Article XX of this Ordinance.
- F. Design, architectural, and building material standards as specified in Article XIX of this Ordinance.

ARTICLE XI. - GENERAL BUSINESS DISTRICT (GBD)

Sec. 11.10. - Purpose.

The purpose of this district is to permit a wide range of business, retail, service, and entertainment uses. It is further the intent of this district to encourage uses that serve the needs of customers who are most likely to arrive in personal vehicles. As such these uses are generally located near major streets and away from concentrations of single-family residences.

Further objectives of this Article include:

- A. To provide space for automobile-oriented commercial uses.
- B. To provide adequate and appropriate separation and/or buffering of general business uses and residential or less intensive commercial areas.

Sec. 11.20. - Principal Permitted Uses.

No building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses, unless otherwise provided in this Ordinance:

- A. Adult foster care group homes and congregate facilities.
- B. Automobile, truck, motorcycle, trailer, recreational vehicle or boat, dealerships, either new or used.
- C. Automobile wash facilities.
- D. Automotive service centers/stations including those combined with convenience stores of no more than one thousand (1,000) square feet, or automotive fueling stations and automotive fueling stations, automotive service centers/stations, without accessory or combined convenience stores.
- E. Business establishments that perform services on premises such as, but not limited to: banks, savings and loans, and credit unions; brokerage houses; insurance, real estate, and travel agencies; and automated teller machine facilities.
- F. Bus passenger stations

- G. Business service establishments, such as office machine and typewriter repair, printing, blueprinting.
- H. Catering establishments.
- I. Child care center, day care center, or child caring institution.
- J. Churches and other facilities normally incidental thereto.
- K. Plant nurseries, greenhouses, and garden centers less than one thousand (1,000) square feet.
- L. Data processing and computing centers.
- M. Business schools, colleges, or private schools operated for a profit.
- N. Commercial vehicle storage and garages.
- O. Mortuaries or funeral homes.
- P. Medical offices.
- Q. Offices of an executive, administrative, or professional nature.
- R. Personal fitness centers.
- S. Personal service establishments within a completely enclosed building, including but not limited to such uses as: repair shops (watches, radio, television, shoes, etc.), tailor and dressmaking shops, beauty parlors and styling salons, barber shops, photographic studios, film processing outlets, copy centers, interior decorators, and postal centers.
- T. Public, quasi-public, and institutional uses such as, but not limited to, municipal buildings and offices, courthouses, public off-street parking facilities, libraries, museums, public safety facilities, parks, post offices, civic centers, and storage yards for the same.
- U. Restaurants.
- V. Retail businesses which supply commodities on the premise, such as but not limited to groceries, meats, fruits and produce, dairy products, baked goods, candies, specialty wines, and other specialty food products; and stores selling drugs, dry goods, flowers, clothing, notions, books and magazines, toys, sporting goods, shoes, tobacco products, musical instruments, recorded music, video rentals and sales, gifts and souvenirs, antiques, furniture, and hardware.
- W. Retail sales in which both a workshop and retail outlet or showroom are required, such as but not limited to, plumbing, electrician, interior decorating, upholstering, printing, photographic-reproducing, radio, and home appliance and similar establishments of similar character, subject to the provision that not more than eighty (80) per cent of the total useable floor area of the establishment shall be used for servicing, repairing, or processing activities and further provided that such retail outlet or showroom activities shall be provided in that portion of the building where the customer entrance is located.
- X. Studios for art, music, dance, or theatrical instruction.
- Y. Hotels, motels, tourist homes, and bed and breakfast inns.
- Z. Lumber yards and building supply centers.
- AA. Public utility buildings and substations, telephone exchange buildings, electric transformer stations and substations, and gas regulator stations, including storage yards for the same.
- BB. Veterinary clinics and animal grooming.
- CC. Theaters, cinemas, assembly halls, community centers, or similar places of assembly, when conducted completely within enclosed buildings.
- DD. Accessory structures and uses customarily incidental to the above permitted uses, including drive-through service windows.
- EE. Mixed-use buildings with business, commercial, or service uses on the ground floor and residential, office or warehouse uses on upper floors.

(Ord. No. 2002-8, 8-26-02)

Sec. 11.30. - Conditional Uses.

The following uses shall be considered conditional and shall require a conditional use approval, and shall comply with any applicable conditional use requirements of Article XXIII:

- A. Plant nurseries, green houses, and garden centers exceeding one thousand (1,000) square feet of floor area.
- B. Bars, taverns, pubs and brewpubs, cocktail lounges, and nightclubs.
- C. Indoor recreational centers such as, but not limited to, bowling alleys, roller and ice skating rinks, pool or billiard halls, pinball and mechanical device arcades, and other general indoor recreation facilities.
- D. Mobile home, excavation equipment, machinery, or farm implement sales, either new or used.
- E. Open air business uses, such as but not limited to, retail sales of trees, shrubs, plants, flowers, topsoil, fruit, vegetables, and miniature golf.
- F. Hospitals.
- G. Self-storage units.
- H. Tattoo parlors and body piercing establishments.
- I. Wholesale stores of less than sixty thousand (60,000) square feet of gross floor area.
- J. Other commercial uses not specifically stated or implied elsewhere which, in the determination of the planning commission, are similar to the principal permitted uses provided herein, and in harmony with the character of the district and the purpose and intent of this article and the Eaton Rapids Comprehensive Plan.
- K. Pawnbrokers.
- L. Second hand dealers.
- M. Other commercial uses not specifically stated or implied elsewhere which, in the determination of the planning commission, are similar to the principal permitted uses provided herein, and in harmony with the character of the district and the purposes and intent of this article and the Eaton Rapids Comprehensive Plan.

(Ord. No. 2004-41, 5-24-04; Ord. No. 2009-5, 7-27-09)

Sec. 11.40. - Development Requirements.

The following requirements shall be met within a General Business District (GBD):

- A. Development plan approval for all permitted and conditional uses as specified in Article XVI of this Ordinance.
- B. Off-street parking, loading, and access management standards for all uses as specified in Article XXI of this Ordinance.
- C. Signs for all uses as specified in Article XXII of this Ordinance.
- D. Height, area, lot coverage, yard regulations, building mass, and yard regulations as specified in Article XVII of this Ordinance.
- E. Landscaping requirements as specified in Article XX of this Ordinance.
- F. Design, architectural, and building material standards as specified in Article XIX of this Ordinance.

ARTICLE XII. - LIMITED INDUSTRIAL DISTRICT (LID)

Sec. 12.10. - Purpose.

The purpose of this district is to support economic development that is an asset to the community, neighborhood, and landowners through the protection of certain areas for limited industrial uses. It is further the intent of this Article to ensure that the nature of the industrial uses do not create serious problems of compatibility with other kinds of land uses.

Further objectives of this Article include:

- A. To accommodate select commercial activities that may be appropriate near industrial uses and which may serve the immediate needs of the industrial uses and those employed therein.
- B. To ensure that the nature, scale, and function of uses pose no significant or unusual risk to the public health, safety, and welfare.
- C. To ensure that the nature, scale, and function of uses generate a minimum of noise, heat, glare, odor, dust, vibration, or other nuisances and do not emit harmful radiation or pollution into the air, water, or ground.

Sec. 12.20. - Principal Permitted Uses.

[The following uses are permitted in the Limited Industrial District:]

- A. Industrial uses including; assembly, packaging, printing, reproduction, and equipment servicing, but excluding manufacturing and fabrication.
- B. Transportation related services including; truck and bus terminals and truck repair and maintenance facilities.
- C. Off-street parking lots and structures.
- D. Public utility buildings and substations, telephone exchange buildings, electric transformer stations and substations, and gas regulator stations, including storage yards for the same.
- E. Storage and warehousing, excluding the storage of bulk petroleum, hazardous materials, or related products, garbage, or rubbish.
- F. The retail sales of products or services produced or assembled on the property or associated with a contractor's establishment, together with the related accessories or similar supporting goods or services, provided such use occupies no more than ten (10) per cent of the total floor area of all principal buildings on the lot, such as, but not limited to; plumbing and electrical contractors, carpenters, heating and cooling dealers, and re-upholstering establishments.
- G. Public, quasi-public, and institutional uses such as but not limited to, public off-street parking facilities, museums, public safety facilities, parks, post offices, civic centers, and storage yards for the same, excluding municipal offices, courthouses and libraries.
- H. Processing facilities for on- and off-premises dry cleaning, laundry, and industrial laundry pickup stations.
 - I. Self-storage units.
 - J. Essential public services, including storage yards for the same.
 - K. Churches and other facilities normally incidental thereto.
 - L. Accessory buildings and uses customarily incidental to the above permitted uses.

Sec. 12.30. - Conditional Uses.

The following uses shall be considered conditional and shall require a conditional use approval, and shall comply with any applicable conditional use requirements of Article XXIII:

- A. Industrial uses including; manufacturing and fabrication.
- B. Open storage of materials including, but not limited to; building materials, sand, gravel, stone, lumber, equipment, and supplies.

- C. Other industrial uses not specifically stated or implied elsewhere which in the determination of the planning commissic similar to the principal permitted uses provided herein, and in harmony with the character of the district and the purpo intent of this Article and the City of Eaton Rapids Comprehensive Plan.

Sec. 12.40. - Development Requirements.

The following requirements shall be met within a Limited Industrial District (LID):

- A. Development plan approval for all permitted and special uses as specified in Article XVI of this Ordinance.
- B. Off-street parking, loading, and access management standards for all uses as specified in Article XXI of this Ordinance.
- C. Signs for all uses as specified in Article XX of this Ordinance.
- D. Height, area, lot coverage, yard regulations, building mass, and yard regulations as specified in Article XVII of this Ordinance.
- E. Landscaping requirements as specified in Article XX of this Ordinance.

ARTICLE XIII. - GENERAL INDUSTRIAL DISTRICT (GID)

Sec. 13.10. - Purpose.

The purpose of this district is to support economic development that is an asset to the community, neighborhood, and landowners through the protection of certain areas for general industrial uses. It is further the intent of this Article to ensure that the nature of the industrial uses do not create serious problems of compatibility with other kinds of land uses.

Further objectives of this Article include:

- A. To accommodate select commercial activities that may be appropriate near industrial uses and which may serve the immediate needs of the industrial uses and those employed therein.
- B. To ensure that the nature, scale, and function of uses pose no significant or unusual risk to the public health, safety, and welfare.
- C. To ensure that the nature, scale, and function of uses generate a minimum of noise, heat, glare, odor, dust, vibration, or other nuisances and do not emit harmful radiation or pollution into the air, water, or ground.

Sec. 13.20. - Principal Permitted Uses.

[The following uses are permitted in the General Industrial District:]

- A. Industrial uses including; manufacturing, fabrication, assembly, packaging, printing, reproduction, and equipment servicing, excluding the manufacturing or fabrication of hazardous materials.
- B. Transportation related services including; truck and bus terminals and truck repair and maintenance facilities.
- C. Off-street parking lots and structures.
- D. Open storage of materials including, but not limited to; building materials, sand, gravel, stone, lumber, equipment, and supplies.
- E. Storage and warehousing, excluding hazardous materials.
- F. The retail sales of products or services produced or assembled on the property, together with the related accessories or similar supporting goods or services, provided such use occupies no more than ten (10) per cent of the total floor area of all principal buildings on the lot.

- G. Public, quasi-public, and institutional uses such as but not limited to, municipal buildings and offices, courthouses, public parking facilities, libraries, museums, public safety facilities, parks, post offices, civil centers, and storage yards for the same.
- H. Public utility buildings and substations, telephone exchange buildings, electric transformer stations and substations, and gas regulator stations, including storage yards for the same.
- I. Self-storage units.
- J. Essential public services, including storage yards for the same.
- K. Churches and other facilities normally incidental thereto.
- L. Accessory buildings and uses customarily incidental to the above permitted uses.
- M. Sexually oriented businesses.

(Ord. No. 2004-41, 5-24-04)

Sec. 13.30. - Conditional Uses.

The following uses shall be considered conditional and shall require a conditional use approval, and shall comply with any applicable conditional use requirements of Article XXIII:

- A. Manufacturing, fabrication, storage, and warehousing of hazardous materials.
- B. Salvage yards and/or resource recovery facilities.
- C. Other industrial uses not specifically stated or implied elsewhere which in the determination of the planning commission are similar to the principal permitted uses provided herein, and in harmony with the character of the district and the purpose and intent of this Article and the City of Eaton Rapids Comprehensive Plan.

Sec. 13.40. - Development Requirements.

The following requirements shall be met within a General Industrial District (GID):

- A. Development plan approval for all permitted and special uses as specified in Article XVI of this Ordinance.
- B. Off-street parking, loading, and access management standards for all uses as specified in Article XXI of this Ordinance.
- C. Signs for all uses as specified in Article XXII of this Ordinance.
- D. Height, area, lot coverage, yard regulations, building mass, and yard regulations as specified in Article XVII of this Ordinance.
- E. Landscaping requirements as specified in Article XX of this Ordinance.

ARTICLE XIV. - MIXED USE DISTRICT (MXD)

Sec. 14.10. - Purpose.

The purpose of this district is to encourage and direct development within the boundaries of the Main Street Corridor Development Area as defined in the Eaton Rapids Comprehensive Plan and implement that portion of the City of Eaton Rapids Comprehensive Plan addressing the corridor.

Further objectives of this Article include:

- A. To accommodate commercial development while maintaining a residential character within the corridor.
- B. To encourage a concentration of commercial uses for the mutual advantage of both merchants and consumers and to avoid strip commercial development.

- C. To provide space for automobile-oriented commercial uses.
- D. To provide adequate and appropriate separation and/or buffering of commercial uses and residential or less intensive commercial areas.
- E. To provide appropriately designed off-street parking and managing access to individual sites.
- F. To promote developments where the physical, visual, and spatial characteristics are established and reinforced through the consistent use of compatible urban design and architectural elements that improve the visual character of the corridor.
- G. To discourage commercial and business uses that create objectionable noise, glare, odors, or other nuisances.

Sec. 14.20. - Delineation of the Mixed Use District Overlay.

The mixed use district shall be considered an overlay to the existing zoning districts identified on the official City of Eaton Rapids Zoning Map. The areas of the mixed use district shall coincide with the boundaries of the area identified as the "Main Street Corridor Development Area - Future Land Use" in the Eaton Rapids Comprehensive Plan (1999).

Sec. 14.30. - Development Within the Mixed Use District Overlay.

Development, including the erection of any nonresidential structure or building or conversion of any residential structure or building into a nonresidential use within the mixed use district shall not occur except in full conformance with this Article and all other articles and sections of this Ordinance which are applicable, except as provided otherwise within this Ordinance.

Sec. 14.40. - Principal Permitted Uses.

Within the mixed use district, no land use shall be used and no building shall be erected except for one (1) or more of the uses identified in the underlying zoning district as a principal permitted use, unless otherwise provided for as a conditional use.

Sec. 14.50. - Conditional Uses.

Within the mixed use district, the uses identified as conditional uses in the underlying zoning district shall require a conditional use approval and shall comply with any applicable conditional use requirements identified in Article XXIII.

Sec. 14.60. - Development Requirements.

The following requirements shall be met within a Mixed Use District (MXD):

- A. Development plan approval for all permitted and conditional uses as specified in Article XVI of this Ordinance.
- B. Off-street parking, loading, and access management standards for all uses as specified in Article XXI of this Ordinance.
- C. Signs for all uses as specified in Article XXII of this Ordinance.
- D. Height, area, lot coverage, yard regulations, building mass, and yard regulations as specified in Article XVII of this Ordinance.
- E. Landscaping requirements as specified in Article XX of this Ordinance.
- f. Design, architectural, and building material standards as specified in Article XIX of this Ordinance.

ARTICLE XV. - PLANNED UNIT DEVELOPMENTS (PUD)

Sec. 15.10. - Purpose.

The purpose of this Article is to provide through the use of the Planned Unit Development (PUD) concept, an added degree of flexibility in the density, placement, bulk, and interrelation of buildings and uses within the Traditional Residential District (TRD), Low Density Single-Family Residential District (RD1), the Single-Family and Two-Family Residential District (RD2), Multiple-Family Residential District (MFRD), Limited Business District (LBD), General Business District (GBD), Limited Industrial District (LID), and General Industrial District (GID).

Further, the purpose is to encourage implementation of new design concepts so as to encourage a more efficient and innovative use of land, public services, and the preservation of natural features through the use of a unified, flexible planning approach, while at the same time maintaining adequate amounts of light, air, access, and required open space and facilitating the economical provisions of public services and utilities. To further this purpose, the respective district regulations may be amended or waived by the city council, as part of a PUD, after recommendation by the planning commission on the same and as provided for in this Ordinance. The general boundaries of any PUD approved by the city council shall be indicated on the official Eaton Rapids Zoning Map for reference.

Sec. 15.20. - Qualifying Conditions.

The following provisions shall apply to all planned unit developments:

- A. The planned unit development site shall be under the control of one (1) owner or group of owners and shall be capable of being planned and developed as one (1) integral unit.
- B. A PUD zoning classification may only be approved in conjunction with either an approved overall PUD concept plan or an approved PUD development plan.
- C. A PUD zoning classification shall function as an overlay zoning district, with the underlying zoning districts and their associated standards in effect unless otherwise amended or waived in the PUD approval process.
- D. An area proposed for a planned unit development (PUD) shall consist of an area not less than five (5) acres in size, being a single parcel of land or two (2) or more parcels of land separated only by a road or street.

Sec. 15.30. - Applications for Approval.

The application process for a PUD involves a two-step process including a pre-application conference and final development plan review by the planning commission and recommendation to the city council. The city council may also approve a preliminary pud concept plan for those projects having multiple phases. The following procedure shall be followed when applying for planned unit development (PUD) approval:

- A. *Pre-application conference.* Before submitting an application for approval of a PUD, the applicant shall confer in a pre-application conference with the city manager, the building inspector, and any other city staff or consultants retained by the city that may have an interest in the proposal with the intent being to obtain information and guidance regarding land development regulations, the city's comprehensive plan, and the application and review process. At the pre-application conference, the applicant shall submit a preliminary sketch plan for the proposed PUD, containing both maps and a written statement. All maps shall show enough of the surrounding area to demonstrate the relationship of the PUD to adjoining uses, both existing and proposed. The maps which are part of the preliminary concept plan may be in general schematic form, but must contain enough information to obtain feedback from city officials and consultants.
- B. *Planning commission review of final PUD.* Upon completion of the pre-application conference stage, a final PUD development plan application meeting the submission requirements of this Article and incorporating the preliminary concept plan, shall be submitted to the planning commission for its review. A public hearing on the final PUD development plan shall be held by the planning commission, with notification of the hearing date published in a newspaper which circulates in the city and sent by regular mail, at least five (5) days but not more than fifteen (15)

days prior to the hearing date, to property owners and occupants of each dwelling unit in all structures located within three hundred (300) feet of the proposed PUD. For structures containing more than four (4) dwelling units owned or leased by different individuals, partnerships, businesses, or organizations, notice shall 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.

After the public hearing, the planning commission shall make a recommendation to the city council of approval, approval with modifications, or disapproval of the PUD, as represented by the final PUD plan and accompanying materials. The planning commission shall prepare a report stating its conclusions on the PUD request, the basis for its recommendation, the recommendation, and any conditions relating to an affirmative recommendation.

- C. *Final PUD development plan submittal requirements.* The final PUD development plan shall include all of the following information, unless the building inspector determines that some of the required information is not reasonably necessary for the consideration of the planned unit development:
1. Application form and required fee.
 2. A narrative indicating the period of time within which the project will be completed.
 3. Sheet size of submitted drawings shall be at least twenty-four (24) inches by thirty-six (36) inches, with graphics at an engineers scale of at least one (1) inch equals one hundred (100) feet.
 4. Building footprints, setbacks, floor plans, and elevations showing height and materials for all proposed structures; typical layout for condominium projects.
 5. Proposed locations of utility services (with sizes), noting which will remain and which are to be removed, including storm drainage, sanitary/storm sewer, fire hydrants, and any public or private easements.
 6. General description and location of stormwater management system including pre- and post-site development run-off calculations used for determination of stormwater management.
 7. A landscape plan indicating proposed plant locations with common plant names, number, and size at installation. Berms, retaining walls, or fences, shall be shown with elevations from the surrounding average grade.
 8. A site grading plan with existing and proposed topography at a minimum of two (2) foot contour intervals and with topography extending a minimum of fifty (50) feet beyond the site in all directions and further where required to indicate stormwater run-off into an approved drain or detention/retention pond.
 9. Location of significant natural, historical, and architectural features, that will be designated to remain, and/or location and acreage of areas not to be disturbed; noting protection methods such as a fence, barrier, or police line installed prior to site preparation.
 10. Location and method of screening for all refuse storage stations/receptacles.
 11. Location and dimension of parking spaces, loading/unloading areas and calculations.
 12. Details of exterior lighting including locations, height, and method of shielding.
 13. Location and size of all signs, including:
 - a. Location, type, height, and method of lighting for identification signs.
 - b. Location and type of any directional or regulatory/traffic signs with details for any sign not conforming to the Michigan Manual of Uniform Traffic Control Devices.
 14. Details of site circulation and access design, including:
 - a. Indication of street pavement widths and pavement type;
 - b. Street horizontal and vertical dimensions, including curve radii;
 - c. Dimensions of access points, including deceleration or passing lanes, distance from adjacent driveways or

- intersection streets, including those across a street;
- d. Identification of width and material to be used for pedestrian paths.
15. Written verification of access easements or agreements, if applicable.
16. A note on each plan sheet stating "Not to be used for construction".
17. Any additional graphics or written materials requested by the planning commission to assist in determining the impacts of the proposed development plan, including, but not limited to, economic or market studies; impact on public primary or secondary schools and utilities; traffic impact; impact on the significant natural, historical, and architectural features and drainage; impact on the general area and adjacent property including the screening from or buffering of adjacent properties that contain different land usages or housing densities; and estimated construction cost.
18. The following information shall be submitted as a part of an application for permission to commence any type of development within the flood plain district:
- a. The elevation in relation to mean sea level of the floor, including basement of all structures;
 - b. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development;
 - c. Proof of development permission from appropriate local, state, and federal agencies including a floodplain permit, approval, or letter of no authority from the Michigan Department of Environmental Quality;
 - d. Base flood elevation data where the proposed development is subject to Act 288 of the Public Acts of 1967, the Subdivision Control Act as amended, or greater than five (5) acres in size; and,
 - e. Additional information which may be reasonably necessary to determine compliance with the provisions of this Article.
- D. *Standards for approval of final PUD development plan.* Based upon the following standards, the planning commission may recommend denial, approval, or approval with conditions, and the city council may deny, approve, or approve with conditions, the proposed planned unit development:
1. The planning commission and city council shall use the standards for approval of Article XVI "Development Plan Requirements", Article XVIII "General Standards and Exceptions", Article XIX "Design Standards", Article XX "Landscaping Standards", Article XXI "Parking, Loading, and Access Management Requirements" in revising the final PUD development plan. The planning commission of the city council may also use the standards for approval of Article XXIII "Conditional Use Requirements", should such standards be deemed necessary by the planning commission or the city council.
 2. The applicant must demonstrate or identify in writing that the proposed PUD:
 - a. Includes any areas indicated in the city's comprehensive plan as having significant natural, historical, or architectural features;
 - b. Will provide a complimentary mixture of uses or housing types or clustering of units to preserve common open space, in a design not possible under the underlying zoning district dimensional regulations; and/or
 - c. Will achieve a higher quality development than is otherwise possible with the regulations for the underlying zoning district.
 3. The uses proposed will have a beneficial effect, in terms of public health, safety, welfare, or convenience, on present and future potential surrounding land uses. The uses proposed will not adversely affect the public utility and circulation system, surrounding properties, or the environment. The public benefit shall be one which could not be achieved under the regulations of the underlying district alone, or that of any other zoning district.
 4. The number and dimensions of off-street parking shall be sufficient to meet the minimum number required by

this Ordinance. However, where warranted by overlapping or shared parking arrangements, the planning commission or the city council may reduce the required number of parking spaces.

5. All streets and parking areas within the planned unit development shall meet the minimum construction and other requirements of this Ordinance and any other applicable city ordinance, unless modified by the city council.
6. Landscaping shall be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property and provide not less than that required in Article XX "Landscaping Standards".
7. Judicious effort shall be used to preserve significant natural, historical, and architectural features and the integrity of the land.
8. Public water and sewer facilities shall be available or shall be provided for by the developer as part of the site development.
9. Safe, convenient, uncongested, and well defined vehicular and pedestrian circulation within and to the site shall be provided.
10. Drives, streets, and other elements shall be designed to discourage through traffic, while promoting safe and efficient traffic operations within the site and at its access points.
11. The uses proposed shall be consistent with the city's comprehensive plan or an approved overall PUD concept plan.
12. Sidewalks shall be provided where appropriate.

The city council shall prepare a report stating its conclusion on the pud request, the basis for its decision, the decision, and any conditions relating to an affirmative decision.

- E. *Status of the city council approval.* Approval of a PUD application by the city council confers on the applicant and any subsequent powers of the PUD property, the right to utilize the property included as part of the approved PUD in accordance with the overall density, dwelling unit mix, and final plan of the approved PUD. However, for the total PUD or for each portion of the PUD, if phasing of the development is planned, a development plan review is required for each phase in accordance with Article XVI "Development Plan Requirements". The approved development plan shall take precedence over the approved PUD preliminary concept plan for the area of the approved development plan.

The city council may cause to have legal documents, covenants, or contracts prepared and may require the execution thereof by the applicant, which documents involve the city and are required as a result of the conditions contained in the PUD or the development plan approvals in a PUD area.

The building inspector shall inspect the development at each stage to ensure reasonable compliance with the conditions of the approved pud or approved development plans, as applicable.

- F. *Revocation or Changes.* The city council, after recommendation of the planning commission, may revoke a PUD or any portion thereof in instances where substantial construction activity has not been ongoing anywhere within the PUD within a three-year period. Revocation of any portion of a PUD reverts that portion of the PUD to the status and requirements of the underlying zoning district, without benefit of the PUD provisions. Proposed changes in the PUD, other than those considered a part of the development plan review for all or portions of the PUD, must be processed in the same manner as the original PUD procedure.

(Ord. No. 2002-8, 8-26-02)

A. *Residential Development.* The following regulations and standards shall apply to any proposed residential planned unit development (PUD) and shall be incorporated into any proposed preliminary concept plan and/or final PUD development plan:

1. *Overall PUD density.* The total number of dwelling units shall not exceed a density of one hundred twenty (120) per cent that otherwise permitted in the underlying zoning district, exclusive of the following:
 - a. Those areas deemed undevelopable, as determined by the city council;
 - b. Existing or proposed rights-of-way of any major streets, as indicated in the city's comprehensive plan; and
 - c. Those areas to be dedicated for public use or private use and not primarily intended for residents of the PUD, except that public streets, other than as set forth in subparagraph 1.b. hereof, and public parkland donated to and accepted by the city are allowable areas for calculations of dwelling unit density.
2. *Densities per type of development area.* For areas of detached single-family housing, the density, lot size, and other developmental provisions of the Traditional Residential District or the Low Density Single-Family Residential District shall apply; for areas other than detached single-family housing, the density, lot sizes, and other developmental provisions of the MFRD shall apply; for areas mixing detached single-family housing and other types of housing, appropriate density, lot sizes, and development provisions shall be determined by the city council, considering the requirements of such districts. However, the overall density of the PUD shall not exceed that specified in subparagraph 1. hereof.
3. *Dwelling unit mix.* At least fifty (50) per cent of the total dwelling units shall be in detached single-family housing.
4. *Open space and recreation areas.* At least twenty-five (25) per cent of the total PUD acreage shall be in open space or recreation area. However, undevelopable areas, as determined in subparagraph 1.a. hereof, may not be counted as part of the minimum open space or recreation requirement. No individual area intended to satisfy the requirements of this subsection shall be less than one (1) acre in size.

Any portion of a PUD proposal for development plan review must include at least twenty-five (25) per cent of its acreage in open space or recreation area, except in instances where previously approved development plans within the PUD include sufficient acreage in excess of the twenty-five (25) per cent requirement to satisfy the deficiencies of the proposed development plan, provided that the city council is satisfied that the use of the open space or recreation area is available to affected parties.

B. *Nonresidential Development.* The following regulations and standards shall apply to any proposed nonresidential uses in a planned unit development (PUD), and shall be incorporated into any proposed preliminary sketch plan and/or final PUD plan:

1. *Open space and recreation areas.* At least twenty-five (25) per cent of the total PUD acreage shall be in open space or recreation area. However undevelopable areas, as determined in subparagraph A.1.a. hereof, and any areas provided in compliance with required screening or landscaping, may not be counted as part of the minimum open space or recreation requirement. No individual are intended to satisfy the requirements of this subsection shall be less than one (1) acre in size.

Any portion of a PUD proposal for development plan review must include at least twenty-five (25) per cent of its acreage in open space or recreation area, except in instances where previously approved development plans within the PUD include sufficient acreage in excess of the twenty-five (25) per cent requirement to satisfy the deficiencies of the proposed development plan, provided the city council is satisfied that the use of the open space or recreation are is available to affected parties.

Sec. 16.05. - Purpose.

The purposes of development plan review are to determine compliance with this Ordinance, to promote the orderly development of the city, the stability of land values and investments and the general welfare, and to help prevent the impairment or depreciation of land values and development by the erection of structures or additions thereto without proper attention to siting and appearance. It is further the purpose of this Article to require the gradual upgrade of existing sites that do not conform with current standards of this Ordinance and ensure that the arrangement, location, design and materials within a site are consistent with the character of the city and the goals and design guidelines in the comprehensive plan.

Sec. 16.10. - Development Plan Review Required.

Prior to the erection, renovation, addition, or re-construction of any building or structure in any zoning district for any principal permitted use in the city, any land use requiring conditional use approval or any planned unit development, other than single-family detached residences and accessory buildings, structures, and uses thereto, the development plan review procedures set forth in the section shall be followed unless otherwise provided for in section 16.15, administrative review.

Sec. 16.15. - Administrative Review.

The building inspector may approve a development plan or sketch plan for the following uses, provided the development plan or sketch meets the application submittal requirements of sections 16.30, applications requirements, and complies with all other requirements and standards of this Ordinance.

- A. An increase in floor area of a building up to one thousand (1,000) square feet or five (5) per cent of the existing floor area, whichever is less, with no required increase in parking area (only if the total of expansions within the last five (5) years, as determined by the building inspector do not exceed this amount).
- B. A new use that is a principal permitted use in a given zoning district and requires no significant changes to the building footprint, facade, parking, landscaping, lighting, signs, or vehicular access.
- C. An expansion, replacing or alteration of landscaping areas consistent with the requirements of this Ordinance.
- D. Improvements or installation of walls, fences, lighting, or curbing consistent with the requirements of this Ordinance.
- E. Alterations to the off-street parking layout or installation of pavement or curbing improvements, provided the total number of spaces shall remain constant, and the construction plans and lot construction are approved by the city.
- F. Relocation of a waste receptacle to a more inconspicuous location, or the installation of screening, both consistent with the requirements of this Ordinance.
- G. Changes to a facade, architectural features or wall signs, provided such changes are consistent with the requirements of this Ordinance and do not significantly and materially change the appearance of the building. (An elevation plan showing changes and construction material is required).
- H. A change from a nonconforming use, building, or site to a more conforming situation consistent with the requirements of this Ordinance.
- I. Modifications to upgrade a building to improve barrier-free design, comply with Americans with Disabilities Act, or other federal, state, or county regulations.
- J. Changes in use to another principal permitted use within a given zoning district, as defined in this Ordinance, that do not increase the gross floor area, provided all other improvements are consistent with the requirements of this Ordinance.
- K. Internal construction change in the floor plan for a conforming use that does not increase gross floor area, provided the construction cost over a twelve-month period does not exceed fifty (50) per cent of the building's state equalized value or affect parking requirements on a site.

- L. Repairing, resurfacing, re-striping, or curbing of parking lots.
- M. Construction or erection of signs, retaining walls, fences, waste receptacles, sidewalks, antennae lights, poles, cooling/heating or other mechanical equipment, telephone booths, newspaper boxes, landscaping, or similar structures which conform to the requirements of this Ordinance or other city standards, and where development plan review is not specifically required under other sections of this Ordinance.

The building inspector may require that any of the above mentioned uses shall require formal development plan approval by the planning commission as described within this section.

Sec. 16.20. - Sketch Plan Review.

- A. *Intent.* The intent of this section is to permit submittal of a sketch plan in certain specific instances where a complete development plan is not considered essential to ensure compliance with the intent and standards of this Ordinance.
- B. *Procedure.* The process for administrative approval stated in section 16.15, above, shall involve submittal of a sketch plan and required application form and fee to the building inspector. The sketch plan shall be reviewed in the accordance with the same procedure, requirements, and standards used by the planning commission for a formal development plan. The building inspector shall make a report of the administrative reviews to the planning commission.

The sketch plan shall meet the requirements for a preliminary development plan as specified in subsection C., of this section. The building inspector retains the option to require additional information or a complete development plan for review by the planning commission, particularly for sites that do not comply with previously approved development plans, sites with parking deficiencies, sites abutting residential districts, or sites experiencing problems with drainage, traffic, noise, aesthetics, or other general health and safety issues. If a formal development plan is required, the building inspector shall inform the applicant in writing to submit a set of plans in accordance with this Article.

- C. *Application Requirements.* The sketch plan for administrative approval shall contain the following information unless the building inspector determines that some of the required information is not reasonably necessary:
 1. The legal description and dimensions of the parcel in question.
 2. The location of existing and proposed buildings and structures.
 3. The locations of drives, public or private roadways, sidewalks, easements, and parking areas.
 4. Location of existing and proposed utilities, water and sewage systems.
 5. Description of adjacent land uses.
 6. Location of existing natural and man-made site features including wetlands, streams, lakes, ponds, and similar environmental features.
 7. A description of any proposed change in grade or drainage system, except those changes to accommodate basement and driveway grading.
 8. Any other information required by the building inspector necessary to establish compliance with this and other ordinances of the City of Eaton Rapids.
- D. *Eligibility.* A sketch plan, rather than a complete development plan package, may be submitted for minor modifications to a legally existing and conforming use and building which is permitted in the zoning district, (conditional uses are not eligible) including alterations to a building or site that do not result in expansion or substantially affect the character or intensity of the use, vehicular or pedestrian circulation, drainage patterns, the demand for public infrastructure or services, significant environmental impacts, or increased potential for hazards.
- E. *Planning Commission Review.* The sketch plan may be referred to the planning commission for review when deemed necessary by the building inspector.

Sec. 16.25. - Application Submittal.

Prior to formal submittal of a development plans, the applicant is encouraged to schedule a pre-application conference with the city. The purpose of the conference is to review a generalized version of the development plan to discuss basic questions regarding use, density, integration with existing development in the area, and impacts on and the availability of public infrastructure. Also, the application may at this time be presented with the application procedures required by this section for approval of the proposed development and with any special considerations or steps that might have to be addressed or followed, such as variance requests to the zoning board of appeals. The conference may be scheduled by a prospective application with the building inspector and such other city representatives, as appropriate, including up to one (1) member of the planning commission.

Ten (10) copies of the development plan, at a scale of not less than one (1) inch equals twenty (20) feet for sites less than three (3) acres and at a scale of not less than one (1) inch equals one hundred (100) feet for sites of three (3) or more acres, including all items required therewith, shall be submitted to the building inspector. Unless waived by the building official, the development plan shall be submitted not less than thirty (30) days prior to the next regular or special scheduled planning commission meeting in order to be placed on the agenda for that particular meeting. The building official shall provide the development plan to the planning commission at least five (5) calendar days prior to the next regular or special scheduled planning commission meeting in order to be placed on the agenda for that particular meeting. The commission may from time to time prepare forms and require the use of such forms in development plan preparation.

Sec. 16.30. - Application Requirements.

The following information shall accompany all plans submitted for formal development plan review (preliminary plan, in the case of MHPD development), unless the building inspector determines that some of the required information is not reasonably necessary:

- A. In the cases of a development in a manufactured housing park district, a preliminary plan prepared in accordance with Section 11 of Public Act 96 of 1987, as amended; or
- B. A completed application form as supplied by the city, and an application fee as determined by the city.
- C. Current proof of ownership of the land to be utilized or evidence of a contractual ability to acquire such land, such as an option or purchase agreement, and a title search or other evidence of any applicable easements or deed restrictions.
- D. A narrative indicating the period of time within which the project will be completed.
- E. One (1) copy of the final development plan, reduced in size to eight and one-half (8½) by eleven (11) inches, on clear acetate or similar material suitable for use with an overhead projector.
- F. Sheet size of submitted drawings shall be at least twenty-four (24) inches by thirty-six (36) inches, with graphics at an engineers scale of at least one (1) inch equals twenty (20) feet for sites of less than three (3) acres and at a scale of at least one (1) inch equals one hundred (100) feet for sites of three (3) acres or more.
- G. A cover sheet providing the following:
 1. The applicant's name.
 2. The name of the development.
 3. The preparer's name and the professional seal of architect, engineer, surveyor, or landscape architect indicating license in the State of Michigan.
 4. The date of preparation and any revisions.
 5. A north arrow and graphic scale.
 6. Property lines and dimensions.

7. A complete and current legal description and size of property in acres and square feet.
 8. Notation of any variances which have been or must be secured.
 9. Existing land uses and zoning classification of the subject parcel and adjacent parcels.
 10. A small location map of sufficient size and scale, showing the locations of the area in relation to surrounding properties, streets, schools, parks, and other significant features where appropriate.
- H. Plan sheet(s) indicating the following:
1. The zoning and current land use of the applicant's property and all abutting properties and of properties across any public or private street from the site.
 2. Lot lines and all structures on the property and within one hundred (100) feet of the site's property lines.
 3. The location of any access points on both sides of the street within one hundred (100) feet of the site along streets where access to the site is proposed.
 4. Existing buildings and any public or private easements, noting those that will remain and which are to be removed.
 5. The layout and typical dimensions of the proposed lots, building footprints and dimensions of proposed buildings and structures, the uses contained therein, the number of stories, gross building areas, distances between structures and lot lines, and setback lines, with the acreage or area in square feet allotted to each use. For residential developments, the number, type, and density of proposed housing units shall be included. If a multi-phased development is proposed, identification of the areas included in each phase shall be included.
 6. Elevations showing height, materials, and colors for all proposed non-residential or multiple-family structures, shall be provided and considered part of the approved development plan. The building elevations must show all rooftop mechanical units along with the proposed method of screening.
 7. Building footprints, setbacks, typical floor plans and a sketch of any ground mounted equipment to scale along with required screening.
 8. The size, type, and location of proposed identification signs.
 9. Existing and proposed locations of utility services (with sizes), including storm drainage, retention or detention ponds, fire hydrants, and any public or private easements; notes shall be provided clearly indicating which existing services will remain and which will be removed.
 10. Location and type of existing vegetation, including location of all existing trees over five (5) inches in diameter.
 11. Locations of significant natural, historical, and architectural features, including landmark trees, that will be designated "to remain", and protected by a fence or barrier installed prior to site preparation, and/or as "areas not to be disturbed" and secured through installation of a snow fence, other fencing, or police line during the development of the site, and including acreage of the designated areas.
 12. The location and elevation of existing water courses and water bodies, including county drains and man-made surface drainage ways.
 13. Locations of any wetlands regulated by the Michigan Department of Environmental Quality, submission of a wetland delineation by a qualified wetland consultant and indication of the status of application for a wetland permit from the Michigan Department of Environmental Quality or a copy of the a permit received including description of any wetland mitigation required, and location of other significant nonregulated wetland areas over two (2) contiguous acres.
 14. Location and method of screening for all waste receptacles meeting the requirements of this Ordinance.
 15. Details of exterior lighting meeting the requirements of this Ordinance including location, height, method of

- shielding, and candle power measurements at the light locations and at the property lines (photometric plan).
16. Location and dimensions of parking lots and spaces, and loading/unloading areas, and calculations to meet the requirements of this Ordinance.
 17. Lot lines and all structures on the property and within one hundred (100) feet of the site along streets where access to the site is proposed.
 18. Proposed water service including any proposed tap-ins, main extensions, or extensions for adequate fire hydrant spacing, and/or considerations of extensions to loop other public water mains.
 19. Proposed sanitary sewer facilities and locations of all existing utilities, easements, vacations, and the general placement of lines, manholes, tap-ins, pump stations, and lift stations.
 20. Location and detail of all soil erosion and sedimentation control measures.
 21. Location and specifications for any existing or proposed outdoor or below ground storage facilities as well as any screening or containment structures or clear zones required by governmental authorities.
 22. Size, location, and description of any proposed interior or exterior areas or structures for storing, using, loading, or unloading of hazardous substances. A listing of types and quantities of hazardous substances which will be used or stored on-site in quantities greater than one hundred (100) kilograms or twenty-five (25) gallons per month.
 23. Locations of any access points on both sides of the street within one hundred (100) feet of the site along streets where access to the site is proposed.
 24. Locations of all signs including:
 - a. Location, type, height, and method of lighting for identification signs.
 - b. Location and type of any directional or regulatory/traffic control signs, with details for any sign not conforming to the Michigan Manual of Uniform Traffic Control Devices.
 25. Details of site circulation and access design, including:
 - a. Dimensions of existing and proposed right-of-way lines, including those abutting the site and names of abutting public streets.
 - b. Indication of street, parking lot, and other surfaced areas pavement widths, pavement type, and curbing meeting requirements of this Ordinance.
 - c. Street horizontal and vertical dimensions, including curve radii.
 - d. Locations and dimensions of access points, including deceleration or passing lanes, distance from adjacent driveways or intersection streets, including those across a street.
 - e. Parking areas, including the general layout and design of parking lot spaces.
 - f. The location of existing sidewalks and the location and dimensions for proposed sidewalks.
 - I. A landscape plan meeting the requirements of this Ordinance. Berms, retaining walls, screening walls, screening landscaping, or fencing shall be shown with elevations from the surrounding grade.
 - J. A site grading plan for all development where grading will occur, with existing and proposed topography at a minimum of two-foot contour intervals and with topographical information extending a minimum of fifty (50) feet beyond the site in all directions and a general description of grades within one hundred (100) feet, and further where required to indicate stormwater runoff into an approved drain or detention/retention pond.
 - K. A general description and location of stormwater management system shall be shown on the grading plan, including pre- and post-site development runoff calculations used for determination of stormwater management, and location and design (slope) of any retention/detention ponds. Stormwater outfall structures or basins constructed in a wetland regulated by the Michigan Department of Environmental Quality may require a wetland permit from the

Department; and, if constructed below the ordinary high water mark of an inland lake or stream, will require a permit under the Inland Lakes and Streams Act, PA 346 of 1972, as amended. Status of permit application to the Department or copy of permit with attached conditions shall be provided as applicable.

- L. Written verification of access easements or agreements, if applicable.
- M. A note on each plan sheet stating: "Not to be used as construction drawings".
- N. Any additional graphics or written materials requested by the building inspector or the planning commission to assist the city in determining the compliance with the final development plan standards, such as aerial photography, photographs, conceptual as-built renderings, traffic impacts, and impact on significant natural features and drainage.
- O. The following information shall be submitted as part of an application for permission to commence any type of development within a flood hazard area as defined in the FEMA FIRM maps:
 - 1. The elevation in relation to mean sea level of the floor, including basement, of all structures.
 - 2. A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.
 - 3. Proof of development permission from appropriate local, state, and, federal agencies as required by this Ordinance, including a floodplain permit, approval, or letter of no authority from the Michigan Department of Environmental Quality under authority of Act 245 of the Public Acts of 1929, as amended by Act 167 of the Public Acts of 1968, the Floodplain Regulatory Authority.
 - 4. Base flood elevation data where the proposed development is subject to Act 288 of the Public Acts of 1967, the Subdivision Control Act, as amended, or greater than five (5) acres in size.
- P. Such other information as may be required by the city to assist in the consideration of the proposed development, including but not limited to an analysis of the planning implications of the proposed development including the methodology of how the planning implications were determined. The analysis shall be carried out by qualified individuals and shall include, but need not be limited to:
 - 1. Estimated population holding capacity of any residential land uses to be included in the proposed development and general impact on community facilities such as primary and secondary schools and parks.
 - 2. A traffic analysis which relates the trip generation of the proposed development to existing and projected traffic capacities, volumes, and patterns on surrounding streets.
 - 3. Impact of proposed land use on adjacent lands not within the city and proposed buffering from those lands.

(Ord. No. 2002-8, 8-26-02)

Sec. 16.35. - Development Plan Approval Criteria.

In order that buildings, open space, and landscaping will be in harmony with other structures and improvements in the area, and to ensure that no undesirable health, safety, noise, and traffic conditions result from the development, the planning commission shall upon review, determine whether or not the development plan meets the following criteria, unless the planning commission determines that one or more of such criteria are inapplicable, except that this section shall not apply to manufactured housing parks which shall only be required to conform to the applicable standards identified in this Ordinance and those identified in PA 96 of 1987, as amended:

- A. *General.* All elements of the development plan shall be designed to take into account the site's topography, the size and type of the plot, the character of the adjoining property, and the traffic operations of adjacent streets. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance, including those of applicable zoning district(s).
- B. *Building design.* The building design shall relate to the surrounding environment in regard to texture, scale, mass,

and proportion. High standards of construction and quality materials will be incorporated into the new development. The building design shall meet the architectural and building material requirements of this Ordinance, if any.

- C. *Preservation of significant natural features.* Judicious effort shall be used to preserve the integrity of the land, existing topography, and natural, historical, and architectural features as defined in this Ordinance, in a particular wetlands designated/regulated by the Michigan Department of Environmental Quality.
- D. *Streets.* All streets shall be developed in accordance with the City of Eaton Rapids Subdivision Regulations, unless developed as a private road in accordance with the requirements of the city.
- E. *Access, driveways, and circulation.* Safe, convenient, uncongested, and well defined vehicular and pedestrian circulation within and to the site shall be provided. Drives, streets, parking, and other elements shall be designed to promote safe and efficient traffic operations within the site and at its access points. All driveways shall meet the design and construction standards of the city. Access to the site shall be designed to minimize conflicts with traffic on adjacent streets, particularly left turns into and from the site. For uses having frontage and/or access on a major traffic route, as defined in the City of Eaton Rapids Comprehensive Plan, the number, design, and location of access driveways, and other provisions for vehicular circulation shall comply with the access management provisions of this Ordinance.
- F. *Emergency vehicle access.* All buildings or groups of buildings shall be arranged so as to permit necessary emergency vehicle access as required by the fire department and police department.
- G. *Sidewalks, pedestrian, and bicycle circulation.* The arrangement of public or common ways for vehicular and pedestrian circulation shall be connected to existing or planned streets and sidewalks/pedestrian or bicycle pathways in the area. There shall be provided a pedestrian circulation system that is separated from the vehicular circulation system. In order to ensure public safety, special pedestrian measures, such as crosswalks, crossing signals, and other such facilities may be required in the vicinity of primary and secondary schools, playgrounds, local shopping areas, fast food/service restaurants, and other uses which generate a considerable amount of pedestrian or bicycle traffic.
- H. *Barrier-free access.* The site has been designed to provide barrier-free parking and pedestrian circulation.
- I. *Parking.* The number and dimensions of off-street parking spaces shall be sufficient to meet the minimum required by this Ordinance.
- J. *Loading.* All loading and unloading areas and outside storage areas, including refuse storage stations shall be screened in accordance with this Ordinance.
- K. *Landscaping, screening, and open spaces.* The landscape shall be preserved in its natural state, insofar as practical, by removing only those areas of vegetation or making those alterations to the topography which are reasonably necessary to develop the site in accordance with the requirements of this Ordinance. Landscaping shall be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property. Landscaping, landscape buffers, greenbelts, fencing, walls, and other protective barriers shall be provided and designed in accordance with the landscaping provisions of this Ordinance.
- L. *Soil erosion and sedimentation control.* The site shall have adequate lateral support so as to ensure that there will be no erosion of soil or other material.
- M. *Utilities.* Public water and sewer facilities shall be available or shall be provided for by the developer as part of the site development, where such systems are available.
- N. *Stormwater management.* Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made to accommodate stormwater which complements the natural drainage patterns and wetlands, prevent erosion and the formation of dust. Sharing of stormwater facilities with adjacent properties shall be encouraged. The use of

detention/retention ponds may also be required. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create standing water. All such measures shall comply with any applicable county drain control ordinances.

- O. *Lighting.* 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. Flashing or intermittent lights shall not be permitted. All proposed lighting shall be in conformance with the performance measures identified in Article XVIII of this Ordinance.
- P. *Noise.* The site has been designed, buildings so arranged, and activities/equipment programmed to minimize the emission of noise, particularly for sites adjacent to residential districts. All proposed uses shall be in conformance with the performance measures identified in Article XVIII of this Ordinance.
- Q. *Mechanical equipment.* Mechanical equipment, both roof and ground mounted, shall be screened in accordance with the requirements of this Ordinance.
- R. *Signs.* The standards and requirements stated in this Ordinance shall be adhered to.
- S. *Hazardous materials or waste.* For businesses utilizing, storing, or handling hazardous materials such as automobile service and automobile repair stations, dry cleaning plants, metal plating industries, and other industrial uses, documentation of compliance with state and federal requirements shall be provided.
- T. *Other agency reviews.* The applicant has provided documentation of compliance with other appropriate agency review standards, including but not limited to, the Michigan Department of Environmental Quality, Michigan Department of Transportation, County Drain Commission, County Health Department, and other federal, state, and local agencies, as applicable.
- U. *Approval process.* The development shall be reviewed by the planning commission. If the commission action is disapproval, the commission shall cite reasons for such disapproval. If the planning commission finds a development plan not in conformity with this section, it may, at its discretion, return the development plan to the applicant with a written statement of the modifications necessary to obtain approval. Upon resubmission of the modified development plan, the planning commission shall review the plan. The commission may approve, disapprove, or approve subject to compliance with such modifications and conditions as may be deemed necessary to carry out the purpose of this Ordinance.

Sec. 16.40. - Review and Approval Procedures.

Development plans shall be reviewed in accordance with the following procedures:

- A. *Department review.* The building inspector may secure comments from any of the city departments, boards, or commissions as well as the same from the state, county, or township, and shall forward all comments to the planning commission for its review. The planning commission may as part of the review of the development plan, solicit further comments from any engineer, planning consultant, agency, group, or person, as deemed appropriate.
- B. *Development plan approval.* The city planning commission is authorized to review and approve, with or without conditions or to review and deny approval of all development plans submitted under this Ordinance. When the commission approves a development plan with conditions, the building inspector shall require a revised development plan with a revision date, indicating said conditions on the development plan.
- C. *Record of action.* Each action taken with reference to development plan review and approval shall be duly recorded in the minutes of the City of Eaton Rapids Planning Commission. A final copy of the approved development plan shall be so marked and placed on file with the city clerk's office.
- D. *Final development plan.* When a development plan approval is required, no building permit shall be issued until three (3) copies of a final development plan, which includes all conditions of approval, a revision date, and notation

of all variances has been signed by the chairperson of the planning commission, the building inspector, or their designees. Prior to the issuance of a building permit one (1) copy of the final signed plan shall be filed with each of the following: city clerk, building inspector, and the applicant.

Sec. 16.45. - Issuance of Building Permit.

If an applicant fails to secure a building permit within one (1) year of the date of approval of the development plan, the development plan shall be deemed expired and void, and is of no force or effect unless extended by the planning commission. Revocation of an approved development plan shall be communicated to the developer in writing.

Sec. 16.50. - Conformity to Approved Development Plan Required.

Following approval of a development plan by the planning commission, the applicant shall construct the development plan improvements in complete conformity with the approved plan. Failure to do so, is considered a violation of this Ordinance and subject to the actions provided for in this Ordinance.

Upon completion of the installation of required improvements as shown on the approved development plan, the developer shall submit to the building inspector two (2) copies of an "as-built" development plan, certified by an engineer or architect at least one (1) week prior to the anticipated occupancy of any building. A certificate of occupancy shall be withheld by the building inspector in any case where the development plan and major conditions as approved by the planning commission have not been complied with. Minor variations may be approved by the building inspector and shall be reported within thirty (30) days to the planning commission after the issuance of the certificate of occupancy.

Sec. 16.55. - Modification of an Approved Development Plan.

Once a development plan has been approved by the planning commission, changes to the approved development plan shall require a re-submission to the commission and payment of any associated fees, except that minor changes as defined below may be permitted by the building inspector:

- A. For residential buildings, the size of the structure may be reduced or increased by up to five (5) per cent, provided that the overall density of units does not increase.
- B. Square footage of nonresidential buildings may be decreased or increased by up to five (5) per cent.
- C. Movement of a building or buildings by no more than ten (10) feet.
- D. Designated "areas not to be disturbed" may be increased.
- E. Plantings approved in the final development plan landscape plan may be replaced by similar types and sizes of landscaping which provides a similar screening effect on a one-to-one or greater basis, provided they comply with the landscaping standards of this Ordinance.
- F. Improvements to site access or circulation, such as inclusion of deceleration lanes, boulevards, curbing, pedestrian/bicycle paths, etc. which conform to the requirements of this Ordinance.
- G. Changes of building materials to another of higher quality.
- H. Changes in floor plans which do not alter the character of the use.
- I. Slight modification of sign placement or reduction in size.
- J. Relocation of sidewalks and/or waste receptacles.
- K. Internal rearrangement of parking lots that does not affect the number of parking spaces or alter access locations or design.
- L. Changes required or requested by the city for safety reasons.

Sec. 16.60. - Appeals.

In instances where specific requirements of this Ordinance are not satisfied on the development plan, a request for a variance to such specific requirement(s) may be initiated by the applicant to the zoning board of appeals, subject to planning commission recommendation on the proposed variance and prior to formal development plan approval. An appeal of a commission decision concerning a development plan shall be made to the circuit court.

Sec. 16.65. - Maintenance after Approval.

It shall be the responsibility of the property owner for which development plan has been granted to maintain the property in accordance with the approved development plan on a continuing basis until the property is razed or until new zoning regulations supersede the regulations upon which development plan approval was based, or until a new development plan is approved. This requirement includes healthy landscaping, walls, fences, pavement, pavement markings, signs, building exterior, drainage facilities, and all other elements of the site. Any property owner who fails to so maintain an approved site shall be deemed in violation of the use provisions of this Ordinance and shall be subject to the same penalties appropriate for such a violation.

With respect to condominium projects, the master deed shall contain provisions describing the responsibilities of the condominium association, condominium owners, and public entities, with regard to maintenance of the property in accordance with the approved development plan. The master deed shall further establish the means of permanent financing for required maintenance and improvement activities which are the responsibility of the condominium association. Failure to maintain an approved development plan shall be deemed in violation of the use provisions of this Ordinance and shall be subject to the same penalties for such a violation.

ARTICLE XVII. - SCHEDULE OF REGULATIONS

Sec. 17.10. - Residential Districts.

No building or structure shall be erected, converted, enlarged, reconstructed, or structurally altered, except in conformity with the following regulations, except as otherwise provided in this Ordinance:

Zoning District	Maximum Lot Coverage (per cent)	Minimum Size of Lot per Dwelling Unit		Maximum Height of Buildings		Minimum Yard Setback (per lot in feet)			Minimum Floor Area Per Dwelling Unit (square feet)	
		Area in square feet	Width in feet	In stories	In feet	Front	Sides			Rear
							At least one	Total of two		

Traditional Residential District (TRD)	60	6,000	60	2.5	30	10	5	5	15	672 first floor 1,000 if more than one story
Low Density Single-Family Residential District (RD1)	35	9,600	80	2	30	30	10	<u>20</u>	35	1,000
Single-Family and Two-Family Residential District (RD2)	35	9,600	<u>100</u>	2	30	30	10	<u>20</u>	35	1,000
Multiple-Family Residential District (MFRD)	35	9,600 (D)	<u>100</u>	3	40	30	10	<u>20</u>	35	(F)
Manufactured Housing Park District (MHPD)	See Article VIII Manufactured Housing Park District									

(Ord. No. 2002-10, 10-28-02)

Sec. 17.20. - Mixed Use and Nonresidential Districts.

Zoning District	Maximum Lot Coverage (per cent)	Minimum Size of Lot per Dwelling Unit		Maximum Height of Buildings		Minimum Yard Setback (per lot in feet)			Minimum Floor Area Per Dwelling Unit (square feet)	
		Area in square feet	Width in feet	In stories	In feet	Front	Sides			Rear
							At least one	Total of two		

Central Business District (CBD)	<u>100</u>	NA	NA	3	40	NA ^(H)	NA	NA	NA	NA
Local Business District (LBD)	80	NA	NA	2	30	10 ^(I)	5	10	15	672
General Business District (GBD)	60	10,000	<u>100</u>	2	40	10	15	30	15	NA
Limited Industrial District (LID)	35	10,000	<u>100</u>	2	40	30	15	30	35	NA
General Industrial District (GID)	35	20,000	<u>100</u>	2	40	40	15	30	45	NA
Mixed Use District (MXD)	60	6,000	50	2	24	NA ^(I)	5	10	15	672
Flood Plain District (FPD)	See Article III Flood Plain District									

Sec. 17.30. - Notes for Schedule of Regulations.

The following notes refer to the tables containing the schedule of regulations in sections 17.10 and 17.20:

- A. *Planned projects.* The requirements for area, height, bulk, and placement regulations, as they are usually applicable, may in certain cases of large scale development have results affording less protection to the public health, safety, and welfare than if a degree of flexibility were permitted. Therefore the provisions of Article XVII may be altered or waived by the city council in certain instances, such as with planned unit developments, after recommendation of the same by the planning commission, subject to the requirements contained within this Ordinance.
- B. *Yard spaces.* In determining required yard spaces for all land uses in any zoning district, the determination of such yard spaces shall be the distance from the building or structure on the lot to the nearest lot line. For those lots adjacent to arterial or collector roads as defined in the Eaton Rapids Comprehensive Plan, the yard spaces shall be measured from the proposed future right-of-way line for such thoroughfare to the building or structure on a lot.
- C. *Minimum floor area.* The minimum floor area per dwelling unit shall not include area of basements, breezeways, porches, or garages.
- D. *Multiple-family residential minimum lot size.* Where multiple dwellings are permitted, the minimum lot size for the development shall be nine thousand six hundred (9,600) square feet. Additional lot size shall be provided in

accordance with the standards identified below:

Dwelling Type	Additional Lot Size Requirements (square feet)
Efficiency unit	1,800
One bedroom unit	2,000
Two bedroom unit	2,500
Three bedroom unit	3,000
Four bedroom unit	3,500
Each additional room (excluding kitchens, bathrooms, lavatories)	<u>200</u>

- E. *Multiple-family dwelling yards between buildings.* Where two (2) or more multiple, row, or terrace dwellings are erected upon the same lot, a minimum yard space of twenty (20) feet in width shall be provided between structures.
- F. *Multiple-family dwelling minimum floor area.* Where multiple, row, or terrace dwellings are permitted, the minimum floor area per dwelling unit shall be as follows:

Dwelling Unit Type	Minimum Floor Area per Dwelling Unit(square feet)
Efficiency unit	<u>300</u>
One bedroom unit	<u>600</u>
Two bedroom unit	<u>800</u>
Three bedroom unit	1,000 plus 80 for each bedroom over 3

- G. *Attached buildings.* Side yards are not required where buildings are attached at the lot line and if all abutting walls are of fireproof construction and wholly without windows or other openings.
- H. *Central Business District yards.* All buildings in the Central Business District shall be built at the lot lines with no setbacks at the average of other buildings on the block as determined by the planning commission, unless provided for otherwise in this Ordinance.
- I. *Mixed Use District front yard.* All buildings in the Mixed Use District shall be built at the average front setbacks of other buildings on the block as determined by the planning commission, unless provided for otherwise in this Ordinance.
- J. *Detached accessory structures in residential zoning districts.* All detached accessory structures, including garages in residential zoning districts shall be subject to the required setbacks as stated in Article XVIII of this Ordinance.
- K. *Waterfront lot yards.* On a waterfront lot, the regulations of this ordinance concerning the placement of buildings may be reversed so that the part of the lot fronting on the water is considered the front yard and the part of the lot fronting on a public or private street is considered the back yard.

(Ord. No. 2002-8, 8-26-02)

ARTICLE XVIII. - GENERAL STANDARDS AND EXCEPTIONS

Sec. 18.00. - Application.

General requirements and standards apply to all districts except as noted herein. Where requirements of a general regulation and a district regulation differ, the more restrictive requirements shall prevail.

Sec. 18.02. - Use of Buildings and Land.

No building shall be erected, converted, enlarged, reconstructed, or structurally altered, nor shall any building or land be used, designed, or arranged, for any purpose other than is permitted in the district in which the building or land is located. No building shall be erected, converted, enlarged, reconstructed, or structurally altered except in conformity with the area regulations of the district in which the building is located.

Sec. 18.04. - Zoning Permits Issued Prior to Effective Date.

Any building or structure for which a zoning permit has been issued and the construction of the whole or a part of which has been entered into pursuant to a zoning permit issued prior to the effective date of this Ordinance may be completed and used in accordance with the plans and applications on which said zoning permit was granted.

A building which is lawfully under construction at the time of adoption of this Ordinance shall be allowed to be completed within one (1) year of the passage of this Ordinance. Adoption of this Ordinance shall not require any changes to the plans, construction or designated use of any such buildings.

Sec. 18.06. - Restoration of Unsafe Buildings.

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any part of a any building or structure declared unsafe by the building inspector or required compliance with his or her lawful order.

Sec. 18.08. - Moving of Buildings.

- A. Any building or structure that has been wholly or partially erected on any premises located within the city shall not be moved to and be placed upon any other premises in the city until a building permit for such removal has been secured according to the requirements of this Ordinance. Any such building or structure shall fully conform to this Ordinance in the same manner as a new building or structure.
- B. Before a permit may be issued for moving a building or structure, the building inspector shall inspect the same and determine if it is in a safe condition to be moved, whether or not it may be reconditioned to comply with the building code and other requirements for the use and occupancy for which it is to be used, and whether or not it will be of similar character with the buildings in the area where it is to be moved. In addition, clearances shall be obtained from all utility companies ensuring that utilities are discontinued and all facilities accounted for. Special inspection fees as determined by the city, may be charged to cover costs of inspecting the old site and the new site of such building or structure. If these conditions can be complied with, a building permit shall be issued for the moving of such a building or structure.

Sec. 18.10. - Exceptions to Height Limitations.

A roof structure for the housing of elevators, stairways, tanks, ventilation fans or similar equipment required to operate and maintain the building, fire or parapet walls, skylights, individual domestic radio and television aerials, telecommunication facilities, electrical transmission and communication poles and towers, theater screens, steeples, flagpoles, chimneys, smokestacks, water tanks, grain elevators, silos, gas containers, industrial installation requiring a vertical production procedure such as flour mills, steel mills, and refineries, or similar structures may be erected above the height limits herein prescribed, but no such structures shall be allowed for the purpose of providing additional floor space for residential, business, or industrial use.

No structure may be erected to more than twice the applicable height limits of the district in which it is located, unless otherwise provided for in this Ordinance. No such structure shall have a total area greater than twenty-five (25) per cent of the roof area of the building. No such structure shall be used for any residential purpose or commercial purpose, other than a use incidental to the main use of the building.

Sec. 18.12. - Exceptions to Area and Width Requirements.

- A. *Recorded Lots.* Lots established by a legally recorded plat or deed prior to the adoption of this Ordinance which have less than the minimum area or width requirements established by this section, may nevertheless be used for any use permitted within the district in which such lot is located. In addition, lots established by a recorded plat or deed subsequent to the adoption of this Ordinance and which met the requirements of said Ordinance, but as a result of amendments thereto, can no longer meet the minimum area or width requirements, may nevertheless be used for any use permitted within the district in which such lot is located.
- B. *Lack of Public Utilities.* In areas unserved by public or other approved community water and/or sewage facilities, the minimum lot areas required by this Ordinance shall be increased to include any additional area deemed necessary by the appropriate health department to insure safe water supply and/or adequate sewage disposal.

Sec. 18.13. - Land Division.

Upon the filing of an application, which shall include a legal description of the proposed partition or division of the newly formed parcels, and a survey prepared and certified by a registered land surveyor, and upon payment of the fee as established by city council, by the owner(s) or their agent or designee, with the city manager, or his designee, such application shall be forwarded to the planning commission for review, certification and recommendation to the city council for resolution. When said resolution is ordained, platted lots, outlots, parcels of land in existing recorded plats, or land located in unplatted areas described by meets-and-bounds descriptions, may be partitioned or divided provided the land division shall in regard to width, depth and area, conform to the terms and provisions of the City Zoning Ordinance, the Michigan Land Division Act, P.A. 591 of 1996 and P.A. 87 of 1997, respectfully as combined and as amended, formally known as P.A. 288 of 1967, the Subdivision Control Act, P.A. 172 of 1929, the Plat Act, and other pertinent ordinances.

(Ord. No. 2002-6, 8-26-02)

Sec. 18.14. - Number of Buildings on a Lot.

Every building hereinafter erected or structurally altered shall be located on a lot herein defined and there shall be not more than one (1) principle building on one (1) lot unless otherwise provided in this Ordinance. Exceptions to the aforementioned requirement include multiple-family dwellings in a Multiple-Family Residential District (MFRD) or Planned Unit Developments (PUD).

No lot may contain more than one (1) principal building, structure, or use excepting groups of multiple-family dwellings, site condominiums as approved under the provisions of this Ordinance, or retail business buildings or other groups of buildings the building inspector deems to be a principle use collectively.

Sec. 18.16. - Location of Dwellings.

In order to ensure adequate setbacks and to provide a uniform design, no residential structure shall be erected upon the rear of a lot except in the case of a waterfront lot. Structures in residential districts other than those containing waterfront lots shall be set back no further than the average front setback of the structures upon the same block, as determined by the building inspector. Appeals of such determination shall be resolved by the zoning board of appeals. No residential structure shall be erected upon a lot with another dwelling unless otherwise provided by this ordinance.

(Ord. No. 2002-8, 8-26-02)

Sec. 18.18. - Illegal Dwellings.

The use of any portion of the basement of a partially completed building, any garage, or accessory building for dwelling or sleeping purposes in any zoning district is prohibited, unless otherwise provided for in this Ordinance. No dwelling unit shall be erected in an industrial district. However, the sleeping quarters of a watchman or a caretaker may be permitted in an industrial district in conformity with the specific requirements of the particular district.

Sec. 18.20. - Accessory Buildings and Structures.

Accessory buildings and structures, except as otherwise permitted in this Ordinance, shall be subject to the following regulations:

A. *General standards.*

1. Accessory buildings, structures and uses are permitted only in connection with, incidental to and on the same lot with a principal building, structure, or use which is permitted in the particular zoning district. An accessory building, structure, or use must be in the same zoning district as the principal building, structure, or use on a lot.
2. No accessory building, structure, or use shall be occupied or utilized unless the principal structure to which it is accessory is occupied or utilized. No accessory building, structure, or use may be placed on a lot without a principal building, structure, or use.
3. Where the accessory building is structurally attached to a main building, it shall be subject to and must conform to all regulations of this Ordinance applicable to main or principal buildings.
4. All accessory buildings, structures and uses combined shall cover no more than fifty (50) per cent of any rear yard, subject to setback, lot coverage, and other standards of this Ordinance. Accessory buildings shall not be erected in any required front yard. In no instance shall such a building be nearer than three (3) feet to any adjoining lot line or street right-of-way. In no instance shall an accessory building or structure, excluding garages exceed one hundred twenty (120) square feet.
5. No detached accessory building shall be located closer than ten (10) feet to any main or principal building.
6. In the case of double frontage lots, accessory buildings shall observe front yard requirements on both street frontages wherever there are any principal buildings fronting on such streets in the same block or adjacent blocks.
7. In the case of an accessory building located in the rear yard on a corner lot, the side lot line of which is substantially a continuation of the required front yard setback of the lot to its rear, such accessory building shall be set back from the streets side at least as far as the required front yard setbacks of the lot at the rear of the subject corner lot.
8. No accessory building may be closer than five (5) feet to any other accessory building.

B. *Garages.*

1. In any residential district, no garage shall be erected closer to the side lot line than the permitted distance for the dwelling, unless the garage is completely to the rear of the dwelling, in which event the garage may be erected five (5) feet from any interior side lot line. No garage or portion thereof, shall extend into the required front yard area. Attached garages of fireproof construction may be erected to extend beyond the front line of the house in those areas which are being developed according to a common plan that includes the construction of attached garages extending beyond the front line of the house, provided that such garages shall not encroach in or upon the minimum front yard required by this Ordinance, and provided further, that the cornice, eaves, or overhang shall not extend more than six (6) inches into the required front or side yard.
2. A garage may occupy not more than fifty (50) per cent of a required rear yard, provided that in no instance shall the building exceed seven hundred sixty-eight (768) square feet, nor exceed fourteen (14) feet in height. No

garage shall be constructed upon or moved to any parcel of property until the principal building thereon, or intended to be placed thereon, is at least two-thirds ($\frac{2}{3}$) completed.

3. On a corner lot, the entrance to the garage shall not be less than eight (8) feet from the lot line adjacent to the street, except as otherwise permitted herein.
4. In the case of double frontage lots, garages shall observe front yard requirements on both street frontages wherever there are any principal buildings fronting on such streets in the same block or adjacent blocks.

C. *Swimming pools.* Swimming pools, (below ground or above ground) which contain twenty-four (24) inches or more of water depth at any point, shall be enclosed by a solid or impervious fence or enclosure approved by the building inspector surrounding the device sufficient to make such device inaccessible to small children. Such fence or enclosure, including the gates, shall not be less than four (4) feet above grade or otherwise made inaccessible to small children, from the outside.

Swimming pools, shall comply with the required side yard setbacks as specified in Article XVII. No such device shall be permitted in any required front yard.

D. *Mechanical equipment.* Mechanical equipment, such as blowers, ventilating fans, and air conditioning units, shall be placed not closer than three (3) feet to any lot line in any business district, and not closer than six (6) feet in all other districts.

E. *Flagpoles.* Flagpoles in nonresidential districts shall not exceed one hundred (100) feet in height and may be illuminated provided the source of illumination is designed, located, and shielded to prevent glare onto adjacent properties, and shall be arranged to prevent adverse affects on motorist visibility on adjacent rights-of-way. Flagpoles in residential districts shall adhere to the same, except that they may not exceed forty (40) feet in height.

Sec. 18.22. - Accessory Uses and Buildings in Business and Industrial Districts.

In business and industrial districts, accessory buildings and uses may occupy any of the ground area which the principal buildings are permitted to cover. Accessory buildings such as buildings for parking attendant, guard shelters, gate houses, and transformer buildings may be located in any of the yards of the industrial districts.

Sec. 18.24. - Attachments to Main Buildings.

Accessory buildings or structures, including, but not limited to, porches enclosed by walls or garages attached to a dwelling unit or other principle building in a substantial manner, such as by a wall or roof, shall be deemed a part of such principle building for the purpose of determining compliance with the provisions of this chapter concerning required yards.

Sec. 18.26. - Frontage on Streets Required.

No dwelling unit shall be built, moved, or converted upon a lot having a frontage of less than twenty (20) feet upon a public street, or upon a private street, or other permanent easement giving access to a public street. No zoning permit shall be issued for any construction located on any lot or parcel of land in the city that does not abut on a public street, a private street, or other permanent easement giving access to a public street. All access to a public street, a private street, or other permanent easement shall meet the requirements of Article XXI of this Ordinance. This Ordinance shall not be construed as the basis for preventing the issuance of a building permit for ordinary repair or maintenance of any building that is already erected on the date of adoption of this Ordinance upon a lot or parcel of land that does not abut such an access.

(Ord. No. 2002-8, 8-26-02)

Sec. 18.28. - Front Yard Requirements.

Each lot shall have a front yard with a minimum depth measured from, and parallel to, the front right-of-way line, existing or proposed, whichever is greater, as established in Article XVII. Where a front yard of greater or less depth than specified exists in front of a dwelling on one (1) side of a street in any block in a Traditional Residential District (TRD), the depth of the front yard of any building thereafter erected or placed on any lots in such block shall be not less, but need not be greater, than the average depth of the front yards of the existing dwellings.

Sec. 18.30. - Corner Lot, Side Yard Width to the Street Line.

In the case of a corner lot, the side yard width to the side street line shall be equal to at least one-half ($\frac{1}{2}$) of the front yard depth requirement for the district in which the lot is located. In no case shall the side yard width to the side street line be less than twenty (20) feet.

Sec. 18.32. - Yards Apply Only to One Building.

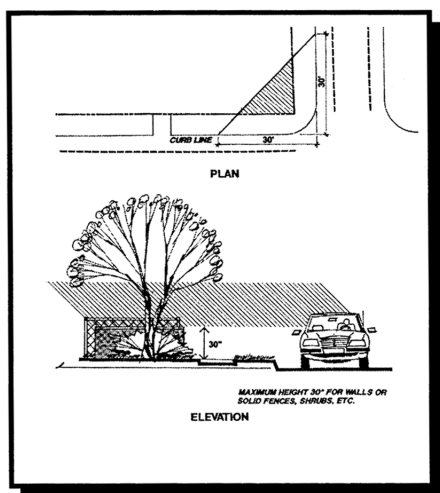
No required yard or other open space around an existing building, or which is hereafter provided around any building for the purpose of complying with the provisions of this Ordinance shall be considered as providing a yard or open space for any other building; nor shall any yard or other required open space or any lot be considered as providing a yard or open space for another lot whereon a building is to be erected.

No lot, adjacent lots in common ownership, required yard, parking area, or other required open space shall be created, divided or reduced in dimensions or area below the minimum requirements of this Ordinance. If already less than the minimum requirements of this Ordinance, a lot or adjacent lots in common ownership or a required yard, parking area or other open space shall not be divided or reduced in dimensions or area so as to increase its noncompliance with the minimum requirements of this Ordinance. Lots or yards created after the effective date of this Ordinance shall comply with the requirements of this Ordinance.

In any residential district, the front and rear yard requirements of a double frontage lot shall be the same as prescribed for any single-family lot in the zone wherein the double frontage lot is located.

Sec. 18.34. - Corner Visibility.

No structure, fence, wall, hedge, planting, tree, or other obstruction to vision in excess of thirty (30) inches in height shall be erected or maintained on that part of the corner residential lot that is included between the lines of intersection of street rights-of-way and a line intersecting them at points of thirty (30) feet distance from the intersection of the street lines.



Clear Vision Area

Sec. 18.36. - Other Projections into Yards.

- A. *Cornice, Sill, Chimney, or Fireplace.* A cornice, eave belt course, sill, canopy, or other similar architectural feature (not including bay windows or other vertical projections which shall be a part of the main building), may extend or project into a required side yard not more than two (2) inches for each one (1) foot of width of such side yard and may extend or project into a required front or rear yard not more than thirty-six (36) inches. Chimneys or fireplaces may project into a required front, side, or rear yard not more than two (2) feet, provided the width of such side yard is not reduced to less than five (5) feet.
- B. *Fire Escape.* A fire escape may extend or project into any front, side, or rear yard not more than four (4) feet.
- C. *Open Stairway or Balcony.* An open, unenclosed stairway or balcony, not covered by a roof or canopy may extend or project into a required yard not more than six (6) feet and such balcony may extend into a required front yard not more than six (6) feet.
- D. *Porch, Open.* An unenclosed platform or landing which does not extend or project into any required front, side, or rear yard more than eight (8) feet is exempted from yard requirements provided that the width of a side yard is not reduced to less than five (5) feet. An overhang, canopy, or portico may be placed over the open porch, but it shall not be enclosed.

Sec. 18.38. - Access Through Yards.

Access drives may be placed in the required front or side yards so as to provide access to a rear yard. Further any walk, terrace, or other pavement serving a like function shall be permitted in any required yard.

Sec. 18.40. - Fences, Walls, or Other Specified Structures.

A. *Fences, Walls.*

1. The erection, construction or alteration of any fence, wall or other type of protective barrier shall require a building permit approved by the building inspector as to conformance to the requirements of the zoning district wherein it is required because of land use development, and to the requirements of this section.
2. Fences or walls may be permitted in any yard, or along the edge of any yard. The height of fences, walls, and hedges shall not exceed six (6) feet in any side or rear yard. A fence in a business or industrial district may be permitted up to eight (8) feet in height along the side or front yard, providing it does not constitute an obstruction for motor vehicles. A security fence for a permitted use may include a maximum of one (1) additional foot of barbed wire in industrial and business districts only. In all other districts, no fence or wall along the side or front yard, or in front of the side building line of a corner lot shall be over three (3) feet in height.
3. No fence shall be erected or maintained in such a way as to obstruct the vision of motorists exiting driveways. No fence or wall in a front yard on a corner lot, with a triangular section of land formed by the two (2) street right-of-way line and line connecting them at points thirty (30) feet from the intersection of such right-of-way line, shall exceed thirty (30) inches in height above the curb level.
4. Fences may be placed up to a lot line. No parts of fences, including foundations, may extend beyond any lot line.
5. The finish sides of fences in the rear or side yard may face towards or away from the property on which they are placed. If a fence is located in the front yard, the finished side shall face away from the property on which it is placed. If a fence exists in the rear or side yard of any adjacent lot, only one (1) other fence may be placed along the adjoining boundaries of such adjacent lot. Areas between abutting fences must be maintained in accordance with the city's Code of Ordinances.
6. No fence, wall, or screen shall be erected within any public right-of-way, unless approved by the City Council.
7. The use of electric current or charge of any fence or part thereof is prohibited, except those buried beneath the ground.

B. *Trees, Shrubs, Flowers, or Plants.* Trees, shrubs, flowers, or plants shall be permitted in any front, side, or rear yard, provided does not violate the corner setbacks as set forth in this section.

C. *Other Specified Structures.* Walls, driveways, curbs, retaining walls, mailboxes, name plates, lamp posts, bird baths, and structures of a like nature shall be permitted in any front, side, or rear yard.

(Ord. No. 2002-16, 12-23-02; Ord. No. 2004-50, 8-23-04)

Sec. 18.42. - Rubbish and Waste Material.

It shall be unlawful throughout the city to openly store, collect, or place discarded building materials, refuse, junk, inoperable and unlicensed motor vehicles, or other similar materials, except upon land owned and operated as a state approved solid waste site, or as otherwise stated in the city ordinances.

Sec. 18.43. - Trash and Waste Containers.

Outside waste containers shall be permitted in the General Business, Local Business, Central Business and Multiple Family Residential District provided that they comply with the following requirements:

- (a) Adequate vehicular access shall be provided to such containers for truck pickup either via a public alley or vehicular access aisle which does not conflict with the use of off-street parking areas or entrances to or exits from principal buildings nearby.
- (b) Waste containers shall be screened from public view to the extent practical, taking into account any physical limitations of the site. Such screening shall utilize construction materials and techniques that are both ornamental and consistent with the surrounding area, and which are not in conflict with other sections of this appendix.
- (c) The waste containers(s), the screening wall or fence and the surrounding ground area shall be maintained in a neat and orderly appearance, free from rubbish, waste paper or other debris. This maintenance shall be the responsibility of the owner of the premises on which the containers are placed.
- (d) There shall be compliance with all city, county and state health ordinances and statutes.
- (e) No incinerator, garbage receptacle, oil or propane tank, or storage rack shall be exposed on the grounds outside any building without screening specified for waste containers and unless adequate safety and sanitary precautions are taken.

(Ord. No. 2002-9, 9-9-02)

Sec. 18.44. - Screening.

In order to provide adequate protective screening for residential areas adjacent to or near nonresidential areas, screening shall be provided in accordance with Article XX.

Sec. 18.46. - Grades.

No premises shall be filled or grades established, so as to discharge the surface runoff on abutting property in such a manner that will cause inconvenience or damage to adjacent properties.

Sec. 18.48. - Protection of Excavations.

The construction, maintenance, or existence within the city of any unprotected, unbarricaded, open, or dangerous excavations, holes, pits, wells, or of any excavations, holes, or pits which constitute or are reasonably likely to constitute a danger or menace to the public health, safety, or welfare are prohibited. This section shall not be construed so as to prevent any excavation under a

permit issued pursuant to this Ordinance or other applicable ordinance or code, where such excavation is properly protected and warning signs are posted in such a manner as may be approved by the building inspector. Excavation required for swimming pools is excepted from the excavating provisions of this section provided that all necessary permits are obtained and the pool is constructed within thirty (30) days of the excavations. Excavation and site preparation for building foundations is also excepted from the excavation provisions of this section provided that such work is considered incidental to building construction and all necessary permits have been obtained.

Sec. 18.50. - Certificates Required for Excavations; Bonds.

The use of land for the excavation, removal, filling, or depositing in excess of thirty-six (36) inches, of any type of earth material, topsoil, gravel, or rock, or the excavation, removal, filling, or depositing of any garbage, rubbish, or other wastes or byproducts is not permitted in any zoning district, except under a certificate from and under the supervision of the building inspector in accordance with a topographic plan, approved by the city engineer and/or consultant, submitted by the developer or owner of the property concerned. The topographic plan shall be drawn at a scale of not less than fifty (50) feet equals one (1) inch and shall show existing and proposed grades and topographic features and such other data as may from time to time be required by the city. Such certificate may be issued in appropriate cases, upon the filing with the application of a cash bond or surety bond by a surety company authorized to do business in the state, running to the city, in an amount established by the city, which bond will be sufficient in amount to rehabilitate the property upon default of the operator or such other reasonable expenses. This regulation shall not be construed so as to apply to normal soil removal for basement or foundation work when a building permit has previously been duly issued by the building inspector.

Sec. 18.52. - Voting Places.

This Ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal, state, federal, or other public election.

Sec. 18.54. - Automotive Fueling Stations, Service Stations, Repair Centers, and Public Garages.

- A. *Purpose.* In order to regulate and control the problems of noise, odor, light, fumes, vibration, dust, danger of fire and explosion, and traffic congestion which result from the unrestricted and unregulated construction and operation of automotive fueling stations, service stations, repair centers, and public garages, and to regulate and control the adverse effects which these and other problems incidental to automotive fueling stations, service stations, repair centers, and public garages may exercise upon adjacent and surrounding areas, the following regulations and requirements are provided for automotive fueling stations, service stations, repair center, and public garages located in any zoning district. All automotive fueling stations, service stations, repair centers, and public garages erected after the effective date of this Ordinance shall comply with this section. No automotive fueling station, service station, repair center, or public garage existing on the effective date of this Ordinance shall be structurally altered so as to provide a lesser degree of conformity with this section than existed on the effective date of this Ordinance.
- B. *Minimum Area and Frontage.* An automotive fueling station, service station, repair center, or public garage shall be located on a lot having a frontage along the principal street of not less than one hundred fifty (150) feet and having a minimum area of fifteen thousand (15,000) square feet.
- C. *Setbacks.* An automotive fueling station, service station, repair center, or public garage building housing an office and/or facilities for servicing, greasing, and/or washing motor vehicles shall be located not less than forty (40) feet from any street lot line and not less than fifteen (15) feet from any side or rear lot line directly adjoining a residential zoning district, unless required otherwise by this Ordinance. In cases where the side or rear line abuts an open public alley, the structure may be constructed on such property line.
- D. *Driveway and Curbs.* All driveways providing ingress to or egress from an automotive fueling station. Service station,

- repair center, or public garage shall comply with the requirements and standards stated in Article XXI of this Ordinance.
- E. *Paved Areas.* The entire lot, excluding the area occupied by a building shall be hard surfaced with concrete or a plant-mixed bituminous material, except approved landscaped areas.
 - F. *Equipment Location.* All lubrication equipment, motor vehicle washing equipment, hydraulic hoists and pits shall be enclosed entirely within a building. All gasoline and fuel pumps shall be located not less than fifteen (15) feet from any lot line and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or overhanging any public sidewalk, street, or right-of-way.
 - G. *Number of Pumps.* An automotive fueling station, service station, or repair center located on a lot having an area of fifteen thousand (15,000) square feet or less shall include not more than four (4) double gasoline and fuel pumps or eight (8) single gasoline and fuel pumps and two (2) enclosed stalls for servicing, lubricating, greasing, and/or washing motor vehicles. An additional two (2) gasoline and fuel pumps and/or one (1) enclosed stall may be included with the provision of each additional two thousand (2,000) square feet of lot area.
 - H. *Screening.* For all automotive fueling stations, service stations, repair centers, or public garages screening shall be provided in accordance with Article XX of this Ordinance.
 - I. *Lighting.* All exterior lighting, including illuminated signs, shall be erected and hooded or shielded so as to be deflected away from adjacent and neighboring property, and shall comply with the performance measures stated in Article XVIII of this Ordinance.
 - J. *Prohibited Locations.* No automotive fueling station, service station, or repair center shall be located nearer than two hundred (200) feet, as measured from any point on the property line, to any school, playground, church, or hospital.
 - K. *Outdoor Storage and Parking.* All repair work shall be conducted completely within an enclosed building. There shall be no storage of vehicle components, parts, trash, supplies, or equipment outside of a building. Outdoor storage or parking of vehicles or trailers, other than private passenger automobiles, shall be prohibited between 10:00 p.m. and 7:00 a.m. of the following day, except that equipment rental operations shall be permitted if incidental to the automotive fueling station, service station, or repair center, and if restricted to travel trailers or campers of under twenty-one (21) feet overall length, car-top carriers, and similar auto accessories. Such operations shall be within fenced enclosures observing the same setbacks required for buildings in the zoning district wherein the automotive fueling station, service station, or repair center is located, and their storage area shall not exceed twenty (20) per cent of the area of the area of the automotive fueling station, service station, or repair center site.
 - L. *Removal of Underground Storage Tanks and Remediation of Sites.* In the event that an automotive fueling station, service station, repair center, or public garage use has been abandoned or terminated, all underground storage tanks shall be removed and any contamination present on the site shall be corrected in accordance with all applicable local, state, and federal laws.

Sec. 18.56. - Essential Public Services.

Essential public services shall be permitted in any zoning district as authorized and regulated by law and other provisions of this Ordinance and the city's Code of Ordinances, it being the intention hereof to exempt such essential services from the application of this Ordinance.

The planning commission may permit the erection and use of a building or an addition to an existing building of a public service corporation or for public utility purposes, in any permitted district to a greater height or of a larger area than the district requirements herein established and may permit the location in any use district of a public utility building, structure, or use, if the commission finds such use, height, area, building, or structure reasonably necessary for the public convenience and services, and if such building, structure, or use is designed, erected, and landscaped to conform harmoniously with the general architecture and plan of such district.

Sec. 18.58. - Drive-in and Drive-through Establishments.

- A. *Screening.* For all drive-in or drive-through establishments, screening shall be provided in accordance with the standards and requirements of Article XX of this Ordinance.
- B. *Lighting.* All exterior lighting, including illuminated signs, message boards, or ordering stations shall be erected and hooded or shielded so as to be deflected away from adjacent and neighboring property, and shall comply with all the performance measures stated in Article XVIII of this Ordinance.
- C. *Setbacks.* A drive-in or drive-through establishment, including any message boards or ordering stations shall be located not less than fifteen (15) feet from any side or rear lot line directly adjoining a residential zoning district.
- D. *Driveways and Curbs.* All driveways providing ingress to or egress from a drive-in or drive-through establishment shall comply with the standards and requirements stated in Article XXI of this Ordinance.
- E. *Paved Areas.* The entire lot, excluding the area occupied by a building shall be hard surfaced with concrete or a plant-mixed bituminous material, except approved landscaped areas.

Sec. 18.60. - Tourist Homes; Bed and Breakfast.

Where allowed, either as a permitted or conditional use, the planning commission shall in addition to any standards set forth elsewhere in this Ordinance also review the application and require compliance with the following standards:

- A. *Application.* An initial application to establish or re-establish a bed and breakfast operation shall be made to the building inspector for its review and action. The application shall, as a minimum include the following information:
 - 1. A floor plan of the single-family dwelling drawn to a scale of not less than one-eighth ($\frac{1}{8}$) inch equals one (1) foot and showing the layout of the building. The location of the guest room(s), bathroom(s), and such other information as required herein to facilitate proper review of the application.
 - 2. A site plan of the lot drawn to a scale of not less one-eighth ($\frac{1}{8}$) inch equals one (1) foot and showing the existing structure and any accessory structures on the site, the location of driveways and vehicular parking areas.
- B. *Plan review.* The building inspector shall review the application and the floor and site plan for compliance with all pertinent standards and conditions.
- C. *Dwelling unit and operator requirements.* Bed and breakfast facilities shall be confined to the single-family dwelling unit which is the principal dwelling unit on the property. The dwelling unit in which the bed and breakfast facility is to be located, shall be the principal residence of the operator, and said operator shall live within said principal residence when bed and breakfast operations are active.
- D. *Total area used for bed and breakfast.* Not more than fifty (50) per cent of the total existing floor area of the dwelling structure at the time of initial application, shall be devoted to bed and breakfast operations. The method of determining floor area shall be based on the definition of "usable floor area" as defined in this Ordinance.
- E. *Exits.* The bed and breakfast facility shall contain at least two (2) usable exits to the outdoors.
- F. *Minimum guest room size.* Rooms utilized for guest sleeping shall have a minimum floor area of one hundred (100) square feet for two (2) occupants, with an additional thirty (30) square feet provided for each additional occupant up to a maximum of four (4) occupants per room.
- G. *Cooking facilities.* No separate cooking facilities shall be provided for bed and breakfast guests, nor shall existing cooking facilities be made available for use by the bed and breakfast guests.
- H. *Sanitary facilities.* Adequate lavatories, water closets, and bathing facilities shall be provided to all guests in a bed and breakfast facility.
- I. *Safety devices.* Each sleeping room shall have a separate smoke alarm and each floor shall be equipped with at least one (1) fire extinguisher.

- J. *Appearance.* The structure must maintain the appearance of a single-family residence.
- K. *Parking.* A single off-street parking area shall be provided for the occupants and employees with at least one (1) parking space for each sleeping room provided for guests plus at least two (2) parking spaces for the owner.
- L. *Signs.* One (1) nonilluminated sign, not to exceed three (3) square feet in area, shall be permitted to identify by name the bed and breakfast. Such sign may be attached flat to the surface of the principal dwelling or freestanding provided that it shall not be located within the required front yard setback.
- M. *Guest register.* Each operator shall keep a list of the names of all persons staying at the bed and breakfast operation. Such list shall be available for inspection by city officials at any time.
- N. *Length of stay.* The maximum stay for any occupant of a bed and breakfast operation shall be fourteen (14) consecutive days and not more than forty-five (45) days in one (1) year.
- O. *Annual inspection and renewal.* All bed and breakfast operations shall be subject to annual inspection by the building inspector to ensure that the use continues to meet or exceed the standards established herein and/or otherwise by the planning commission. Failure to comply with the standards shall result in the revocation of the ability to use said property for the purpose of a bed and breakfast operation.
- P. *Appeal.* An applicant denied renewal of permission to use the property for a bed and breakfast operation may appeal that decision to the City of Eaton Rapids Zoning Board of Appeals for further review and consideration in accordance with the rules and procedures for hearings appeals as set forth and regulated in this Ordinance. The board may approve or deny the appeal for reissuance when, in the board's opinion, good cause is shown after investigation and after opportunity has been given to the applicant to be heard.

In its investigation, the board shall consider compliance or noncompliance with local, state, and federal standards, ordinances, or regulations in addition to the conduct of the applicant relative to the public and the guidelines set forth in this ordinance.

Sec. 18.62. - Storage and Repair of Vehicles in Residential Districts.

The carrying out of repair, restoration, and maintenance procedures on vehicles in any residential zoning district, when such work is not conducted entirely within the interior of the vehicle, shall be subject to the following limitations:

- A. Procedures exceeding forty-eight (48) hours in duration or which require the vehicle to be immobile or inoperable in excess of forty-eight (48) hours shall be carried out within an enclosed building.
- B. Inoperable vehicles, vehicle parts, equipment, tools, and supplies shall be stored within an enclosed building.
- C. Only vehicles owned or operated by a member of the immediate family residing at a given residence may be repaired, restored, maintained, or stored at that residence at any given time, whether or not such work is conducted entirely within the interior of the vehicle.

Sec. 18.64. - Storage and Parking of Commercial, Farm, and Recreational Vehicles in Residential Districts.

- A. *Location and Duration.* For motor homes, travel trailers, folding-type trailers, pickup campers, snowmobiles on trailers, boats and similar and related type units, and other recreational vehicles as defined by this Ordinance, or for farm implements and tractors on sites that are actively being cultivated, the regulations of outside storage on all lots zoned and/or used for residential purposes are as follows:
 1. A total of two (2) but not more than one (1) of each such unit may be stored or parked outside on a lot which is zoned and/or used for residential purposes. The ownership of such units shall be in the name of a member of the immediate family of the lot's owner, tenant, or lessee. However, farm tractors, equipment, and implements may be

stored either in an enclosed building or they may be stored outdoors provided that the subject site is being actively cultivated. Further, that restored antique farm equipment is exempt from this subsection if displayed for decorative purposes.

2. Such units, when stored outside, shall be located in a side or rear yard, except as provided in the case of vacant lots. Such units shall be placed or parked on a lot with a principal building, structure, or use unless it is a lot which is attached to an occupied lot under the same ownership. Such units shall not be closer than ten (10) feet from any structure nor five (5) feet from any lot line, unless otherwise provided by this section.
 3. The combined area covered by the dwelling, accessory buildings, other above-ground structures and swimming pools, and the area covered by the outside storage of such units, may not exceed forty (40) per cent of the total area of the lot.
 4. Recreational vehicles or recreational equipment may be stored, parked, or placed within any front yard or within a public right-of-way whereon street parking is permitted for a period not exceeding forty-eight (48) hours for loading and unloading or in the process of normal maintenance and cleaning.
 5. In the case of corner lots, as defined with two (2) front yards, the regulations of this section shall apply to both front yards. The side yard facing the street will be considered a second front yard.
 6. In the case of through lots, parking shall be permitted in the side yard or in the effective rear yard, as determined by the building inspector, provided the parked vehicle meets the front and side yard principal building setback requirements of the zoning district.
 7. In the case of through lots on a corner (i.e., lots having frontage along three (3) streets), parking shall be allowed only in the side yard. The building inspector may permit parking in the effective rear yard, as noted in subparagraph 6. above, upon determination that such parking is allowed in the adjacent lot.
 8. In the case of lots where the location of the principal structure or site topography prevents access to the side or rear yard, the building inspector may permit parking of recreational vehicles or equipment in a driveway or on a paved parking pad within a front yard for a period of not more than one hundred eighty (180) days in any one (1) calendar year.
 9. None of such units or any recreational equipment parked or stored outside shall be connected to electricity, water, gas, or sanitary facilities for living, lodging, or housekeeping purposes and none of the same shall be used for living, lodging, or housekeeping purposes, unless otherwise approved by the chief of police in cases of emergency.
 10. All recreational equipment and vehicles shall be maintained in good condition, shall be operable and shall have a current license and/or registration.
- B. *Prohibited Items.* The parking and/or storage of buses, converted buses, and boats in excess of thirty (30) feet in length for a period exceeding forty-eight (48) hours, is prohibited, unless a permit has been issued by the building inspector. Said permit shall be valid for a period not to exceed ten (10) consecutive days out of any ninety (90) days.
- C. *Storage on Vacant Lots.* Not more than one (1) recreational unit, motor home, travel trailer, pickup camper, folding-type trailer, boat, or similar and related type unit, and other recreational vehicles as defined by this Ordinance, may be parked or stored on a vacant residentially zoned lot, except as otherwise authorized by this Ordinance. When stored on a vacant lot, such unit shall be located only on the rear half of such lot.
- D. *Camper Tops.* Detachable camper tops shall not be stored in any residential district except in accordance with this section. Further, camper tops that are not installed on a licensed and operable vehicle must be placed on the ground and stabilized.
- E. *Handicapped Vehicles/Equipment.* A recreational vehicle and/or recreational equipment which is officially designated as handicapped in accordance with state law and which is used as the regular means of transportation by or for handicapped person may be parked within the required setback area.

- F. *Commercial Vehicles.* It shall be unlawful for the owner, tenant, or lessee of any lot in any residential zoning district to permit open storage or outdoor parking of semi-tractor (WB-50 or larger) trucks and/or semi-trailers, bulldozers, earth carriers, cranes, or any other similar equipment or machinery, unless parked thereon while in use for approved construction on such lot.

(Ord. No. 2002-8, 8-26-02; Ord. No. 2007-9, 9-24-07)

Sec. 18.66. - Temporary Buildings, Structures, and Uses for Construction or Special Events.

Temporary principal or accessory buildings, structures, and uses may be permitted, subject to the following conditions:

A. *General.*

1. Temporary buildings and structures may only be used for the storage of construction materials, tools, supplies, and equipment for construction management and supervision offices and for temporary on-site sanitation, solid waste or fuel facilities related to construction activity on the same lot, and for seasonal or special events.
2. No temporary building or structure shall be used as a dwelling unit.
3. The placement of temporary buildings and structures shall be in conformance with the requirements of this Ordinance. A zoning permit for such building or structure shall be issued by the building inspector prior to installation.
4. Temporary buildings and structures shall be removed from the lot within fifteen (15) days after an occupancy permit is issued by the building inspector for the permanent structure on such lot, when applicable, or within fifteen (15) days after the expiration of a building permit issued for construction on such lot, when applicable.
5. Temporary uses, seasonal uses, or special events may be allowed in any district upon issuance of a permit, when meeting the standards listed below:
 - a. Seasonal sales events may be allowed on any lot with a permitted principal building. Seasonal sales may also be allowed on a vacant lot when providing the minimum setback for buildings, structures, and parking required for the appropriate zoning district. In no case shall the setbacks for buildings, structures, and parking be less than ten (10) feet.
 - b. If the petitioner is not the owner of the property, the petitioner shall provide written permission of the owner of the property to allow such a use or event.
 - c. The use or event, in the opinion of the building inspector will not be harmful nor impair the use and enjoyment of the existing adjacent uses.
6. A sketch plan drawn to scale shall be provided illustrating the following:
 - a. Property lines.
 - b. Adjacent uses and zoning districts.
 - c. Existing and proposed buildings and structures.
 - d. Location of any areas for storage such as inventory not being displayed.
 - e. Fire hydrants.
 - f. Layout of parking.
 - g. Boundaries of proposed sales areas.
 - h. The location and size of any proposed sign (off-premises signs shall also be identified).

B. *Review and approval procedures, permit fees, and required escrow.*

1. The building inspector shall review and approve requests for a temporary use or seasonal event. Where appropriate, the building inspector shall consult with the fire department and police department. If the request is denied, the building inspector shall state the reasons for denial in writing and provide a copy to the applicant.

2. The applicant shall pay a nonrefundable permit fee to the city treasurer. The fee shall be established and may from be modified, by the city council. The fee amount may vary depending upon the type of event.
3. The proprietor of the temporary use or seasonal event may be required to deposit a cash bond or similar type of escrow, in an amount established by the city council, prior to the issuance of the permit. The escrow shall be used by the city to pay the cost of returning the property to its condition prior to commencement of the event or refunded to the proprietor upon compliance with the requirements of this Ordinance and any other applicable ordinances.

Sec. 18.68. - Sexually Oriented Businesses.

- A. *Authorization.* In the preparation, enactment, and enforcement of this section, it is recognized that there are some uses relating to sexual material which, because of their very nature have serious operational characteristics that have a deleterious effect upon residential, office, and commercial areas. Because certain forms of expression relating to sexual material have particular functional and inherent characteristics with a high potential of being injurious to surrounding properties by depreciating the quality and value of such property, it is the intent of this section to provide a framework of reasonable regulatory standards which can be used for approving or disapproving the establishment of this type of use in a viable and accessible location, where the adverse impact of their operations may be minimized.
- B. *Site Location Principles.* The following principles shall be utilized to evaluate the proposed location of any such use. These principles shall be applied by the planning commission as general guidelines to help assess the impact of such a use upon the district in which it is proposed:
 1. No sexually oriented business shall be located within five hundred (500) feet, measured from the outer most boundaries of the lot or parcel upon which the proposed adult use will be situated, of a: residential zoning district, church, monastery, temple, or similar place of worship, school, library, public park or playground, noncommercial assembly facility, public office building, licensed day care facility as defined in Act 116 of the Public Acts of 1973, as amended (MCLA 722.111 et seq.), or arcade.
 2. A sexually oriented business shall be located only in the Limited Industrial Zoning District or the General Industrial Zoning District.
 3. No sexually oriented business shall be permitted within a one thousand (1,000) foot radius of an existing sexually oriented business. Measurement of the one thousand (1,000) foot radius shall be made from the outer most boundaries of the lot or parcel upon which the proposed adult use will be situated.
- C. *Site Development Requirements.* In addition to the site development standards and requirements specified elsewhere in this Ordinance the following shall be complied with for all sexually oriented businesses:
 1. The site layout, setbacks, structures, function, and overall appearance shall be compatible with adjacent uses and structures.
 2. Windows, displays, signs, and decorative structural elements of buildings shall not include or convey examples of a sexual nature. All such displays and signs shall be in conformance with this Ordinance and shall be approved by the planning commission prior to their use.
 3. All building entries, windows, and other such openings shall be located, covered, or screened in such a manner as to prevent viewing into the interior from any public or semi-public area and wherever else it is requested by the planning commission.
 4. No loud speakers or sound equipment shall be used by an sexually oriented business that projects sound outside of the sexually oriented business so that sound can be discerned by the public from public or semi-public areas.
 5. A sexually oriented business shall clearly post at the entrance to the business, or that portion of the business utilized for adult only purposes, that minors are excluded.

D. *Use Regulations.*

1. No person shall reside in or permit a person to reside in the premises of a sexually oriented business.
2. No person shall operate an sexually oriented business unless there is conspicuously placed in a room where such business is carried on, a notice indicating the process for all services performed therein. No person operating or working at such a place of business shall solicit or accept any fees except those indicated on any such notice.
3. The owners, operators, or person in charge of a sexually oriented business shall not allow entrance into such building or any portion of a building used for such use, to any minors as defined by MCL 722.51 et seq., as amended.
4. No sexually oriented business shall possess or disseminate or permit persons therein to possess or disseminate on the premises any obscene materials as defined by MCL 752.361 et seq., as amended.
5. No person shall operate an adult personal service business without obtaining a license from the City of Eaton Rapids for the same. Such licenses shall be issued in compliance with the City of Eaton Rapids Code. Such license shall be subject to all regulations of federal, state, and local governments.
6. No person shall become the lessee or sublessee of any property for the purpose of using said property for an adult entertainment business without the express written permission of the owner of the property for such use.

Sec. 18.70. - Telecommunications Towers.

Alternative tower structures and antennas, telecommunication towers, alternative tower structures and antennas shall meet the following in addition to all other applicable standards and requirements provided in this Ordinance:

- A. *Setbacks.* All towers shall be set back from all existing street right-of-way, adjacent property lines, and power transmission lines by a distance of no less than equal to that of the height of the tower.
- B. *Security fencing.* Telecommunications towers or alternative tower structures and attendant accessory structures shall be enclosed by security fencing at least six (6) feet in height and shall also be equipped with an appropriate anti-climbing device.
- C. *County, state, or federal requirements.* All telecommunication towers or alternative tower structures must meet or exceed current standards and regulations of the county, the FAA, the FCC, the Michigan Aeronautics Commission (MAC), and any other agency of the state or federal government with the authority to regulate telecommunication towers or alternative tower structures and antennas. The applicant shall submit written proof all applicable standards have been complied with. If such standards and regulations are changed, then the owners of the telecommunication towers or alternative tower structures and antennas governed by this Ordinance shall bring such telecommunication towers and alternative tower structures and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling agency. Failure to bring telecommunication towers or alternative tower structures and antennas into compliance with revised standards and regulations shall constitute grounds for the removal of the telecommunication towers or alternative tower structures or antenna at the owner's expense.
- D. *Lighting.* Towers shall not be artificially lighted unless required by the FAA, the MAC, or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance of the surrounding views. Unless required by federal or state law, all sources of lighting for parking areas or for external illumination of buildings or grounds or for the illumination of any signs, shall be directed away from and shall also be arranged as to not affect driver visibility on adjacent public roads and highways.
- E. *Compliance with codes.* Telecommunication towers, alternative tower structures, and antenna, shall comply with all pertinent electrical and building codes.
- F. *Permitted locations.* Alternative tower structures and antennas, telecommunication towers, alternative tower

structures and antennas are permitted only on a priority basis only on the following sites; a) governmentally owned sites; b) religious or other institutional sites; c) public or private school sites, or d) public park or public open space areas.

Sec. 18.72. - Performance Standards.

Any use permitted by this Ordinance, including conditional uses, is subject to compliance with the performance standards set forth in this section. No use hereafter established shall exceed the limits set forth in this section, except as provided in this Ordinance.

A. *Noise*. No operation or activity shall be carried out in any zoning district, which operation or activity causes or creates measurable noise levels exceeding the maximum sound pressure levels described in this section, as measured on or beyond the boundary lines of such district. Sound measurements shall be made with industry accepted equipment and methodology.

1. The maximum permitted sound pressure levels, in decibels, are as follows:

Noise levels shall not exceed sixty (60) decibels measured at the property line during the hours of 7:00 a.m. through 9:00 p.m. and shall not exceed forty-five (45) decibels during the hours of 9:00 p.m. through 7:00 a.m.

B. *Dust, soot, dirt, fly ash, and products of wind erosion*. No person shall operate or cause to be operated or maintained any process for any purpose, a furnace or a combustion device for the burning of coal and/or natural or synthetic fuels without maintaining and operating while using the process, furnace, combustion device, recognized and approved equipment, means, methods, devices, or contrivances to reduce the quality of gas-borne or air-borne solids carried in fumes emitted, directly or indirectly, into the open air, to a concentration level (per cubic foot of the carrying medium at a temperature of five hundred (500) degrees Fahrenheit) not exceeding two-tenths (0.20) grains. These standards are not intended to apply to residential uses, such as chimneys for fireplaces or wood/coal burning stoves.

C. *Smoke*. No person shall discharge into the atmosphere, from any single source of emission, excepting smoke from a chimney for a fireplace or wood/coal burning stove in a residential structure, any smoke of a density or equivalent capacity which exceeds for any period of time, the density designated as No. 1 on the Ringelmann Chart or twenty (20) per cent opacity, which is hereby incorporated into this Ordinance by reference, except when the emission consists only of water vapors, or the shade, or appearance of which is equal to, but not darker than No. 2 of the Ringelmann Chart, for a period, or periods aggregating four (4) minutes in any thirty (30) minutes.

D. *Vibration*. Machines or operations which cause vibration shall be permitted, but no operations shall be permitted to produce ground transmitted oscillations which cause a displacement exceeding that specified in the following tables and/or as measured at the property line. These vibrations shall be measured with a seismograph or accelerometer, preferably the former.

1. The maximum permitted steady state vibration, in inches, is as follows:

Frequency (Cycles per second)	Permitted Vibration
10 and below	0.0010
10 to <u>19</u>	0.0008
20 to 29	0.0005
30 to 39	0.0003
40 and above	0.0001

2. The maximum permitted impact vibration, in inches, is as follows:

Frequency (Cycles per second)	Permitted Vibration
10 and below	0.0020
10 to <u>19</u>	0.0015
20 to 29	0.0010
30 to 39	0.0005
40 and above	0.0002

Between 8:00 p.m. and 6:00 a.m. of the following day, all maximum vibration levels, as measured at the boundary line of residentially used areas adjacent to non-residentially zoned districts, shall be reduced to one-half (½) the indicated permissible values by those activities causing the vibration.

- E. *Odor.* The emission of noxious, odorous matter in such quantities as to be readily detectable at a point along any property line, when diluted in the ratio of one (1) volume of odorous air to four (4) or more volumes of clean air, so as to produce a public nuisance or hazard beyond lot lines is prohibited.
- F. *Glare, heat, and light.* Any operation producing intense glare or heat (such as or similar to arc welding or acetylene torch cutting) which emits harmful rays shall be preformed within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot lines and as not to create a public nuisance or hazard along such lot lines, except during the period of construction of the facilities to be used and occupied. Bare bulbs in or near a residentially used area shall be not greater than ten (10) watts. Within five hundred (500) feet of a residentially zoned area, bare bulbs which are visible in the residential area may not exceed fifteen (15) watts. Exterior lighting shall be so installed that the surface of the source of light shall not be visible from the nearest residential district boundary and it shall be so arranged to reflect light away from any residential use. In no case, shall more than one (1) footcandle power of light cross a lot line five (5) feet or more above the ground. In no case shall more than ten (10) footcandle power of light exist at any given point on site. Exterior spot lighting or other illumination shall be so installed as to eliminate any nuisance to adjoining business and industrial districts or the creation of a traffic hazard on public highways.
- G. *Fire and safety hazards.* The storage and handling of flammable liquids, liquefied petroleum gases, and explosives, ranging from free or active burning to intense burning, as determined by the fire chief, and highly toxic and highly radioactive materials shall comply with all state rules and regulations, regulations as established by the Fire Prevention Act, Act 207 of the Public Acts of 1941, as amended (MCLA 29.1 et seq.), the Flammable and Combustible Liquids Code (pursuant to Act 154 of the Public Acts of 1974, as amended, 29 CFR 1910.106, NfiPA prevention codes, and the requirements of the state fire marshal.
- Further, such materials or products, if stored, utilized, or produced within completely enclosed buildings or structures, shall have incombustible exterior walls and meet the requirements of the applicable building code. All such buildings or structures shall be set back at least forty (40) feet from lot lines and all such buildings or structures.
- Further, all exterior above-ground storage tanks for flammable liquid materials, liquefied petroleum gases, explosives, and highly toxic and highly radioactive materials shall be completely surrounded by earth embankments, dikes, and other types of retaining walls which will contain the total capacity of all tanks so enclosed. Below-ground bulk storage tanks of flammable liquids shall be located not closer to the property line than twice the depth to the bottom of the buried tank.
- H. *Open fires.* No person operating a permitted or conditional use shall cause to be burned any combustible refuse in an open outdoor fire.
- I. *Sewage wastes.* Sewage wastes shall comply with the City of Eaton Rapids Code regarding sewer use and the

performance measures established therein.

- J. *Gases.* The escape or emission of any gas which is injurious, destructive, or explosive is unlawful and may be summarily caused to be abated. Sulphur dioxide gas, as measured at the property line at ground elevation, shall not exceed an average of three-tenths (0.3) ppm; hydrogen sulfide shall not exceed one (1.0) ppm; fluorine shall not exceed one-tenth (0.1) ppm; nitrous fumes shall not exceed five (5.0) ppm; and carbon monoxide shall not exceed fifteen (15.0) ppm, all measured as the average intensity during any twenty-four (24) hour sampling period.
- K. *Radio transmissions, explosives, and radioactive materials.* For electronic equipment required in an industrial operation, the equipment shall be shielded so that its operation will not interfere with radio, television, or other electronic equipment. All explosives and radioactive materials shall be stored and/or used in a manner which does not endanger abutting properties. Radioactive materials and wastes, and including electromagnetic radiation, such as X-ray machine operation, shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, when measured at the property line. All transportation, including by rail, of radioactive materials, hazardous waste, and toxic waste shall be within permissible standards set by the federal government. Applicable regulations of the Federal Communications Commission regarding electromagnetic radiation are hereby incorporated into this Ordinance by reference.
- L. *Drifting and air-borne matter.* The drifting or air-borne transmission beyond the lot line, of dust, particles, or debris from any open stockpile is unlawful and shall be summarily caused to be abated.
- M. *Nuisances.* A person or industry shall not discharge from any source whatsoever such quantities of air contaminants or other materials which cause injury, detriment, or nuisance to the public, which endanger the comfort, repose, health, or safety of the public, or which cause or have natural tendency to cause injury or damage to business or property.
- N. *Stormwater.* All stormwater generated by a use and/or structure shall be managed and discharged in accordance with all applicable local, state, federal, and county drain commission standards and requirements.

Sec. 18.74. - Site Condominium Projects.

For the purposes of this Ordinance, the term "site condominium project", shall mean a plan or project consisting of not less than two (2) single-family units established in conformance with the Michigan Condominium Act, P.A. 59 of 1978, as amended.

Sec. 18.76. - Site Condominium Development Standards.

A. *Purpose and Scope.*

1. Site condominium projects are condominium developments in which each condominium unit consists of an area of vacant land and a volume of vacant air space within which a building or other improvements may be constructed by the condominium unit owner. Each site condominium unit may also have an appurtenant limited common element reserved for the exclusive use of the owner of the condominium unit. Either the condominium unit by itself, or the condominium unit taken together with any contiguous, appurtenant common element, shall be considered to constitute a building site which is the functional equivalent of a "lot" for the purpose of this Ordinance and other applicable laws, ordinances, and regulations.

Site condominium projects may also include general common elements consisting of common open space, recreational areas, streets, and other areas available for use by all owners of condominium units within the project. Subject to the district zoning provisions applicable to the project's location, any land use permitted by the City of Eaton Rapids Zoning Ordinance may be permitted in a site condominium project.

2. The purpose of this section is to ensure that the plans for developments within the City of Eaton Rapids proposed under the provisions of the Condominium Act, Act 59 of the Public Acts of 1978, as amended shall be reviewed with

the objective and intent of achieving the same characteristics as if the development and improvements therein were being proposed pursuant to the Subdivision Control Act, Act 288 of the Public Acts of 1967, as amended. It is further the intent of this Section to ensure that such development is in conformance with the requirements of this Ordinance, the City of Eaton Rapids Subdivision Regulations, Appendix B, and other applicable city ordinances and state and federal regulations.

- B. *Zoning Permit Issuance.* Prior to the issuance of any zoning permit for any use within a site condominium project, the planning commission shall have approved a preliminary and final development plan meeting the requirements of this Ordinance.
- C. *Site Condominium Layout, Design, and Required Improvements.* Site condominium subdivision plans shall conform to the design, layout, and improvement standards included in the City of Eaton Rapids Development Standards Ordinance, Appendix B, as adopted and amended, and specifically the following sections from Article IV, Appendix B, which are included herein by reference:
1. Section 400, Streets and alleys.
 2. Section 401, Utility and other easements.
 3. Section 402, Lots.
 4. Section 403, Blocks.
 5. Section 404, Open spaces.
 6. Section 405, Sidewalks.
 7. Section 406, Use.
 8. Section 407, Commercial or industrial modification.
 9. Section 408, Utilities and improvements.
- D. *Inspections and Specifications.* The city council may establish inspection fees, inspection requirements, specification standards, and administrative procedures as provided by law and such shall be deemed to be requirements of this Ordinance. All plans and installation of improvements called for shall be subject to the approval of the city or its agent, or such other competent persons as designated by the city. All inspection fees shall be paid by the applicant before the final plan is signed by the city unless adequate financial guarantees are given to the city prior to final plan approval.
- E. *Height, Bulk, Density, and Area.* The height, bulk, density, and area by land use requirements set forth in this Ordinance shall also apply to condominium units. For purposes of this section, the minimum building site is equivalent to the minimum lot size of the respective zoning district.
- F. *Setbacks and Boundaries.* The setback requirements for condominium buildings shall be determined as follows:
1. *Single-family detached units.*
 - a. The front yard setback shall be one-half (½) the approved or recorded street right-of-way, plus the current setback for the existing zoning district.
 - b. The side yard setbacks shall be twice the minimum required within the zoning district. The distance from the unit to the limit of development shall meet the minimum required side yard setback within the zoning district.
 - c. The rear yard setback between the rear of two (2) units shall be twice the minimum rear yard setback of the zoning district. The distance from the rear of the unit to the limits of the development shall meet the minimum rear yard setback of the zoning district.
 2. *Multiple-family units.* Multiple-family units shall meet the standards of the Multiple-Family Residential District (MFRD).
 3. The relocation of boundaries as defined in Section 148 of the Michigan Condominium Act, shall conform to all setback requirements of this section, of the district in which the project is located, shall be submitted to the planning

commission for review and approval, and these requirements shall be made a part of the bylaws and recorded as part of the master deed.

- G. *Common Elements.* After construction of a condominium unit, the undeveloped area of a unit shall become a common element.
- H. *Encroachment.* A condominium project shall not be constructed in a manner that intentionally creates an encroachment.
- I. *Subdivision of Unit Sites.* Subdivision of condominium unit sites is permitted following planning commission review and approval, contingent upon the submission of an amended master deed to determine the effect of the subdivision on the conditions of zoning or development plan approval, and shall be made as part of the bylaws and recorded as part of the master deed.
- J. *Conformance with Subdivision Regulations.* All condominium project plans shall conform to the plan preparation requirements, design layout, and improvements standards as established within this Ordinance or with the city's Code of Ordinances.
- K. *Water and Waste Water.* The condominium project shall comply with and meet all federal, state, county, and city standards for a fresh water system and waste water disposal.
- L. *Expansion and Conversion.* Prior to expansion or conversion of a condominium project to additional land and new phases, it must be reviewed and approved by the planning commission.
- M. *Master Deed.* The project developer shall furnish the city with one (1) copy of the proposed consolidated master deed, one (1) copy of the bylaws, and two (2) copies of the proposed plans. The proposed plans shall be reviewed for compliance with this Ordinance and the city's Code of Ordinances and to insure that an assessment mechanism has been included to guarantee adequate maintenance of common elements.
- N. *As-Built Plans and Occupancy.* Submission of an as-built plan of a condominium unit is required prior to occupancy. The building inspector may allow occupancy of the project before all improvements required are installed provided that an escrow is submitted to the city clerk, sufficient in amount and type to provide for the installation of improvements before the expiration of the temporary occupancy permit without expense to the city. The amount and form of the escrow shall be determined by the city council. Fees for these reviews may be established from time to time by the city council.
- O. *Final By-Laws, Consolidated Master Deed, and Site Plan.* Upon approval of the development, the applicant shall furnish the city a copy of the by-laws and consolidated master deed. The development plan shall be provided on a mylar sheet of at least twenty-four (24) inches by thirty-six (36) inches.
- P. *Compliance With Other Statutes and Ordinances.* All condominium projects shall comply with pertinent federal, state, and local laws, statutes, and ordinances.
- Q. *Site Condominium Review and Approval Procedures (Step I Review).* Application for review and approval of a site condominium subdivision shall be in accordance with the following procedures:
 - 1. Prior to the formal application for a site condominium development, the developer shall meet with the planning commission. The purpose of this meeting is to inform the planning commission of the applicant's intent to initiate a site condominium project. On or before this meeting, the applicant shall submit the following to the building inspector, who shall distribute it to all planning commission members, the city manager, and the city engineer or consultant.
 - a. A sketch drawn to scale, indicating the general location and configuration of the property to be developed; the alignment of streets and building sites; and the relationship of the proposed project to adjacent streets and neighboring properties.
 - b. A statement regarding the provision of sewer service and water supply.
 - 2. During the preliminary discussion meeting, the planning commission, based on the information available to it, shall

inform the applicant of the following:

- a. General requirements of this section and other applicable provisions of this Ordinance and the Subdivision Regulation Ordinance.
 - b. Planned or anticipated sites of parks and recreation areas and other public uses.
 - c. Utility system capabilities.
 - d. Planned or anticipated public improvements, including streets, utility extensions, and the like.
 - e. Street plans and potential problems relative to the natural features of the area, including, but not limited to floodplains, soil conditions, topography, and groundwater tables.
 - f. Additional information which will assist the applicant in proceeding in a reasonable and sound manner toward the final approval of the site condominium project.
3. This review is intended for information purposes only and does not constitute binding commitments on the part of the city. Neither do they imply tentative approval of any proposed site condominium project. Furthermore, such discussions shall not carry the authority to proceed with construction or to sell or transfer property.
 4. Following preliminary review, the applicant shall submit the site condominium subdivision plans to the following agencies for their approval:
 - a. Michigan Department of Natural Resources/Michigan Department of Environmental Quality.
 - b. Other appropriate state and county review and enforcement agencies having direct approval or permitting authority over all or part of the project's construction phases.
- R. *Site Condominium Review and Approval Procedures (Step II Review).*
1. An application for preliminary review of a site condominium subdivision project shall be made to the building inspector along with the appropriate fees as required by city council resolution. The application shall, at a minimum contain the following information:
 - a. Application for certificate of zoning compliance, which upon issuance, shall ensure that the project as proposed is capable of being developed in conformity with the standards and regulations applicable to the zoning district in which the project is located, subject to the customary procedures applicable to city approvals of individual uses on individual building sites.
 - b. A plan drawn at a scale of not more than one hundred (100) feet to the inch and shall include or be accompanied by the following information:
 - i. The name of the project, the name and address of the developer, the name, address, and seal of a registered surveyor or engineer preparing the plan; and a description of the property to be subdivided.
 - ii. A key map showing the location and position of the property and its relationship to surrounding streets and the surrounding area, including the existing zoning or abutting areas.
 - iii. North arrow, scale, contour interval, and legend when appropriate.
 - iv. Contour elevations adjusted to United States Geologic Service datum at not more than five (5) foot intervals.
 - v. Where appropriate, established floodplain contours and elevations adjusted to United States Geologic Service datum.
 - vi. The location of all existing streets, lots, plats, public utilities, drains, streams, or bodies of water on/or abutting the property.
 - vii. The lot lines, intended layout, and intended use of the entire property owned or represented by the developer. The following shall be included:
 - 1) Street and stub street right-of-way location, width, and curve radii.

- 2) Proposed street names.
 - 3) Building site lines, site line dimensions to the nearest foot, site and block numbers, and building site areas to the nearest ten (10) square feet.
- viii. The location and dimensions of all existing or proposed easements or open space reserves, including electrical and telephone easements.
- ix. The locations and tentative size of proposed sanitary sewers, storm sewers and catch basins, water mains, culverts, bridges, ponding areas, ponds, lagoons, slips, waterways, lakes, bays, and canals.
- x. Statements regarding:
- 1) Intent to utilize private water or sewage facilities.
 - 2) Zoning and lot size requirements.
 - 3) Zoning requirements for front, side, and rear yards.
 - 4) Size and type of street in accord with the Eaton County Road Commission standards and/or City of Eaton Rapids Subdivision Regulations.
 - 5) Intent to install gas sidewalks, street lights, and shade trees.
 - 6) Use of waterways, rivers, streams, lakes, or ponds.
- xi. The location of all general and limited common elements.
- xii. The use and occupancy restrictions and maintenance provisions for all general and limited common elements as will be contained in the master deed.
- Street and stub street right-of-way location, width and curve radii.
- Proposed street names.
- Building site lines, site line dimensions to the nearest foot, site and block numbers, and building site areas to the nearest ten (10) square feet.
- c. Proof that the applicant is the owner of the property or has the legal or financial interest in the property such as a purchase agreement.
 - d. The name, address, and phone number of the owner(s) of record, if different from that of the applicant.
 - e. The legal description, address and tax parcel number of the property.
 - f. Project description, including number of structures, dwelling units, square feet of building sites, open spaces, and estimated inhabitants, phasing, etc.
 - g. Gross and net size of the parcel in acres.
 - h. Written comments and/or approvals from the above list of agencies resulting from their review of the site condominium subdivision plans, as applicable.
 - i. A copy of the proposed deed restrictions or covenants for the site condominium subdivision.
 - j. A copy of any preliminary agreements which may be required before final plan approval is granted.
 - k. A copy of the proposed master deed of the project and the supportive information which is intended to be recorded with the Register of Deeds as required by state law.
2. The applicant shall provide at least twelve (12) copies of the preliminary site condominium project plan and additional copies if deemed necessary by the Building Inspector. The plans at the time of their submittal shall contain the information required for preliminary site condominium plan as required by this Ordinance.
 3. The application and plans shall be submitted at least thirty (30) days before the next regularly scheduled meeting of the planning commission.

4. Upon receipt of the preliminary site condominium project plans, the building inspector shall forward one copy to each member of the planning commission, and the city engineer or consultant, for consideration at the next regularly scheduled meeting of the planning commission.
5. The building inspector shall notify by mail, all the members of the planning commission that a meeting will take place at a specified time concerning the property proposed for the site condominium project. At this or a subsequent meeting, a public hearing shall be held. Notice of said hearing shall be given at least fifteen (15) days prior to the hearing by one (1) publication in a newspaper of general circulation in the city and by notice by mail to each public utility company within the geographical sections or divisions of the city affected by the proposed development. Notices of said hearing shall also be sent, not less than fifteen (15) days prior to the date fixed therefor, by mail to the applicant and to all property owners within three hundred (300) feet of the subject property. For structures containing four (4) or more dwelling units owned or leased by different individuals, partnerships, businesses, or organizations, notice shall be given to the manager or owner who shall be requested to post the notice at the primary entrance to the structure. The building inspector shall also give such notice of the meeting as required by the Open Meetings Act.

In reviewing the preliminary plan, the planning commission shall give particular attention to all information required to accompany the submission, in particular the deed restrictions and covenants in an effort to determine that they are adequate to ensure ultimate completion of the project in accordance to the proposed plan. If the preliminary plan meets the requirements of this Ordinance and all other applicable local, state, county, and federal regulations, the planning commission shall grant it preliminary approval. The planning commission shall forward one (1) copy of the preliminary plan along with a notation indicating preliminary approval and any recommendation to the city council for its review and approval.

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

- a. Recommend denial of the preliminary plan, setting forth the reasons in writing; or
- b. Recommend granting of preliminary plan approval contingent upon completion of the revisions as noted.

The planning commission shall forward the planning commission's recommendations to the city council.

- S. *City Council Step II Review and Approval of Preliminary Plan.* After receipt of the preliminary plan and recommendation from the planning commission, the city council shall consider the preliminary plan at its next meeting, or within thirty (30) days from the date of receipt of the same from the planning commission.
 1. The city council shall consider the preliminary plan along with the recommendations from the planning commission. If the plan meets the preliminary plan requirements of this Ordinance, the council shall grant Step II preliminary plan approval and the applicant shall be so notified. Step II approval shall give the applicant the following rights for a two-year period from the date of approval:
 - a. That the general terms and conditions under which Step II approval was granted will not be changed by the city.
 - b. That the building site sizes, orientation, and street layout have been approved.
 2. If the preliminary plan substantially meets the requirements of this Ordinance, the city council may grant tentative approval of Step II. This approval shall be conditioned upon the submission of such changes, revisions or additional material as is determined to be necessary to complete Step II. Upon the submission of such changes, revisions, or additional material to the city council, the preliminary plan shall be granted unconditional Step II approval and the applicant shall be so notified.
 3. If the preliminary plan cannot meet the requirements of this Ordinance, the city council shall deny Step II approval and shall notify the applicant along with the reasons for denial.
- T. *Requirement of Financial Guarantee.* In lieu of completion of all public improvements prior to approval of the final plan,

the city council may require the developer to provide a financial guarantee of performance in one or a combination of the following arrangements for those requirements which are over and beyond the requirements of any public agency other than the city, responsible for the administration, operation, and maintenance of the applicable public improvement. Completion of improvements shall be required prior to the issuance of occupancy permits for any dwelling or business establishment.

1. Cash deposit, certified check, irrevocable letter of credit:

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

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

- U. *Effect of Step II Approval.* Approval of a Step II preliminary plan by the city council shall serve as conditional authorization to proceed with the project, including the sale and occupancy of individual building sites on the basis of condominium ownership and the construction of required improvements to the land in conformity with approved project plans.

Step II preliminary plan approval shall not serve as the direct authorization for construction of buildings on individual building sites within the development. Prior to building construction, individual uses shall be subject to the customary provisions of the specific zoning district that the subject property is located in, the schedule of regulations, and any general or special requirements applicable to the individual use as outlined or referenced in the general standards and exceptions portion of this Ordinance or any other applicable requirements of this Ordinance.

V. *Final Plan Approval.*

1. Within two (2) years from the date of Step II approval of the preliminary plan, the applicant shall prepare and submit the necessary copies of the final site condominium plan to the city clerk along with a completed application form and any fee established by the city council, at least two (2) weeks prior to the next regularly scheduled council meeting.

The applicant shall also submit the following:

- a. Two (2) copies of as-built plans of all required public improvements which shall be reviewed by the city engineer or consultant, for compliance with applicable city ordinances.
 - b. A copy of all final agreements and the master deed which is to be recorded with the Eaton County Register of Deeds.
 - c. Letters of approval from all applicable agencies or utilities, stating that improvement have been properly installed and inspected, and inspection fees paid, or that performance guarantees have been submitted for uncompleted improvements.
2. If all submissions are found acceptable, the city clerk shall submit the same to the city council at its next regular meeting for approval.
 3. The city council shall approve or reject said final plan based upon the plans and other material submitted and the recommendation of the city engineer or consultant and shall notify the applicant in writing.
 4. If the final plan is rejected, the city clerk shall notify the applicant stating the reasons for denial.
 5. All provisions of the site condominium project plans which are approved by the city council must be incorporated, as approved in the master deed for the condominium project. A copy of the master deed as filed with the Eaton County Register of Deeds for recording must be provided to the city clerk within ten (10) days after such filing with the county.

Sec. 18.78. - Site Condominium Variances.

- A. *Applications.* Application for any variance shall be made in writing by the petitioner prior to the time when the Step II preliminary plan is filed for the consideration of the planning commission. The application shall state fully and clearly all facts relied upon by the petitioner and shall be supplemented with maps, plans, or other additional data, which may aid the planning commission or the zoning board of appeals in the analysis of the propose variance.
- B. *Building Site Area, Width, and Depth Regulations.* Variances with respect to individual building site width, depth, and area regulations governed by the district regulations of the zoning district in which the site condominium project is located shall be made to the zoning board of appeals, pursuant to the procedures, rules, and conditions contained in Article XXV, unless the proposal is for a planned unit development. In such instances subsection C., below shall apply.
- C. *Planned Unit Developments.* Variances with respect to building site dimensions and uses for planned unit developments under the site condominium form of development may be achieved under the procedures and standards set forth in Article XV, Planned Unit Developments.
- D. *Required Public Improvements or utilities.* The city council, with the recommendation from the planning commission, may grant a variance with respect to required public improvements if, in their best judgement, said installations shall be impractical. Provided however, that variances with respect to required public improvements shall not normally be granted unless the average width of the proposed development, as measured at the street frontage is eighty (80) feet or more, and the average building site size is at least ten thousand four hundred (10,400) square feet, or the proposed development is an extension of an existing plat or development which does not have the particular improvement.

In considering variances from the standards or requirements for public improvements and utilities, the city council shall find, based upon recommendations from the planning commission, that undue hardship or practical difficulties may result from strict compliance with the requirements or that application of the requirement or standard is impractical. The planning commission shall only recommend a variance that it deems necessary or desirable to the public interest. In making its finding, the planning commission shall take into account the nature of the proposed development, existing land use in the vicinity of the proposed development, the number of persons to reside or work in the proposed development. No such variance shall be recommended unless the planning commission finds, after public hearing, all of the following:

1. That there are such special circumstances or conditions affecting the property that the strict application of the improve standard would clearly be impractical or unreasonable. In such cases, the developer shall first state his/her reasons in v the specific provision or requirement involved and submit them to the planning commission.
2. That the granting of the specified variance will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.
3. That such variance will not violate the provisions of the Condominium Act nor create a violation of the City of Eaton Rapids Zoning Ordinance.
4. That such variance will not have the effect of nullifying the intent and purpose of these regulations and the comprehensive plan of the city.

Sec. 18.80. - Wellhead Protection.

The city has determined that the groundwater underlying the area identified in the Wellhead Protection Area, which is incorporated into this Ordinance by reference, is the sole source of the city's drinking water, that the groundwater aquifers are integrally connected with, and flow into, the surface waters, lakes, and streams, which constitute a significant public health, recreational, and economic resources of the city, and that spills and discharges of petroleum products, sewage, and other hazardous substances threaten the quality of the groundwater supplies and other water related resources, posing potential public health and safety hazards and threatening economic losses.

Therefore, the following standards and requirements are established to preserve and maintain existing and potential groundwater supplies, aquifers, and groundwater recharge areas and protect them from adverse development and land use practices, preserve and protect present and potential drinking water supply, conserve the natural resources of the city, protect the financial investment of the city in its drinking water supply system, and to meet state requirements for wellhead protection.

The following shall apply to all land uses, including private and public facilities that are located within the area identified in the Wellhead Protection Area, and that use, store, or generate hazardous substances in quantities greater than one hundred (100) kilograms per month, and which require development plan review and approval under the provisions of this Ordinance:

A. *General provisions.*

1. *Groundwater protection.*

- a. Stormwater management and drainage facilities shall be designed in addition to any other standards established by this Ordinance, to retain the natural retention and storage capacity of any wetland, water body, or watercourse, and shall not increase flooding, or the potential of environmental contamination, on-site or off-site, and shall not result in loss of use of property by any third party.
- b. General purpose floor drains shall be connected to a public sewer system, an on-site holding tank, or a system authorized through a state surface or groundwater discharge permit.
- c. Sites at which hazardous substances are stored, used, or generated shall be designed to prevent spills, and unpermitted discharges to the air, surface of the ground, groundwater, lakes, streams, rivers, or wetlands.
- d. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport, and disposal of hazardous substances and polluting materials shall be met.

2. *Aboveground storage and use areas for hazardous substances and polluting materials.*

- a. Primary containment of hazardous shall be "product-tight" and shall consist of a tank, pit, pipe, or vessel.
- b. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance and shall consist of a second tank, catchment pit, pipe, or vessel.
- c. Outdoor storage of hazardous substances shall be prohibited, except in "product-tight" containers which are

protected from weather, leakage, and accidental damage and vandalism.

- d. Out-buildings, storage rooms, sheds, etc., that are utilized as secondary containment, shall not have floor drains which outlet to soil, public sewer system, groundwater, or nearby drains or natural water bodies, unless a surface or groundwater discharge permit has been obtained pursuant to the applicable requirements of PA 245, as amended.
3. *Underground storage tanks.*
 - a. All pertinent state and federal requirements regulating the installation, inspection, maintenance, removal, and remediation of underground storage tanks shall be adhered to.
 4. *Well abandonment.*
 - a. Out of service wells shall be sealed and abandoned in accordance with the applicable requirements of the Michigan Department of Health Well Construction Unit.
 5. *Site with contaminated soils and/or groundwater.*
 - a. Development plans shall identify all such areas.
 - b. Development on contaminated areas shall not be permitted unless information from the appropriate state and federal agencies is available indicating that an approved clean-up of the contaminated area is to occur in a timely fashion.
 6. *Construction standards.*
 - a. Hazardous substances stored on the construction site during the construction process, shall be stored in a location and manner designed to prevent spills and unpermitted discharges to air, surface of the ground, groundwater, lakes, streams, rivers, or wetlands. Any storage container of over twenty-five (25) gallons or two hundred twenty (220) pounds, containing hazardous substances shall have secondary containment.
 - b. Upon completion of construction, all hazardous substances and containment systems no longer in use, shall be removed from the construction site and disposed of in a manner consistent with applicable local, state, and federal requirements.
 7. *Maintenance.*
 - a. In areas where hazardous substances are handled, structural integrity of the building shall be maintained to avoid inadvertent discharge of chemicals to soil and groundwater.
- B. *Required information for site plan review.*
- [1.] In addition to the otherwise required development plan information, the following information shall be provided, where applicable, on the development plan submitted for review and approval:
 - a. The site plan shall include all required information in sufficiently complete and understandable form to provide an accurate description of the proposed use(s) and structures(s).
 - b. All elements of the site design shall be harmoniously and efficiently organized in relation to topography, the size and type of lot, the character of adjoining property, and the type and size of buildings.
 - c. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any property used or zoned for residential purposes.
 - d. Access driveway shall be located no less than fifty (50) feet from the nearest part of the intersection of any street or any other driveway.
 - [2.] *Special land use decision guidelines:* The principal question that should be asked in reviewing a special land use request: Is the proposed location an appropriate location for that use? If the facts show that it is an appropriate location (that the use is compatible), and all standards are met (both the general/discretionary and the specific/nondiscretionary standards), approval must be given.

The decision to approve, deny or approve with conditions must be incorporated in a statement listing the conclusions, the basis for the decision and any conditions. Appeal to the Zoning Board of Appeals on decisions regarding special land uses is permitted only if the Ordinance specifically provides for such an appeal.

The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted by the Zoning Ordinance. Redevelopment of existing sites shall be brought in conformance with all site improvement provisions of the Zoning Ordinance which are relative to and proportionate to the extent of redevelopment, as determined by the Planning Commission.

Buildings and structures will meet or exceed setback standards, height and other dimensional standards, and be placed to preserve environmentally sensitive areas. Redevelopment of existing structures shall meet or exceed all standards for which a variance has not been obtained.

The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, alteration to the natural drainage courses, and the amount of cutting, filling and grading. Insofar as practical, natural features and the site topography shall be incorporated into the proposed site design.

The site design shall provide reasonable visual and sound privacy for dwelling units located therein and adjacent thereto. Fences, walks, barriers, and landscaping shall be used, as appropriate, for the protection and enhancement of property and the privacy of its occupants. All buildings or groups of buildings shall be arranged so as to permit emergency vehicle access by some practicable means to all vehicles.

Every structure or dwelling unit shall be provided with adequate means of ingress and egress via public streets and walkways.

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. The width of streets and drives shall be appropriate for the volume of traffic they will carry. The site plan shall provide pedestrian or bicycle pathways in the area. The site plan shall provide a pedestrian circulation system that is insulated as completely as is reasonably possible from the vehicular system.

The expected volume of traffic to be generated by the proposed use shall not adversely impact existing roads and the circulation thereon.

Stormwater management system and facilities shall preserve the natural drainage characteristics and enhance the aesthetics of the site to the maximum extent possible, and shall not substantially reduce or increase the natural retention or storage capacity of any wetland, water body, or water course or cause alterations which could increase flooding or water pollution on or off the site.

The proposed development shall include measures to prevent soil erosion and sedimentation.

The scale and design of the proposed development shall facilitate the adequate provision of services currently furnished by or that may be required including fire and police protection, stormwater management, water supply, sanitary sewage removal and treatment, traffic control and administrative services.

[3.] *Site plan review, decision guidelines:* A site plan must be approved if it meets the standards and requirement of the Zoning Ordinance and other applicable ordinances, and the conditions placed on the approval are met.

[a.] Once approved, a site plan is an enforceable document.

[b.] Once approved, site plans may only be changed with the mutual agreement of the community and the applicant. Many communities process major changes by the approving body and minor changes as an

administrative procedure.

[c.] Approval of a site plan may expire if not under construction within a time period specified in the Ordinance.

(Ord. No. 2002-8, 8-26-02)

Sec. 18.82. - Garage, Yard and Estate Sales.

A home owner or resident may dispose of his or her own personal property, not previously purchased for resale, in a yard or garage sale after obtaining a permit to conduct such sale. The number of sales shall be limited to three (3) per calendar year, each of which is limited to a maximum of five (5) days in duration. Furthermore, the administrator or executor of an estate in probate court, may obtain a permit from the city clerk, at no expense, to conduct such public sale for a limited time not to exceed five (5) days, with no extension or renewal of said permit except by action of the city council.

Provided however that the foregoing shall not be deemed to apply to the activities of those charitable organizations classified as 501(c)(3) organizations for purposes of Internal Revenue Services.

(Ord. No. 2002-8, 8-26-02)

ARTICLE XIX. - DESIGN STANDARDS

Sec. 19.10. - Purpose.

The purpose of the following design and architectural standards is to evaluate proposed buildings and site improvements during the development plan review to ensure that certain design and appearance standards are maintained. These standards provide a means of evaluating whether the proposed building design and site layout meet the overall intent of the development plan review and of this Ordinance. These standards shall be used to ensure that all proposed buildings and site improvements meet the purpose and intent of this Ordinance.

These standards are also intended to protect the general health, safety, welfare, and harmony of the city, by ensuring that the city's appearance, character, history, and natural resources are preserved and respected by: achieving high quality design, reducing the visual and physical dominance of the automobile; providing for pedestrian access and orientation in appropriate locations; providing open spaces in appropriate locations; providing landscaping where appropriate; and adding distinctive architectural features and rooflines to the viewsapes of the city.

Sec. 19.20. - Design and Architecture in the CBD and MXD.

A. *Building Placement.*

1. *Central Business District (CBD).* Buildings shall be built at the lot lines with no setbacks, or the average setback of other buildings on the block as determined by the planning commission, except that the planning commission may require greater setbacks if such space, in their determination, is needed for off-street parking or other requirement.
2. *Mixed Use District (MXD).* Buildings shall be built at the average setback of other buildings on the block as determined by the planning commission, except that the planning commission may require greater setbacks if such space, in their determination, is needed for off-street parking or other requirement.

B. *Building Height.*

1. *Central Business District (CBD).* Maximum height of all buildings shall be three (3) stories or forty (40) feet. All stories shall contain habitable commercial, office, or residential spaces. First floor height of all buildings shall be a minimum of twelve (12) feet. New buildings must contain at least two (2) stories, if the building is proposed for a corner lot or is

adjacent to a multiple story building, unless the planning commission determines requiring a second story will not significantly enhance the character and appearance of the central business district.

2. *Mixed Use District (MXD)*. Maximum height of all buildings shall be two (2) stories or twenty-four (24) feet. This height shall include any architectural elements used for display of signs, screening of mechanical equipment, or other such protrusions above the roof structure.

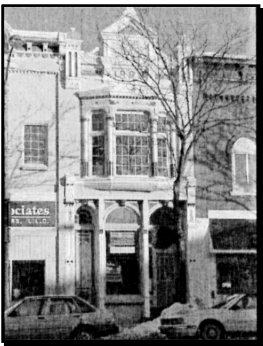
C. *Building Mass.*

1. *Central Business District (CBD)*. Buildings located in the central business district shall use massing, additional height, contrasting materials, and architectural embellishments to mark the transition from the adjoining districts into the downtown. Buildings on corner lots shall be considered more significant structures, since they have at least two (2) front facades visibly exposed to the street. The planning commission may require additional height and architectural embellishments, such as corner towers, relating to their location.
2. *Mixed Use District (MXD)*. Buildings located in the mixed use district shall use massing, building materials, and architectural elements to blend in with the surrounding residential areas. Buildings adjacent to residential structures shall be considered more significant structures and shall require that the building mass be "visually" minimized by compartmentalizing the building design in a pattern that relates to the surrounding residential character.

D. *Facade Design.*

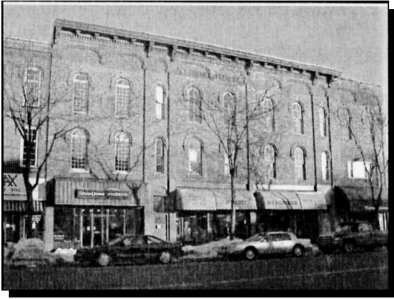
1. *Central Business District (CBD)*.

- a. *Architectural features*. All visible building facades greater than thirty-three (33) feet in length shall contain architectural features, details, and ornaments that are consistent with predominating architectural styles found within the downtown such as: arches; roof cornices; contrasting bases; contrasting masonry courses, water tables, or molding; pilasters or columns; corbeling; contrasting bands or color; stone or ceramic accent tiles; colonnades; or porches. Elements such as wall clocks, decorative light fixtures, and/or window canopies are also recommended. Blank windowless wall are expressly prohibited.



Example of Facade Design—CBD

- b. *Fenestration*. All facades visible from public streets must contain glazed glass windows. Windows shall be recessed and include visually obvious sills. Spaces between windows shall be formed by columns, mullions, or material found elsewhere on the facade. Clear window glass is recommended, though green, blue, bronze, or smoke tints are permitted. Window shapes shall be rectangular, square, or palladian (rectangular with semi-circle top).



Example of Window Placement

- i. Glazing on the first floor shall occupy a minimum of forty (40) per cent and a maximum of seventy (70) per cent of the facade.
- ii. Glazing on the second or higher floors shall be a minimum of thirty (30) per cent and a maximum of sixty (60) per cent of the facade.



Example of Glazing on First Floor

- iii. Vertical window orientation shall have a width to height ratio of at least one to two (1:2), and shall be consistent with adjacent buildings. Horizontal windows with a width to height ratio of between one to one (1:1) and four to one (4:1) may be permitted by the planning commission if they determine such window orientation is consistent with the appearance and character of the downtown.
- iv. Shutters, if used shall be mounted on either side of a window and shall be equal to one-half ($\frac{1}{2}$) of the width and one (1) times the height.
- v. Building materials. Building materials must be consistent with the surrounding neighborhood character, as determined by the planning commission. Building materials on the front facade or any facade visible from a public right-of-way must be primarily of natural materials conveying permanence, as determined by the planning commission. Each front facade, any facade visible from a public right-of-way, and any facade with a dedicated public entrance into the building should contain at least sixty (60) per cent of the recommended materials listed below, excluding window areas:
 - 1) *Recommended materials:* Brick; stone, concrete slab (poured in place, tilt-up construction).
 - 2) *Acceptable materials:* Split face, scored, or ground face block; beveled wood siding (lap, board and batter, shake); exterior insulation finish systems (EIFS).
 - 3) *Discouraged materials:* Smooth face block; vinyl siding; metal siding (standing seam panels, aluminum siding); clear and reflective glass; T-111 and other wood panel siding.

Acceptable or discouraged materials, or other similar synthetic or highly reflective materials should not be used except for decorative or accent features only. Exterior insulation finish systems (EIFS) may be used for decorative or accent feature and may also be a primary facade material provided it is placed at a height of twelve (12) feet or greater and provided it is no more than twenty (20) per cent of the total facade area, excluding window areas.

- c. *Exterior colors.* Exterior colors shall be compatible with the colors on surrounding buildings, subject to review and a planning commission. The following natural colors are encouraged for the main portions of the building facades and neutral earth tones (sand to brown); shades of gray; traditional colors (e.g., brick red, forest green, navy blue); light, (e.g., salmon); or white. Contrasting accent colors which are compatible with the primary colors listed above are encouraged for trim, accent, and other decorative architectural features. The use of bright or fluorescent colors (e.g., purple, orange, yellow) is discouraged. Colors should be natural to the material or pigmented, and not painted on the material when possible. Proposed colors shall be specified on the development plan. Samples of building materials and colors are required at the time of development plan submittal for review and approval of the planning commission.

2. *Mixed Use District (MXD).*

- a. *Architectural features.* All building facades visible from public roadways or from existing residential uses shall contain architectural features that are consistent with the predominate architectural features found in the surrounding residential area, such as peaked or gabled roofs and porches.



Example of Architectural Features—MXD

- b. *Fenestration.* All facades visible from public streets must contain glazed glass windows. Windows shall be recessed and include visually obvious sills. Clear window glass is recommended, though green, blue, bronze, or smoke tints are permitted. Window shapes shall be rectangular, square, or palladian (rectangular with semi-circle top).
- i. Glazing on any floor shall occupy a maximum of forty (40) per cent of the facade. No glazing on any first floor shall be placed less than two (2) feet and six (6) inches above the sidewalk. No glazing on any first floor shall be placed more than eight (8) foot above the sidewalk.
 - ii. Glazing on any second floors shall be a maximum of forty (40) per cent of the facade.
 - iii. Vertical window orientation shall have a width to height ratio consistent with adjacent and surrounding residential buildings. Horizontal windows may be permitted by the planning commission, if they determine such window orientation is consistent with the appearance and character of the surrounding residential area.
 - iv. Shutters, if used shall be mounted on either side of a window and shall be equal to one-half (½) of the width and one (1) times the height.
 - v. *Building materials.* Building materials must be consistent with the surrounding neighborhood character, as determined by the planing commission. Building materials on the front facade or any facade visible from a public right-of-way or existing residence must be primarily of natural materials conveying permanence, as determined by the planning commission. Each front facade, any facade visible from a public right-of-way, any facade visible from an existing residence, and any facade with a dedicated public entrance into the building shall contain at least sixty (60) per cent of the recommended materials listed below:
 - 1) *Recommended materials:* Brick; stone, or beveled wood siding (lap, board and batter, shake).
 - 2) *Acceptable materials:* Split face, scored, or ground face block; concrete slab (poured in place, tilt-up construction); metal siding (aluminum siding), exterior insulation finish systems (EIFS).

- 3) *Discouraged materials:* Smooth face block; vinyl siding; metal siding (standing seam panels); clear and reflective other wood panel siding.

Acceptable or discouraged materials, or other similar synthetic or highly reflective materials should not be used except for decorative or accent features only. Exterior insulation finish systems (EIFS) may be used for decorative or accent feature and may also be a primary facade material provided it is no more than twenty (20) per cent of the total facade area, excluding window areas.

- c. *Exterior colors.* Exterior colors shall be compatible with the colors on surrounding residential structures, subject to review and approval by the planning commission. The use of bright or fluorescent colors (e.g., purple, orange, pink, lime, yellow) is discouraged.

Proposed colors shall be specified on the development plan. Samples of building materials and colors are required at the time of development plan submittal for review and approval of the planning commission.

E. *Side or Rear Facade Design.*

1. *Central Business District (CBD).* All sides of a building shall be similar in design, detail, and material to present a cohesive appearance to neighboring properties. Wherever a side or rear facade is visible from a public right-of-way, or if parking is located at the side or rear of a building, the facade shall be designed to create a pleasing appearance, in accordance with the following design criteria:

- a. *Materials and features.* Materials and architectural features similar to those present on the front of the building shall be used on the side or rear facade. All visibly exposed sides of a building shall have an articulated base course and cornice. The base course shall align with either the kickplate or sill level of the first floor. The cornice shall terminate or cap the top of a building wall and may project out horizontally from the vertical building wall plane and may be ornamented with moldings, brackets, and other details. The middle section of a building may be horizontally divided at floor, lintel, or sill levels with belt or string courses.



Example of Side Facade Treatment

- b. *Waste receptacles and service areas.* Waste receptacles and service areas shall be completely screened with a decorative masonry wall as approved by the planning commission.
2. *Mixed Use District (MXD).* All sides of a building shall be similar in design, detail, and material to present a cohesive appearance to neighboring properties. Wherever a side or rear facade is visible from a public right-of-way, an adjoining residence, or if parking is located along the side or rear of a building, the facade shall be designed to create a pleasing appearance, in accordance with the following design criteria:
- a. *Materials and features.* Materials and architectural features similar to those present on the front of the building shall be used on the side or rear facade.
- b. *Waste receptacles and service areas.* Waste receptacles and service areas shall, where adjoining existing residences be completely screened with a decorative masonry wall as approved by the planning commission.
- c. *Open areas.* Open areas shall be landscaped with lawn, ground cover, ornamental shrubs and trees. On every site involving new development or redevelopment, foundation plantings adjacent to the building shall be

provided. The species and design shall meet the requirements of Article XX, Landscaping Standards.

F. *Building Entrances.*

1. *Central Business District.* All buildings shall have at least one (1) primary public entrance that faces a public street unless a building does not face a public street and or right-of-way. Rear entrances are permitted, only if there is a primary entrance from a public street. Main entrances to buildings shall incorporate devices such as canopies, recessed entrance ways, larger door openings and display windows, accent colors, and architectural details such as tile work, moldings, and distinctive door pulls.
 - a. *Doors.* Doors measuring seven (7) and eight (8) feet are highly recommended. Doors measuring six (6) feet and eight (8) inches shall have a glass transom with a minimum height of twelve (12) inches.
2. *Mixed Use District (MXD).* All buildings shall have at least one (1) primary public entrance that faces a public street or parking area, unless a building does not face a public street and/or right-of-way. Rear entrances are permitted, only if there is a primary entrance from a public street or parking area. Main entrances to buildings shall incorporate devices such as canopies, porches, or recessed entrance ways. Door openings, display windows, accent colors, and architectural details compatible to the surrounding residential character shall be incorporated into the entrance design.

G. *Rooflines.*

1. *Central Business District (CBD).* Rooflines shall be consistent with adjacent buildings and the surrounding neighborhood character as determined by the planning commission. Flat roofs shall be used within the central business district. Distinctively shaped roof forms, detailed parapets, and exaggerated cornice lines shall be incorporated into rooflines along building facades greater than thirty-three (33) feet. Mansard, mock mansard, or barrel roofs are prohibited.

Pitched roof forms (gable, hip, shed) with overhanging eaves and between four (4) inches of vertical rise to twelve (12) inches of horizontal run and twelve (12) inches of vertical rise to twelve (12) inches of horizontal run may be used within the central business district if similar rooflines are used on adjacent buildings, or if the planning commission determines such a roof will be consistent with the appearance and character of the downtown.
2. *Mixed Use District (MXD).* Rooflines shall be consistent with adjacent buildings and the surrounding residential neighborhood character as determined by the planning commission. Distinctively shaped roof forms such as gable, shed, or hip shall be incorporated into rooflines. Flat roofs should be avoided.

Pitched roofs, such as gable, shed, or hip shall include overhanging eaves and shall have between four (4) inches of vertical rise to twelve (12) inches of horizontal run and twelve (12) inches of vertical rise to twelve (12) inches of horizontal run.

horizontal run.



Example of Rooflines in MXD

H. *Lighting.*

1. *Central Business District.* Exterior lighting must be placed and shielded so as to direct the light onto the site and away from adjoining properties. The lighting source shall not be directly visible from adjoining properties. Floodlights, wall pack units, other types of unshielded lights, and lights where the lens is visible outside of the light

fixture shall be prohibited, except where historic-style lighting is used that is compatible with existing historic-style lamps approved by the planning commission.

- a. *Sidewalk and parking area lighting.* Sidewalks and parking areas shall be properly lit to facilitate the safe movement of pedestrians and vehicles and provide a secure environment. In parking areas, the light intensity shall average a minimum of one (1) footcandle, measured five (5) feet above the surface. Parking lot lighting shall be consistent and/or similar with other fixtures used throughout downtown, as determined by the planning commission. In pedestrian areas, the light intensity shall average a minimum of two (2) footcandles, measured five (5) feet above the surface.

All lighting and light fixtures shall furthermore comply with the standards identified in Article XVIII.

2. *Mixed Use District (MXD).* Exterior lighting must be placed and shielded so as to direct the light onto the site and away from adjoining properties. The lighting source shall not be directly visible from adjoining properties. Floodlights, wall pack units, other types of unshielded lights, and lights where the lens is visible outside of the light fixture shall be prohibited.

- a. *Sidewalk and parking area lighting.* Sidewalks and parking areas shall be properly lit to facilitate the safe movement of pedestrians and vehicles and provide a secure environment. In parking areas, the light intensity shall average a minimum of one (1) footcandle, measured five (5) feet above the surface. Parking lot lighting shall be consistent and/or similar with other fixtures used throughout downtown, as determined by the planning commission. In pedestrian areas, the light intensity shall average a minimum of two (2) footcandles, measured five (5) feet above the surface.

All lighting and light fixtures shall furthermore comply with the standards identified in Article XVIII.

I. *Canopies and Awnings.*

1. *Central Business District (CBD).* Awnings are encouraged to be placed on buildings within the central business district, where appropriate. All awnings must be made from a canvas fabric or similar waterproof material, rather than metal, aluminum, plastic, vinyl, or rigid fiberglass and shall be attached directly to the building rather than supported by columns or poles. In buildings with multiple storefronts, compatible awnings shall be used as a means of unifying the structure.

Retractable or roll-type canvas awnings are permitted to be extended over sidewalks on local streets in the CBD for the purpose of covering outdoor seating or dining areas during the hours a business is open to the public provided they meet all of the following conditions: the awning can extend no more than eight (8) feet out from the face of the building to which it is permanently attached, the awning must maintain a vertical clearance from the sidewalk of no less than eight (8) feet [and] may not be any longer than twenty-four (24) feet, the awning shall not be supported by columns or poles, the awning must be in harmony with the design standards provided for elsewhere in this section, and only fifty per cent (50%) of the leading edge of the awning shall qualify as the area eligible for placement of a sign in conformance with the standards stated in Article XXII.

2. *Mixed Use District (MXD).* Awnings may be placed within the mixed use district subject to the same standards as identified for the central business district above.

J. *Signs.*

1. *Central Business District (CBD).* Signs for all uses shall be consistent and in accord with the standards stated in Article XXII.
2. *Mixed Use District (MXD).* Signs for all uses shall be consistent and in accord with the standards stated in Article XXII.

K. *Mechanical Equipment.*

1. *Central Business District (CBD).*

- a. *HVAC, elevators, and satellite receivers.* All units and appliances for air conditioning, HVAC systems, exhaust pipes or stacks, elevator housing, and satellite dishes or other telecommunications receiving devices shall be thoroughly screened from view from public rights-of-way and from adjacent properties, by using walls, fences, roofline elements, penthouse-type screening devices or landscaping.
- b. *Fire escapes.* Fire escapes shall not be permitted on a building's front facade. In buildings requiring a second means of egress pursuant to the local building codes, internal stairs or other routes of egress shall be used.
- c. *Security gates and devices.* Solid metal security gates or solid roll-down metal windows shall be prohibited. Link or grill type security devices shall be permitted only if installed from the inside, within the window or door frames; or if installed on the outside, if the coil box is recessed and concealed behind the building wall. Security grills shall be recessed and concealed during normal business hours. Models which provide a sense of transparency by colors, are encouraged. Other security devices fastened to the exterior walls are prohibited.

2. *Mixed Use District (MXD).*

- a. *HVAC, elevators, and satellite receivers.* All units and appliances for air conditioning, HVAC systems, exhaust pipes or stacks, elevator housing, and satellite dishes or other telecommunications receiving devices shall be thoroughly screened from view from public rights-of-way and from adjacent properties, by using walls, fences, roofline elements, penthouse-type screening devices or landscaping
- b. *Fire escapes.* Fire escapes shall not be permitted on a building's front facade. In buildings requiring a second means of egress pursuant to the local building codes, internal stairs or other routes of egress shall be used.
- c. *Security gates and devices.* Solid metal security gates or solid roll-down metal windows shall be prohibited. Link or grill type security devices shall be permitted only if installed from the inside, within the window or door frames; or if installed on the outside, if the coil box is recessed and concealed behind the building wall. Security grills shall be recessed and concealed during normal business hours. Models which provide a sense of transparency by colors, are encouraged. Other security devices fastened to the exterior walls are prohibited.

L. *Parking and Loading.*

- 1. *Central Business District (CBD).* The planning commission shall determine if the number of off-street and loading/unloading spaces required per Article XXI of this Ordinance shall be met, or if a lesser number of spaces or no spaces are required due to: the availability of on-street parking spaces; off-site parking lots or municipal parking lots; a finding that patrons will either walk to the site from nearby neighborhoods, or will park at other sites and visit several uses at one time; or the placement and configuration of existing buildings. If required, the parking lots shall be designed in accordance with the provisions of Article XXI and the following:
 - a. *Location.* No new parking lot shall be created nor any existing parking lot be expanded in front of a building. If the planning commission determines that a new parking lot must be created or an existing parking lot must be expanded, the parking lot shall be located to the rear of the buildings on the interior of the lots, accessed by means of common driveways, preferably from side streets or lanes. Such parking lots shall be small in scale where possible, and interconnected with commercial parking lots on adjacent properties. Cross-access easements for adjacent lots with interconnected parking lots shall be required, in language acceptable to the city. Common, shared parking facilities are encouraged, wherever possible.
 - b. *Screening.* Parking located on the side of a building shall be screened from the public street in accordance with the Article XX of this Ordinance.
 - c. *Paving.* Paving shall be kept to the minimum required to comply with the standards stated in Article XXI of this Ordinance.
 - d. *Parking fee.* Any use or site in the central business district required by this Ordinance and/ or the planning commission to provide off-street parking may, subject to approval of the city council, elect to meet such

requirement by contributing a fee, as established by the city council, to a municipal parking fund in lieu of the required off-street parking spaces in the central business district. The amount of the fee required shall be established by the city council and shall be based on anticipated acquisition and development costs.

- e. *Current private parking lots.* Off-street parking spaces under private ownership existing on the date of adoption of this Ordinance shall not be converted to another use without the review and approval of the planning commission in accordance with the development plan standards of Article XVI of this Ordinance.

2. *Mixed Use District (MXD).* Required parking lots shall be designed in accordance with the provisions of Article XXI and the following:

- a. *Location.* No new parking lot shall be created nor any existing parking lot be expanded in front of a building. If the planing commission determines that a new parking lot must be created or an existing parking lot must be expanded, the parking lot shall be located to the rear or side of the building. Such parking lots shall be small in scale where possible and interconnected with commercial parking lots on adjacent properties. Cross-access easements for adjacent lots with interconnected parking lots shall be required, in language acceptable to the city. Common, shared parking facilities are encouraged, wherever possible.
- b. *Screening.* Parking lots shall be screened from adjoining residences and the public street in accordance with Article XX of this Ordinance.
- c. *Paving.* Paving shall be kept to the minimum required to comply with the standards stated in Article XXI of this Ordinance.
- d. *Current private parking lots.* Off-street parking spaces under private ownership existing on the sate of adoption of this Ordinance shall not be converted to another use without the review and approval of the planning commission in accordance with the development plan standards of Article XVI of this Ordinance.

M. *Service Access.*

- 1. *Central Business District (CBD).* A service alley or designated loading space shall be reserved at the rear of the building. Loading from secondary streets may be permitted by the planning commission upon demonstration by the applicant that through traffic flow and access to neighboring uses will not be disrupted. In addition to the previously described standards the loading spaces shall be subject to the standards identified in Article XXI of this Ordinance, where appropriate.
- 2. *Mixed Use District (MXD).* Designated service areas and loading spaces shall be provided in accordance with Article XXI of this Ordinance.

N. *Courtyards and Plazas.*

- 1. *Central Business District (CBD).* Exterior public and semi-public spaces, such as courtyards or plazas shall be designed for function, enhance the surrounding buildings, and provide amenities for users in the form of textured paving, landscaping, lighting, trees, benches, trash receptacles, and other items of street furniture, as appropriate. Courtyards shall have recognizable edges defined on at least three (3) sides by buildings, walls, elements of landscaping, and/or elements of street furniture in order to create a strong sense of closure.
- 2. *Mixed Use District (MXD).* Exterior public and semi-public spaces, such as courtyards or plazas, where provided shall be in compliance with standards previously stated for the Central Business District.

O. *Utilities.*

- 1. *Central Business District (CBD).* All public and semi-public utilities and other services, including, but not limited to electricity, telephone, cable television, and others shall be placed underground.
- 2. *Mixed Use District (MXD).* All public and semi-public utilities and other services, including, but not limited to electricity, telephone, cable television, and others shall be placed underground.

ARTICLE XX. - LANDSCAPING STANDARDS

Sec. 20.05. - Purpose.

The purpose of this Article is to establish minimum standards for the design, installation, and maintenance of landscaping along public streets, as buffer areas between uses, on the interior of sites, within parking lots, and adjacent to buildings. Landscaping is viewed as a critical element contributing to the aesthetics, development quality, stability of property values, and the overall character in the city.

The standards of this Article are also intended to preserve quality mature trees, screen headlights to reduce glare, integrate various elements of a site, help ensure compatibility between land uses, assist in directing safe and efficient traffic flows at driveways and within parking areas, and minimize negative impacts of stormwater runoff.

The landscape standards of this Article are considered the minimum necessary to achieve the intent. In several instances, the standards are intentionally flexible to encourage creative design. Applicants are encouraged to provide additional landscaping to improve the function, appearance, and value of their property.

Sec. 20.10. - Requirements and Timing of Landscaping.

- A. *Plan Required.* Landscaping shall be included with all nonresidential, multiple-family developments, and manufactured housing park preliminary plan applications reviewed by the city. A separate landscaping plan shall be submitted at a minimum scale of one (1) inch equals forty (40) feet. The landscape plan shall clearly describe the location, type, size, and spacing of all plant materials. It shall also include planting details and specifications, clearly describing planting technique, material installation, planting mixtures, mulch, material depth, seed blends, and other necessary information.
- B. *Installation and Inspection.* Wherever this Ordinance requires landscaping or plant materials, it shall be planted within six (6) months from the date of issuance of a certificate of occupancy and shall thereafter be reasonably maintained with permanent plant materials which may be supplemented with other plantings. Except in the case of manufactured housing parks, the planning commission may require a performance guarantee in a form acceptable to the city, to cover the costs of landscaping prior to the issuance of a certificate of occupancy.

Landscaping shall be installed in a sound manner according to generally accepted planting procedures with the quality of plant materials as hereinafter described and shall be protected from vehicular encroachment and snow removal operations.

In the event a performance guarantee is being held, the building inspector will within three (3) months of receiving written notification of installation, conduct an inspection to verify said installation and authorize release of the guarantee.

- C. *Plant Material Standards.* It is the intent of this Article that a diverse mixture of plantings be provided. Therefore, all required landscaping shall comply with the following minimum plant material standards, unless otherwise specified within this Article. These standards may be varied by the planning commission where the established minimums, in the judgement of the commission, will not serve the purpose and intent of this Article.
 1. *Plant quality.* Plant materials permitted in required landscaped areas shall be hardy to the climate of Michigan, long-lived, resistant to disease and insect attack, and shall have orderly growth characteristics.
 2. *Plant size specifications.*
 - a. *Trees.* Required trees shall be of the following sizes at the time of planting, unless otherwise stated in this Article:
 - i. *Deciduous trees.* Two and one-half (2½) inch caliper minimum trunk measurement at four (4) feet off the ground, with a minimum eight (8) feet in height above grade when planted.
 - ii. *Evergreen trees.* Eight (8) feet in height, with a minimum spread of three (3) feet and the size of the

burlapped root ball shall be at least ten (10) times the caliper of the tree measured six (6) inches above the grade.

- iii. *Deciduous ornamental trees.* One (1) inch caliper minimum at three (3) feet off the ground, with a minimum height of six (6) feet above grade when planted.
 - b. *Shrubs.* Minimum twenty-four (24) inches in height above planting grade.
 - c. *Hedges.* Planted in such a manner as to form a continuous unbroken visual screen within two (2) years after planting.
 - d. *Vines.* Minimum of thirty (30) inches in length after one (1) growing season.
 - e. *Ground cover.* Planted in such a manner as to present a finished appearance and reasonably complete coverage after one (1) complete growing season.
 - f. *Grass.* Planted in species normally grown as permanent lawns in the Eaton Rapids area. Grass may be plugged, sprigged, seeded, or sodded, except that rolled sod, erosion reducing net, or other suitable mulch shall be used in swales or other areas subject to erosion. Grass, sod, and seed shall be clean and free of weeds, noxious pests, and disease.
 - g. *Mulch material.* Minimum of six (6) inches deep for planted trees, shrubs, and vines, and shall be installed in a manner as to present a finished appearance.
- C. *Prohibited Plant Materials.* The following plant materials shall not be used for required landscaping purposes under any circumstances, except where considered appropriate for the immediate ecosystem, such as in wetland areas, due to their susceptibility to storm damage, disease, or other undesirable characteristics:
- Box Elder, Silver Maples, American Elm, Horse Chestnut, Poplar, Ailanthus, Catalpa, Osage Orange, Cottonwood, Black Walnut, and European Barberry.

Sec. 20.15. - Special Provisions for Existing Sites.

Special provision is made for applying these standards to developed sites which existed prior to the effective date of this Ordinance. Therefore, except in the case of a manufactured housing development, when an existing site is undergoing improvement, a change in use, or expansion that requires the submittal of a development plan, the objective of these standards is to gradually bring the existing site into compliance with the minimum standards of this Article in relation to the extent or change on a site.

When reviewing plans for a change in use or expansion which requires development plan review, the building inspector or body reviewing the plan shall require an upgrade in landscaping, using the following as guidelines:

- A. *General requirements.* Each building expansion requiring development plan review shall provide at least ten (10) per cent of the landscaping requirements for a new development for every ten (10) per cent of expansion.
- B. *Street and parking lot requirements.* Each building expansion requiring development plan review should provide landscaping along public streets and within parking areas, with landscaping along public streets as the priority. Where parking lot landscaping cannot be reasonably provided, additional landscaping along the street or in any required buffer areas should be considered.

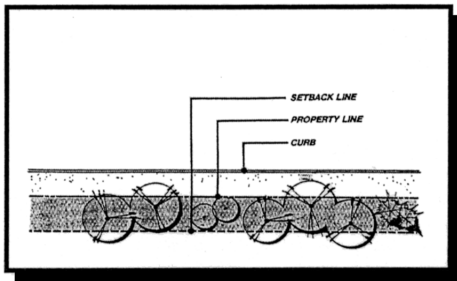
Sec. 20.20. - Required Landscaping Along Public Streets.

One (1) of the following street landscaping options is required on land abutting public streets or where otherwise referenced.

- A. *Greenbelt.*
 1. Minimum width of ten (10 feet). The planning commission may permit the width of the greenbelt to be reduced in cases where existing conditions do not permit a ten (10) foot width and in the Central Business District (CBD),

where it is desirable to maintain a shallow front setback in keeping with the character of the CBD. In such cases, the greenbelt requirement may be met through the provision of street trees or the provision of landscaping as required below.

2. At least one (1) deciduous tree and four (4) shrubs per each forty (40) lineal feet of street frontage. Location of the trees and shrubbery is discretionary. In the CBD, additional canopy trees may be provided in lieu of the requirement for shrubs at the rate of one (1) additional canopy tree for every four (4) required shrubs.
3. The greenbelt area shall contain grass, vegetation ground cover, mulch, or crushed stone on a weed barrier, and be curbed or edged as necessary.
4. Where headlights from parked vehicles will shine into the roadway, the planning commission may require the use of a totally obscuring hedge with a minimum height of twenty-four (24) inches and a maximum height of thirty-six (36) inches.



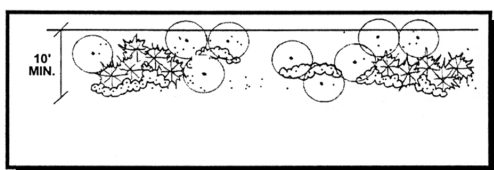
Greenbelt

B. *Berm.*

1. Minimum height of two (2) feet with a crest at least three (3) feet in width. The height of the berm may meander if the intent of this Article is met and an appropriate screen is provided.
2. The exterior face of the berm shall be constructed as an earthen slope, with a slope not to exceed one (1) foot of vertical rise to three (3) feet of horizontal distance (1:3). The interior face of the berm may be constructed as an earthen slope or retained by means of a wall, terrace, or other means acceptable to the building inspector.
3. At least one (1) deciduous tree shall be provided for each thirty (30) feet of lineal berm length.
4. At least one (1) minimum shrub shall be provided for each one hundred (100) square feet of berm surface area, as calculated from a plan view.
5. Berm slopes shall be protected from erosion by sodding or seeding. If the slopes are seeded, they shall be protected until the seed germinates and a permanent lawn is established by a straw mulch, hydro-mulching, or netting specifically designed to control erosion.

C. *Buffer strip.*

1. Minimum width of ten (10) feet.
2. All trees shall be evergreens and shall include at least one (1) tree for each thirty (30) feet of length.
3. The buffer planting area shall contain grass, vegetation ground cover, mulch, or crushed stone on a weed barrier, and be curbed or edged as necessary.

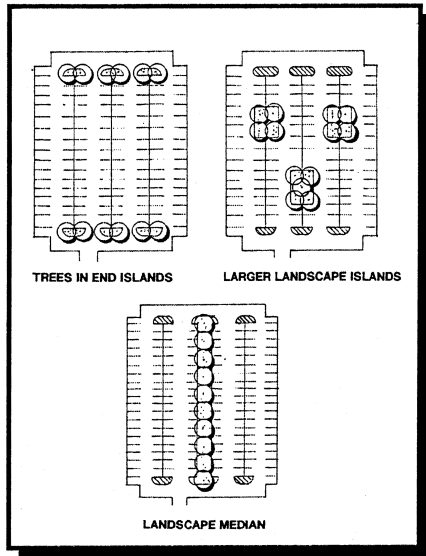


Buffer Strip

Sec. 20.25. - Parking Lot Landscaping.

Within every parking area containing ten (10) or more proposed spaces, at least one (1) deciduous tree and ornamental tree with at least one hundred (100) square feet of planting area shall be used for every ten (10) parking spaces, in addition to any other landscaping requirements. This landscaping shall meet the following standards:

- A. Landscaping shall be dispersed throughout the parking area in order to break up large expanses of pavement and help direct smooth traffic flow within the lot.
- B. Landscaping shall be planned and installed such that, when mature, it does not obscure traffic signs or lighting, obstruct access to fire hydrants, nor interfere with adequate motorist sight distance.
- C. Dimensions of separate landscaped areas within the interior of or adjacent to parking areas shall be shown on the development plan. Minimum width of such areas shall be ten (10) feet.



Landscape Islands Within Parking Areas

Sec. 20.30. - Waste Receptacle and Mechanical Equipment Screening.

Waste receptacles shall be located and screened in accordance with the standards of this Ordinance including those standards identified in Article XIX, Design Standards, or other city ordinances. Ground mounted mechanical equipment shall be screened with plant materials or a wall, when deemed necessary by the planning commission.

Sec. 20.35. - General Layout and Design Standards.

- A. *Plant Health and Maintenance.* Landscaped areas and plant materials required by this Ordinance shall be kept free from refuse and debris. Plant materials, including lawns, shall be maintained in a healthy and growing condition, neat and orderly in appearance. If any plant material required by this Ordinance dies or becomes diseased, they shall be replaced within thirty (30) days of written notice from the building inspector, or within an extended time period as specified in said notice.
- B. *Removal of Support Material.* Tree stakes, guy wires, and tree wrap are to be removed after one (1) year.
- C. *Irrigation.* All landscaped areas shall be provided with a readily available and acceptable water supply to facilitate continued maintenance.
- D. *Visibility.* Landscaping materials and arrangement shall ensure adequate sight visibility for motorists, adequate clearance for pedestrians and vehicles, and accessibility to fire hydrants, and shall not interfere with or obstruct the view of public viewsheds and sight lines from rights-of-way and public property to streams, lakes, and other waterways.

E. *Species Tolerance.* Cul-de-sacs, site entrances, and boulevard medians shall be landscaped with species tolerant of roadside conditions common to the Eaton Rapids area.

F. *Public Safety.* Plantings within fifteen (15) feet of a fire hydrant shall be no taller than six (6) inches at maturity.

Sec. 20.40. - Incentives to Preserve Existing Trees.

The City of Eaton Rapids encourages the preservation of quality and mature trees by providing credits toward the required trees for greenbelts, buffer strips, interior landscaping, and within parking lots. Trees intended to be preserved shall be indicated with a special symbol on the development plan and be protected during construction through the use of a fence around the drip line. Tree species, location, and caliper must be shown on the landscape plan. Tree protection measures must be shown and noted on the landscape plan.

To obtain credit, the preserved trees shall be of a high quality and at least two and one-half (2½) inches caliper. Trees to be preserved shall be counted for credit only if they are located on the developed portion of the site as determined by the planning commission. Any tree over twelve (12) inches in caliper to be removed shall be noted on the landscape plan.

The credit for preserved trees shall be as follows:

Caliper of Preserved Tree (in inches)	Number of Trees Credited
Over 12	3
8 to 12	2
2½ to 8	1

Note: Caliper measurements for existing trees is the diameter at a height of four and one-half (4½) feet above the natural grade. Any preserved trees receiving credit which are lost within two (2) years after construction shall be replaced by the land owner with trees otherwise required by this Ordinance.

Sec. 20.45. - Walls and Berms Between Uses.

In those instances where the following conditions occur, the need for a wall, a berm, or similar type of landscaped buffer shall be determined by the planning commission.

A. *Zoning districts and land uses.* For developments within the CBD, LBD, and MXD, there shall be provided and maintained on those sides abutting or adjacent to a residential zoning district and/or a current residential use, a decorative masonry wall six (6) feet in height, (except as otherwise required).

For developments within the MFRD, GBD, LID, and GID, there shall be provided and maintained on those sides abutting or adjacent to a residential zoning district and/or current residential use, a greenbelt, a berm, or a buffer strip, (except as otherwise required, such as in the case of MHPD, which shall only apply where adjacent to current residential use).

For nonresidential land uses within residential zoning districts there shall be provided and maintained on those sides abutting or adjacent to a residential zoning district and/or a current residential use, a decorative masonry wall six (6) feet in height, a greenbelt, a berm, or a buffer strip, (except as otherwise required).

B. *Location.* Required walls, greenbelts, berms, or buffer strips shall be located on or at the lot line, except where underground utilities interfere.

C. *Materials.* Such walls and screening barrier shall have no openings for vehicular traffic or other purposes, except as otherwise provided for in this Ordinance and except such openings as may be approved by the building inspector. All

walls herein required shall be constructed of materials approved by the building inspector to be durable, weather resistant, rustproof, and easily maintained. Materials for walls shall be compatible with surrounding building materials, including but not limited to brick or stone. Materials for the greenbelts, berms, or buffer strips shall be in accordance with the standards identified in this Article unless specified elsewhere.

- D. *Alternatives.* The planning commission may approve a landscaped berm as an alternative to a wall upon finding the landscaped berm will provide a similar screening effect.

Sec. 20.50. - Waiver or Modification of Standards for Special Situations.

The planning commission may determine existing landscaping or screening intended to be preserved, or a different landscape design, would provide all or part of the required landscaping and screening. In making such a determination to waive or reduce the landscape and screening requirements of this Article, the following may be considered:

- A. Extent that existing natural vegetation provides desired screening.
- B. There is a steep change in topography which would limit the benefits of required landscaping.
- C. The presence of existing wetlands.
- D. Existing and proposed building placement.
- E. The abutting or adjacent land is developed or planned by the city for a use other than residential.
- F. Building heights and views.
- G. The adjacent residential district is over two hundred (200) feet from the subject site.
- H. Similar conditions to the above exist such that no good purpose would be served by providing the landscaping or screening required.

ARTICLE XXI. - PARKING, LOADING, AND ACCESS MANAGEMENT

Sec. 21.05. - General Regulations.

- A. *Purpose.* The purpose of this Article is to regulate the parking, loading, and access of automotive vehicles in all zoning districts. The number of automobiles presently in use in Eaton Rapids and the probability that over time, the number will increase, make it necessary for the safety, health, and convenience of all using the streets in Eaton Rapids, that the public streets be useable and to their maximum capacity, for the movement of vehicles, and that the parking of vehicles thereon for long periods of time subordinates the good of the public as a whole to the convenience to the few.
- B. *Plan and Area Requirements.* The following regulations and standards shall apply in all zoning districts:
 1. A plan of the proposed parking and loading areas shall be submitted with any development plan for all new commercial, industrial, multiple-family, and manufactured housing parks.
 2. All off-street parking areas required by this Ordinance shall be of adequate size and design to provide safe and reasonably direct ingress and egress from an alley or street. The minimum standards for parking spaces and aisle are indicated in the table in section 21.15 of this Article. The average parking area, consisting of one parking space with maneuvering aisle, shall be three hundred (300) square feet.

Sec. 21.10. - Off-Street Parking Requirement.

With the exception of areas designated by the planning commission within the central business district as being parking exempt, there shall be provided in all districts at the time of erection or enlargement of any main building or structure, automobile off-street parking space with adequate access to all spaces. The number of off-street parking spaces, in conjunction with all land or building uses shall be provided, prior to occupancy, as hereinafter prescribed.

- A. *Location of spaces.* Off-street parking for other than single-family or two-family residential uses shall be either on the site or within three hundred (300) feet of the building it is intended to serve, as measured from the nearest point of the off-street lot. Ownership shall be shown of all lots or parcels intended for use as parking by the applicant during development plan review.
- B. *Location of spaces for residential uses.* Required residential off-street parking spaces shall consist of a parking strip, parking bay, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve, or if located in the central business district, within a reasonable walking distance as determined by the planning commission.
- C. *Irrevocable use of spaces.* All required off-street parking spaces shall be stated in an application for development plan review and shall be reserved irrevocably for such use. Minimum required off-street parking spaces shall not be displaced by any other use unless and/or until equal parking facilities are provided elsewhere, or the parking requirements of the site change.
- D. *Reduction of space area.* Off-street parking existing at the effective date of this Ordinance, in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or new use.
- E. *Collective use of spaces.* Two (2) or more buildings or uses, may collectively provide the required off-street parking in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately.
- F. *Variance for collective uses.* In the instance of dual function of off-street parking spaces where operating hours of buildings do not overlap and there is an opportunity for a patron to visit more than one use, the planning commission may grant a reduction to the required number of spaces up to twenty (20) per cent, provided a signed agreement is provided by the property owners.
- G. *Prohibited activities.* The storage of merchandise, refuse storage and receptacles, or other materials, and the storage or repair of vehicles or other machinery is prohibited in areas serving as parking spaces, unless provided for otherwise in this Ordinance.
- H. *Similar use.* For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with the use which the planning commission determined is similar in type.
- I. *Fractional units.* When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to and including one-half ($\frac{1}{2}$) shall be disregarded and fractions over one-half ($\frac{1}{2}$) shall require one (1) parking space.
- J. *Screening.* Off-street parking areas and related drives shall be effectively screened on any side which adjoins or faces any public street, residential zoning district or current residential use, by a wall, greenbelt, berm, or buffer strip, and shall be in accordance with Article XX of this Ordinance.
- K. *Setbacks.* No part of any off-street parking area shall be closer than ten (10) feet to any school, hospital, or other institutional use property line. All required off-street parking areas accommodating more than two (2) parking spaces shall be no closer than ten (10) feet from a public street.
- L. *Loading spaces.* Loading spaces shall not be construed as meeting required off-street parking spaces, unless approved otherwise by the planning commission.
- M. *Seating allocation.* In stadiums, sports arenas, churches, temples, or other places of assembly in which patrons or spectators occupy benches, pews, or similar seating facilities, each twenty-four (24) inches of seating shall be counted as one (1) seat for the purposes of determining requirements for off-street parking facilities under this Ordinance.
- N. *Use of spaces by churches, temples, and similar places of worship.* Parking spaces already provided to meet off-street parking requirements for places of public assembly, stores, offices, and industrial establishments lying within

five hundred (500) feet of a church, temple, or similar place of worship, as measured along the lines of public access, which uses are not normally used between 6:00 a.m. and 6:00 p.m. on respective days of worship and are made available for other parking, may be used to meet not more than seventy-five (75) per cent of the off-street parking requirements of a church, temple, or similar place of worship. Written permission for such an arrangement shall be provided to the city.

- O. *Length of time in parking areas.* Except when land is used as storage space in connection with the business of an automotive service center/station or automotive repair center, the time limits for parking in off-street parking areas shall prevail as specified under this Ordinance and in any other pertinent City of Eaton Rapids Codes.
- P. *Restriction of parking on private property.* No person shall park any motor vehicle on any private property, or use such private property as a parking space, without the express or implied consent or authorization of the owner, holder, occupant, lessee, agent, or trustee of such property.
- Q. *Exceeding number of spaces required.* In order to minimize excessive areas of pavement, which depreciate aesthetic standards and contribute to high rates of stormwater runoff, exceeding the minimum parking space requirements by greater than ten (10) per cent shall not be allowed, except as approved by the planning commission.
- R. *Units of measurement.*
 - 1. Where floor area is the unit for determining the required number of off-street parking and loading spaces, such unit shall mean the gross floor area (GFA), unless otherwise noted.
 - 2. Where the floor area measurement is specified as gross leasable floor area (GLA), parking requirements shall apply to all internal building areas excluding the floor area used for incidental service, storage, mechanical equipment rooms, heating/cooling systems, lavatories, and similar uses, and other areas not intended for use by the general public. Where these areas are not yet defined, leasable floor area shall be considered to be eighty-five (85) per cent of the gross floor area.
 - 3. Where the number of spaces required is based on the number of employees, calculations shall be based upon the maximum number of employees likely to be on the premises during the peak shift.
- S. *Use of parking areas.*
 - 1. No repairs or service to vehicles and no display of vehicles for purposes of sale shall be carried on or permitted upon required parking areas, unless provided for otherwise in this Ordinance.
 - 2. No advertising signs shall be erected on required parking areas.
 - 3. No person shall leave, park or store, or permit to be left, parked or stored, any motor vehicle longer than forty-eight (48) hours, unless otherwise permitted by this Ordinance.
 - 4. Such parking areas may not be used for the storage or parking of unregistered or unlicensed, junked, or wrecked vehicles of any type, as a storage area for industrial equipment or material, or as a dump for refuse of any description.

Sec. 21.15. - Minimum Number of Spaces Required.

The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule:

Use		Minimum Spaces Required
A.	<i>Residential</i>	
	— Housing for the Elderly	One (1) for each two (2) units, and one (1) for each employee. Should units revert to general occupancy, then two (2) spaces per unit shall be provided.
	— One-Family and Two-Family	Two (2) for each dwelling unit.

	—	Multiple-Family	One and one-half (1½) for each efficiency or one-bedroom unit and two (2) for each unit with two (2) or more bedrooms.
B.	<i>Institutional</i>		
	—	Churches, Temples, or Similar Places of Worship	One (1) for each three (3) seats or six (6) feet of pews in the main worship area, based upon the maximum seating capacity.
	—	Elementary and Junior High School	One (1) for each one (1) teacher, employee, or administrator, in addition to the requirements for any auditorium.
	—	Government Offices	One (1) space for every two hundred (200) square feet of gross floor area.
	—	Hospitals	One (1) for each one (1) bed and one (1) for each employee on duty, based upon maximum employment shift.
	—	Homes for the Aged and Convalescent Homes	One (1) for each three (3) beds or two (2) rooms, whichever is less, and one (1) for each employee on duty, based upon the maximum employment shift.
	—	Libraries, Museums, and Noncommercial Art Galleries	One (1) for every two hundred (200) square feet of gross floor area, less the area devoted to book and art storage, utility rooms, and lavatories.
	—	Private Clubs, Union Halls, Fraternal Orders, Civic Clubs, or Lodge Halls	One (1) for each three (3) persons allowed within the maximum occupancy load as established by the city, county, or state fire, building, or health codes.
	—	Public Recreation Centers	Five (5) for every one-thousand (1,000) square feet of gross floor area.
	—	Senior High School	One (1) for each one (1) teacher, employee, administrator, and one (1) for each ten (10) students, in addition to the requirements of any auditorium.
C.	<i>Business and Commercial</i>		
	—	Automobile Wash (Automatic)	One (1) for each one (1) employee, plus a minimum of sixteen (16) for cars waiting to be washed for each conveyer system, plus one (1) upon exiting each conveyor system, plus two (2) for post-wash detailing.
	—	Automobile Wash (Self Service or Coin Operated)	Three (3) for each washing stall in addition to the stall itself, plus one (1) upon exiting each stall.
	—	Automotive Service Stations	Two (2) for each lubrication stall, rack, pit, or service bay, and one (1) for each employee.
	—	Beauty Parlor or Barber Shop	Three (3) spaces for each of the first two (2) beauty or barber chairs and one and one-half (1½) spaces for each additional chair.
	—	Beauty Schools	One (1) for every forty (40) square feet of gross floor area, less the area devoted to storage, utility rooms, or lavatories.
	—	Carry-Out Restaurants	One (1) for each one hundred fifty (150) square feet of gross floor area, with a minimum of six (6).
	—	Convenience Stores, With or Without Automotive Fuel Service	One (1) for every one thousand (1,000) square feet of gross floor area plus spaces required for any automotive fuel service. The planning commission may permit each fuel pump space to count as one-half (½) of a required parking space.

—	Drive-In and Drive-Through Restaurants	One (1) for every two (2) seats in an established seating plan area plus one (1) for every fifteen (15) square feet of usable customer area other than an established seating plan area, plus one (1) for every outside customer automobile service stall area, plus required vehicle stacking spaces.
—	Dry Cleaners	Two (2) for every one-thousand (1,000) square feet of gross leasable floor area.
—	Establishment for Sale and Consumption on the Premises of Beverages, Food, or Refreshments, Except as Otherwise Specified Herein	One (1) for each one hundred (100) square feet of gross floor space or one (1) for each two (2) persons allowed within the maximum occupancy load as established by city, county, or state fire, building, or health codes.
—	Equipment Repair	One (1) for every one-thousand (1,000) square feet of gross leasable floor area.
—	Fast-Food Restaurants Without Drive-In or Drive-Through Service	One (1) for each one-hundred (100) square feet of gross floor area, with a minimum of twenty-five (25).
—	Furniture and Appliance, Household Equipment, Repair Shops, Showroom of a Plumber, Decorator, Electrician, or Similar Trade, Shoe Repair, and Other Similar Uses	One (1) for each eight hundred (800) square feet of gross floor area. For that floor area used in processing, one (1) additional space shall be provided for each two (2) persons employed therein.
—	Laundromats and Coin Operated Dry Cleaners	One (1) for each four (4) washing and/or dry cleaning machines.
—	Mortuary Establishments and Funeral Homes	One (1) for each fifty (50) square feet of gross floor space in the slumber rooms, parlors, or individual funeral service rooms.
—	Motel, Hotel, or Other Commercial Lodging Establishments	One (1) for each one (1) occupancy unit plus one (1) for each one (1) employee, plus spaces for any dining rooms, restaurants, cocktail lounges, ballrooms, or meeting rooms, based on the established maximum occupancy code.
—	Motor Vehicle Sales and Service Establishments	One (1) for each two hundred (200) square feet of gross floor space of sales room and one (1) for each one (1) service stall in the service room.
—	Nursery School, Day Nurseries, or Child Day Care Centers	Two (2) for each employees plus one (1) space for each eight (8) children of licensed authorized capacity.
—	Open Air Business Establishments, Except as Otherwise Specified Herein	One (1) for every five hundred (500) square feet of lot area for retail sales and retail uses.
—	Recreational Vehicle Sales and Service Establishments, Trailer Sales and Rentals, Boat Showrooms	One (1) for every four hundred (400) square feet of gross floor area of the sales room.
—	Retail Stores, Except as Otherwise Specified Herein	One (1) for every two hundred fifty (250) square feet of gross floor area.
—	Service Establishments, Except as Otherwise Specified Herein	Two (2) for every one thousand (1,000) square feet of gross leasable floor area.
—	Studios, Dance, Health, Music, and Other Similar Places of Instruction and Recreation	One (1) for every forty (40) square feet of gross floor area, less the area devoted to storage, utility rooms, and lavatories.
—	Supermarket	One (1) for each two-hundred (200) square feet of gross floor area.
—	Video Rental Establishments	Two (2) for every one thousand (1,000) square feet of gross floor area, with a minimum if eight (8).

D.	<i>Offices</i>	
	— Banks and Other Financial Institutions Without Drive-Through Lanes	One (1) for each two hundred (200) square feet of gross floor space, plus two (2) for every automated teller machine.
	— Banks and Other Financial Institutions With Drive-Through Lanes	Five (5) for every one thousand (1,000) square feet of gross floor area plus two (2) for every automated teller machine and waiting space equivalent to four (4) for each drive-through lane.
	— Business Offices or Professional Offices, Except as Otherwise Specified Herein	One (1) for each three hundred fifty (350) square feet of gross floor space.
	— Immediate Care Medical Facility	Two (2) for each examination room, plus one (1) space for each laboratory or recovery room, plus one (1) space for each employee on duty based upon maximum employment shift.
	— Professional Offices of Doctors, Dentists, or Similar Professions	Seven (7) for every one thousand (1,000) square feet of gross floor area.
	— Veterinary Clinics or Hospitals	Four (4) for every one thousand (1,000) square feet of gross floor area.
E.	<i>Recreation and Entertainment</i>	
	— Banquet Center and Halls	One (1) for every three (3) persons allowed within the maximum occupancy load as established by city, county, or state, fire, building, or health codes.
	— Batting Cages	One (1) for every cage, plus one (1) for each employee.
	— Bowling Alleys	Four (4) for each one (1) bowling lane plus accessory uses.
	— Dance Halls, Pool or Billiard Parlors, Roller Skating Rinks, Exhibition Halls, and Assembly Halls Without Fixed Seats	One (1) for each two (2) persons allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes.
	— Driving Ranges	One (1) for every four (4) tees plus one (1) for each employee.
	— Golf Courses Open to the General Public, Except Miniature or "Par 3" Courses	Four (4) for each one (1) golf hole and one (1) for each one (1) employee plus spaces required for each accessory use, such as a restaurant or bar.
	— Health, Fitness, and Exercise Centers	Five (5) for every one thousand (1,000) feet of gross leasable floor area, plus spaces required for any pools, tennis courts, etc.
	— Marinas, Public, or Private	One and one-half (1 -) for each boat or ship.
	— Miniature or "Par 3" Golf Courses	Two (2) for each one (1) hole plus one (1) for each one (1) employee.
	— Private Golf Clubs, Swimming Pool Clubs, Tennis Clubs, or Other Similar Uses	One (1) for each two (2) member families or individuals plus spaces required for each accessory use, such as a restaurant or bar.
	— Place of Outdoor Assembly	One (1) for each three (3) seats or six (6) feet of benches.
	— Stadium Sports Arenas, or Similar Places of Assembly	One (1) for every three (3) seats or six (6) feet of bench.
	— Swimming Pools	One (1) for every four (4) persons of maximum occupancy.
	— Tennis or Racquet Clubs	Four (4) for each court plus one (1) for each employee. If a spectator area is provided, one (1) space for every three (3) seats shall be required.

	—	Theater and Auditorium	One (1) for each four (4) seats plus one (1) for each two (2) employees.
F.	<i>Industrial</i>		
	—	Industrial or Research Establishments and Related Accessory Offices	Five (5) plus one (1) for every one and one-half (1½) employees in the largest working shift.
	—	Warehouses and Wholesale Establishments and Related Accessory Offices	Five (5) plus one (1) for every one (1) employee in the largest working shift or one (1) for every seventeen hundred (1,700) square feet of gross floor space, whichever is greater.

(Ord. No. 2002-17, 12-23-02)

Sec. 21.20. - Barrier-Free Parking Requirements.

Within each parking lot, signed and marked barrier-free spaces shall be provided in accordance with the Michigan Department of Labor, Construction Code Commission, Barrier-Free Division.

Sec. 21.25. - Waiting Areas for Drive-Through Facilities.

- A. *Dimensions.* All waiting spaces or stacking spaces shall be an area at least ten (10) feet wide and twenty-four (24) feet long each, that does not include the use of any public space, street, alley, sidewalk, or right-of-way. Such area shall be located entirely within a nonresidential zoning district.
- B. *Minimum Number of Spaces Required.* On the same premises with every building or structure, or part thereof, erected and occupied for the purpose of serving customers in their automobiles by means of a service window or similar arrangement where the automobile engine is not turned off, there shall be provided, unless otherwise specified within this Ordinance, off-street waiting spaces or stacking spaces in accordance with the following:

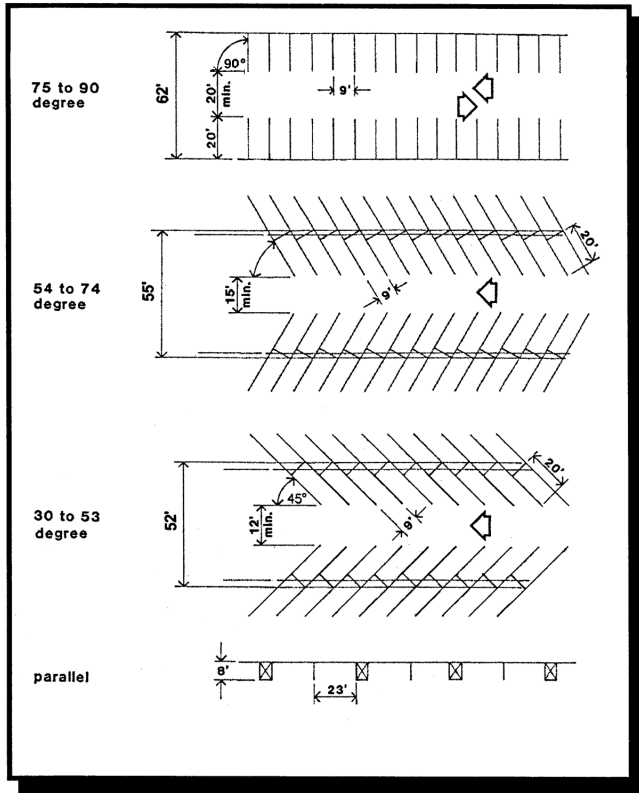
Use	Number of Spaces
Automotive Repair or Service Station	1 per service bay
Automotive Fueling Station	2 per fuel pump island
Convenience Store Drive-Through	2 per service window
Drug Store Drive-Through	2 per service window
Drive-Through Financial Institution	4 per service window
Drive-Through Food Service	10 per service window
Dry-Cleaning Drop-Off Station	2 per service window
Automatic Car Wash	4 per wash line, plus 1 upon exit per wash line
Self-Service Car Wash	2 per wash bay, plus 1 upon exit per wash bay

Sec. 21.30. - Off-Street Parking, Space Layout, Standards, Construction and Maintenance.

- A. *Plan Requirements.* Plans for the layout of off-street parking facilities shall be in accord with the following minimum requirements:

Parking Pattern	Maneuvering Lane Width (in feet)	Parking Space Width (in feet)	Parking Space Length (in feet)	Total Width of One Tier of Spaces Plus Maneuvering Lane (in feet)	Total Width of Two Tiers of Spaces Plus Maneuvering Lane (in feet)
Parallel Parking	12	8	<u>23</u>	20	28

30° to 53°	12	9	20	32	52
54° to 74°	15	9	20	35	55
75° to 90°	20	9	20	42	62



Parking Layouts

- B. *Drive Lanes.* All spaces shall be provided adequate access by means of maneuvering lanes according to the terms of this section. Backing directly onto a street, backing into an access drive, or requiring the use of the street for maneuvering between parking rows shall be prohibited.
- C. *Ingress and Egress.* Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles. Entrance to such areas shall be only from a public street, an adjoining principal use, or an adjoining alley. Ingress and egress to a parking lot lying in an area zoned for other than single-family residential use shall not be across land zoned for single-family residential use.
- D. *Traffic Movement.* It is recommended, that where other than ninety (90) degree parking stalls are used, all maneuvering lane widths only permit one-way traffic movement.
- E. *Distance From Residential Districts.* Each entrance and exit to and from any off-street parking lot located in an area zoned for other than single-family residential use shall be at least twenty-five (25) feet distant from the adjacent property located in any single-family residential district.
- F. *Surface and Curbing.* The entire parking area, including parking spaces and maneuvering lanes, required under this Ordinance shall be provided with a dust free surfacing of concrete and/or plant mixed bituminous material according to the requirements of this Ordinance and the city's Code of Ordinances. Necessary curbs or other protection for the public and for the protection of adjoining properties, streets, and sidewalks shall be provided and maintained. Where deemed necessary, the planning commission may require that parking areas be curbed with concrete curbs and gutters. The parking area shall be surfaced within six (6) months of the date of occupancy.

In all cases where such parking areas abut public sidewalks, a decorative wall, a curb, or bollards shall be placed thereon so that a motor vehicle cannot be driven or parked with any part thereof extending onto the public sidewalk.

- G. *Drainage.* Off-street parking areas shall be drained so as to dispose of all water accumulated in the parking area in such a way to preclude drainage of water onto adjacent property or toward buildings and shall be in accordance with any standards and requirements stated by the county drain commission.
- H. *Lighting.* All lighting used to illuminate off-street parking areas shall be so designed, located, installed, and shielded as to be confined within and directed onto the parking area only, and to prevent glare onto adjacent properties, and shall be arranged to prevent adverse effects on motorist visibility on adjacent rights-of-way.

The source of illumination shall not be more than fifteen (15) feet above the parking surface in any Central Business District (CBD), Local Business District (LBD), or Mixed Use District (MXD), and twenty-five (25) feet above the parking surface in any General Business District (GBD), Limited Industrial District (LID), and General Industrial District (GID).

All illumination shall be in compliance with the performance standards established in Article XVIII of this Ordinance.

Sec. 21.35. - Loading Space Requirements.

- A. *Minimum Number of Spaces Required.* For every building, or addition to an existing building, hereafter erected to be occupied by a use allowed in any business or industrial zoning district or other similar use requiring the receipt or distribution of materials or merchandise, there shall be provided and maintained on the same premises with such building additional off-street loading spaces in relation to the floor area in accordance with the following:

Gross Floor Area (in square feet)	Minimum Loading and Unloading Space Required
10,000 - 20,000	1 space
20,001 - 50,000	2 spaces
50,001 - 100,000	3 spaces
100,001 +	1 additional space for each additional 100,000 square feet or fraction thereof

- B. *Dimensions of required spaces.* Each such loading space shall be sufficient in size and shape to accommodate the delivery of goods without encroaching upon any public street or right-of-way. No such space shall be located closer than fifty (50) feet to any lot in any residential zoning district, unless wholly within a completely enclosed building or enclosed on all sides by a wall, or a greenbelt, berm, or buffer strip.
- C. *Lighting.* Lights used to illuminate loading areas shall be arranged so as to reflect away from adjacent areas and shall be otherwise in conformance with the provisions of this Ordinance.
- D. *Location.* Loading spaces shall not be provided in the front yard, the front side of any building, or on any building side facing and directly visible to a public street, unless the planning commission determines such a location is necessary due to the building's location or placement, the existing street patterns, or other factors.
- E. *Surface and Drainage.* Loading spaces shall be surfaced with concrete or a plant-mixed bituminous material and shall be graded and drained so as to properly dispose of surface water.
- F. *Exceptions.* The planning commission may waive the requirement for off-street loading spaces for existing buildings within the Central Business District (CBD), Local Business District (LBD), and the Mixed Use District (MXD) under the following circumstances:
 1. The rear of the building is built to the rear lot line and directly abuts a public alley.
 2. The layout and size of the existing building and parking area preclude the placement of a designated loading space within the site.

Sec. 21.40. - Parking Lots in Residential Districts.

Off-street parking lots for permitted principal uses in residential districts shall conform to the following:

- A. *Surface and drainage.* Where providing required off-street parking for more than one (1) building or structure, the parking surface and access driveways shall be surfaced in concrete or a plant-mixed bituminous material of the street upon which the driveway has access, has curbs and gutters. Driveways shall be graded toward the center of the parking surface or driveway, and drained to a storm sewer so as to dispose of surface water in an appropriate manner and in accordance with any applicable standards established by the county drain commission.
- B. *Lighting.* When lighting for such facilities is used, the light shall be kept away from adjoining residential uses, and the source of illumination shall not be more than fifteen (15) feet above the parking surface.
- C. *Screening.* All parking areas in a Multiple-Family Residential District (MFRD) shall be screened from adjacent properties other than another multiple-family residential use, by means of a wall, greenbelt, berm, or buffer strip, installed and maintained in accordance with this Ordinance.

Sec. 21.45. - Access Management Requirements.

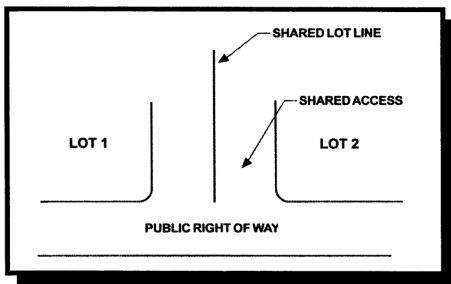
- A. *Purpose.* The purpose of this section is to provide access standards which will facilitate through traffic operations, ensure public safety along roadways, and protect the public investment in the street system, while providing property owners with reasonable access. The standards are specifically designed for streets whose primary function is access to adjacent properties.
- B. *Application of Standards.*
 1. The standards of this section shall be applied to the following streets:
 - Main Street (M-50/M-99)
 - Dexter (M-50)
 - Canal; Michigan (M-99)
 - Water Street (M-188)
 - Spicerville Highway
 - Kinneville Road
 - Five Point Highway; Brook Street
 2. The access standards contained herein shall be required in addition to, and where permissible shall supersede, the requirements of the Michigan Department of Transportation, or the county.
 3. The standards contained in this section shall apply to all uses, except permitted single-family and two-family dwelling units.
 4. For expansion and/or redevelopment of existing sites requiring the submittal of a development plan, where the planning commission determines that compliance with all standards of this section is unreasonable, the standards shall be applied to the maximum extent possible. In such instances, suitable alternatives which substantially achieve the purpose of this section may be accepted by the planning commission, provided that the applicant demonstrates all of the following apply:
 - a. The size of the parcel is insufficient to meet the dimensional standards.
 - b. The spacing of existing, adjacent driveways or environmental constraints prohibit adherence to the access standards at a reasonable cost.
 - c. The use will generate less than five hundred (500) total vehicle trips per day or less than seventy-five (75) total vehicle trips in the peak hour of travel on the adjacent street. All projections of trips shall be based on rates developed by the Institute of Transportation Engineers (ITE).
 - d. There is no other reasonable means of access.

C. *Number of Driveways.*

1. Access to a parcel shall consist of either a single two-way driveway or a pair of one-way driveways, wherein one (1) driveway is designed and appropriately signed to accommodate ingress movements and the other egress movements, unless specified otherwise in this Ordinance.
2. Where parcel frontage is insufficient to provide a driveway meeting the minimum driveway width and radii, a shared driveway or other means of access may be required.
3. Where the parcel is situated on a corner lot, one (1) access point on each street frontage may be permitted, provided there is a minimum of one hundred (100) feet of frontage per side. No more than one (1) access point shall be permitted per side for parcels located on corner lots unless otherwise provided for within this Ordinance.
4. Where the property has continuous frontage of over three hundred (300) feet and the applicant can demonstrate, using the Institute of Transportation Engineer's Trip Generation Manual or another accepted reference, that a second access is warranted, the planning commission may allow an additional access point. Where possible, this access should be spaced accordingly to the standards contained herein, located on a side street, shared with an adjacent property, and/or be designed to restrict one (1) or both left turn movements.
5. Where the property has continuous frontage of over six hundred (600) feet, a maximum of three (3) driveways may be allowed, with at least one (1) such driveway being designed, constructed, and signed for right-turns in and right-turns out only.

D. *Shared Access, Joint Driveways, Parking Lot Connections, and Rear Service Drives.*

1. Shared use of access between two (2) or more property owners should be encouraged through the use of driveways constructed along property lines, connecting parking lots, and rear service drives, particularly for the following:
 - a. Sites within one-quarter ($\frac{1}{4}$) mile of major intersections.
 - b. Sites having dual frontage.
 - c. Sites where frontage dimensions are less than three hundred (300) feet.
 - d. Locations with sight distance problems.
 - e. Along roadway segments experiencing congestion or accidents.



Shared Access

2. In cases where a site is adjacent to a parking lot of a compatible use, or a rear service drive, a connection to the adjacent facility may be required by the planning commission.
3. In cases where a site is adjacent to undeveloped property, the site must be designed and constructed to accommodate a future parking lot connection, rear service drive, or other means of shared access as determined by the planning commission.
4. The applicant shall provide the city with letters of agreement or access easements from all affected property owners.

E. *Adequate Sight Distance.*

1. Requirements for minimum intersection or corner sight distance for driveways shall be in accordance with the American Association of State Highway and Transportation Officials (AASHTO) guidelines defined in the chapter

entitled "A Policy on Geometric Design of Highways and Streets" in its latest edition.

2. The planning commission may adjust driveway location where there is a concern regarding adequate sight distance.

F. *Driveway Spacing From Intersections.*

1. Driveway spacing from intersections shall be measured from the centerline of the driveway to the extended edge of the intersecting street's right-of-way line.
2. In order to preserve intersection operations and safety, the minimum distance between a driveway and an intersecting street right-of-way, shall be based on the following:
 - a. For locations in the vicinity of intersections experiencing congestion (peak hour operations below level of service "C" for one (1) or more movements) and/or a significant number of traffic accidents. The planning commission may require that access be constructed along the property line furthest from the intersection.
 - b. For locations within two hundred (200) feet of any signalized or four-way stop intersection, driveways shall be spaced a minimum of one hundred (100) feet from the intersection. Where this spacing cannot be provided, driveways designed for right-turn in/right-turn out only movements may be allowed, with a minimum spacing of fifty (50) feet from the intersecting street right-of-way.

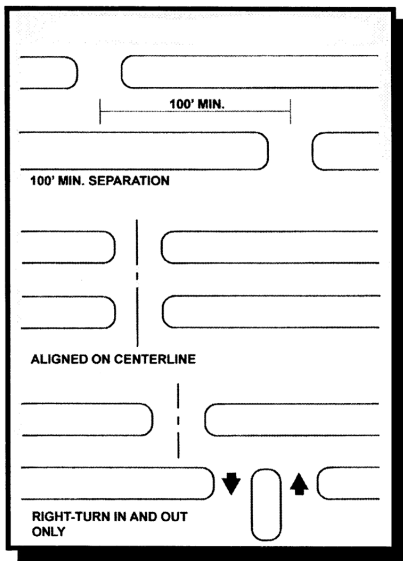
G. *Driveway Spacing From Other Driveways.*

1. Driveway spacing from other driveways shall be measured from the centerline of each driveway at the point where it crosses the street right-of-way line.
2. Minimum driveway spacing from other driveways along the same side of the street shall be determined based on posted speed limits along the parcel for each particular frontage, as follows:

Posted Speed Limit	Minimum Drive Spacing
25 mph	50 feet
30 mph	50 feet
35 mph	75 feet
40 mph	75 feet
45 mph	100 feet
50 mph	125 feet
55 mph	150 feet

3. Driveways shall be directly aligned with those across the street or, where offset, the minimum driveway spacing from driveways across the street shall be one hundred (100) feet excluding when one (1) or both driveways are designed and signed for right-turn in/right-turn out only.

H. *Driveway Design, Channelized Driveways, Deceleration Lanes and Tapers, Bypass Lanes.* Driveways shall be designed to the standards of the applicable city, county, or state construction standards.



Driveway Offsets

1. *Driveway width and radii.*
 - a. The typical driveway design shall include one (1) ingress and one (1) egress lane, with a combined minimum throat width of twenty-five (25) feet and a maximum throat width of thirty-five (35) feet, measured from face to face of the curb, unless specified otherwise in this Ordinance.
 - b. Wherever the planning commission determines that traffic volumes or conditions may cause significant delays for traffic exiting left, two (2) exit lanes may be required.
 - c. In areas with pedestrian traffic, the exit and entrance lanes may be separated by a median with maximum width of ten (10) feet. Concrete sidewalks shall be continued and/or maintained across driveways.
 - d. Driveways shall be designed with a minimum twenty-five (25) foot radii, thirty (30) foot radii shall be required where daily truck traffic is expected.
2. *Directional driveways, divided driveways, and deceleration tapers.* Directional driveways, divided driveways, and deceleration tapers and/or by-pass lanes may be required by the planning commission where they will reduce congestion and accident potential for vehicles accessing the proposed use or site. Right-turn tapers shall be a minimum of seventy-five (75) feet in length and at least eleven (11) feet wide.

Sec. 21.50. - Private Road Standards.

- A. *Appropriateness.* The city discourages the use of private roads, but may allow private roads when meeting the standards of this section. The regulations for private roads contained herein shall not apply to approved private roads within platted subdivision regulated by the city's Subdivision Regulations or internal access drives to parking within approved site plans for multiple-family residential developments or manufactured housing parks.
- B. *Justification.* The use of private roads must be supported by documentation accepted by the planning commission that the property possesses unusual configuration and/or topography which would render construction of street under city standards for grades, radii, width, and/or materials impractical.
- C. *Easements.* An easement shall be provided of not less than forty-two (42) feet in width for roads and utilities serving four (4) or fewer lots or single-family residential units. A copy of the recorded easement shall be provided to the city clerk.
- D. *Frontage.* Any lot accessed via a private road shall have frontage on the private road which is at least equal to the minimum lot frontage required herein for the zoning district in which the lot is located. The frontage for the lot shall be measured at the point of the beginning of the lot line designated as the side lot line.
- E. *Development Standards.* Any lot created on a private road, along with accompanying buildings, shall comply with all site

development standards applicable to the zoning district in which it is located.

- F. *Maximum Length.* The maximum length of any private road cul-de-sac shall not exceed the city standard for public roads. The end of the road shall terminate in some form of a turn-around such as a cul-de-sac or a point of ingress and egress onto a public road.
- G. *Surface Material.* The surface and base material of any private road shall be approved by the building inspector as being sufficient to accommodate emergency vehicles and shall be a minimum of eighteen (18) feet wide with two-foot shoulders on both sides. The driving surface shall have a minimum of six (6) inches of bank run gravel or sand and six (6) inches of processed gravel over a compacted base. The surface shall be crowned six (6) inches. The road shall be ditched on both sides to prevent the accumulation of water upon the driving surface and shoulders.
- H. *Signage* A drive name sign of a type approved by the city shall be placed at the intersection of the private drive and the public street providing access to the drive. The bottom of the sign shall be placed a minimum of seven (7) feet above the adjacent street surface. Additionally, a "Private Drive" sign shall face the intersection along the private street, one (1) foot outside the public road right-of-way. The bottom of the sign face shall be placed a minimum of seven (7) feet above the adjacent street surface. The sign face size shall be twelve (12) to eighteen (18) inches in width and eighteen (18) to twenty-four (24) inches in height.
- I. *Responsibilities and Maintenance.* Issuance of a building permit for the placement of buildings/structures on lots and/or parcels on a private road shall not be considered a guarantee or warranty that adequate access exists to the lot for emergency vehicles. The city assumes no responsibility for the maintenance of or improvements to private roads.
- J. *Maintenance Agreements.* The applicant shall submit a joint maintenance agreement or master deed in recordable form that runs with the land, binds benefitting parcels, and allows the city to make any repairs or conduct any maintenance it deems necessary, and charge the property owners or homeowners association served by the private road for such service.
- K. *Disclosure.* The applicant shall provide a recorded statement running with the land informing purchasers that the access road is private.

ARTICLE XXII. - SIGNS

Footnotes:

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Editor's note— *Ord. No. 2005-14, adopted Oct. 24, 2005, amended Art. XXII in its entirety to read as herein set out. Former Art. XXII, §§ 22.05—22.70, pertained to similar subject matter, and derived from the original codification of the zoning ordinance.*

Sec. 22.05. - Purpose.

The purpose of this Article is to promote the health, safety and welfare of the residents of the City of Eaton Rapids through the regulation of the installation, construction, maintenance and design of signs and outdoor advertising in a manner which will minimize their harmful effects and to make sure that signs are compatible with their surroundings and aesthetically enhance the community in a way that preserves and enhances property values, encourages high standards in sign design through the use of well maintained, legible and attractive signs, while permitting latitude of creative and effective advertising and business identification. Further, the intent of this Article is:

- A. To prevent the number of public and private sign messages from exceeding a level reasonably necessary to identify businesses and their products, aid orientation, and promote education and local history.
- B. To prevent the placement of public and private signs in a manner that will conceal or obscure signs or adjacent buildings.

- C. To keep public and private signs within a reasonable scale with respect to their surroundings.
- D. To keep the areas adjacent to streets clear of public and private signs, which might obstruct the view or distract the attention of motorists.
- E. To ensure that the number, size, and location of public and private signs do not create a negative impact on the image or aesthetic environment of the city and to reduce visual clutter.
- F. To control the use of public and private signs and their motions, colors, and illumination which may negatively affect property values and may be injurious to the mental and physical well-being of the public.
- G. To identify proper maintenance of public and private signs to protect the aesthetic nature of the districts.
- H. To encourage public and private signs appropriate to the zoning districts in which they are located.

(Ord. No. 2005-14, 10-24-05)

Sec. 22.10. - Definitions.

Abandoned signs: A sign that is attached or related to an activity, business or usage of a premises that has discontinued for a period of one hundred eighty (180) days or longer.

Awning/canopy sign: A sign contained on an awning or canopy.

Banner: A temporary sign of lightweight fabric or similar material that is mounted to a pole, between poles, and or a building.

Billboard sign: A large, standardized third-party, off premise structure displaying advertising intended for viewing from extended distances.

Business or business development: One (1) or more uses within a building or buildings using common parking.

Changeable message sign, electronic: a sign that provides a static or changing display created by electronic means such as lights, television, liquid crystal display or light emitting diode.

Changeable message sign, manual: a reader board attached to a sign or the exterior of a wall where the copy is changed manually.

Center identification sign: a sign which provides identification to a commercial, office, professional or industrial center containing more than one (1) business establishment, whether or not under single management.

Decorations: Temporary displays used on a seasonal basis or to observe religious, state or federal holidays.

Directional sign: A sign designed to provide direction to pedestrian or vehicular traffic.

Essential public service sign: A sign denoting utility lines, railroad lines, public hazards and precautions.

Flag: A cloth, or cloth-like material, rectangular in shape bearing an official insignia.

For sale sign: A sign that temporarily advertises an item or service for sale.

Ground sign/pole sign: A permanent sign that is not attached to a building and sits on a support structure.

Highway/street sign: A sign installed in the public right of way with the authorization of the government for the purpose of identifying a street or providing directional type information.

Historic sign: A sign designating a site as recognized by the state historical commission or local designating body as a centennial farm or historic landmark, provided that the sign meets all the conditions and requirements for the zoning district in which they are located.

Inflatable balloon: A round or custom shaped bag filled with cold air or helium in order to hold its form.

Light string: A length of electrical cable manufactured with light bulbs directly attached at set intervals, used as decorations (see definition of decoration).

Mansard sign: A sign that is mounted on architectural features projecting from the wall of a building intended to resemble or imitate a mansard roof.

Memorial sign: A sign or tablet that is cut into the face of a masonry surface, or constructed of cast metal and located flat on the face of a building.

Monument sign: A free standing permanent sign that is not attached to any building. It is supported by uprights or braces or some object on the ground. A monument sign has no clearance between the bottom of the sign and the established grade.

Non-conforming sign: A sign that was legally erected and maintained but does not comply with subsequently enacted sign restrictions.

Off-premise sign: A sign which identifies a use or advertises a product or service not available on the premises on which the sign is located.

On-premise sign: A sign advertising a business, service or product sold or produced on the same premises on which the sign is located.

Painted wall sign: A sign painted directly on a building surface.

Political and point of view sign: A temporary sign used in conjunction with local, state or national election, referendum or expressing a point of view.

Pennants/streamers: Triangular flags or narrow strips of colored material attached to a rope or cord.

Portable sign: A sign that is not permanently attached to the ground or a building, designed to be transported with or on a trailer or in the bed of a truck.

Project sign: A sign that announces a new building project, either new construction or additions and can include the names of the companies and/or individuals involved in the construction.

Projecting sign: A building mounted sign with the faces of the sign projecting perpendicular to the building facade.

Real estate sign: An on-premise temporary sign advertising the property or structures availability for sale or lease.

Right of way (ROW): The land on which a public thoroughfare is located and certain lands adjacent to a public thoroughfare.

Roof sign: A sign mounted on, and supported by the roof of a building.

Sandwich board: A sign not secured or attached to the ground or surface upon which it is located, but supported by its own frame.

Set back: The distance a sign must be located from the established right-of-way and lot lines.

Sign: Any device visible from a public place which displays either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial symbols or representations.

Sign face: The area of a sign on which messages are placed.

Square footage: The size of a sign determined by common mathematical formula using the outside measurements of the sign cabinet or sign face edge. Supports, frames and/or decorative architectural features are counted toward the square footage of the sign.

Temporary sign: Any sign not intended for permanent installation. Including but not limited to: inflatable balloons, sandwich board signs, banners, decorations, for sale signs, light strings, political and point of view signs, pennants and streamers, portable signs, real estate signs, project signs, and wind blown devices.

Time and temperature sign: A sign which displays the current time and outdoor temperature only.

Vehicle business sign: A vehicle upon which a sign is painted or attached primarily for the purpose of advertising a service or product.

Wall sign: A sign fastened to the wall of a building with the exposed face of the sign in a plane approximately parallel to the plane of the wall to which it is attached: Wall signs shall not extend more than twelve (12) inches beyond the surface of the wall to which it is attached.

Windblown device: Any manmade device intentionally designed to visibly and physically move when blown in the wind, such as windmills, pinwheels or flamingos with spinning wings.

Window sign: Any sign that is applied, affixed or attached to the interior or exterior of any window pane or adjacent structures and visible from the exterior of the window.

(Ord. No. 2005-14, 10-24-05)

Sec. 22.15. - Permits required.

It shall be unlawful for any person to erect, re-erect, alter, repair, remodel, or relocate any sign, except as otherwise identified in this Article, unless a sign permit has first been obtained from the building inspector.

(Ord. No. 2005-14, 10-24-05)

Sec. 22.20. - Application procedure.

- A. *Permit application.* Applications for sign permits shall be made upon application forms provided by the city for this purpose.
- B. *Application action.* Within ten (10) business days of submission of a completed application for a sign permit, the building inspector shall either:
 1. Issue the sign permit if the application is properly completed and the subject sign conforms to the requirements of this Ordinance.
 2. Deny the sign permit if the sign(s) that is the subject of the application fails to conform with this Ordinance. The city shall supply the applicant in writing the basis for denial.
- C. *Fees.* The application for a sign permit shall be accompanied by the fees as established by the city council.

(Ord. No. 2005-14, 10-24-05)

Sec. 22.25. - General standards.

The following standards shall apply to all signs:

- A. Where the faces of a sign are separated to accommodate a light box, only one (1) face shall be used to determine the square footage of the sign. If the faces are farther apart than reasonably necessary to accommodate a light box, all faces shall be measured separately and the total of all faces shall determine the square footage of the sign.
- B. Ground/pole signs shall have a minimum clearance of eight (8) feet and a maximum height of twenty (20) feet as measured from the ground to the highest point of the proposed sign.
- C. Monument sign, shall be no more than six (6) feet tall and no closer than one-half (frax;1;2;) of the required front

yard setback and, if on a corner, it shall also comply with all clear vision setback requirements.

- D. Measurement. The square footage of a sign is based on the edge-to-edge outer measurement and includes the frame and display area of the sign. The frame shall be included in all measurements.
- E. Lighting shall be installed so as to not interfere with utility lines, traffic circulation, fire lanes, or the visibility of drivers and shall comply with lumen standards set forth in the building code.
- F. Maintenance of signs. All signs shall be securely affixed to the premises where located and shall be maintained in good repair.
- G. Legible. All signs shall be designed to be read and understood by a reasonable person traveling at the posted speed.
- H. Setbacks in residential zoning districts. All signs located in the residential zoning districts shall be no closer than one-half (½) of the required front yard setback and no closer than fifteen (15) feet to any side property line, unless otherwise provided for in this Ordinance.
- I. Zoning and setback requirements. Signs shall comply with the provisions found in other articles of the Zoning Ordinance, including setback, general standards, design standards, and the provisions of the individual zoning districts.
- J. Projecting signs. All projecting signs shall be securely attached to the building and shall not protrude over any public right away by more than five (5) feet, as measured from the building front and vertical clearance shall be a minimum of eight (8) feet as measured from the ground.
- K. Construction standards.
 - 1. All signs, as permitted in the various zoning districts shall be designed to be compatible with the character and range of building materials and landscaping for the zoning district in which they are located so as to promote an overall unified effect.
 - 2. Signs shall not be constructed from materials that are remnants or manufactured for a different purpose,
 - 3. Signs shall not be constructed of materials that are reflective of light,
 - 4. All signs shall be constructed in accordance with the requirements of the applicable building and electrical codes, as amended.
- L. Dangerous signs. If a sign presents a hazard to public safety, life or property, the sign owner shall take immediate action to have it removed. In the event the sign owner cannot be reached, the building official or other responsible city official may cause the removal of any dangerous sign without further notice.
- M. Enforcement. The provisions of this chapter shall be enforced in the manner provided elsewhere in this Ordinance.
- N. Appeals. The zoning board of appeals shall have the power to hear and decide appeals resulting from the denial of an application or where it is alleged by the appellant that there is an error in any order, requirement, decision or determination made by the building official.

(Ord. No. 2005-14, 10-24-05)

Sec. 22.30. - Exempt signs.

The following signs shall be exempt from sign permit requirements.

- A. Normal maintenance and repair of a permitted or authorized sign.
- B. Change of lettering or display panels which does not substantially alter the character or nature of the sign.
- C. Real estate signs on any premises, provided such signs do not exceed six (6) square feet in area.
- D. Highway or street signs erected by any governmental agency authorized to erect such signs.
- E. Signs erected by or at the direction of governmental agencies designating hours or conditions for use of public parks,

- parking lots, recreational areas governmental buildings, or other public areas.
- F. Directional signs erected in conjunction with private off-street parking areas and drives, provided each sign does not exceed four (4) square feet in area and is limited to traffic control functions.
 - G. Historic signs provided that the signs meet all the conditions and requirements for the zoning district in which they are located.
 - H. Signs posted to control or prohibit hunting or trespassing within the boundaries of the land on which they are located, provided such signs do not exceed four (4) square feet in area.
 - I. Essential public service signs denoting utility lines, railroad lines, hazards, precautions and other signs that are deemed necessary to protect the public.
 - J. Memorial signs or tablets which are either cut into the face of a masonry surface, or constructed of bronze or other similar material, when located flat on the face of a building. Such signs are limited to four (4) square feet.
 - K. Project signs announcing site improvements. One (1) sign per construction project denoting architects, engineers, contractors, owners, or financial institutions connected with the work under construction provided that it does not exceed thirty-two (32) square feet in area, for the duration of the project and must meet all other conditions and requirements for the zoning district in which it is located.
 - L. Open for business sign. Each business may have one (1) illuminated sign displayed from an interior window announcing they are open for business. Such sign shall be limited to six (6) square feet in size and shall contain no other message or advertising.
 - M. Light strings. When not flashing or blinking when used as temporary decorations in connection with a holiday. Such decorations shall be removed within fifteen (15) days following the holiday with they are connected.
 - N. Reserved.
 - O. Flags. Limited to a total of three (3) in residential districts, and six (6) in all other districts.
 - P. Political and point of view signs. Provided that such signs are not placed within the street right-of-way. In residential districts they shall be limited to a maximum of six (6) square feet and in non-residential districts they shall be limited to a maximum of thirty-two (32) square feet. Political signs supporting a candidate for public office may be posted no more than sixty (60) days prior to the election, and must be removed within seven (7) days following the election for the office in question. Point of view signs shall be removed after ninety (90) days.
 - Q. Signs which are used to publicize church events, school events, civic events, public gatherings, picnics, and similar events, provided that such signs are erected for a period not to exceed ten (10) days and do not exceed twenty (20) square feet in area are permitted off-premise.
 - R. Accessory professional or nameplate signs, provided they are less than one and one-half (1½) square feet in area.
 - S. Garage/yard sales and open house signs provided they are no greater than four (4) square feet in size, are erected no earlier than the day prior to the event and are removed the day following the event are permitted off-premise.
 - T. Public art. Including banners, posters, paintings, murals, sculpture, or other categories of art intended for temporary or permanent public display when commissioned by or under the direction and control of the city.
 - U. In observance of the death of a member of the Eaton Rapids Community while on active duty for a branch of the armed services, the placement of decorative yellow ribbons within the street right-of-way, including the attachment to trees or utility poles shall be allowed, provided that a plan has been submitted detailing the location(s) of the observance and an individual or group has accepted responsibility for putting up and taking down the ribbons. An observance shall not remain up for more than ten (10) days and shall be supervised by the city and have the prior written approval of the mayor.

Sec. 22.35. - Prohibited signs.

- A. Any sign that does not conform to this Ordinance.
- B. Roof-mounted signs.
- C. Wind blown devices and signs with physically moving components.
- D. Any sign that interferes with, blocks the view of, or may be confused with any authorized traffic control sign or signal.
- E. Any sign attached to a utility pole, traffic control devise, another sign or any other similar object located in the public right of way or private property unless required for traffic control, public safety.
- F. Any lighting that interferes with the visibility of drivers is prohibited (Example: Directional spot lights used to illuminate sign faces, that become misdirected and point toward the road).
- G. Billboards.
- H. Any off-premise sign, except as provided for in section 22.30.
- I. Abandoned or obsolete signs. At the end of the one hundred eighty-day period of abandonment, sign and any supporting structure must be removed. Where the face is part of a larger center identification sign, the face shall be replaced with a blank face.
- J. Oscillating, flashing or blinking, including any sign that utilizes animation, chasing, flashing, scintillation, scrolling or running messages, fade, or any other effect which depicts movement.
- K. Illumination between the hours of 11:00 p.m. and 6:00 a.m. unless the business is open is restricted to the display of time, date or temperature.
- L. Portable signs, in residential districts and the Central Business District.

(Ord. No. 2005-14, 10-24-05)

Sec. 22.40. - Changeable message signs.

Changeable message signs and time/temperature signs are permitted in: The Central Business, Mixed Use, General Business, and Local Business Zoning Districts. Both manual and electronic message signs shall conform to the following:

- A. Can be no larger than thirty-two (32) square feet in size in the Business and Mixed Use Districts and must conform to the size and placement requirements of section 22.45 for government, school or church signs in residential districts.
- B. Each copy display whether or not in a sequential message, shall be totally extinguished a minimum of one (1) second before a new copy display appears, and each copy display shall remain lit a minimum of ten (10) seconds.

(Ord. No. 2005-14, 10-24-05)

Sec. 22.45. - Signs in residential zoning districts.

In the TRD, RD1, RD2, MFRD, and MHPD zoning districts only the following signs shall be permitted under the conditions set forth in this Ordinance:

- A. *Identification signs.*
 - 1. Multiple-family housing developments, planned unit developments, and condominium developments may have a sign identifying the name and address of the development, provided that it does not exceed twelve (12) square feet in area and six (6) feet in height.
 - 2. Residential subdivisions and manufactured housing parks may have one (1) sign located at each entrance road serving the subdivision identifying the name of the subdivision, provided that it does not exceed twenty (20) square feet in area and six (6) feet in height, and shall be no closer than one-half (½) of the required front yard

setback requirement nor closer than fifteen (15) feet from any side property.

- B. *Government, school and church signs.* May have one (1) sign, provided that it does not exceed twenty-five (25) square feet and is not greater than six (6) feet in height.
- C. *Home occupations and home based businesses.*
1. Home occupations. Signs for home occupations shall be no greater than one (1) square foot in sign area, shall only be placed on the wall of the residence used for such purposes, shall be non-illuminated, and shall be of a design and construction consistent with the same for the residence.
 2. Home based businesses. Signs for the home based businesses shall be no greater than three (3) square feet in sign area, shall only be placed on the wall of the residence used for such purposes, shall be non-illuminated, and shall be of a design and construction consistent with the same for the residence.

(Ord. No. 2005-14, 10-24-05)

Sec. 22.50. - Signs in the Central Business District.

In the Central Business district only the following signs shall be permitted under the conditions set forth in this Ordinance:

A. *On-premise signs.*

1. Each business or business development may have up to two (2) signs at its primary pedestrian entrance. One (1) additional sign may be erected for each additional pedestrian entrance with a maximum of four (4) signs. The following signs are allowed:
 - i. Ground sign/pole sign not to exceed fifty (50) square feet in area.
 - ii. Wall sign not to exceed twenty (20) square feet. One (1) additional square foot shall be allowed for each additional linear foot of building frontage exceeding fifty (50) feet, but in no event may the sign exceed ten per cent (10%) of the surface of one (1) wall.
 - iii. Projecting sign which may extend up to five (5) feet from the front of the building, may not exceed forty-five (45) square feet and must maintain a vertical clearance of eight (8) feet. The sign shall be located on the building as near as architecturally possible to the center of the business's linear street frontage. The building inspector shall have the authority to exercise discretion in the placement of signs in consideration of existing adjacent signs and to account for unique architectural features. In the event a business development houses more than one (1) business, an additional three (3) square feet of signage will be allowed for each additional business on the same sign.
 - iv. Mansard, awning/canopy sign, the sign area of which shall not exceed twenty-five per cent (25%) of the total surface area or fifty per cent (50%) of the surface area of the leading edge.
2. Retractable or roll-type canvas awnings with signage in conformance with the provisions of Article XIX, section 19.20 of the Zoning Ordinance may not have more than fifty per cent (50%) of their leading edge eligible for the placement of signage.
3. A business or business development may have up to two (2) signs facing a street or parking area.
4. A business or business development may not have more than one (1) of each type of each type of sign facing a street or parking area.
5. A business or business development may not have more than one (1) ground sign/pole sign.
6. For a business or business development, an additional area of interior window signs shall be permitted. No one (1) window sign shall exceed twenty (20) square feet in area, and the total of all window signs shall not exceed twenty-five per cent (25%) of the surface area of any given window.

B. *Temporary on-premises advertising signs.*

1. One (1) sandwich board sign shall be permitted per business development and shall be in new condition and good r may not exceed fifteen (15) square feet with a maximum height of five (5) feet, a maximum width of three (3) feet. A board may only be displayed during business hours, shall be legible, shall not block the sidewalk or interfere with tr shall be located adjacent to the building and be fixed with no moving parts.
2. One (1) banner per business development which shall not exceed thirty-two (32) square feet in area. Banners shall be limited to thirty (30) consecutive days, a maximum of three (3) times per year. There shall be at least thirty (30) days between uses.

(Ord. No. 2005-14, 10-24-05)

Sec. 22.55. - Signs in the Mixed Use District, General Business District, Local Business District.

In the Mixed Use District, General Business District and Local Business District only the following signs shall be permitted under the conditions set forth in this Ordinance:

A. *On-premises advertising signs.* Each business or business shall be permitted to erect the following signs:

1. A ground sign/pole sign not to exceed fifty (50) square feet in area. One (1) additional square foot is allowed for each additional linear foot of street frontage over one hundred (100) feet with a maximum sign area of seventy-five (75) square feet.
2. Wall sign not to exceed twenty (20) square feet. One (1) additional square foot shall be allowed for each additional linear foot of frontage exceeding fifty (50) feet, but in no event may the sign exceed ten per cent (10%) of the surface of one (1) wall.
3. Projecting sign which may extend up to five (5) feet from the front of the building, may not exceed forty-five (45) square feet and must maintain a vertical clearance of ten (10) feet. In the event a business development houses more than one (1) business, an additional three (3) square feet of signage will be allowed for each additional business on the same sign.
4. Mansard, awning/canopy sign, the sign area of which shall not exceed twenty-five per cent (25%) of the total surface area or fifty per cent (50%) of the leading edge.
5. For each business or business development, an additional area of interior window signs shall be permitted. No one window sign shall exceed twenty (20) square feet in area, and the total of all window signs shall not exceed twenty-five per cent (25%) of the surface area of any given window.

B. *Temporary and other on-premises advertising signs.*

1. The following signs are allowed for temporary use. Temporary use shall be limited to thirty (30) consecutive days, three (3) times per year with a minimum of thirty (30) consecutive days between uses. The use of one type of temporary sign shall preclude the use of any other at the same time and the use of any shall be counted toward the annual allotment.
 - i. Pennants and streamers. These shall not exceed twice the length of the street frontage of the property on which they are being used.
 - ii. Banners. Banners shall not exceed thirty-two (32) square feet in area. One (1) banner is allowed per street upon which the business has frontage.
 - iii. Inflatable balloons. One (1) inflatable balloon not to exceed forty (40) feet in height, set back from any property line one (1) foot for every one (1) foot of height. Only cold air or helium inflated, roof mounted or ground mounted, balloons can be used. The balloon may be illuminated so long as the light source is shielded to prevent direct light on adjoining properties and roadways and does not flash. Further, no balloon is allowed to interfere with utility lines, traffic circulation, fire lanes or the visibility of drivers.

2. Other signs.

- i. One (1) sandwich board sign shall be permitted per business development and shall be in new condition and good repair. The sign may not exceed fifteen (15) square feet with a maximum height of five (5) feet and a maximum width of three (3) feet. A sandwich board may only be displayed during business hours, shall be legible when read by a driver traveling at the posted speed limit, shall not block the sidewalk or interfere with the right of way, shall be located adjacent to the building and be fixed with no moving parts.
- ii. One (1) portable sign which shall not exceed thirty-two (32) square feet in area and used no more than fourteen (14) consecutive days per year or thirty (30) consecutive days in the event of a grand opening. Alternatively, a portable sign may be used for specific short term events. If the sign is used for a specific event, the sign may be used the day prior to the event and during the event and must be removed from the business within three (3) days. Any time the sign is on the property shall be counted toward the fourteen (14) days allowed annually.

(Ord. No. 2005-14, 10-24-05)

Sec. 22.60. - Signs in the limited and general industrial district.

For parcels in the LID and the GID Zoning Districts and also within any industrial park within the city and where the local development finance authority serves as the developer, only the following signs shall be permitted under the conditions set forth below:

- A. Permanent signs. Identifying the occupied premises including wall signs, monument signs, painted wall signs and numerical street address signs are permitted, provided they are consistent in design and quality established as standard by the developer for the entire development and prior written approval of the developer has been obtained.
- B. Temporary signs including:
 1. Real estate signs: A total of one (1) sign advertising the premises for sale or lease not to exceed twenty-four (24) square feet in size and provided it is not lighted and contains no moving parts.
 2. Project sign: A total of one (1) construction project identification sign not to exceed thirty-two (32) square feet in size and provided it is not lighted and contains no moving parts.
- C. Center identification sign: Each industrial park development is permitted one (1) ground, pole or monument sign for each public street on which the development has frontage. The permitted sign area for shall not exceed one hundred (100) square feet in area or a maximum height of twenty (20) feet.
- D. Signs erected by or at the direction of the developer or any governmental agency authorized to erect such signs including: highway or street signs, directional signs associated with off-street parking or traffic control functions, signs posted to control or prohibit hunting or trespassing, and essential public service signs.

(Ord. No. 2005-14, 10-24-05)

Sec. 22.65. - Nonconforming signs.

Notwithstanding the provisions of Article XXIV, pertaining to nonconforming uses, buildings, or structures, all nonconforming signs may continue after the effective date of adoption or amendment of this Ordinance. A nonconforming sign which is damaged by any means whatsoever to an extent of more than fifty per cent (50%) of its replacement cost shall not be reconstructed except in conformity with the provisions of this Article.

Any sign which is damaged to an extent of fifty per cent (50%) or less of its replacement cost may be restored in its location existing prior to such damage, provided such construction is commenced within ninety (90) days of the date of damage and is diligently pursued to completion. Failure to complete reconstruction within one hundred eighty (180) of the date of damage shall result in the loss of legal nonconforming status.

Any legal nonconforming sign shall comply with this Ordinance to the extent feasible without physical alteration of its legal nonconforming status. Such compliance shall include, without limitation, compliance with allowable lighting methods (e.g. no oscillating, flashing, blinking or intermittent illumination), lumen standards set forth in this Ordinance and the building code (e.g. the business shall be required to ensure lumens on adjacent properties do not exceed allowable limits) and illumination during hours of operation only.

(Ord. No. 2005-14, 10-24-05)

ARTICLE XXIII. - CONDITIONAL USE REQUIREMENTS

Sec. 23.10. - Purpose.

The formulation and enactment of this Ordinance is based upon the division of the city into specific districts, in each of which certain specified, mutually compatible uses are permitted by right. In addition to such uses, however, there are certain other uses which may be essential or desirable for the welfare of the community and its citizenry, or substantial parts of it. Such uses may be entirely appropriate and not essentially incompatible with the uses permitted by right in a zoning district, though not at every or even at any location therein, or without restrictions or conditions being imposed by reason of special problems presented by the use or its particular location in relation to neighboring properties.

This Ordinance therefore requires approval of conditional uses of each use listed in the individual zoning districts as "conditional uses", and specifies in this section the procedures and standards that are to be followed.

Sec. 23.20. - Application and Review Procedure.

The following application and review procedure shall be utilized for the issuance of a conditional use permit:

- A. *Initiation of request for conditional use.* Any person having a freehold interest in land, or a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest, and which is specifically enforceable, may file an application to use such land for one or more of the conditional uses provided for in this Ordinance in the zoning district in which the land is located.
- B. *Application for conditional use.* An application for a conditional use shall be filed with the building inspector on an application form prescribed by the city. The application shall be accompanied by such plans and/or data prescribed by the building inspector and shall include as a minimum the requirements of Article XVI, Development Plan. Additionally, evidence shall be provided demonstrating that the proposed conditional use conforms to the standards set forth in this Article. All required fees, including the costs associated with notices for the public hearing, as prescribed by the city council shall accompany the application.
- C. *Action on the application.* Upon receipt of an application that complies with all submittal requirements and payment of all applicable fees, the city shall have published in a newspaper of general circulation in the city, one (1) notice that a request for a conditional use approval has been received. Additionally, the city shall send by mail or by personal delivery said notice to all owners of property for which approval is being considered, to property owners and occupants of each dwelling unit within three hundred (300) feet of the boundary of the property in question. For

structures containing more than four (4) dwelling units owned or leased by different individuals, partnerships, businesses, or organizations, 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.

The notice shall be given not less than five (5) and not more than fifteen (15) days before the application will be considered. If the name of the occupant is not known, the term "occupant" may be used in making notification.

The notice shall:

1. Describe the nature of the conditional use request.
 2. Indicate the property, which is subject of the conditional use request.
 3. State when and where the conditional use request will be considered.
 4. Indicate when and where written comments will be received concerning the request.
 5. Indicate that a public hearing on the conditional use request may be requested by a property owner or the occupant of a structure located within three hundred (300) feet of the boundary of the property being considered for a conditional use.
- D. *Public hearing.* At the initiative of the planning commission, or upon the request of the applicant for conditional use authorization, or a property owner or the occupant of a structure located within three hundred (300) feet of the boundary of the property being considered for the conditional use approval, a public hearing with notification as required for a notice of request for conditional use approval, shall be held before a decision on the conditional use request is made. If the applicant or the planning commission requests a public hearing, only notification of the public hearing need be made. A decision on a conditional use request, which is based on discretionary grounds shall not be made unless notification of the request for conditional use approval, or notification of a public hearing on a conditional use request is given as required by this Article.
- E. *Authorization.* For each application for a conditional use, the building inspector and/or consultant retained by the city, shall review said application and make a recommendation to the planning commission. The planning commission may deny, approve, or approve with conditions any application for a conditional use.
- F. *Basis for decision.* The planning commission shall incorporate their decision into a statement of conclusions relative to the conditional use under consideration. The decision shall specify the basis for the decision and any conditions imposed.

Sec. 23.30. - Standards and Requirements Per Conditional Use.

For the purpose of this Ordinance, these uses shall be known as conditional uses as set forth in the individual districts and shall be allowed within that particular district subject to the development requirements for the district, provided the city council finds the conditional use affirmatively meets the following criteria deemed applicable in each case, and any specific standards of approval for that use:

- A. The conditional use will promote the use of land in a socially and economically desirable manner for persons who will use the proposed land use or activity, for landowners and residents who are adjacent thereto, and for the city as a whole;
- B. The conditional use is compatible and in accordance with the goals, objectives, and policies of the city's adopted land use plan and/or master plan;
- C. The conditional use is necessary for the public convenience at that location;
- D. The conditional use is compatible with adjacent uses of land and can be constructed, operated, and maintained so as to continue to be compatible with the existing or intended character of the general vicinity and so as not to change the essential character of the area in which it is proposed;

- E. The conditional use shall be of such location, size, and character that it will be harmony with the appropriate and order development of the district in which it is situated and will not be detrimental to the orderly development of adjacent dis
- F. The conditional use is so designed, located, and proposed to be operated that the public health, safety, and welfare will be protected;
- G. The conditional use can be adequately served by public services and facilities without diminishing or adversely affecting public services and facilities to existing land uses in the area;
- H. The conditional use will not cause injury to the value of other property in the neighborhood in which it is to be located;
- I. The location, use, and assembly of persons in connection with the proposed conditional use will not be hazardous to the district in which the use is located, hazardous to a specific use or life and property within the district, or be incongruous therewith or in conflict with the normal traffic of the district;
- J. The conditional use will protect the natural environment, help conserve natural resources and energy, and will not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to the natural environment, public health, safety, or welfare by reason of excessive production of traffic, noise, smoke, odors, or other nuisance;
- K. The vehicular circulation for the proposed conditional use will be in the best interest of the public health, safety, and welfare in relationship to egress/ingress to the site, vehicular turning movements related to street intersections and street gradient, sight distance, and potential hazards to the normal flow of traffic; and
- L. The conditional use is within the provisions of uses requiring conditional use approval as set forth in the various zoning districts herein, is in harmony with the purposes and conforms to the applicable regulations of the zoning district in which it is to be located, and the proposed site layout is in compliance with the general standards of Article XVI, regarding site development and shall insure that:
 1. The use and associated activities on the property are so located as not to hinder the projected development of the adjacent properties or to impair the existing uses of adjacent lands. This shall include all uses associated with the particular use such as parking, lighting, display signs, etc.
 2. Sufficient landscaping, fencing, walls, and other means of buffering are provided to insure that operation of the use will not be objectionable to nearby uses or dwellings by reason of noise, fumes, or flash of lights nor interfere with an adequate supply of light and air, nor increase the danger of fire or otherwise create the potential of endangering the public safety.

No conditional use approval shall be granted by the city council unless it finds the conditional use affirmatively meets the criteria listed herein which are deemed applicable in each case.

In addition to the previous standards, the following shall be adhered to:

Adult Foster Care Group Homes

1. The site shall be evaluated for the degree of potential residential and commercial use conflicts.
2. No foster care group homes shall be located closer than one thousand five hundred (1,500) feet to any other foster care group home or foster care family home, measured from the nearest wall of each structure.
3. No additional facility shall be approved which would contribute to an excessive concentration of foster care group homes within a neighborhood.

Agricultural Processing Plants, Breweries, Distilleries, Canning Facilities, and Chemical Plants

1. The site must be evaluated for consideration of potential odor and pollution nuisances.
2. The site must abut an arterial as defined in the Eaton Rapids Comprehensive Plan, with all ingress and egress directly

to such a street.

Automobile and Other Vehicle Wash Establishments

1. A minimum front yard setback of twenty (20) feet shall be required for all structures.
2. Required off-street parking and vehicle waiting areas shall be provided in accordance with Article XXI.

Automotive Fueling Stations, Service Stations, Repair Centers, and Public Garages

1. All standards and requirements identified in Article XVIII shall be adhered to.

Boarding Houses, Rooming Houses, and Lodging Houses, and Bed and Breakfast Inns

1. All standards and requirements identified in Article XVIII shall be adhered to.

Cemeteries

1. Sites shall have a minimum lot area of five (5) acres.
2. All structures shall be a minimum of fifty (50) feet from any lot line.
3. The site must abut an arterial or collector as defined in the Eaton Rapids Comprehensive Plan, with all ingress and egress directly to such a street.

Churches, Temples, and Places of Worship

1. Site shall have a minimum lot area of one (1) acre.
2. The minimum lot width shall be one hundred (100) feet and the minimum side and rear yards shall be twenty-five (25) feet.
3. The site must abut an arterial or collector as defined in the Eaton Rapids Comprehensive Plan, with all ingress and egress directly to such a street.

Commercial Greenhouses, Plant Nurseries, and Garden Centers Exceeding 1,000 Square Feet

1. Site shall have a minimum of one acre.
2. All structures must be a minimum of forty (40) feet from all lot lines.
3. The storage of materials and display areas shall meet all the yard setback requirements applicable to any building in the zoning district.
4. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties.

Commercial Outdoor Recreation Establishments (Excluding Golf Related Uses)

1. Sites must abut an arterial as defined in the Eaton Rapids Comprehensive Plan, with all ingress and egress directly to such a street.
2. No building or spectator seating facility shall be located within fifty (50) feet of a property line.

Convalescent or Nursing Homes, Housing for the Elderly

1. The site shall be evaluated for the degree of potential residential and commercial use conflicts.
2. The allowable density of the underlying zoning district may be increased by no more than fifty (50) per cent for all nursing care units licensed by the State of Michigan, or twenty-five (25) per cent for nonlicensed nursing care and supportive care units.
3. All dwelling units shall have a minimum of four hundred fifty (450) square feet per unit.
4. Retail and service uses may be permitted on the site, if such uses are accessory to the elderly housing use. All such uses shall be within the principal residential building. No exterior signs of any type are permitted for these accessory

uses.

5. All medical waste facilities shall be secured and meet the requirements of the Public Health Department of the State of Michigan.
6. Paved walkways shall be provided from the main building entrance(s) to any sidewalks along the adjacent public street.

Drive-In or Drive-Through Establishments

1. All standards and requirements identified in Article XVIII shall be adhered to.

Essential Public Service Buildings and Structures, Public Utility Buildings, Telephone Exchange Buildings, Electric Transformer Stations and Substations, Gas Regulator Stations

1. No storage yards are permitted in residential zoning districts.
2. Applications must provide evidence of necessity for the proposed location.
3. Electric or gas regulator equipment and apparatus shall be set back a minimum of thirty (30) feet from all lot lines.

Funeral Homes and Mortuaries

1. Sites shall have a minimum lot area of one (1) acre and minimum lot width of one hundred (100) feet.
2. An off-street vehicle assembly area shall be provided in support of funeral processions and activities. This area shall be in addition to the required off-street parking and its related maneuvering area.

Golf Courses

1. Minimum lot size shall be forty (40) acres.
2. The principal and accessory buildings, including maintenance sheds, shall be set back at least fifty (50) feet from all property and street lines.
3. Operational hours for maintenance vehicles, course maintenance and/or irrigation may be restricted to protect nearby residential areas.

Group Day Care Homes

1. Sites shall have a minimum lot area of twenty thousand (20,000) square feet.
2. An on-site drive shall be provided for drop-offs and loading. This drive shall be provided in accordance with the standards identified in Article XXI.
3. There shall be a fenced, contiguous open space with a minimum area of five thousand (5,000) square feet provided on the same premises as the group day care home. The required open space shall not be located within a required front yard.

Home Occupations

1. The exterior appearance of the structure shall not be altered or the occupations conducted within the residence in such a manner as would cause the premises to differ from its residential character either by the use of colors, materials, lighting, noise, or vibrations. No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.
2. No person other than members of the immediate family occupying such dwelling shall be employed on the premises.
3. No more than twenty-five (25) per cent of the actual floor area of said residences shall be used for such purposes. The use of accessory buildings for such purposes is prohibited.

4. There shall be no outside storage of any kind, related to the home occupation.
5. The use may not increase vehicular traffic flow and parking beyond that associated with the residential use.
6. Mechanical or electrical equipment employed by the home based business shall be comparable to the machinery or equipment customarily found in the home associated with a hobby or avocations.
7. Only one (1) nonilluminated nameplate which may display the name of the home based business, shall be allowed in accordance with Article XXII of this Ordinance.

Home Based Businesses

1. The exterior appearance of the structure shall not be altered or the occupations conducted within the residence in such a manner as would cause the premises to differ from its residential character either by the use of colors, materials, lighting, noise, or vibrations. No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.
2. No more than one (1) person other than members of the immediate family occupying such dwelling shall be employed on the premises.
3. No more than twenty-five (25) per cent of the gross area of one (1) floor of said residence or fifty (50) per cent of an on-site accessory building shall be used for such purposes.
4. There shall be no outside storage of any kind, related to the home based business.
5. The use may not increase vehicular traffic flow and parking by more than one (1) additional vehicle at a time, unless off-street parking, as per Article XXI of this Ordinance, is provided.
6. Mechanical or electrical equipment employed by the home based business shall be comparable to the machinery or equipment customarily found in the home associated with a hobby or avocations.
7. Only one (1) nonilluminated nameplate which may display the name of the home based business, shall be allowed in accordance with Article XXII of this Ordinance.

Hospitals

1. Sites shall have a minimum lot area of two (2) acres.
2. Front, side, and rear yard minimum setbacks shall be fifty (50) feet.
3. Parking setbacks shall be forty (40) feet in the front yard and twenty (20) feet for side and rear yards.
4. All structures shall be a minimum of one hundred (100) feet from any lot lines of adjacent residential zoning districts.
5. Ambulance and delivery areas shall be obscured from all adjoining residential properties in accordance with the standards identified in Article XX.
6. Sites must abut an arterial as defined in the Eaton Rapids Comprehensive Plan, with all ingress and egress directly to such a street.
7. Accessory uses, such as a pharmacy, gift shop, cafeteria, and similar customary hospital uses shall be allowed, provided they are located within the principal building.

Junkyards, Scrap Yards, Salvage Yards, and Resource Recovery Centers

1. Sites shall have a minimum lot area of five (5) acres.
2. A fifty (50) foot wide greenbelt as defined in Article XX shall adjoin all property lines.
3. A decorative masonry wall six (6) feet in height shall be required at the interior boundaries of the greenbelt.
4. Junk and scrap materials shall not be stacked higher than the height of the screening wall.

5. Vehicle parts shall not be stored, loaded, unloaded, or dismantled outside the wall enclosing the salvage yard.
6. No vehicle, vehicle bodies, or other materials shall be stored in a manner as to be visible from any residences, business, or street from a height at the top of the wall enclosing the yard.
7. All batteries shall be removed from any vehicle and all radiator and fuel tanks shall be drained prior to the vehicle being placed in the storage yard. Salvaged batteries, oil, and other such substances shall be removed by a licensed disposal company or be stored in a manner which prevents leakage of battery fluid.
8. The front screening wall shall be set back the same distance as a building in the General Industrial Zoning District (GID), and all such walls shall be setback a minimum of five hundred (500) feet from any residential use or district.
9. The crushing of vehicles or any part thereof shall be limited to daylight hours, provided that such activities shall not be conducted on Sundays or federal holidays.

Kennels, Commercial

1. Site shall have a minimum lot area of two (2) acres.
2. All outdoor runs or breeding areas are to be enclosed on all sides by either a decorative masonry wall, six (6) feet in height, a greenbelt, a berm, or a buffer strip, constructed per standards identified in Article XX.
3. Buildings wherein dogs are kept, dog runs, and/or exercise areas shall not be located nearer than one hundred (100) feet to an adjacent dwelling or any adjacent building used by the public and shall not be located in any required front, rear, or side yard setback.

Mechanical Amusement Device Arcades, Pinball Parlors, or Pool Halls

1. Sites are not permitted within three hundred (300) feet of any church or school.

Mining, Excavating, or Other Removal of Sand, Earth, Minerals, Etc.

1. All structures and machinery shall be a minimum of one hundred (100) feet from all property lines and two hundred (200) feet from any residential districts.
2. The applicant shall submit a written statement describing:
 - a. An indication of the proposed use of the property following the extraction.
 - b. An approved reclamation plan.
 - c. Documentation that demonstrates to the satisfaction of the city that activities will not produce any serious consequences which will adversely affect the natural topography, drainage patterns, water bodies, floodplains, street conditions, nearby property values, or the use of adjacent land.
3. Creation of a lake or pond shall only be permitted where the applicant can demonstrate using engineering and hydrological studies that the water can be maintained in a nonpolluted condition and that the applicant meets any requirements of the State of Michigan.
4. Truck routing shall be restricted to those streets designated to accommodate truck traffic on a year-round basis.
5. A reclamation plan shall be provided indicating final grades which are level with surrounding grades and not in excess of five (5) per cent unless demonstrably necessary for the proposed reclamation land use. No topsoil shall be removed from the site, rather topsoil shall be redistributed properly upon completion of the extractive activities or the phases thereof.
6. The site shall be enclosed with a six (6) foot security fence with a locking access gate. Such fences shall be placed no closer than fifty (50) feet to the top or bottom of any slope.
7. No slope shall exceed an angle with the horizontal of forty-five (45) degrees.
8. No building or structure shall be erected on the site, except as may be permitted in that zoning district or if approved as a temporary structure for machinery or field office.

Nursery Schools, Day Nurseries, and Child Care Centers

1. An outdoor play area shall be required of one hundred (100) square feet per child cared for, with a total minimum area of one thousand five hundred (1,500) square feet.
2. An on-site drive shall be provided for drop-off and loading.

Off-Site Parking Lots and Structures

1. All such uses shall be enclosed by a decorative masonry wall, a berm, or a buffer strip, constructed in accordance with the standards identified in Article XX.
2. No parking structure shall exceed the height limitations established for the zoning district that the conditional use is located in.
3. Lighting for such uses shall conform with the performance measures identified in Article XVIII.
4. Accessory structures such as toll booths, self-pay stations, etc. may be constructed, provided they are located entirely within the parking lot or structure and otherwise conform with the provisions of this Ordinance.

Open-Air Businesses

1. Sites shall have a minimum lot area of ten thousand (10,000) square feet and a minimum lot width of one hundred (100) feet.
2. A fence or wall shall be constructed along the rear and sides of the lot, capable of keeping trash, paper, another debris from blowing off the premises, except as provided otherwise in this Ordinance.
3. All display or storage areas shall be provided with a permanent, durable, and dustless surface and shall be graded and drained so as to properly dispose of stormwater.

Open Storage Yards of Building and Construction Contractors, Landscaping Contractors, and Lumber Yards

1. All display or storage areas shall comply with the minimum setback requirements for the zoning district in which the use is located, and no storage or outside display shall be permitted within any front yard.
2. Any outside display or storage yard shall be provided with a permanent, durable, and dustless surface and shall be graded and drained so as to properly dispose of stormwater.
3. The storage of soil, fertilizer, and similar loosely packaged material shall be contained and covered to prevent it from blowing into adjacent properties.
4. All stored materials including loosely packaged materials shall not be piled or stacked higher than the height of the required screening or landscaping.

Outdoor Theaters

1. All sites shall have a minimum lot area of five (5) acres and all structures shall be a minimum of one hundred (100) feet from all lot lines.
2. Screens may not face a principal or regional thoroughfare.
3. Sites must abut an arterial as defined in the Eaton Rapids Comprehensive Plan, with all ingress and egress directly to such a street.
4. No viewing areas shall be located closer than forty (40) feet to any lot line.

Party Stores

1. No such use shall be located within five hundred (500) feet of any school or church.

Private Parks, Country Clubs, and Golf Driving Ranges

1. Sites shall have a minimum of five (5) acres.

2. All structures shall be a minimum of fifty (50) feet from adjacent residential zoning districts
3. Sites must abut an arterial or collector as defined in the Eaton Rapids Comprehensive Plan, with all ingress and egress directly to such a street.
4. Where such a use abuts a residential zoning district, a decorative masonry wall, a greenbelt, a berm, or a buffer strip shall be provided in accordance with Article XX, between all operations, buildings, and structures, including fencing and the residential property.

Telecommunication Antennas and Towers

1. Such facilities shall be located on a priority basis only on the following sites:
 - a. Governmentally owned sites.
 - b. Religious or other institutional sites.
 - c. Public or private school sites.

Recreation Vehicle Storage Yards

1. Sites shall have a minimum lot area of one (1) acre.
2. Storage areas shall be enclosed by a security fence at least five (5) feet in height.

Self-Storage Warehouses

1. The minimum lot area shall be one (1) acre.
2. The minimum building and parking setback shall be forty (40) feet from any public street right-of-way, fifty (50) feet from any residential zoning district, and twenty (20) feet from any nonresidential zoning district.
3. The front yard and any side yards adjacent to residential districts shall include screening and landscaping in accordance with the requirements of Article XX of this Ordinance.
4. All storage shall be completely within enclosed buildings or structures.
5. A structure for a resident manager may be permitted on the site.
6. The use shall be limited to storage only.

Tattoo Parlors, Body Piercing Establishments, Etc.

1. All such uses must be in conformance with any and all required local, county, and state requirements and standards.
2. No such use shall be located within three hundred (300) feet of any school or church.

Veterinary Clinics and Hospitals

1. Outdoor exercising is allowed when the pet is accompanied by an employee provided no animals shall be permitted outside of the buildings between 8:00 p.m. and 7:00 a.m.
2. All boarding shall be limited to that incidental to treatment or surgery unless the use has also been approved as a kennel.
3. All outdoor runs are to be enclosed on all sides by either a decorative masonry wall, six (6) feet in height, a greenbelt, a berm, or a buffer strip, constructed per standards identified in Article XX.

Sec. 23.31. - Medical Use of Marihuana.

- A. A registered primary caregiver, operating in compliance with the Michigan Medical Marihuana Act, hereinafter ("MMMA"), the MMMA General Rules, and the requirements of this section, shall be permitted as a home occupation, as regulated by this subsection. The City of Eaton Rapids makes the following findings, in support of its determination that the regulation of registered primary caregivers as a permitted home occupation is consistent with the purposes and intent of the MMMA:

1. The MMMA does not create a general right for individuals to use, possess, or deliver marihuana in Michigan.
 2. The MMMA's protections are limited to individuals suffering from serious or debilitating medical conditions or symptoms, to the extent that the individuals' marihuana use is carried out in compliance with the provisions of the MMMA, including the provisions related to the operations of registered primary caregivers.
 3. The MMMA's definition of "medical use" of marihuana includes the "transfer" of marihuana "to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition," but only if such "transfer" is performed by a registered primary caregiver who is connected with the same qualifying patient through the registration process established by the department of licensing and regulatory affairs, and who is otherwise operating in strict compliance with the MMMA and the MMMA General Rules.
 4. The MMMA provides that a registered primary caregiver may assist no more than five (5) qualifying patients with their medical use of marihuana.
 5. The MMMA does not, therefore, create a new vocation for entrepreneurs or others who wish to engage in the sale of marihuana to more than five (5) persons in a commercial setting. Instead, the MMMA is directed at improving the health and welfare of qualifying patients.
 6. The health and welfare of qualifying patients is improved by permitting the operations of registered primary caregivers as a home occupation, because this allows qualifying patients who suffer from serious or debilitating medical conditions symptoms to obtain the benefits of the medical use of marihuana in a residential setting, without having to unnecessarily travel into commercial areas.
 7. By permitting the operations of registered primary caregivers as a home occupation, rather than in a commercial setting, this promotes the MMMA's purpose of ensuring that:
 - a. a registered primary caregiver is not assisting more than five (5) qualifying patients with their medical use of marihuana, and
 - b. a registered primary caregiver does not unlawfully expand its operations beyond five (5) qualifying patients, so as to become an illegal commercial operation, in the nature of a marihuana collective, cooperative or dispensary.
- B. The following standards and requirements shall apply to the location at which the medical use of marihuana is conducted by a primary caregiver:
1. A registered primary caregiver shall not engage in the medical use of marihuana as a home-based occupation except in those areas of the City of Eaton Rapids zoned: Traditional Residential District (TRD), Low Density Single-Family Residential District (RD1), and Single-Family and Two-Family Residential District (RD2).
 2. A registered primary caregiver shall not possess marihuana, or otherwise engage in the medical use of marihuana, in a school bus, on the grounds of any preschool or primary or secondary school, or in any correctional facility.
 3. Not more than two (2) registered primary caregivers, who shall also be full-time residents of the dwelling, shall be permitted to operate at any one (1) property.
 4. The medical use of marihuana shall be conducted entirely within a dwelling or attached garage, except that a registered primary caregiver may keep and cultivate, in an "enclosed, locked facility" (as that phrase is defined by the MMMA), up to twelve (12) marihuana plants for each registered qualifying patient with whom the registered primary caregiver is connected through the registration process established by the department of licensing and regulatory affairs, and up to twelve (12) additional marihuana plants for personal use, if the primary caregiver is also registered as a qualifying patient under the MMMA.
 5. A sign identifying the home occupation by word, image or otherwise, or indicating that the medical use of marihuana is taking place on the premises, shall not be permitted; nor shall any vehicle having such a sign be parked anywhere on the premises.
 6. Except for lighting, heating, watering, drying or other equipment, or fertilizers, herbicides or other chemicals directly

related to the medical use of marihuana, no other materials or equipment not generally associated with normal ownership, use, and maintenance of a dwelling shall be permitted.

7. Distribution of marihuana or use of items in the administration of marihuana shall not occur at or on the premises of the primary caregiver. A qualifying patient shall not visit, come to, or be present at the residence of the primary caregiver to purchase, smoke, consume, obtain or receive possession of any marihuana.
8. Except for the primary caregiver, no other person shall deliver marihuana to the qualifying patient.
9. No one under the age of eighteen (18) years shall have access to medical marihuana.
10. No on-site consumption or smoking of medical marihuana by qualifying patients shall be permitted within the dwelling (or on the property) of a primary caregiver, except for lawful medical marihuana consumption by the primary caregiver if registered as a qualifying patient under the MMMA.
11. Medical marihuana shall not be grown, processed, handled or possessed at the dwelling of the primary caregiver beyond that which is permitted by law.
12. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of a building or structure in which equipment and devices that support the cultivation, growing or harvesting of marihuana are located or used. Any portion of a building or structure in which equipment and devices that support the cultivation, growing or harvesting of marihuana are located or used shall comply with all applicable city building, electrical, plumbing, and mechanical codes.
13. If marihuana is grown or located in a room with windows, all interior lighting shall be shielded to prevent ambient light from creating a distraction for adjacent properties.
14. The registered primary caregiver, tenant, occupant, or property owner shall not permit the emission of marihuana odor from any source to result in detectable odors that leave the premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of another's property. Whether or not a marihuana odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivities. The registered primary caregiver, tenant, occupant, or property owner shall install and maintain in operable condition a system which precludes the emission of marihuana odor from the property or dwelling.
15. Related merchandise or products shall not be sold or distributed from the dwelling or property of the primary caregiver.
16. To ensure compliance with all applicable requirements and laws, the portion of a building or other structure, such as a cultivation room, where energy use and heating requirements exceed typical residential limits and chemical storage occurs, are subject to inspection and approval by the City of Eaton Rapids Building and Zoning official, the fire chief, or other individual designated by the city.
17. The property, dwelling and all enclosed, locked facilities shall be available for inspection upon request by the City of Eaton Rapids Building and Zoning official, the fire chief, any law enforcement officer, or other individual designated by the city.
18. The operations of a registered primary caregiver, as a home occupation, shall be permitted only with the prior issuance of a city permit.
19. A complete and accurate application shall be submitted on a form provided by the city and an application fee in an amount determined by resolution of the city council shall be paid.
20. The permit application shall include the name and address of the applicant; the address of the property; proof, such as a driver's license, voter registration card or similar record showing that the dwelling is the applicant's full-time residence; a current state registration card issued to the primary caregiver; a full description of the nature and types of equipment which will be used in marihuana cultivation and processing; and a description of the location at which

the use will take place. The City of Eaton Rapids Building and Zoning official may require additional information necessary to demonstrate compliance with all requirements. The building and zoning official shall review the application to determine compliance with this Ordinance.

21. A permit shall be granted if the application demonstrates compliance with this Ordinance. The use shall be maintained in compliance with the requirements of this Ordinance. Any departure shall be grounds to revoke the permit and take other lawful action. If a permit is revoked, the applicant shall not engage in the activity unless and until a new permit is granted. If a permit is revoked, the permittee may seek review of the decision to revoke the permit pursuant to Article XXV of the City of Eaton Rapids Code of Ordinances.
 22. Information treated as confidential under the MMMA, including the primary caregiver registry identification card and any information about qualifying patients associated with the primary caregiver, which is received by the city, shall be maintained separately from public information submitted in support of the application. It shall not be distributed or otherwise made available to the public and shall not be subject to disclosure under the Freedom of Information Act.
 23. A primary caregiver shall comply with the Standards and Requirements Per Conditional Use for Home Occupations contained in Section 23.30 of the City of Eaton Rapids Zoning Ordinance.
- C. Except as otherwise permitted by City ordinance, or the Michigan Medical Marihuana Facilities Licensing Act, it is unlawful to establish or operate a for-profit or nonprofit medical marihuana dispensary, collective or cooperative within the City, even if such use is intended for the medical use of marihuana.
 - D. The use of the dwelling or other permitted facility of a qualifying patient to cultivate medical marihuana in accordance with the MMMA, solely for personal use, does not require a permit under this subsection; however, all applicable City ordinance requirements must be met.
 - E. The provisions of this section do not apply to the personal use and/or internal possession of marihuana by a qualifying patient in accordance with the MMMA, for which a permit is not required.

(Ord. No. 2021-4, § 1, 5-10-21)

Sec. 23.40. - Effect of Requirements.

The requirements noted in this Article are in addition to, or where in conflict, supersede, those general requirements by zoning districts, as indicated in Article XVIII.

Sec. 23.50. Commercial Medical Marihuana Facilities Overlay District.

- A. *Applicability.* The commercial medical marihuana facilities overlay district shall apply to all lots within the areas shown on Map 1 (the "overlay area"). All lots included in the overlay district shall be subject to the terms and conditions imposed in this section, in addition to the terms and conditions imposed by the zoning district where such lots may be located, any other applicable ordinance and the requirements of section 23-1 of the City of Eaton Rapids Code of Ordinances.
- B. *Uses permitted by right.* All uses permitted by right in the underlying zoning districts.
- C. *Uses permitted by conditional use permit.* All uses permitted by conditional use permit in the underlying zoning district and all types of commercial medical marihuana facilities, except for provisioning centers and subject to the number of available permits allowed per section 23-1 of the City of Eaton Rapids Code of Ordinances. Provisioning Centers shall not be permitted within the City of Eaton Rapids.
- D. *Uses not permitted.* Any use not permitted in the underlying zoning district is not permitted in the commercial medical marihuana facilities overlay district.
- E. *Permitted location.* Processors, safety compliance facilities, growers, and secure transporters shall only be located within

the overlay area.

F. *Application and departmental reviews:*

1. *Application.* The application for a conditional use permit shall be submitted to the City of Eaton Rapids in accordance with section 23.20 of the City of Eaton Rapids Code of Ordinances.
2. *City review.* The applicant's plan shall be reviewed by the City of Eaton Rapids in accordance with sections 23.20 and 23.30 of the City of Eaton Rapids Code of Ordinances. The city's building inspector or other individual designated by the city shall review the application and make a recommendation to the City of Eaton Rapids Planning Commission pursuant to section 23.20 of the City of Eaton Rapids Code of Ordinances.
3. The planning commission may deny, approve, or approve with conditions any application for conditional use. The planning commission shall incorporate their decision into a statement of conclusions relative to the conditional use under consideration. The decision shall specify the basis for the decision and any conditions imposed.

G. *City approval:*

1. Following review of the planning commission's recommendation and record, the city council may deny, approve, or approve with conditions an application for a conditional use permit. To approve a conditional use permit, the city council must find that the conditional use meets the criteria contained within section 23.30 of the City of Eaton Rapids Code of Ordinances. Prior to making a decision on a conditional use permit, the city council may hold a public hearing on the request.

(Ord. No. 2021-5, § 2, 5-10-21)

Sec. 23.60. - Commercial Adult Use Marihuana Facilities Overlay District.

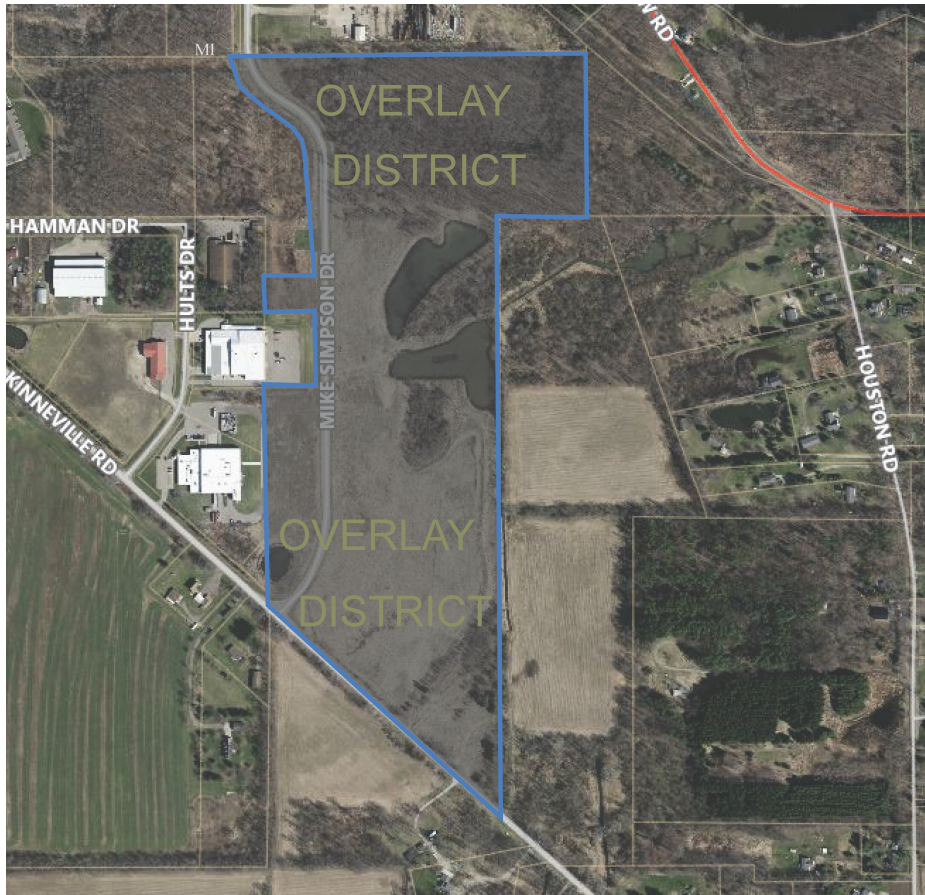
- A. *Applicability.* The commercial adult use marihuana establishment overlay district shall apply to all lots within the areas shown on Map 1 (the "overlay area"). All lots included in the overlay district shall be subject to the terms and conditions imposed in this section, in addition to the terms and conditions imposed by the zoning district where such lots may be located, any other applicable ordinance and the requirements of section 23-15, et seq., of the City of Eaton Rapids Code of Ordinances.
- B. *Uses permitted by right.* All uses permitted by right in the underlying zoning districts.
- C. *Uses permitted by conditional use permit.* All uses permitted by conditional use permit in the underlying zoning district and all types of commercial adult use marihuana establishments, except for marihuana retailers, marihuana microbusinesses, designated consumption establishments, and marihuana events. marihuana retailers, marihuana microbusinesses, designated consumption establishments, and marihuana events shall not be permitted within the City of Eaton Rapids.
- D. *Uses not permitted.* Any use not permitted in the underlying zoning district is not permitted in the commercial adult use marihuana establishment overlay district.
- E. *Permitted location.* Marihuana processors, safety compliance facilities, marihuana growers, and secure transporters shall only be located within the overlay area.
- F. *Application and departmental reviews:*
 1. *Application.* The application for a conditional use permit shall be submitted to the City of Eaton Rapids in accordance with section 23.20 of the City of Eaton Rapids Code of Ordinances.
 2. *City review.* The applicant's plan shall be reviewed by the City of Eaton Rapids in accordance with sections 23.20 and 23.30 of the City of Eaton Rapids Code of Ordinances. The city's building inspector or other individual designated by the city shall review the application and make a recommendation to the City of Eaton Rapids Planning Commission pursuant to section 23.20 of the City of Eaton Rapids Code of Ordinances.

- 3. The planning commission may deny, approve, or approve with conditions any application for conditional use. The planr commission shall incorporate their decision into a statement of conclusions relative to the conditional use under consic The decision shall specify the basis for the decision and any conditions imposed.

G. City approval:

- 1. Following review of the planning commission's recommendation and record, the city council may deny, approve, or approve with conditions an application for a conditional use permit. To approve a conditional use permit, the city council must find that the conditional use meets the criteria contained within section 23.30 of the City of Eaton Rapids Code of Ordinances. Prior to making a decision on a conditional use permit, the city council may hold a public hearing on the request.

(Ord. No. 2021-9, § 2, 10-25-21)



ARTICLE XXIV. - NONCONFORMING USES, LOTS AND STRUCTURES

Sec. 24.05. - Purpose.

The purpose of this Article is to permit legal nonconforming lots, structures, or uses to continue until they are removed or abandoned, but not to encourage their permanent existence. It is recognized that in certain circumstances it is appropriate to authorize resumption, restoration, reconstruction, extension, or substitution of nonconforming uses.

Sec. 24.10. - Declaration and Regulation.

Any lot or lawful use of land or a structure existing on the effective date of this Ordinance, or on the effective date of any future amendments which may be made to this Ordinance, and located in a zoning district in which it would not be permitted, or prohibited, regulated, restricted, or otherwise unlawful as a new use or otherwise under the regulations of this Ordinance, is

declared to be a nonconforming lot, use, or structure and not in violation of this Ordinance. However, a nonconforming use shall be subject to, and the owner shall comply with, the regulations of this Ordinance.

It is the intent of this Article to permit these nonconformities to continue until they are removed or abandoned, but not to encourage their survival. Such nonconforming uses and structures are declared by this Article to be incompatible with the permitted uses in the zoning districts involved. It is further the intent of this Article that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same zoning district.

Nonconforming uses are considered to present a greater public burden than nonconforming lots and structures, therefore the intent of this ordinance is to gradually eliminate nonconforming uses. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged by attachment on a building or premises of additional signs intended to be seen from the premises or by the addition of other uses of a nature which would be prohibited generally in the zoning district involved.

To avoid undue hardship, nothing in this Article shall be deemed to require a change in the plans, construction, or designated use of any structure on which actual construction was lawfully begun prior to the effective date or amendment of this Article, and upon which actual building construction has been diligently carried on.

Sec. 24.15. - Nonconforming Uses of Land.

Where, on the effective date of this Ordinance or of any future amendments made to this Ordinance, a lawful use of land exists, which uses would not be permitted or prohibited, regulated, restricted, otherwise unlawful by the regulations imposed by this Ordinance, the use may be continued so long as it remains otherwise lawful provided:

- A. No such nonconforming use shall be enlarged, increased, or extended to occupy a greater area of land than was occupied on the effective date of this Ordinance, or amendments thereof.
- B. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that portion occupied by such use on the effective date of this Ordinance, or amendments thereof.
- C. If any such nonconforming use of land ceases for any reason for a period of more than thirty (30) days, such land shall conform to the regulations specified by this Ordinance for the zoning district in which such land is located.
- D. Those alleged nonconforming uses which cannot be proved to have been legally existing prior to the effective date of this Ordinance, or amendment thereof, shall be declared illegal nonconforming uses and shall be discontinued following such effective date.
- E. No additional structure not conforming to this Ordinance shall be erected in connection with such nonconforming use of land.

Sec. 24.20. - Nonconforming Uses of Structures.

If a lawful use involving an individual structure or a structure and premises in combination, exists on the effective date of this Ordinance or amendment thereof, which use would not be allowed in the zoning district in which it is located under this Ordinance, the lawful use may be continued so long as it remains otherwise, lawful subject to the following:

- A. No existing structure devoted to a use not permitted by this Ordinance in the zoning district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the zoning district in which it is located.
- B. Any nonconforming use may be extended throughout any part of a building which was manifestly arranged, designed, or designated for such use at the time of adoption of this Ordinance or amendment thereof, but no such use shall be extended to occupy any land outside such building.

- C. If no structural alterations are made, any nonconforming use of a structure or structure and premises, may be changed nonconforming use, provided the planning commission determines that the proposed use is equally appropriate or more appropriate to the zoning district than the existing nonconforming use. Whenever a nonconforming use has been changed to a conforming use or to a use permitted in a zoning district of greater restrictions, it shall not thereafter be changed to a nonconforming use.
- D. Any structure or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed.
- E. When a nonconforming use of a structure or structure and premises in combination, is discontinued or ceases for one (1) year or for a total of twelve (12) months during any two-year period, the structure or structure and premises in combination, shall not thereafter be used, except in conformance with the regulations of the zoning district in which it is located. Structures occupied by seasonal uses shall be excepted from this paragraph.
- F. Where a nonconforming use status applies to a structure and premises in combination, the removal or destruction of the entire structure, shall eliminate the nonconforming status of the land.

Sec. 24.25. - Nonconforming Structures.

Where a lawful structure exists on the effective date of this Ordinance or amendment thereof, which structure could not be built under this Ordinance by reasons of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued as long as it remains otherwise lawful, subject to the following:

- A. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity but any structure or portion thereof may be altered to decrease its nonconformity. Should such structure be altered or modified so as to eliminate, remove, or lessen any or all of its nonconforming characteristics, then such nonconforming characteristics shall not be later re-established or increased.
- B. If such structure is moved for any reason whatever, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved.
- C. If any such nonconforming structure ceases being used for any reason for a period of more than one (1) year, any subsequent use of such district shall conform to the regulations specified in this Ordinance for the zoning district in which such structure is located.
- D. Should such structure be destroyed by any means to an extent greater than fifty (50) per cent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Article.
- E. A residential nonconforming structure may be allowed to expand provided the expansion does not increase the size of the established footprint or the expansion is within a yard which retains compliance with the required setback and height (e.g., a home with a nonconforming front yard setback may be expanded in the rear so long as the rear yard setback remains conforming). Provided further that the following are met for the subject structure:
 1. The cost of such work shall not exceed fifty per cent of the market value of such residential structure prior to the time such work is started.
 2. The only nonconforming situation on the parcel shall be dimensional ones related to the house and/or garage.
 3. Any other expansion shall be prohibited unless a variance is granted by the zoning board of appeals.

Sec. 24.30. - Nonconforming Lots of Record.

- A. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Zoning Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single-family lot of record on the effective date of this Ordinance, provided such lot is located in a block on which fifty-one (51) per

cent or more of the lots on both sides of the street are occupied by single-family dwellings. Where fifty-one (51) per cent or more of the existing homes are built upon a larger lot or combination of lots, a building permit will not be granted for a lot of less area or width than the size of the lots of the majority of the dwellings existing on the effective date of this Ordinance.

- B. In those area where less than fifty-one (51) per cent of the lots are built upon in a one (1) block area, the provisions regarding the use of the combined lots shall apply.
- C. Permission to a use a single nonconforming lot as provided in this section shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the zoning district. However, yard dimensions and other requirements not involving lot area or lot width, or both, shall conform to the regulations for the district in which the lot is located.
- D. If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record on the effective date of this Ordinance, and if all or part of the lots does not meet the requirements for lot width and area as established by this Ordinance, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance. No portion of such a parcel shall be used or occupied, which portion does not meet lot width and area requirements established by this Ordinance, nor shall any division of the parcel be made which leaves remaining any lot width or area below the requirements stated in this Ordinance.

Sec. 24.35. - Restoration and Repair.

- A. On any nonconforming structure or on any portion of a structure containing a nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repairs or replacement of nonbearing walls, fixtures, wiring, or plumbing, to an extent not exceeding twenty-five (25) per cent of the current state equalized valuation of the nonconforming structure or portion thereof, as the case may be, provided that the cubic content existing when it became nonconforming shall not be increased.
- B. If a nonconforming structure or a portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by the city to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

Sec. 24.40. - Restoration of Damaged Buildings.

Nothing in this Ordinance shall prevent the reconstruction, repair, restoration, and continued use of any nonconforming single-family residential building or structure damaged by fire, collapse, explosion, acts of God, or acts of public enemy, regardless of the extent of damage, provided said building or structure can be reconstructed, repaired, or restored on the existing foundation and without increasing the condition of nonconformity subsequent to the effective date of this Ordinance, or for any other nonconforming building or structure, wherein the expense of such reconstruction does not exceed thirty (30) per cent of the state equalized valuation of the entire building or structure at the time such damage occurred, provided that all of the following apply:

- A. Such valuation shall be subject to the approval of the planning commission.
- B. Such restoration and resumption shall take place within six (6) months of the time of such damage and it shall be completed within one (1) year from the time of such damage.
- C. Such use shall be identical to the nonconforming use permitted and in effect directly preceding such damage.

Where pending insurance claims require an extension of time, the planning commission may grant a time extension, provided that the property owner submits a certification from the insurance company attesting to the delay. Until such time as the debris from the damage is removed, the premises shall be adequately fenced or screened from access by children who may be attracted to the premises.

Sec. 24.45. - Change of Nonconforming Use.

Whenever a zoning district shall be changed, any existing nonconforming use in such changed zoning district may be continued, provided all other regulations governing the use are complied with. Whenever a nonconforming use of a building or premises has been changed to a nonconforming use, such use shall not thereafter be changed to a nonconforming use.

Sec. 24.50. - Nonconforming Use Discontinued.

In the event any nonconforming use is discontinued for a period as defined in this Article, it shall be presumed that the owner thereof intends to abandon the right to continue or resume the same and any subsequent use shall conform to the uses permitted in the zoning district in which the premises are located.

The owner of the property upon which the nonconforming use is located shall be entitled to submit proof of intent to the planning commission to continue the use to rebut the presumption of abandonment; however, the burden of such proof shall rest upon the property owner. If the planning commission determines that the owner did not intend to abandon the right of continuation of the nonconforming use, the owner shall be entitled to resume the use previously made.

Sec. 24.55. - Continuation of Uses.

When a nonconforming use of property is discontinued through vacancy, lack of operation or other similar conditions for a period of one (1) year or more, thereafter no right shall exist to maintain on such property a nonconforming use unless the zoning board of appeals grants such privilege within six (6) months after such discontinuance. No nonconforming use, if changed to a use permitted in the zoning district in which it is located, shall be resumed or changed back to a nonconforming use.

Sec. 24.60. - Change of Use.

The use of a nonconforming building or structure may be changed to another use permitted in the most restricted zoning district in which such nonconforming use is permitted. Where the use of a nonconforming building or structure is hereafter changed to a use permitted in a more restricted zoning district, it shall not thereafter be changed to a use which is not permitted in a more restricted zoning district. The proposed use shall be subject to all requirements applying to such proposed use in the most restricted zoning district in which the nonconforming use to be changed is permitted.

Sec. 24.65. - Extensions; Enlargements; Moving.

No nonconforming use of any land or structure shall hereafter be enlarged or extended, except as provided for in this Ordinance. No nonconforming building or structure shall be moved in whole or in part to another location unless such building or structure and the off-street parking spaces, yards, and other open spaces provided are made to conform to all the regulations of the zoning district in which the building or structure is to be located.

Sec. 24.70. - Change of Tenancy or Ownership.

There may be a change in tenancy, ownership, or management of an existing nonconforming use, provided there is no change in the nature or character of such nonconforming use.

Sec. 24.75. - Certificates of Occupancy; Records.

- A. If at any time after the effective date of this Ordinance, the city becomes aware of a nonconforming use, the owner of such nonconforming use shall be notified by the building inspector of the provisions of this Article and that his or her property constitutes a nonconforming use. Within thirty (30) days after receipt of such notice, the owner shall apply for

and be issued a certificate of occupancy by the city for the nonconforming use. The application for such certificate shall designate the location, nature, and extent of the nonconforming use and such other details as may be necessary for the issuance of the certificate of occupancy.

- B. If the owner of a nonconforming use fails to apply for a certificate of occupancy within thirty (30) days after receipt of such notice, the use ceases to be nonconforming and is declared to be in violation of this Ordinance. The city may then take enforcement action as appropriate.
- C. If the city finds, upon reviewing the application for a certificate of occupancy, that the existing use is illegal or in violation of any other ordinance or law, or if he or she finds that the building for which the certificate is requested has been constructed or altered for the existing use or any other use without full compliance with the city building code or the zoning ordinance in effect at the time of construction or alteration, he or she shall not issue the certificate of occupancy, but shall declare such a use to be in violation of this Ordinance.

Sec. 24.80. - Application to Previously Filed Plans.

In any case where plans and specifications for a building or structure have been filed, which building or structure would conform with the zoning regulations in effect on the date of such filing, but not with the regulations of this Ordinance, and where a building permit for such a building or structure has been issued and construction work started on the effective date of this Ordinance, such work may proceed, provided it is completed within one (1) year of such date.

ARTICLE XXV. - ZONING BOARD OF APPEALS

Sec. 25.05. - Purpose.

In order that the objectives of this Ordinance may be fully and equitably achieved, that a means shall be provided for the competent interpretation of the Ordinance, that adequate but controlled flexibility be provided in the application of this Ordinance, that the health, safety, and welfare of the public is secured, and that justice be done, there is hereby established a zoning board of appeals.

Sec. 25.10. - Creation; Membership; Terms of Office.

There is hereby established in and for the City of Eaton Rapids, a zoning board of appeals, which shall perform its duties and exercise its powers as provided in Section 5 of Act 207 of the Public Acts of 1921, as amended (MCLA 125.585), in such a way that the objectives of this Ordinance shall be observed, public safety secured and substantial justice done.

The city council shall appoint a zoning board of appeals consisting of five (5) members. Appointments shall be for three-year terms so as to provide for appointment of two (2) members each year thereafter. Members of the board of appeals shall be removable by the city council for nonperformance of duty or misconduct in office upon written charges and after public hearing.

The city council may appoint, in accordance with Section 5 of Act 207 of the Public Acts of 1921, as amended (MCLA 125.585), not more than two (2) alternate members for the same term as regular members of the board. An alternate member may be called on a rotating basis to sit as a regular member in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been 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.

(Ord. No. 2005-6, 6-13-05)

Sec. 25.15. - Officer; Legal Counsel.

The zoning board of appeals shall meet at least annually to elect a chairman and a vice-chairman who shall hold office for one (1) year, with the eligibility for re-election. The city attorney or his or her representative shall act as legal council for the board and, subject to prior approval of the city council shall be present at meetings of the board upon request.

(Ord. No. 2009-2, 5-11-09)

Sec. 25.20. - Rules of Procedure.

- A. The board may adopt by-laws and rules of order to assist in decision making provided that no provision shall conflict with applicable state law or this Ordinance.
- B. Hearings shall be public and minutes, including action taken by the members, shall be kept for public record by its designated secretary, and submitted to the city clerk for filing.
- C. A quorum will consist of four (4) members of the board present.
- D. An affirmative vote of four (4) members shall be required to reverse any order, requirement, decision, or determination of any administrative official in the use of this ordinance and to grant any variances from uses of land which may be permitted by this ordinance.
- E. An appeal to the zoning board of appeals may be filed by a property owner. Said appeal, which shall specify the ground thereof, shall be made to the building inspector who shall transmit the appeal to the zoning board of appeals.
- F. Notice of public hearing of an appeal or application shall be given, stating the time and place of said hearing, by insertion in a newspaper of general circulation in the City of Eaton Rapids fifteen (15) days prior to said hearing date. In addition all persons who own real property or are occupants of structures within three hundred (300) feet of the property affected shall be notified of the hearing by personal delivery or the mail. In the case of a structure containing not more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals or businesses, notice may be given to the manage or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure. Notice of such public hearing shall also be given by registered mail to each public utility and/or railroad within the zoning districts affected.
- G. Records and minutes shall be recorded of all proceedings which shall contain evidence and data relevant to every case considered together with the votes of the members and the final disposition of such case. The grounds of every determination shall be stated. Such minutes shall accompany and be attached to the standard forms required to persons appealing as part of the zoning board of appeals' permanent records.

(Ord. No. 2002-18, 12-23-02)

Sec. 25.30. - Appeals.

- A. An appeal may be taken to the zoning board of appeals by any person, officer, department, board or bureau affected by a decision of the city concerning this Ordinance. Such appeal shall be taken within thirty (30) days from the decision by filing with the building inspector and with the board a notice of appeal specifying the grounds thereof. The building inspector shall forthwith transmit to the board all of the papers constituting the record upon which the action appealed from was taken.
- B. The board shall select a reasonable time and place for the hearing of the appeal, shall give due notice thereof to the parties, and shall render a decision on the appeal without unreasonable delay. Any person may appear and testify at the hearing either in person or by duly authorized agent or attorney.

Sec. 25.35. - General Powers and Duties.

The zoning board of appeals is a body of limited powers. The board shall have the specific powers and duties as set forth in this article, all jurisdiction and powers prescribed in other chapters of this Ordinance or the Code of Ordinances, and all jurisdiction and powers granted by Act 207 of the Public Acts of 1921, as amended (MCLA 125.581 et seq.) The power or authority to alter or change this Ordinance or the zoning map remains reserved to the city council in the manner provided by law.

Sec. 25.40. - Administrative Review.

The zoning board of appeals may hear and decide appeals when it is alleged by the appellant that there is an error of law in any order, requirement, permit, decision, determination, or refusal made by any administrative official in carrying out or enforcing this Ordinance.

Sec. 25.45. - Interpretation of District Boundaries.

The zoning board of appeals shall interpret the official zoning map of the City of Eaton Rapids, including the interpretation of the specific locations of zoning district boundaries when in doubt.

Sec. 25.50. - Variances.

- A. The zoning board of appeals may authorize, upon an appeal, a variance from the strict application of any provision of this Ordinance, where, by reason of exceptional irregularity, narrowness, shallowness, shape, or area of a specific piece of property at the effective date of this Ordinance, or by reason of exceptional topographic conditions or other extraordinary or exceptional conditions of such property, the strict application of this Ordinance would result in peculiar or exceptional practical difficulties to or unnecessary undue hardship upon the owner of such property.
- B. In hearing and deciding appeals for variances, the board shall adhere to the following criteria in determining whether or not practical difficulties and/or unnecessary hardships exist:
 1. That if the property owner complies with this Ordinance, he or she can secure no reasonable return from or make no reasonable use of his or her property;
 2. That the hardship results from the application of this Ordinance to his or her property, rather than from some other factor;
 3. That the hardship of which he or she complains is suffered merely by his or her property directly and not by others;
 4. That the hardship is not the result of his or her own actions; and
 5. That the hardship is peculiar to the property of the applicant.

The board shall grant no variance, if it finds an applicant does not meet all of the above listed criteria for determining whether or not a practical difficulty and/or unnecessary hardship exists.

Sec. 25.55. - Standards for Judging Appeals and Variances.

In consideration of all appeals and proposed variations of this Ordinance, the zoning board of appeals shall, before making any variation from this Ordinance, in a specific case, first determine that the proposed variation affirmatively meets all of the following general standards:

- A. A practical difficulty and/or unnecessary hardship exists according to the standards of this Article.
- B. The proposed variation involves exceptional circumstances not found in other areas of the same zoning district.
- C. The proposed variation will be in harmony with the general purposes and intent of this Ordinance.
- D. The proposed variation will not in any respect impair the public health, safety, comfort, or welfare of the inhabitants of the city.

- E. The proposed use will be of such location, size, and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood.
- F. The proposed use will be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the distance involved, taking into consideration vehicular turning movements in relation to routes of traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and access of off-street parking and provisions for pedestrian traffic, with particular attention to minimizing child-vehicle contact.
- G. The location, size, intensity, site layout and periods of operation of such proposed use will be designed to eliminate any possible nuisances emanating therefrom, which nuisance might be noxious to the occupants of any other nearby permitted uses, whether by reason of dust, noise, fumes, vibration, smoke, or lights.
- H. The location and height of buildings or structures and the location, nature, and height of walls and fences will be such that the proposed use will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.

Sec. 25.60. - Conditions of Appeals and Variances.

- A. The zoning board of appeals, in acting favorably on any appeal in connection with a request for a variance may attach any conditions to its approval which it finds necessary to accomplish the reasonable application of the standards set forth in this Article. In addition, the board may require some form of guarantee that the conditions will be adhered to.
- B. In exercising the powers described in this chapter, the board may reverse or affirm, wholly or partly, or modify, the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made.

Sec. 25.65. - Effective Period of Orders.

No order of the zoning board of appeals permitting the erection or alteration of a building, an open air land use, or a parking lot shall be valid for longer than six (6) months unless such use is established within such period or a permit for such erection or alteration is obtained within such period and such erection or alteration is commenced and proceeds to a completion in accordance with the terms of the permit. However, where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for the erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with such permit.

Sec. 25.70. - Appeals to Circuit Court.

The decision of the zoning board of appeals shall be final. However, a person having an interest affected by this Ordinance may appeal such decision to the circuit court.

Sec. 25.75. - Stay of Proceedings.

An appeal stays all proceedings in furtherance of the action appealed from unless the building inspector certifies to the zoning board of appeals after the notice of the appeal shall have been filed with him that, for reasons of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceeding shall not be stayed otherwise than by a restraining order, which may be granted by the zoning board of appeals or by circuit court, upon application.

Sec. 25.80. - Fees.

The city council, may from time to time, prescribe and amend, a reasonable schedule of fees to be charged to the applicants for appeals to the zoning board of appeals. At the time the notice of appeal is filed, said fee shall be paid to the city.

ARTICLE XXVI. - ADMINISTRATION AND ENFORCEMENT

Sec. 26.10. - Administration.

- A. The provisions of this Ordinance shall be administered by the city council for the City of Eaton Rapids in accordance with the State of Michigan, Act 207, of the Public Acts of 1921, as amended.
- B. The city council shall authorize the building inspector to act as its officer and, except as otherwise provided in this Ordinance, the building inspector or his/her representative shall administer and enforce this Ordinance, including the receiving and processing of applications for zoning permits, appeals for variances, or other matters the zoning board of appeals or planning commission is required to decide. The building inspector or his/her representative shall also be responsible for the inspection of premises, the issuance of zoning permits, and institution of proceedings for the enforcement of the provisions of this Ordinance.

Sec. 26.20. - Zoning Permits.

- A. It shall be unlawful for any person to commence excavation for any building, structure or driveway to serve that building or structure; or to commence the erection, addition, alteration, or repair of any building, structure, driveway or parking area or to repair or move any building or structure; and no land use shall be commenced until a zoning permit has been obtained from the building inspector. Except upon written order of the zoning board of appeals, no such zoning permit shall be issued for any building or structure where the construction, addition, alteration, or use thereof would be in violation of any provision of this Ordinance. In addition to the zoning permit mentioned above, a separate driveway permit shall be obtained before commencing to build a driveway.
- B. Exempted from the permit requirements are facial alterations and ordinary maintenance repairs made on all dwellings and their related accessory structures. These items include, but are not limited to siding, windows, doors, etc.

(Ord. No. 2002-8, 8-26-02)

Sec. 26.30. - Zoning Permit Applications.

- A. Application for a zoning permit shall be filed in writing with the city signed by the person, firm, co-partnership, or corporation requesting the same or by the duly authorized agent of such person, firm, co-partnership, or corporation. There shall be submitted with all applications for zoning permits one (1) copy of a plot plan, giving accurate dimensions on either a scale drawing or a rough sketch. Drawings shall be required on all structures and shall contain the following information:
 - 1. Legal description.
 - 2. Existing and intended use of the structure.
 - 3. Lines and dimensions of the lots to be used.
 - 4. Location upon the lot of all existing and proposed structures and any streets bordering the property.
 - 5. Application for zoning permits under the provisions of this Ordinance shall be accompanied by evidence of ownership of all property affected by the coverage of the permit.
 - 6. Evidence that all required federal, state, an county licenses or permits have been acquired or that applications have been filed for the same.
 - 7. Other information with respect to the proposed structure, use, lot, and adjoining property as may be required by the building inspector.
- B. The written approval of the City of Eaton Rapids water and sewer department, when required, shall accompany the zoning permit.

- C. In cases of minor alteration, the building inspector may waive portions of this foregoing requirements obviously not necessary for determination of compliance with this Ordinance.
- D. Any permit required by this Ordinance shall be displayed within twenty-four (24) hours of its issuance by placing the same in a conspicuous place on the premises facing the nearest street and shall be continuously so displayed until all work is completed.

Sec. 26.40. - Fees.

The city council may, from time to time prescribe and amend a reasonable schedule of fees to be charged to applicants wishing to rezone, seek development plan approval, or obtain a zoning permit within the City of Eaton Rapids. Before the application is considered, the applicant shall deposit said fee with the city.

Sec. 26.50. - Certificate of Occupancy.

It shall be unlawful to use or permit the use of any structure or premises hereafter altered, extended, or erected, until the building inspector or his representative shall have made an inspection of the premises and shall have approved the same for occupancy.

Sec. 26.60. - Violations; Penalties.

- A. A violation of this Ordinance is deemed to be a nuisance, per se. In addition to any remedies available at law, the city may bring an action for an injunction or other process against any person to restrain, prevent, or abate any violation of this Ordinance.
- B. Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with or who resists enforcement of any provisions of this Ordinance shall be responsible for a municipal civil infraction and shall be subject to the penalty, sanctions and remedies in chapter 2, article VII of the Code of Ordinances.

(Ord. No. 2017-3, 5-22-17)

Sec. 26.70. - Enforcement.

- A. The building inspector or his/her representative shall inspect each alleged violation and shall order correction to the violator of all conditions found to be in violation of this Ordinance. For any violation not corrected within a reasonable time period as determined by the building inspector enforcement procedures, including prosecution, may be initiated.
- B. Any person, firm or corporation who violates, disobeys, omits, neglects, or refuses to comply with or who resists enforcement of any provisions of this Ordinance upon conviction thereof before any court may be fined not more than five hundred dollars (\$500.00), or imprisonment for not more than ninety (90) days at the discretion of the court with the cost of prosecution for each offense.

(Ord. No. 2017-4, 5-22-17)

Sec. 26.80. - Interpretation and Conflict.

In interpreting and applying the provisions of this Ordinance, the provisions shall be held to be the minimum requirements adopted for the promotion of the public safety, health, convenience, comfort, prosperity, and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any easements, covenants, or other agreements between parties provided, however that where this Ordinance imposes a greater restriction upon the use of a building or land than existing easements,

covenants, or other agreements, the provisions of this Ordinance shall govern or control. Whenever the requirements of this Ordinance differ from the requirements of other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

ARTICLE XXVII. - VALIDITY, SAVING CLAUSE, REPEAL, AND EFFECTIVE DATE

Sec. 27.10. - Validity.

If any part, parts, section, provision, clause, or portions of this Ordinance shall be adjudged invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of this Ordinance.

Sec. 27.20. - Saving Clause.

The enactment of this Ordinance shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of an ordinance of Eaton Rapids. It is the intent of this Ordinance to prohibit the expansion or continuance, if abandoned, of uses or structures which were valid pre-existing nonconforming uses or structures prior to the adoption of the prior Eaton Rapids Zoning Ordinance, approved March 22, 1971, if such uses or structures are also prohibited by the provisions of this Ordinance. Accordingly, said prior Zoning Ordinance, approved March 22, 1971, is hereby preserved and not repealed as to such structures or uses which are prohibited by the provisions of both this Ordinance and the same prior Zoning Ordinance.

Regulation modification or alteration of such pre-existing structures or uses in existence prior to March 22, 1971, shall be governed by the provisions of this Ordinance, however, in order to be classified as a valid pre-existing nonconforming use under the provisions of this Ordinance, such use or structure must have been validly in existence and use prior to March 22, 1971.

Sec. 27.30. - Repeal.

The existing Zoning Ordinance of the City of Eaton Rapids, identified as approved March 22, 1971, is hereby repealed.

The adoption of this Ordinance, however shall not affect nor prevent any pending or future prosecution of, or action to abate any existing violation of said Zoning Ordinance, as amended, if the violation is also a violation of the provisions of this Ordinance.

Sec. 27.40. - Effective Date.

This Ordinance was approved by the Eaton Rapids City Council on this thirteenth day of August, 2001, and is in full effect fifteen (15) days following the publication of Notice of the Ordinance adoption by the City in a newspaper of general circulation in the City of Eaton Rapids, pursuant to the provisions of Section 125.584 of Public Act 207, as amended.