

## Chapter 153 - ZONING

## Footnotes:

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**State Law reference**— *Michigan Zoning Enabling Act, MCL 125.3101 et seq.; Michigan Planning Enabling Act, MCL 125.3801 et seq.*

## ADOPTING ORDINANCE

## ORDINANCE NUMBER 2016-16

AN ORDINANCE ADOPTING AND ENACTING A NEW ZONING CODE FOR THE CITY OF FLUSHING, MICHIGAN; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

THE CITY OF FLUSHING ORDAINS:

**Section 1. Short title.** This ordinance shall be known as the "Zoning Code of Ordinances Adopting Ordinance" and may be so cited.

**Section 2. Adoption of Code of Ordinances.** The Code entitled "Zoning Code of the City of Flushing," published by Municipal Code Corporation, consisting of chapter 153, is adopted.

**Section 3. Repealer.** All ordinances of a general and permanent nature enacted on or before June 13, 2016, and not included in the Code or recognized and continued in force by reference therein, are repealed.

**Section 4. Prior ordinances not revived.** The repeal provided for in section 3 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

**Section 5. Penalty.** Except as otherwise provided by law and by this Code, a person convicted of a violation of this Code shall be guilty of a misdemeanor and punished by a fine not to exceed \$500.00, imprisonment for a period of not more than 90 days, or both; however, unless otherwise provided by law, a person convicted of a violation of any provision of this Code that substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days shall be punished by a fine of not more than \$500.00, imprisonment for a term of not more than 93 days, or both. A person convicted of a violation of this Code shall be responsible for costs.

Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

**Section 6. Code additions or amendments.** Additions or amendments to the Code when passed in such form as to indicate the intention of the City Council to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

**Section 7. Later ordinances.** Ordinances adopted after June 13, 2016 that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

**Section 8. Effective date.** This Ordinance shall be effective twenty (20) days after adoption and after publication.

Planning Commission: September 6, 2016

First Reading: September 12, 2016

Second Reading: October 10, 2016

Date Published: October 13, 2016

Date Effective: October 30, 2016

	The City of Flushing
	_____ Kevin J. Keane, Mayor
	_____ Michelle M. King, City Clerk

ARTICLE 1. - GENERAL PROVISIONS

Sec. 153.101. - Short title.

This chapter shall be known and cited as the "Zoning Code of the City of Flushing" and will be referred to herein as "this zoning ordinance."

(Code 1989, § 153.101)

Sec. 153.102. - Intent and purpose.

- (a) This chapter is based upon a comprehensive plan, the purpose of which is to promote public health, safety, convenience, comfort, amenities, prosperity, and the general welfare of the community. This chapter has been formulated with the general purpose of guiding and accomplishing a coordinated and adjusted development of the municipality and its environs which will, in accordance with present and future needs, best promote efficiency and economy in the process of development, including among other things, adequate provision for traffic; safety from fire and other dangers; adequate provision for light and air, the healthful and convenient distribution of population and the regulation of the density of the population; the promotion of good civic design and arrangement; the wise and efficient expenditure of public funds; and the adequate provision of public utilities and other public requirements. It is designed to lessen the congestion on public streets; to reduce undue hazards due to flooding; to conserve property values; to facilitate adequate provisions for public transportation, streets, highways, sewers, water mains, schools, recreation areas; and other public facilities, as carefully analyzed and conceived by the master plan of the city.
- (b) The city council does hereby recognize that the citizens of the state, through initiative, have adopted the Michigan Medical Marijuana Act, that being MCL 333.26421 et seq., and further determine that it is in the best interests of the citizens of the city, and the health, safety and welfare thereof to regulate the possession, use and/or distribution of

marijuana within the corporate limits of the city, whether said possession, use and/or distribution is legal or illegal. The city council also believes, based on California studies and others, that the congregation of caregivers of marijuana may increase crime and that the providing of caregiving is a commercial undertaking which should not take place in a residential area, and should be set apart from children, other caregivers, other recreation or public places so that the services of the caregiver remain private and confidential.

(Code 1989, § 153.102; Ord. No. 2011-02(B), 6-13-2011)

Sec. 153.103. - Interpretation.

In the interpretation and application of this chapter, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, or general welfare.

(Code 1989, § 153.103)

Sec. 153.104. - Scope.

- (a) No building or structure, or part thereof, shall hereafter be erected, constructed, or altered and maintained, and no new use or change shall be made or maintained of any building, structure, or land, or part thereof, except in conformity with the provisions of this chapter.
- (b) No building shall be erected, converted, enlarged, reconstructed, or structurally altered, nor shall any land be used, filled, or excavated which does not comply with all the district regulations established by this chapter for whichever zoning district in which the building or land is located.
- (c) No building shall be erected, converted, reconstructed, or structurally altered so as to intrude upon the area required for the front, side, and rear yards as herein established, excepted as provided for by a variance or an exception granted under the terms of this chapter; provided that no yard or open space of adjoining property shall be considered as providing a yard or open space for a lot wherever a building is to be erected except in conformity with the provisions of this chapter.
- (d) No lot area shall be so reduced or diminished that the yards or other open spaces shall be smaller than prescribed by this chapter, nor shall the density of population be increased in any manner except in conformity with the area regulations as hereinafter provided, nor shall the area of any lot be reduced below the minimum requirements herein established except as provided for by a variance.
- (e) Every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one main building and the customary accessory building on one lot except as otherwise provided, in conformity with the provisions of this chapter. There shall be only one dwelling unit per lot except for multiple-family developments, planned residential developments, condominiums and mobile home parks.
- (f) Reclamation, filling, sanitary and solid waste disposal, or excavation of any land, except when this excavation is in conjunction with an immediate building program and required permit, is hereby automatically prohibited from any zone.

(Code 1989, § 153.104)

Sec. 153.105. - Vested right.

It is hereby expressly declared that nothing in this chapter shall be held or construed to give or grant to any person, firm, or corporation any vested right, license, privilege, or permit, except as expressly permitted within this chapter.

(Code 1989, § 153.105)

## Sec. 153.106. - Public nuisances.

Any building or structure which is erected, altered, or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this chapter and in violation of any of the provisions thereof, is hereby declared to be a public nuisance per se.

(Code 1989, § 153.106)

## Sec. 153.107. - Exceptions.

- (a) Essential services shall be permitted as authorized and regulated by statute and other ordinances of the municipality, it being the intention hereof to exempt such essential services from the application of this chapter.
- (b) The provisions of this chapter shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.
- (c) The height limitations of this chapter shall not apply to farm buildings, chimneys, church spires, flag poles, public monuments, or wireless transmission towers.

(Code 1989, § 153.107)

## Sec. 153.108. - Conflicting regulations.

Whenever any provision of this chapter imposes more stringent requirements, regulations, or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this chapter shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this chapter, then the provisions of that law or ordinance shall govern.

(Code 1989, § 153.108)

## Sec. 153.109. - Performance standards.

No use otherwise allowed shall be permitted within any zoning district which does not conform to the following standards of use, occupancy, and operation, which standards are hereby established as the minimum requirements to be maintained within the area:

(1) *Smoke.*

- a. It shall be unlawful for any person, firm, or corporation to permit the emission of any smoke from any source whatever to a density greater than that density described as No. 1 of the Ringlemann Chart; provided that the following exceptions shall be permitted: smoke, the shade or appearance of which is equal to, but not darker than No. 2 of the Ringlemann Chart for a period aggregating no more than four minutes in any 30-minute period.
- b. Method of measurement. For the purpose of grading the density of smoke, the Ringlemann Chart, as now published and used by the United States Bureau of Mines and which is hereby made a part of this chapter, shall be the standard. However, the Umbrascope readings of smoke density may be used when correlated with Ringlemann's Chart.

(2) *Dust, dirt, and fly ash.*

- a. No person, firm, or corporation shall operate or cause to be operated or maintain or cause to be maintained, any process for any purpose, or furnace or combustion device for the burning of coal or other natural or

synthetic fuels, without maintaining and operating, while using that process or furnace or combustion device a contrivance to reduce the quantity of gas-borne or air-borne solids of fuels emitted into the open air, which is operated in conjunction with that process, furnace, or combustion device so that the quantity of gas-borne or air-borne solids shall not exceed 0.20 grains per cubic foot of the carrying medium at a temperature of 500 degrees Fahrenheit.

- b. Method of measurement. For the purpose of determining the adequacy of these devices, these conditions are to be conformed to when the percentage of excess air in the stack does not exceed 50 percent at a full load. The foregoing requirement shall be measured by the A.S.M.E. test code for dust-separating apparatus. All other forms of dust, dirt, and fly ash shall be completely eliminated insofar as escape or emission into the open air is concerned. The zoning administrator may require such additional data as is deemed necessary to show that adequate and approved provisions for the prevention and elimination of dust, dirt, and fly ash have been made.

(3) *Storage.*

- a. In all business, office, and industrial districts, the open storage of any equipment, vehicles, and all materials, including wastes, shall be screened from public view, from a street and from adjoining properties by an enclosure consisting of a fence or wall equal in height to the equipment, vehicles, and all materials to be stored in compliance with the fencing requirements of this chapter. Except in the case of outdoor automobile sales facilities, outside inventory may be displayed, provided the outside inventory is on display only during business hours, or the inventory displayed is living plant material or is seasonal merchandise. In no instance shall the fence or wall be less in height than six feet measured from the surface of the adjacent building flooring. The fence or wall shall be constructed to the standards listed in section 153.804.
- b. In all residential districts, the storage of dismantled vehicles shall be within completely enclosed accessory structures.
- c. In all residential districts, open storage of any and all trailers and recreational vehicles (boat, personal watercraft, snowmobile, camper, motor home, detachable camper tops or any other similar vehicle) is allowed only in the side or rear yard with all of the following requirements being met:
1. The recreational vehicle and/or trailer are operable for its intended manufactured purpose.
  2. License and registration from the state for operation has been secured and valid.
  3. No more than two items listed above shall be parked or stored at any given time on a residential zoned lot.
  4. The owner of any trailer and/or recreational vehicle parked or stored on a residential zoned lot shall be the owner of the lot or the legal tenant.
  5. In the case of corner residential zoned lots, storage shall be limited to the rear yard and interior side yard.
  6. No recreational vehicle shall be occupied or used for living purposes while stored anywhere on the residential zoned lot. The connection of utilities to the stored recreational vehicle shall be allowed only for purposes of maintenance for the unit.

An exception is provided to the regulations above for the purpose of loading or unloading in the driveway of a residential zoned lot. This task shall be completed within 24 hours and the trailer and/or recreational vehicle be returned to storage.

- d. Storage otherwise prohibited herein may be permitted upon review and approval of the zoning board of

appeals, but only on a temporary basis and to prevent undo hardship, where the public health, safety and welfare is maintained. Occupancy, however, will not be permitted.

- e. Outside storage facilities for two-family unit developments:
1. For each two-family or duplex dwelling unit constructed in the city, there shall be located on site for each approved unit either an enclosed garage, carport, or other storage shed which shall accommodate the storage of outside yard maintenance equipment, outside play equipment, outside cooking equipment, and other miscellaneous items which customarily go along with family living, and for storage of garbage containers; so that these normal objects of family living can be stored by residents in completely enclosed areas separate from the main living unit.
  2. Such garage, carport, or storage shed shall be reviewed by the building inspector and approved by him after the same is depicted on a plot plan which shall be submitted prior to receiving a building permit. A plot plan shall be required showing the exact distance of the outside storage facility to all property lines and the main dwelling unit and stating how the structure shall be enclosed.
- (4) *Glare and radioactive materials.* Glare from any process, such as or similar to arc welding or acetylene torch cutting, which emits harmful rays, shall be performed in a manner as not to extend beyond the property line, and as not to create a public nuisance or hazard along lot lines. Radioactive materials and wastes, as well as powerful electromagnetic radiation such as X-ray machine operation, shall not be permitted to exceed quantities established as safe by the United States Bureau of Standards, when measured at the property line.
- (5) *Fire and explosive hazards.* The storage, utilization, or manufacture of materials, goods, or products ranging from free or active burning to intense burning, as determined by the fire chief, is permitted subject to compliance with all other yard requirements and performance standards previously mentioned, and provided that the following conditions are met:
- a. These materials or products shall be stored, utilized, or produced within completely enclosed buildings or structures having incombustible exterior walls, which meet the requirements of the building code of the municipality.
  - b. All such buildings or structures shall be set back at least 40 feet from lot lines and all such buildings or structures shall be protected throughout by an automatic sprinkler system complying with installation standards prescribed by the National Fire Association.
  - c. The storage and handling of flammable liquids, liquefied petroleum gasses, and explosives shall comply with the state rules and regulations as established by Public Act No. 207 of 1941 (MCL 29.1 et seq.).
- (6) *Noise.* No operation or activity shall be carried out which causes or creates measurable noise levels exceeding the levels established in city noise ordinance.
- (7) *Vibration.*
- a. Machines or operations which cause vibration shall be permitted, but no operation shall be permitted to produce ground transmitted oscillations which cause a displacement exceeding that specified in the following tables as measured at the property line. These vibrations shall be measured with a seismograph or accelerometer, preferably the former.
  - b. For purposes of this chapter, steady state vibrations are vibrations which are continuous, or vibrations in discrete impulses more frequently than 60 per minute. Discrete impulses which do not exceed 60 per minute shall be considered impact vibrations.
    1. Maximum permitted steady state vibration in inches:

Frequency (Cycles per second)	Maximum Permitted Steady State Vibrations (inches)
10 and below	0.001
10 to 19	0.0008
20 to 29	0.0005
30 to 39	0.0003
40 and above	0.0001

2. Maximum permitted impact vibration in inches:

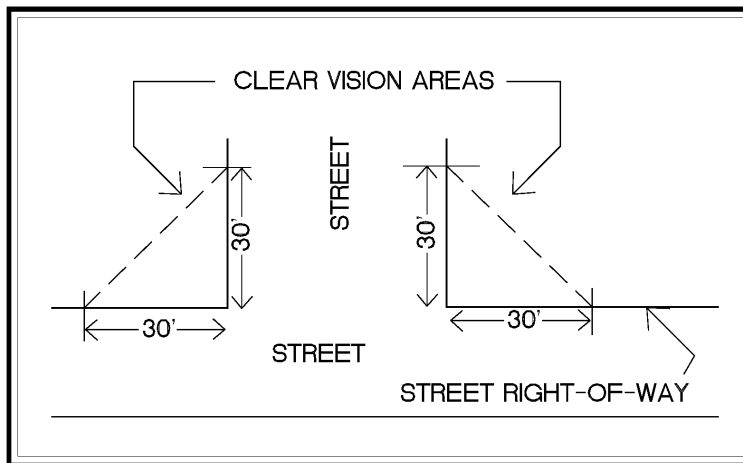
Frequency (Cycles per second)	Maximum Permitted Impact Vibrations (inches)
10 and below	0.002
10 to 19	0.0015
20 to 29	0.001
30 to 39	0.0005
40 and above	0.0002

Between the hours of 8:00 p.m. and 6:00 a.m., all the above maximum vibration levels, as measured on or beyond the boundary line of residentially used areas, shall be reduced to one-half the indicated permissible values.

- (8) *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 volume of odorous air to four or more volume of clean air, so as to produce a public nuisance or hazard beyond lot lines is prohibited.
- (9) *Required street frontage.* Any parcel of land which is to be occupied by a use or building, other than an accessory use or accessory building, shall have frontage on and direct address to a public street, or approved private street.
- (10) *Exterior lighting.* All lighting for parking areas or for the external illumination of buildings or for the illumination

of signs, shall be of a "shoebox" style and shall be directed away from and shall be shielded from adjacent districts and shall not exceed 0.5 footcandles at the property line where adjacent to a residential district and 1.5 footcandles where adjacent to a nonresidential district. Flood lamps are not permissible for commercial uses except for plant, building or sign illumination where shielding prevents light trespass on adjacent property. All exterior lighting in the central business district shall be high pressure sodium lighting.

- (11) *Corner clearance for streets.* No fence, wall, shrubbery, sign, or other obstruction to vision above a height of three feet from the established street grades shall be permitted within the triangular area formed by intersecting the street right-of-way lines with a straight line drawn between the right-of-way lines at a distance along each line of 30 feet from their point of intersection. This distance may be increased by the zoning administrator, with assistance from the police department, based on existing conditions, should such increase be necessary to ensure public health, safety and welfare.



- (12) *Corner clearance for drives.* No fence, wall, shrubbery, sign, or other obstruction to vision above a height of three feet from the established street grades shall be permitted within the triangular area formed at the corner intersection of a public right-of-way and a driveway, two sides of the triangle area being 30 feet in length measured along the right-of-way line and driveway line and the third side being a line connecting these two sides (see previous illustration). This distance may be increased by the zoning administrator, with assistance from the police department, based on existing conditions, should such increase be necessary to ensure public health, safety and welfare.

(Code 1989, §§ 150.01, 153.109; Ord. of 3-13-1972; Ord. of 4-24-2006; Ord. No. 2016-05, §§ 1, 2, 3-14-2016; Ord. No. 2017-07, § 1, 12-11-2017)

Sec. 153.110. - Access drives in linear commercial districts.

- (a) To improve vehicular and pedestrian safety and convenience, developments in any business, office or industrial district with frontage on Pierson Road shall allow for the establishment or continuation of vehicular access drives, where feasible, between adjoining parcels.
- (b) If an official plan is adopted controlling vehicular access along any major roadway in any business, office, or industrial district, all new developments shall conform to the plan as far as the spacing of ingress and egress and other maneuvering lanes is concerned. The plan shall be based on documented findings of vehicular or pedestrian safety.

(Code 1989, § 153.110)



Sec. 153.111. - Yard ground coverage.

Except for regularly and normally constructed driveways and walkways, all required front yards and in the case of corner lots, side yards fronting on streets, shall be planted into lawn areas consisting of grass species generally found in the area. Lawn areas may also include landscape plant materials and landscape structures, subject to section 153.109(11) and (12).

(Code 1989, § 153.112)

Sec. 153.112. - Building grades.

- (a) Any building requiring yard space shall be located at such an elevation that a sloping grade shall be maintained to cause the flow of surface water to run away from the walls of the building. Property shall be graded to prevent the increased runoff of surface water onto adjacent properties.
- (b) When a new building is constructed on a vacant lot between two existing buildings or adjacent to an existing building, the existing established grade shall be used in determining any increase in the grade around the new building that is required and the yard around the new building shall be graded in a manner as to meet existing grades and not to permit an increase in runoff of surface water onto adjacent property at a rate greater than prior to construction.

(Code 1989, § 153.113)

Sec. 153.113. - Multiple-dwelling side yards.

For the purpose of side yard regulations, a two-family structure, a terrace structure, a row house structure, or a multiple-dwelling structure shall be considered as one building occupying one lot.

(Code 1989, § 153.114)

Sec. 153.114. - Terraces, decks and gazebos.

An open, unenclosed paved terrace, patio or uncovered porch may project into a required front yard for a distance not exceeding ten feet, but this shall not be interpreted to include or permit fixed canopies. Freestanding decks or gazebos must comply with accessory structure setbacks. Decks that are enclosed or with a frost-free foundation and capable of being enclosed shall be considered part of the principal dwelling and meet all required setbacks.

(Code 1989, § 153.115)

Sec. 153.115. - Projections into yards.

Architectural features of principal structures, excepting vertical projections, may extend or project into a required side yard not more than four inches for each one foot of such side yard, and may extend or project into a required front yard or rear yard not more than three feet. Architectural features of any structure may not project beyond the property line.

(Code 1989, § 153.116)

Sec. 153.116. - Soil erosion.

All development within the city must meet the requirements of part 91 of Public Act No. 451 of 1994 (MCL 324.9101 et seq.).

(Code 1989, § 153.117)

## Sec. 153.117. - Fees.

The city council shall establish a fee schedule by resolution from time to time for the purpose of assisting in the administration of this chapter, including, but not limited to, zoning permits, site plan reviews, special use permit reviews, variances and appeals.

(Code 1989, § 153.118)

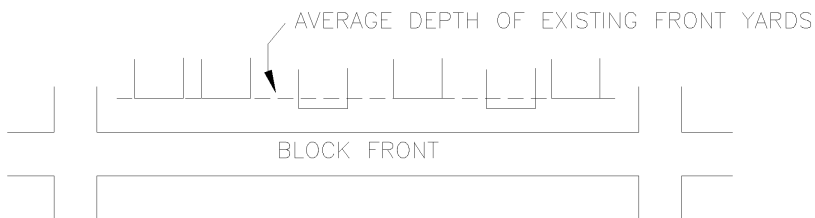
## Sec. 153.118. - Automobiles for sale.

Lots for which new or used automobile sales is not the principal use, shall be permitted a maximum of one automobile parked on the lot for the purpose of sale of the automobile. In instances where the owner of the automobile does not own the lot, the written permission of the owner of the lot shall be required by the zoning administrator before an automobile may be displayed for sale.

(Code 1989, § 153.119)

## Sec. 153.119. - Exceptions to front yard requirements.

In any residential district, the front yard requirements of a lot may be modified so as to equal the average depth of existing developed front yards on lots along the same block front; provided the front depth shall not be less than ten feet (see figure 1-1).



(Code 1989, § 153.120)

## Sec. 153.120. - Exceptions to side yard requirements.

On legal nonconforming lots with a width of less than 75 feet and recorded as such prior to the date of the adoption of the ordinance from which this chapter is derived, the minimum width of each side yard shall be five feet.

(Code 1989, § 153.121)

## Sec. 153.121. - Waste receptacles.

- (a) *Enclosures required.* Except on parcels zoned single-family residential district (R-1) and two-family residential district (R-2), whenever a waste receptacle, including dumpsters and compactors, are located on or required to be located on a site, said waste receptacle shall be located in an enclosure that meets the standards set forth in this section.
- (b) *When required.* Whenever it is required that a site plan be submitted for approval by the city, the owner and/or occupant of the parcel shall comply with the enclosure requirements of this chapter.
- (c) *Structural requirements.* Waste receptacles shall be enclosed on three sides with a gate on the fourth side. The enclosure shall be constructed of brick, decorative masonry block or metal, including sheet metal and the fence shall consist of metal or wood. Chain link fencing with vinyl or wood strips is not acceptable screening material. The walls

and fence shall be a maximum height of six feet but in no case less than one foot higher than the waste receptacle.

(d) *Location.*

(1) Waste receptacle enclosures shall be located in the rear yard or non-required side yard, at least ten feet from any nonresidential property line, combustible walls, or combustible roof eaves and in no case less than ten feet from any single-family residential district (R-1) or two-family residential district (R-2).

(2) Waste receptacle enclosures shall be easily accessed by refuse vehicles without potential to damage automobiles parked in designated parking spaces.

(e) *Base.* The waste receptacle enclosure base shall be constructed of six inches of reinforced concrete pavement. The base shall extend six feet beyond the waste receptacle pad or gate to support the front axle of a refuse vehicle.

(f) *Protective devices.* Bollards or similar protective devices shall be installed at the outside edges of the structure and at the rear of the enclosure to prevent damage during the emptying of the container.

(g) *Maintenance.* It is the obligation of the owner and the occupant of the property upon which any waste receptacle is located to continuously maintain the waste receptacle and the surrounding area, with or without an enclosure. The trash receptacle shall be kept closed. The refuse and trash shall not be allowed to overflow the receptacle. The refuse and trash shall not be placed beside, in front of or behind the receptacle. When an enclosure is present, the refuse and trash shall not be stored higher than the receptacle enclosure or outside the enclosure.

(h) *Civil infraction.* Failure to comply with the requirements of this section shall constitute a civil infraction. In the event of a first violation during a calendar year, the enforcement officer shall issue a notice of violation. If the violation is corrected within three days of the notice, no additional action will be taken on the violation. If the violation is not corrected within three days or if the violation is a second or subsequent violation during any calendar year, then a citation will be issued for the municipal civil infraction.

(Ord. No. 2016-01, § 1, 3-14-2016)

## ARTICLE 2. - DEFINITIONS

### Sec. 153.201. - Interpretation.

(a) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Any word not herein defined shall be construed as defined in the housing law of Michigan, Public Act No. 167 of 1917 (MCL 125.401 et seq.).

(b) When not inconsistent with the content, words used in the present tense include the future tense.

(c) Words in the singular include the plural number and conversely.

(d) The term "shall" is always mandatory and not merely directory; the word "may" is permissive.

(e) The term "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

(f) The term "used" or "occupied" includes the words intended, designed, or arranged to be used or occupied.

(g) In case of any difference in meaning or implication between the text of this chapter and any caption or illustration, the text shall govern.

(Code 1989, § 153.201)

### Sec. 153.202. - Definitions.

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

*Abandoned sign* means a sign which no longer correctly directs or exhorts any person, advertises a bona fide business, lessor, owner, product or activity conducted, or product available on the premises where such sign is displayed.

*Accessory apartment* means a complete, self-contained living unit created within an existing single-family home with its own kitchen, bathroom and living area.

*Accessory building* means a subordinate building situated on the same lot or a portion of the main building, the use of which is purely incidental to that of the main building.

*Accessory structure* means a subordinate structure situated on the same lot or a portion of the main building, the use of which is purely incidental to that of the main building.

*Accessory use* means a use subordinate to the main use on the lot and used for purposes customarily incidental to those of the main use.

*Actual construction* means the placing of construction materials in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall also be deemed to be actual construction.

*Adult day care (one to six persons)*. These facilities provide temporary care for less than a 24-hour period for persons over the age of 18 years in a supervised environment. There shall be no more than six clients cared for on the property at any given time.

*Adult day care (seven to 12 persons)*. These facilities provide temporary care for less than a 24-hour period for persons over the age of 18 years in a supervised environment. There shall be no more than 12 clients cared for on the property at any given time.

*Adult day care (13 or more persons)*. These facilities provide temporary care for less than a 24-hour period for persons over the age of 18 years in a supervised environment.

*Adult foster care family home* means private homes with the approved capacity to receive six or fewer adults to be provided with foster care for five or more days a week and for two or more consecutive weeks. The adult foster care family home licensees must provide the care and be a member of the household and an occupant of the home.

*Adult foster care large group home* means a group home that has the approved capacity to receive at least 13 but not more than 20 adults to be provided with foster care.

*Adult foster care small group homes (one to six persons)* means group homes that have the capacity to receive six or fewer adults to be provided with foster care.

*Adult foster care small group homes (seven to 12 persons)* means group homes that have the capacity to receive not less than seven or more than 12 adults to be provided with foster care.

*Alley* means a public or private right-of-way shown on a plat which provides secondary access to a lot, block, or parcel of land.

*Alter* means to make any change beyond normal maintenance. This includes, but is not limited to, changes in size, shape, or height.

*Apartment*.

- (1) The term "apartment" means dwelling units in a multiple dwelling as defined herein:
- a. *One-bedroom unit* means a dwelling unit consisting of not more than one bedroom in addition to kitchen and living area and necessary sanitary facilities.
  - b. *Two-bedroom unit* means a dwelling unit consisting of not more than two bedrooms in addition to kitchen and living area and necessary sanitary facilities.
  - c. *Three- or more bedroom unit.* For the purpose of computing density, the three-bedroom unit shall be considered a three-room unit and each increase in a bedroom over three shall be an increase in the room count by one over the three.
- (2) For the purpose of computing density, see article 4 of this chapter.

*Assisted living facilities* means a facility that provides primarily non-medical resident services to seven or more elderly individuals in need of or wanting personal assistance essential for sustaining the activities of daily living, or for the protection of the individual, on a 24-hour-a-day basis.

*Automobile rental establishments* means rental of automobiles and light trucks and vans, including incidental parking and servicing of vehicles for rent or lease. Typical uses include auto rental agencies and taxicab dispatch areas.

*Automobile repair facility* means any building, structure, improvements, or land used for the repair and maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles, including body, fender, muffler, upholstery work, or oil changes.

*Automobile service station* means a space, structure, or building for the retail sale or supply of motor fuels, lubricants, air, water, or other customary facilities for the installations of such commodities in or on motor vehicles, in combination with the retail sale of items typically found in a convenience store.

*Automobile wash establishment* means the use of a site for washing and cleaning of passenger vehicles, recreational vehicles, or other light duty equipment.

*Awning* means a retractable or fixed shelter, projecting from and supported by the exterior wall of a building, constructed of materials on a supporting framework.

*Banner* means any sign of lightweight fabric or similar material that is mounted to a pole or other structure at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

*Bay* means a major spatial division, usually one of a series, marked or partitioned off by the principal vertical supports of a structure. Also, any of a number of principal compartments or divisions in a wall, roof or other part of a building marked off by vertical or transverse supports.



Individual storefronts, arranged in regular bays, 20 to 30 feet intervals.

*Beacon* means any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; also, any light with one or more beams that rotate or move.

*Bed and breakfast* means a single-family residential structure that meets all of the following criteria:

- (1) Has ten or fewer sleeping rooms, including sleeping rooms occupied by the innkeeper, one or more of which are available to transient tenants.
- (2) Serves meals at no extra cost to its transient tenants.
- (3) Has a smoke detector in proper working order in each sleeping room and a fire extinguisher in proper working order on each floor.

*Boardinghouse* means a dwelling where meal, or lodging and meals, are provided for compensation to one or more persons by pre-arrangement for definite periods of not less than one week. A boardinghouse is to be distinguished from a hotel, motel, or a convalescent or nursing home.

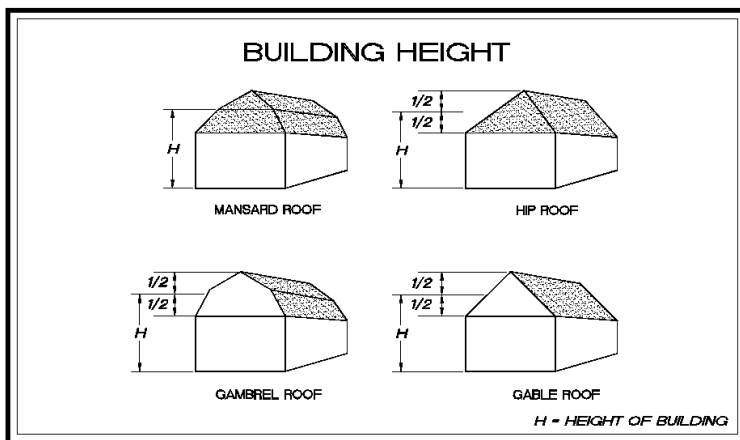
*Body art facility* means the location at which an individual performs tattooing and/or body piercing.

*Body piercing* means the perforation of human tissue other than an ear for a nonmedical purpose.

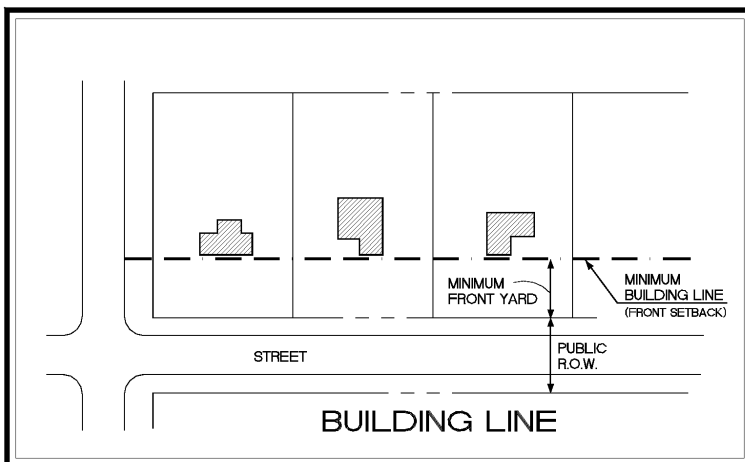
*Building* means any structure, excluding fences, having a roof or walls and built for, or capable of, the shelter and enclosure of persons, animals, chattels, or property of any kind.

*Building contractor's establishment* means a site providing open or enclosed storage of materials used in the construction trade, as well as office space.

*Building, height of,* means the vertical distance from the mean elevation of the finished grade along the front of the building to the highest part of a flat roof, or to the deck line of a mansard roof, or to the mean height level between the eaves and ridges for gable, hip, or gambrel roofs.



*Building line* means a line formed by the face of the building.



*Building line, required,* means the minimum front, rear and side setbacks as required by this chapter.

*Building marker* means any sign indicating the name of a building and date and incidental information about its construction; which sign is cut into a masonry surface or made of bronze or other permanent material.

*Business* means a separate business location, defined by walls, and having its own customer entrance. Multiple activities taking place in or various product lines offered within a particular building shall not be construed as separate businesses.

*Canopy* generally means a permanent roof-like shelter that extends from part or all of a building face and is constructed of non-rigid material except for the supporting framework.

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

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

*Cidery*. See "Distillery."

*Club, lodge* and *fraternal organization* means 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. A club must be recognized or certified as a nonprofit organization.

*Clustered single-family dwellings* means the placement of more than one building envelope on a single lot or parcel of land for the purpose of constructing single-family residential dwelling units in either attached or detached construction arrangement, and where the property ownership outside the building envelopes is commonly held by all single-family dwellings on that lot or parcel of land.

*Commercial message* means any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

*Communication tower* means a radio, telephone, cellular telephone or television relay structure of skeleton framework, or monopole attached directly to the ground or to another structure, used for the transmission or reception of radio, telephone, cellular telephone, television, microwave or any other form of telecommunication signals.

*Condominium master deed* means the condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and including those items required in section 8 of the Condominium Act, Public Act No. 59 of 1978 (MCL 559.108).

*Condominium subdivision plan* means drawings and information prepared pursuant to section 66 of the Condominium Act, Public Act No. 59 of 1978 (MCL 559.166).

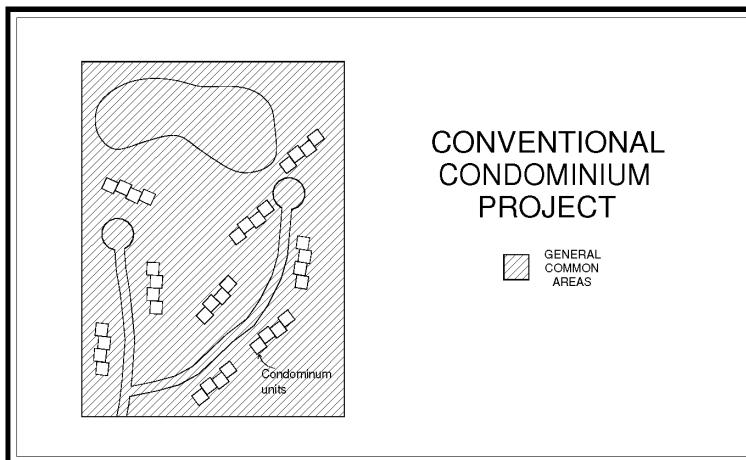
*Condominium unit* means that portion of the condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use.

*Contractible condominium* means a condominium project from which any portion of the submitted land or building may be withdrawn in accordance with the Condominium Act, Public Act No. 59 of 1978 (MCL 559.101 et seq.).

*Convalescent home* means establishments primarily engaged in providing in-patient nursing and health related personal care, other than a private home, in which one or more adults who are aged or physically impaired by accident, disease, or otherwise disabled are received for care and supervision for extended periods. Establishments of this type include: nursing homes, subacute care facilities, homes for the aged, intermediate care facilities, hospice, rest homes and other long-term care facilities.

*Convenience store* means a retail store with a floor area of less than 4,000 square feet that sells groceries and may also sell gasoline, but does not provide any type of automobile service or repair.

*Conventional condominium project* means a development in which ownership interest is divided under the authority of the Condominium Act, Public Act No. 59 of 1978 (MCL 559.101 et seq.) and in which the condominium unit consists primarily of the dwelling or other principal structure and most of the land in the development is part of the general common area.



*Conversion condominium* means a condominium project containing condominium units, some or all of which were occupied before the filing of a notice of taking reservations under section 71 of the Condominium Act, Public Act No. 59 of 1978 (MCL 559.171).

*Cornice* means the exterior trim of a structure at the meeting of the roof and wall; usually consists of bed molding, soffit, fascia, and crown molding.





*Distillery* means the processing of cider, beer, wine, spirits and other alcoholic beverages regulated by the Michigan Liquor Control Code. This process is performed on site through the combination or mixing of ingredients within an enclosed structure. Such facilities are permitted with or without tasting rooms or tap rooms. Retail sales of the alcoholic beverages produced on the site are permitted along with retail sales of related products.

*Drive-in* means a business establishment so developed that its retail or service character is dependent on providing a driveway parking spaces for motor vehicles so as to serve patrons while in the motor vehicle, regardless of whether self-service is involved or not, rather than within a building or structure.

*Drive-through establishment* means a business establishment that provides customers with the opportunity to pay for and receive goods or services without leaving their car. A drive-through establishment is distinguished from a drive-in establishment by the fact that drive-through operations involve a driveway approach that the customer uses to enter the service area, receive service and depart, while a drive-in involves parking spaces the customer parks in to receive service.

*Driveway* means an improved surface limited to concrete, asphalt, brick, pavers, gravel, millings (macadam), pervious concrete/asphalt that is a way located upon a parcel lot or limited common area, specifically constructed and maintained to provide ingress and egress from the road or street onto the site and circulation about the site. A material not listed above would require the authorization of the planning commission.

*Dwelling unit* means one or more rooms with kitchen and sanitary facilities available that is designed as a unit for occupancy by one person, family or household.

*Essential services* means the erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of overhead or underground gas, electrical, steam or water distribution or transmission systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, electrical substations and auxiliary buildings, gas regulator buildings and equipment, and other similar facilities and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health or safety or general welfare, but not including any buildings. It is the intention of this chapter to except erection, construction, alteration, and maintenance of such essential services from the application of this chapter.

*Essential service building* means a building and the related storage and parking areas needed to provide essential services.

*Expandable condominium* means a condominium project to which additional land may be added in accordance with the Condominium Act, Public Act No. 59 of 1978 (MCL 559.101 et seq.).

*Family* means:

- (1) A domestic family; that is, one or more persons living together and related by the bonds of consanguinity, marriage or adoption, together with servants of the principle occupants and not more that one additional unrelated person, with all of such individuals being domiciled together as a single, domestic, housekeeping unit within a dwelling unit; or
- (2) The functional equivalent of a domestic family; that is, persons living together in a dwelling unit whose relationship is of a permanent and distinct character and is the functional equivalent of a domestic family, with a demonstrable and recognizable bond which constitutes the functional equivalent bonds which render the domestic family a cohesive unit. All persons of the functional equivalent of the domestic family must be cooking and otherwise housekeeping as a single, nonprofit unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization or group where the common living arrangements and/or the basis for the establishment of the functional equivalency of the domestic family is likely or contemplated to exist for a limited or temporary duration.

*Family child care home* means a private home in which one but fewer than seven minor children are received for care and supervision for compensation for periods of less than 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. The term "family child care home" includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year. The term "family child care home" does not include an individual providing babysitting services for another individual. As used in this definition, "providing babysitting services" means caring for a child on behalf of the child's parent or guardian when the annual compensation for providing those services does not equal or exceed \$600.00 or an amount that would, according to the Internal Revenue Code of 1986, obligate the child's parent or guardian to provide a form 1099-MISC to the individual for compensation paid during the calendar year for those services.

*Farmer's market, permanent*, means a commercial establishment selling produce and other farm products, whether or not produced on the property, at retail to customers, not unlike a grocery store.

*Farmer's market, temporary*, means a farmer's market established for a temporary period in an area normally set aside for other uses such as a parking lot, park, etc.

*Flag* means any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity.

*Foster family homes* means a private home in which one, but not more than four, minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.

*Garage.*

- (1) *Private garage* means a building for the private use of the owner or occupant of a principle building for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial or public nature.
- (2) *Public garage* means any building or premises used for housing of motor vehicles for remuneration.

*General common area* means portions of the condominium development owned and maintained by the condominium association.

*Group child care home* means a private home in which more than six but not more than 12 minor children are given care and supervision for periods of less than 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. The term "group child care home" includes a home in which care is

given to an unrelated minor child for more than four weeks during a calendar year.

*Home occupation* means an occupation for gain or support, commonly involving the performing of a process or service or the creating of a product, conducted within a dwelling unit.

*Independent living units* means one or more rooms with kitchen and sanitary facilities.

*Institutional use* means a nonprofit or quasi-public use, including, but not limited to, churches, schools, funeral homes, and cemeteries.

*Junkyard* means an open area where waste or used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires, and bottles. The term "junkyard" includes automobile wrecking yards and includes any area of more than 200 square feet for storage, keeping, or abandonment of junk, but does not include uses established entirely within enclosed buildings.

*Kenel* means the keeping of four or more dogs and cats over four months old on a single premises; except for veterinary clinics or veterinary hospitals in which the keeping of such animals is an accessory use.

*Kenel, commercial*, means the housing or keeping of eight or more dogs and cats over four months of age, for any purposes or the keeping of any number of dogs for training or boarding.

*Kenel, private*, means the housing or keeping of more than three but fewer than eight dogs and cats over four months of age for noncommercial purposes on a lot or in a structure.

*Laboratory* means a facility for scientific laboratory research and development in technological-intensive fields. Examples include biotechnology, pharmaceuticals, genetics, plastics, polymers, resins, coatings, fibers, films, heat transfer, and radiation research facilities.

*Limited common areas* means portions of the condominium development other than the condominium unit itself reserved for the exclusive use of less than all of the co-owners of the condominium development.

*Livable floor space* means the square feet of floor area providing living space in normal residence areas, including kitchen, dining room, living room, bathroom, bedroom, and similar living quarter rooms, but excluding any area contained within utility rooms, attached garages, breezeways, and enclosed porches.

*Long-term care facility* means an establishment primarily engaged in providing in-patient nursing and health related personal care, other than a private home, in which one or more adults who are aged or physically impaired by accident, disease, or otherwise disabled are received for care and supervision for extended periods. Establishments of this type include: nursing homes, subacute care facilities, homes for the aged, intermediate care facilities, hospice, convalescent homes and rest homes.

*Lot* means, for the purposes of this chapter, a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as herein required. Such lot shall have direct frontage on an approved public street, or on a private street where authorized by this chapter, and may consist of:

- (1) A single lot of record;
- (2) A portion of a lot of record;
- (3) A combination of contiguous lots of record, or contiguous portions of lots of record;
- (4) A parcel of land described by metes and bounds;
- (5) A lot or portion of a lot and parcel of land described by metes and bounds;
- (6) The condominium unit and limited common area in a site condominium.

*Lot, corner*, means a lot fronting on two or more streets intersecting at an angle of not more than 135 degrees.

*Lot, interior*, means a lot other than a corner lot.

*Lot line, front*, means, in the case of an interior lot, a line separating the lot from the street; in the case of a corner lot, each yard next to a street shall be considered a front lot line.

*Lot line, rear*, means:

- (1) The lot line that is opposite and most distant from the front lot line.
- (2) The rear lot line of an irregular or triangular lot shall be a line entirely within the lot at least ten feet long and parallel and most distant from the front lot line.
- (3) In the case of a corner lot, there shall be only one rear yard.

*Lot line, side*, means any lot line that is neither a front lot line nor a rear lot line.

*Lot lines* means lines bounding a lot.

*Marginal access drive* means a drive or lane developed near the outer edge of a lot to provide direct access to adjacent lots.

*Marquee* means any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

*Microbrewery*. See "Distillery."

*Mobile home* means a structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

*Mobile home park* means a parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual, nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home.

*Motel* means a building or group of buildings designed and used primarily for providing sleeping accommodations for automobile travelers and differing from a bed and breakfast or roominghouse.

*Motor vehicle* means a vehicle which is self-propelled. This definition excludes recreational vehicles as herein defined and watercraft.

*Nonconforming use* means a building or land occupied by a use that does not conform with the use regulations of the district in which it is situated.

*Parking space* means a space or area exclusive of driveways and aisles, permanently reserved and maintained for the parking of a motor vehicle, and so located as to be readily accessible to a public street or alley.

*Pennant* means any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

*Person* means any association, company, corporation, firm, organization, or partnership, singular or plural, or any kind.

*Planned residential development* means an integrated and coordinated development of various residential land uses and developed in accordance with the conditions as prescribed under the provisions of this chapter.

*Plaza* means a building or group of buildings containing two or more businesses (also referred to as mini-mall or strip mall).

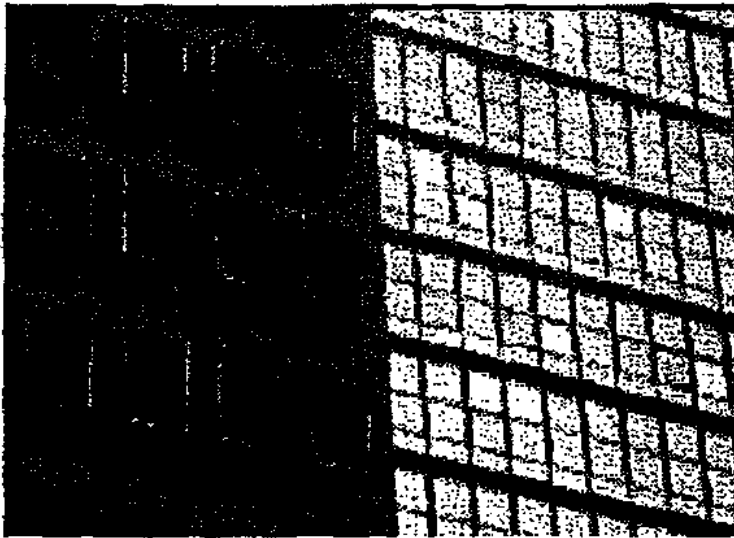
*Pond* means any manmade body of water or natural body of water altered by filling or enlarging that is not more than two acres in size. A manmade or natural body of water larger than two acres in size is a lake.

*Principal building* means the building in which is conducted the principal use of the lot on which it is located. Lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages, and other clearly accessory uses shall not be considered principal buildings.

*Private road* means a road owned and maintained by the owners of the property it serves and provides access to three or more dwelling buildings or two nonresidential principal buildings. The term "private road" includes roads within condominium projects, roads serving two-family dwelling units and roads within office or industrial complexes. A private road may be used to provide public services such as utility easements, waste collection and emergency services. The term "private road" does not include drives serving multiple-family buildings with three or more attached dwelling units, parking lot aisles or drives connecting parking lots to internal roads.

*Professional office* means the office for the practice or calling by a physician, oculist, lawyer, accountant, insurance or real estate agent, architect, minister, engineer, musician, teacher, artist, magistrate, or similar occupations, but not including customary home occupations, provided that the facilities of the offices for medical professions shall not include any facilities for the overnight care nor any more than such facilities are used for the immediate treatment of patients.

*Punched windows* means glazed openings in a building facade consisting of typically small, rhythmically positioned openings in a solid wall plane.



Left side, punched openings in masonry wall.

Right side, glass curtain wall.

*Recreation clubs and organizations, nonprofit*, means any person, partnership, association, corporation or other organization whose activities are conducted for unselfish, civic, or humanitarian motives, or for the benefit of others, and not for the gain of any private individual or group that is providing recreational activities to the public.

*Recreational vehicles* means any truck, bus, motor home, travel trailer, trailer coach or similar vehicle used or so constructed to permit its being used as a conveyance upon the public streets or highways and duly licensable as such, and shall include self-propelled vehicles so designed, constructed, or added to by means of accessories in such a manner as will permit occupancy thereof as a dwelling or sleeping place of one or more persons having no foundation other than wheels, jacks or skirting.

*Research and development facility* means an establishment or other facility that carries out the investigation in the natural, physical or social sciences which may include engineering and product development.

*Residence.*

- (1) *Multiple-family residence* means a building or portion thereof, used or designed as a residence for three or more families living independently of each other.
- (2) *Single-family residence* means a building occupied by but one family and so designed and arranged as to provide living, cooking, and sleeping accommodations for one family only.
- (3) *Two-family residence* means a building occupied by but two families and so designed and arranged as to provide living, cooking, and sleeping accommodations for two families only.

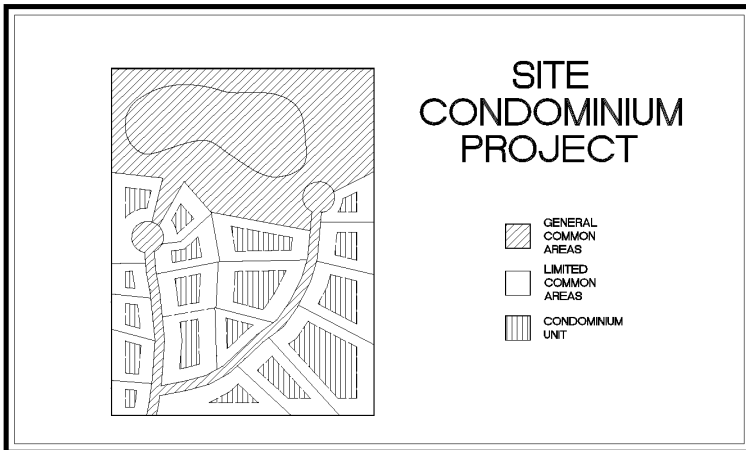
*Retirement communities, mixed use*, means facilities that include a range of housing options and medical and household services to residents in order to allow them to age in place.

*Setback* means the distance from the right-of-way lines of streets or parcel boundary to the building line, for the purpose of defining limits within which no building or structure, or any part thereof, shall be erected or permanently maintained, except as specifically provided for in this chapter.

*Shopping center* means a group of retail or other commercial establishments that is planned, owned, and managed as a single property. On-site parking is provided.

*Sign* means any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

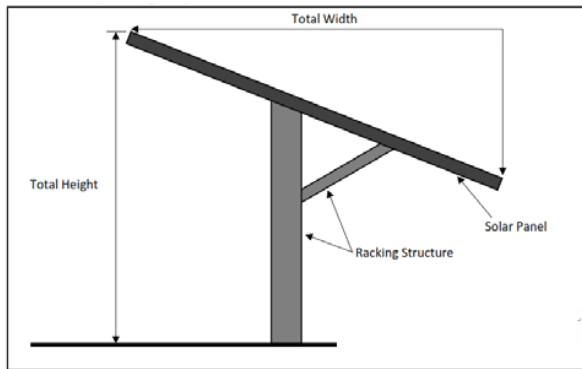
*Site condominium project* means a development in which ownership interest is divided under the authority of the Condominium Act, Public Act No. 59 of 1978 (MCL 559.101 et seq.) and in which the condominium unit consists of a building site, with or without structures, which along with associated limited common area, constitutes the equivalent of a lot.



*Solar energy collector* means a panel or panels and/or other devices or equipment, or any combination thereof, that collect, store, distribute and/or transform solar, radiant energy into electrical, thermal or chemical energy for the purpose of generating electric power or other form of generated energy for use in or associated with a principal land use on the parcel of land on which the solar energy collector is located and if permitted for the sale and distribution of excess available electricity to an authorized public utility for distribution to other lands.

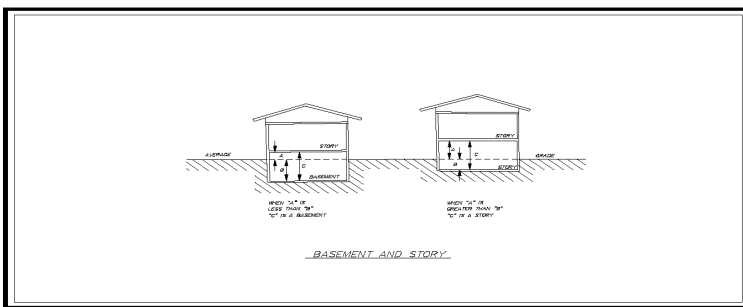
*Building mounted solar energy collector* means a solar energy collector attached to the roof or wall of a building or which serves as the roof or wall in whole or in part of the building.

*Commercial solar energy collector* means a utility facility of solar energy collectors, which is not attached to and is separate from any building on the parcel of land, with the primary purpose of wholesale or retail sales of generated electricity.



*Special use permit* means a specific approval for a use that has been determined to be more intense or to have a potentially greater impact than a use permitted by right within the same zoning district, and has been designated as a use by special use permit in a particular zoning district.

*Story* means that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between such floor to the ceiling next above it.



*Story, half*, means that portion of a building between the eaves and the ridge lines of a pitched roof, which may or may not be used for tenant or dwelling purposes.

*Street* means a public or private thoroughfare which affords the principal means of access to abutting property.

*Street frontage* means the distance for which a lot line of a lot adjoins a public street, from one lot line intersecting said street to the furthest distant lot line intersecting the same street.

*Strobe light* means a type of blinking or flashing light.

*Structural alteration* means any change in the supporting members of a building, such as bearing walls, columns, beams, or girders, except those alterations as may be required for the safety of the building.

*Structure* means anything constructed, erected, or moved on a premises, the use of which required more or less permanent location on the ground or attached to something having more or less permanent location on the ground, excluding landscaping, berms, trees, utility poles, and signs.

*Tattoo* means an indelible mark made upon the body of another individual by the insertion of a pigment under the skin.

*Townhouse* means one of a series of single-family dwelling units connected by common sidewalls, each with its own outside entrance and exit, and constructed as part of a series of dwellings, all of which are either attached to the adjacent dwelling or dwellings by party walls or are located immediately adjacent thereto with no visible separation between walls or roofs.

*Translucent storefront* means the clear, glazed opening (window) in the front of a store or shop at street level intended for the display of goods or wares.

*Travel trailer* means a vehicular portable structure designed as a temporary dwelling for travel and recreational uses.

*Usable floor area* means, for purposes of computing parking, that area used for or intended to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, or for utilities, shall be excluded from this computation of usable floor area. Measurement of floor area shall be the sum of the gross horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.

*Utility room* means a room or space designed and constructed to house utilities such as a furnace or water heater.

*Variances, use and non-use*, means a departure from any provision of the zoning requirements for a specific parcel, without changing this chapter or the underlying zoning of the parcel. A variance usually is granted only upon demonstration of hardship based on the peculiarity of the property in relation to other properties in the same zoning district. A non-use variance allows a deviation from the dimensional (i.e., height, bulk, yard) requirements of this chapter, as well as other requirements such as landscaping and parking spaces. A use variance authorizes the property owner to establish a use of land that is otherwise prohibited in that zoning district.

*Vehicle* includes, but is not limited to, automobiles, trucks, boats, recreational vehicles, trailers, railroad cars, construction equipment and other such mobile equipment whose major legal purpose is other than the display of advertising.

*Veterinary clinic (with or without outdoor runs)* means a facility for the examination and treatment of animals, including temporary boarding facilities which may also provide outdoor runs for animals.

*Wall area* means that area of an exterior wall starting at sidewalk level and extending up to the eaves on a vertical plane, and, in the case of a mansard roof, including the generally vertical surface on such roof.

*Winery*. See "Distillery."

*Yard, actual*, means a space, open to the sky and unoccupied or unobstructed by any portion of a building or structure (except as hereinafter provided in specific use districts), including overhanging eaves on the building or structure. Yard measurements shall be the minimum horizontal distances.

- (1) *Front yard* means an open space extending the full width of the lot between the front lot line and the nearest point of the main building, excluding steps, handicap ramps and uncovered porches.
- (2) *Rear yard* means the depth of the rear yard shall be measured between the rear line of the lot, and the rear line of the building, excluding steps, uncovered porches and handicap ramps.
- (3) *Side yard* means an open unoccupied space on the same lot with the main building, situated between the side line of the building and the adjacent side line of the lot and extending from the rear line of the front yard to the front line of the rear yard, excluding steps, drives, uncovered porches, and the like. If there is no front yard, the front boundary of the side yard shall be the front line of the lot, and if there is no rear yard, the rear boundary of the side yard shall be the rear line of the lot.

*Yard, required*, means a space defined by the required setback under this chapter from the lot lines inward toward the center of the lot. The actual yard may be less or more than the required yard.

(Code 1989, § 153.202; Ord. of 3-27-2006; Ord. No. 2012-01, 3-12-2012; Ord. No. 2016-03, § 1, 3-14-2016; Ord. No. 2016-13, § 1, 9-12-2016; 2017-06, § 1, 6-12-2017; Ord. No. 2018-05, § 1, 8-13-2018; Ord. No. 2019-01, § 1, 1-14-2019)



Sec. 153.301. - Districts established.

For the purpose of this chapter, the city is hereby divided into the following zoning districts:

- (1) Residential districts:
  - a. Single-Family Residential District (R-1).
  - b. Two-Family Residential District (R-2).
  - c. Medium Density Residential (R-3A).
  - d. High Density Residential (R-3B).
  - e. Mobile Home District (R-4).
- (2) Business districts:
  - a. Local Business District (B-1).
  - b. Central Business District (CBD).
  - c. General Business District (B-2).
  - d. Heavy Business District (B-3).
  - e. Office-Service District (OS-1).
  - f. Downtown Overlay District (DO).
- (3) Industrial districts: (I-1).
- (4) Overlay districts: Medium Density Residential Overlay (R-3A-O).

(Code 1989, § 153.301; Ord. of 10-10-2005; Ord. of 2-27-2006; Ord. No. 2012-01, 3-12-2012)

Sec. 153.302. - Official zoning map.

- (a) The boundaries of each district are shown on the official zoning map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter.
- (b) The official zoning map shall be identified by the signature of the mayor attested by the city clerk, and bearing the seal of the city under the following words: "This is to certify that this is the Official Zoning Map referred to in Article 3 of the City of Flushing Zoning Ordinance, as amended." The date of the adoption of the map, the date of the planning commission public hearing and the effective date of the map shall also be shown on the map.
- (c) No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the procedures set forth in this chapter, the city charter and state law. Any unauthorized change of whatever kind by any person shall be considered a violation of this chapter and punishable under the city civil infractions ordinance.
- (d) The only true copy of the official zoning map shall be located in the office of the city clerk and shall be prima facie evidence as to the current zoning status of lands, buildings, and other structures in the city. The map shall be as much a part of this chapter as if the information set forth therein were fully described herein.
- (e) A copy (to be replaced yearly, at a maximum) made directly on Mylar film by a direct copy process duplicating machine and initialed and dated by the city clerk shall be kept at a separate location which shall, at a minimum, be separated from the true copy by a fire wall.

(Code 1989, § 153.302)

## Sec. 153.303. - Interpretation of district boundaries.

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

- (1) Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
- (2) Boundaries indicated as approximately following platted lot lines shall be construed as following lot lines;
- (3) Boundaries indicated as approximately following city limits shall be construed as following city limits;
- (4) Boundaries indicated as following railroad lines shall be construed to be following the railroad right-of-way line;
- (5) Boundaries indicated as parallel to or an extension of features indicated in subsections (1) through (4) of this section shall be so construed;
- (6) Distances not specifically indicated on the official zoning map shall be determined by the scale of the map;
- (7) Where the street or property layout existing on the ground is at variance with that shown on the official zoning map, or in other circumstances not covered by subsections (1) through (6) of this section, the board of appeals shall interpret the district boundaries with recommendations from the planning commission.

(Code 1989, § 153.303)

## Sec. 153.304. - Zoning application.

Except as hereinafter provided:

- (1) No building shall be erected, moved, reconstructed, or structurally altered nor shall any building or land be used for any purpose other than that which is permitted in the district in which that building or land is located.
- (2) No building shall be erected, reconstructed, or structurally altered to exceed the height limit or other requirements herein established for the district in which that building is located.

(Code 1989, § 153.304)

## Sec. 153.305. - Annexation.

Wherever any area is annexed to the city, one of the following conditions will apply:

- (1) Land that is zoned previous to annexation shall be classified as being in whichever district of this chapter most closely conforms with the zoning that existed prior to annexation, as determined by the planning commission.
- (2) Land not zoned prior to annexation shall be classified into whichever district of this chapter most closely conforms with the existing use, as determined by the planning commission.

(Code 1989, § 153.305)

## Sec. 153.306. - Zoning of vacated areas.

Whenever any street, alley, or other public way within the city shall have been vacated by action of the city council, and when the lands within the boundaries thereof attach to and become a part of lands adjoining such street, alley, or public way, such lands formerly within such vacated street, alley, or public way shall automatically, and without further action of the city council, thenceforth acquire and be subject to the same zoning regulations as are applicable to lands to which such shall attach, and the same shall be used for the same use as is permitted under this chapter for such adjoining lands.

(Code 1989, § 153.306)

Sec. 153.307. - Residential districts.

- (a) *Single-Family Residential District (R-1)*. The R-1 Single-Family Residential District is designed to accommodate and be the most restrictive of the residential districts. The intent is to provide for an environment of predominantly low-density single unit detached dwellings along with other residentially related facilities which serve the residents in the district.
- (b) *Two-Family Residential District (R-2)*. The R-2 Two-Family Residential District is designed to afford a transition of use in existing housing areas by permitting new construction or conversion of existing structures between adjacent residential and commercial, office, thoroughfares, or other uses which would affect the residential character. This district also recognizes the existence of older residential areas of the city where larger houses have been, or can be, converted from single-family to two-family residences in order to extend the economic life of these structures and allow the owners to justify the expenditures for repairs and modernization. This district allows the construction of new two-family residences where slightly greater densities are permitted.
- (c) *Medium Density Residential District (R-3A)*. The R-3A Medium Density Residential District is designed to provide sites for multiple-family dwelling structures, and related uses, which will generally serve as zones of transition between the nonresidential districts and the lower density one-family residential districts.
- (d) *High Density Residential District (R-3B)*. The R-3B High Density Residential District is designed to serve the needs of those who desire multiple-family dwelling types.
- (e) *Mobile Home District (R-4)*. The R-4 Mobile Home District is designed to provide an area appropriate for mobile home park development.

(Code 1989, § 153.307; Ord. of 5-11-2007)

Sec. 153.308. - Business districts.

- (a) *Office-Service District (OS-1)*. The OS-1 Office-Service District is designed to accommodate office buildings and uses and basic personal services and is, as a use district, intended to serve the function of land use transition between the Commercial District and the adjacent Residential District.
- (b) *Local Business District (B-1)*. The B-1 Business District is designed solely for the convenience shopping of persons residing in adjacent residential areas that permit only such uses as are necessary to satisfy those limited basic shopping or service needs which, by their very nature and size, are not related to the shopping pattern of the community or regional type of shopping center.
- (c) *Central Business District (CBD)*. The CBD Central Business District is designed to provide for office buildings and the great variety of large retail stores and related activities which occupy the prime retail frontage by serving the convenience and service needs of the entire municipal area as well as a substantial area of the adjacent and surrounding residential developments beyond the municipal limits. The district regulations are intended to encourage retail development of a continuous retail frontage and by prohibiting automotive related services and non-retail uses which tend to break up such continuity.
- (d) *General Business District (B-2)*. The B-2 General Business District is designed to furnish areas not served typically by the Central Business District with a variety of automotive services and goods incompatible with the uses and with the pedestrian movement in such central business district. The general business districts are characterized by more diversified business types and are often located so as to serve the passerby traffic. General business districts, by special use permits, may include registered medical marijuana care providers.

- (e) *Heavy Business District (B-3)*. The B-3 Heavy Business District is designed to furnish areas not for commercial uses of an industrial nature, but which need the visibility to the general public and access that commercial businesses require. They often generate noise or smoke to a greater extent and may involve outdoor display or storage.
- (f) *Downtown Overlay District (DO)*. The DO Downtown Overlay District is designed to implement design standards on improvements within the historic downtown. The underlying zoning controls all normal district regulations including uses allowed and dimensional requirements. In addition, property within the downtown overlay district must comply with the design standards as outlined in section 153.1303(a) and (d), and section 153.901(55).

(Code 1989, § 153.308; Ord. of 2-27-2006; Ord. No. 2012-01, 3-12-2012)

#### Sec. 153.309. - Industrial districts.

The I-1 Industrial District is designed so as to primarily accommodate wholesale and warehouse activities, and industrial operations whose external, physical effects are restricted to the area of the districts. The I-1 district is so structured as to permit, along with any specified uses, the manufacturing, compounding, processing, packaging, assembly, or treatment of finished or semi-finished products from previously prepared material. The intent of this article is to prohibit the processing of raw material for shipment in bulk form, to be used in an industrial operation at another location.

(Code 1989, § 153.309)

#### Sec. 153.310. - Overlay districts.

The R-3A-O Medium Density Residential Overlay District is designed so as to primarily accommodate medium density residential uses including single-family and multiple-family uses. The intent of this article is to permit existing industrial uses within the overlay area and to permit reinvestment and expansion of those uses at the property owner's discretion, but to encourage the long-term conversion of the property to residential uses.

(Code 1989, § 153.309A; Ord. of 10-10-2005)

#### Sec. 153.311. - Planned Unit Development (PUD).

The Planned Unit Development zoning district is designed to provide a framework within which a developer, upon their initiation, can relate the type, design and layout of residential and/or commercial uses to a particular site and particular demand for housing and/or other local commercial facilities in a manner consistent with the preservation of property values within established residential areas. The section also provides an added degree of flexibility in the building design and land use arrangement so that a mixture of housing units and provision of common open space can be provided. The zoning district is intended to accommodate developments with mixed or varied uses, on sites with unusual topography or unique settings within the community, or on land which exhibits difficulty or costly development problems or sites that contain natural features such as wetlands or floodplains that are important for the city to retain in order to protect its character and shall not be allowed where this zoning classification is sought primarily to avoid the imposition of standards and requirements of other zoning classifications rather than to achieve the stated purposes herein set forth. The city council does hereby determine that the following regulations are the minimum requirements for the promotion and protection of the public health, safety and welfare. Some uses permitted in this district are required to comply with specific design standards.

- (1) *Permitted principal uses*. All permitted principal uses by right or by special use permit as identified in section 153.312, schedule of uses, shall be permitted in the PUD district.
- (2) *Standards for approval*. 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.

- a. Off-street parking shall be sufficient to meet the minimum required by the ordinances of the city (article 5 - off street parking and loading). However, if it is deemed necessary in order to achieve the purposes of this section, the planning commission may relax, modify and or increase parking requirements during site plan review.
  - b. All streets within the planned unit development shall meet the minimum requirements of the chapter 152, subdivision regulations, unless modified by the planning commission.
  - c. Landscaping shall be provided so as to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property (article 8 - landscape standards). However, if it is deemed necessary in order to achieve the purposes of this ordinance, the planning commission may relax, modify and or increase landscaping requirements as part of site plan review.
  - d. Judicious effort shall be used to ensure the preservation of the integrity of the land and the preservation of natural, historical, and architectural features.
  - e. Surface water shall be retained on the site unless the applicant can demonstrate that to do so would be harmful to the environment or is not practical. In any case, storm water shall not flow off the site at a rate greater than the rate of flow prior to development. (Chapter 54 - storm water management)
  - f. The site shall have adequate lateral support so as to ensure that there will be no erosion of soil or other material. The final determination as to adequacy of, or need for, lateral support shall be made by the city building inspector and/or city engineer.
  - g. The proposed density of the planned unit development shall be no greater than that which would be required for each of the component uses of the development in the zoning district in which it is permitted. However, if it is deemed necessary in order to achieve the purposes of the section, the city council may permit increased density in return for increased open space. Non-contiguous property may not be used in calculating open space and under no circumstance shall the open space be located on non-contiguous property.
  - h. A site zoned for PUD must be a minimum of five acres.
- (3) *Traffic and accessory conditions.* The following regulations concerning traffic and accessory conditions shall be followed:
- a. Safe, convenient, uncongested, and well defined vehicular and pedestrian circulation within and to the zoning district shall be provided.
  - b. Drives and streets shall not be laid out to encourage outside traffic to traverse the development nor to create unnecessary fragmentation of the development into small blocks.
  - c. No material impediment to the visibility of automotive traffic, cyclists or pedestrians shall be created or maintained.
- (4) *Approval procedure.*
- a. The PUD zoning approval shall follow procedural requirements of article 12 of this ordinance for amending the zoning ordinance. The planning commission shall hold a public hearing. The planning commission shall review the conceptual PUD development plan as described in subsection (5) to determine its suitability for inclusion in the land use and zoning plans of the city and adoption by city council as part of the ordinance.
  - b. The planning commission shall then submit the proposed amendatory ordinance to the city council together with their recommendation and a summary of comments received at the public hearing.

- c. The city council shall review the proposed PUD rezoning and approve or disapprove the request. Prior to their council may accept proposed revisions to the concept plan or may resubmit the proposed changes to the plan for another public hearing.
  - d. PUD site plan approval procedure may commence only after the acceptance by the city council of the conceptual PUD development plan and the rezoning of the property as required.
  - e. PUD site plan approval process shall follow the procedures for site plan approval outline in article 6.
- (5) *Conceptual PUD development plan requirements.*
- a. The applicant for PUD rezoning shall include as part of its application a conceptual PUD development plan that includes the following technical or graphic materials together with such fees as may be required.
  - b. The PUD conceptual plan shall indicate the entire contiguous holding of the petitioner or owner who wishes to develop the entire parcel or any part thereof and shall include the area and use of land adjacent to the parcel to be developed. The plan shall exhibit any unusual problems of topography, utility service, land usage or land ownership. The plan shall also exhibit all existing and proposed structures, existing and proposed streets, open spaces and other features as required by ordinance or regulation.
  - c. The conceptual plan shall show all proposed uses and allotted spaces, gross site area, street and vehicular access areas, number of each variety of habitable space, total number of dwelling units and total open space. The plan shall:
    - 1. Define the location of the areas to be devoted to particular uses.
    - 2. State the acreage to be devoted to the particular uses.
    - 3. Set forth the proposed density of the dwelling units by use type and of the entire project.
    - 4. Show the location of parks, open recreation areas, other open space and all public and community uses.
    - 5. The applicant shall present material as to the development's objectives and purposes to be served; conformity to plans and policies of the city; market needs; impact on public schools, utilities, and circulation facilities; impact on natural resources; and a staging plan showing the general time schedule of the expected completion dates of the various elements of the plan.
    - 6. Any additional graphics or written materials reasonably requested by planning commission or city council to assist the city in visualizing and understanding the proposal shall be submitted.
- (6) *Site plan approval.* Following approval of the conceptual plan by the city council, if the applicant wishes receive approval for all or a portion of the concept plan, the applicant shall submit site plans for phases of the approved conceptual PUD development plan. The site plans shall conform to the approved conceptual plan. The site plans shall be reviewed and approved by the planning commission following the procedures outlined in article 6.
- (7) *Deviations from approved PUD site plan.* Deviations from the approved plan may occur only under the following circumstances:
- Minor changes to a previously approved PUD site plan may be approved without the necessity of planning commission or city council action if the zoning administrator certifies in writing that the proposed revision does not alter the basic design nor any specified conditions of the plan as agreed upon by the planning commission and the city council. Any other change will require approval following the procedures outlined above for the original approval. Appeal of the zoning administrators decision regarding the need for formal review by the planning commission and city council is appealable to the zoning board of appeals.
- (8) *Design standards.* Some uses permitted in this district have required design standards as listed in article 9. Such uses shall comply with those requirements unless modified by the city as part of the concept plan approval or

through approval of a variance by the zoning board of appeals.

**PUD Process Flow Chart**

Property owner submits request to rezone property to PUD with a concept drawing and a list of proposed dimensional and other requirements.



Planning commission holds public hearing and makes recommendation on rezoning including the concept plan and proposed dimensional and other requirements.



City council votes to approve rezoning including concept plan and proposed dimensional and other requirements.



Planning commission reviews the site plan. In addition to evaluation for the normal site plan requirements, the planning commission must determine if the request is consistent with the PUD as approved by the city council.



Applicant submits a site plan for all or a portion of the site, including the detailed engineering required for a site plan.

( Ord. No. 2019-05, Art. I, 9-9-2019)

Sec. 153.312. - Schedule of uses.

The following schedule of uses lists the uses permitted in each zoning district. In all zoning districts, no building or land shall be used and no building shall be erected except for the following specified uses permitted in each district. If a use is not listed in the schedule of uses a zoning district, that use is not permitted in that particular zoning district. Uses are permitted either by right, as accessory to a principal use, or by special use permit.

- (1) Principal uses permitted by right. Uses permitted by right are designated by a "P" in the following schedule of uses.
- (2) Uses permissible by special use permit. Uses permitted by special use permit are designated by a "S" in the following schedule of uses. If the use has a corresponding number, ("3" for example) the number corresponds to the design standard requirement for that use as listed in [section 153.901](#). In all zoning districts, the special use shall be subject to the provisions of this chapter, including the specific design standards set forth in [article 9](#) of this chapter (if applicable), and the general standards for special uses listed in [article 7](#) of this chapter. All special uses are subject to review and approval of the special use permit and site plan by the planning commission (see [article 7](#) of this chapter).
- (3) Accessory buildings and uses, customarily incident to any of the above permitted uses, are permitted provided that they shall meet all of the required provisions of this chapter.

City of Flushing Zoning Ordinance - Schedule of Uses

Uses	R-1	R-2	R-3A	R-3B	R-4	B-1	CBD	B-2	B-3	OS-1	I-1	R-3A-O
<b>Residential Uses</b>												
Accessory buildings and structures	P# (52)	P# (52)	P# (52)	P# (52)	P# (52)	P# (52)	P# (52)	P# (52)	P# (52)	P# (52)	P# (52)	P# (52)
Accessory clubhouse and recreational facilities such a swimming pool, sauna, fitness room, etc.				S	S							
Adult day care (1—6 persons)	P# (1)											
Adult day care (7—12 persons)			S# (2)	S# (2)								S# (2)
Adult day care (13 or more persons)			S# (3)	S# (3)								S# (3)



Adult foster care family homes <sup>1</sup>	P# (5)	P# (5)	P# (5)	P# (5)	P# (5)							P# (5)
Adult foster care large group home (13—20 persons)				S# (4)								
Adult foster care small group home (1—6 persons)	P# (5)	P# (5)	P# (5)	P# (5)								P# (5)
Adult foster care small group home (7—12 persons)				S# (4)								
Bed and breakfasts	S# (9)											
Boardinghouses			S# (10)	S# (10)								S# (10)
Building mounted solar energy collector	P# (59)	P# (59)		P# (59)			P# (59)	P# (59)	P# (59)	P# (59)	P# (59)	
Convalescent homes			S# (15)	S# (15)								S# (15)
Conventional and site condominiums	S# (50)	S# (50)	S# (50)	S# (50)	S# (50)							S# (50)
Conversion of single-family homes to two-family dwelling units		S# (16)										
Family child care homes (1—6 persons)	P# (20)											
Foster family group homes <sup>1</sup>	P	P	P	P	P							
Foster family homes <sup>1</sup>	P	P	P	P	P							

Group child care homes	S# (24)											
Home occupations	S# (25)	S# (25)										
Long-term care facilities			S# (28)	S# (28)								S# (28)
Mobile home parks					P# (30)							
Multifamily dwellings (including apartments and fraternity/sorority houses)				P								
Planned residential development (PRD)												S# (36)
Ponds	P# (49)	P# (49)	P# (49)	P# (49)	P# (49)	P# (49)	P# (49)	P# (49)		P# (49)	P# (49)	P# (49)
Retirement communities, mixed use			S# (38)	S# (38)								S# (38)
Satellite dish antenna signal receiving stations greater than one meter in diameter	P# (39)	P# (39)	P# (39)	P# (39)	P# (39)	P# (39)	P# (39)	P# (39)		P# (39)	P# (39)	P# (39)
Single-family dwelling units	P# (40)	P# (40)	P# (40)	P# (40)		S# (53)	P# (40)					P# (40)
Specialized housing for the elderly including independent living units, interim care units and nursing care			S	S								S

Temporary buildings and structures incidental to construction work	P# (43)	P# (43)	P# (43)	P# (43)	P# (43)	P# (43)	P# (43)	P# (43)		P# (43)	P# (43)	P# (43)
Townhouses			P# (44)	P# (44)								P# (44)
Two-family dwellings		P	P	P			P# (40)					P
<b>Institutional Uses</b>												
Ambulance stations	S					P	P	P		P		
Cemeteries which lawfully occupied land at the time of adoption of this chapter	P	P	P	P								P
Churches and facilities normally incidental thereto	S# (11)	S# (11)										
Clubs, lodges and fraternal organizations				S					S	S	P	P
Fire stations	S					P	P	P		P		
Municipal buildings and public utility offices, but not including storage yards or transformer stations	P# (32)	P# (32)	P# (32)	P# (32)	P# (32)	P# (32)	P# (32)	P# (32)		P# (32)	P# (32)	P# (32)
Museums	S							P				
Nursery schools, day nurseries, and child care centers, not including dormitories			S# (33)	S# (33)			S# (33)	S# (33)				S# (33)

Public garage							P					
Public, parochial, charter and other private elementary, intermediate or high schools which offer courses in general education and not operated for profit	S# (37)	S# (37)										
Public owned and operated libraries, parks, parkways, and recreational facilities and private golf	P	P	P	P		P	P	P		P	P	P
Public owned and operated theaters (outdoor)	P						P	P				
Recreation clubs and organizations, nonprofit	S											
Stadiums and arenas including baseball, football or other large facility with public seating	S# (41)											
<b>Commercial Uses</b>												
Adult entertainment establishments (subject to the provisions of the city Adult Entertainment Ordinance)								S				
Antique shops							P	P				
Apartments on the ground floor level							S					

Apartments on the second floor level or above							P	P				
Automobile wash establishments								S# (7)	S# (7)			
Automobile sales, new or used								S				
Automobile sales, showrooms only, no outdoor display								P				
Automobile rental establishments								P	P			
Automobile repair facilities								P	P			
Automobile service stations							S# (6)	S# (6)	S# (6)			
Banks							P# (8)	P# (8)		P# (8)		
Body art facilities								S# (57)	S# (57)			
Bowling alleys								P				
Bus passenger stations								P				
Business schools, or private schools operated for profit. Examples include the following: (a) Dance schools (b) Music and voice schools (c) Art studios							P	P		P		

Child care centers, commercial						S	S					
Cidery, distillery, microbrewery and winery						S# (58)	S# (58)	S# (58)	S# (58)		S# (58)	
Clinics, including veterinary								P	P			
Commercial solar energy collector											S# (59)	
Commercially used outdoor recreational space for children's amusement parks, miniature golf courses, and similar uses								S# (12)				
Communication antennae on existing structures	S# (13)	S# (13)	S# (13)	S# (13)	S# (13)	S# (13)	S# (13)	S# (13)	S# (13)	S# (13)	S# (13)	S# (13)
Communication towers								S# (14)			P# (14)	P# (14)
Drive-in establishments or open-front stores								S# (17)	S# (18)			
Drive-through establishments								S# (18)				
Dry cleaners, furniture refinishers and other services that use similar hazardous material in their work							S# (19)					
Farmers markets, permanent								P				

Farmers markets, temporary	P# (21)							P				
Fuel distribution facilities, retail								S				
Funeral home (mortuaries) and churches, excluding crematoriums							P	P		P		
General retail establishments whose principal activity is the sale of new merchandise to the public except those in which required repair and service facilities occupy more than five percent of the entire floor area: General (a) General and specialized clothing stores (b) Gift shops (c) Music stores (d) Book and stationery stores (e) Bicycle stores (f) Household appliance stores (g) Interior decorators (h) Flower shop (i) Art merchandising studios (j) Furniture stores (k) Jewelry stores (l) Novelty shops (m) Toy stores (n) Office supply stores						P	P	P				
Golf courses, miniature								P				
Golf driving ranges								P				

Greenhouses, nurseries and garden centers.							P	P	P			
Joint residential and office uses, provided the structure was used for residential purposes at the time of the effective date of the ordinance from which this chapter is derived							P			S		
Marine sales and services								P				
Registered medical marijuana caregivers								S#				
Medical and dental offices, including clinics, except veterinary						P	P	P		P		
Monument sales								P				
Motel and hotels								S#				
Newspaper offices							P	P				
Office buildings for any of the following occupations: executive, administrative and professional						P	P	P	P	P		
Offices and showrooms of plumbers, electricians, decorators, or similar trades.							P#	P#				
							(34)	(34)				



Offices and showrooms of plumbers, electricians, decorators, or similar trades with screened outdoor storage.									S	S		
Other uses and services determined by the ZBA to be similar to other uses permitted within that zoning district						P	P	P	P	P	P	P
Outdoor sales space for exclusive sale of new and secondhand mobile homes or recreational vehicles								S# (35)				
Personal service establishments: (a) Barber and beauty shops (b) Tailor and dressmaker shops (c) Shoe shine and shoe repair shops (d) Self-service laundry (e) Photo copying center (f) Photographic studios (g) Tanning salon (h) Arcade (i) Video stores						P	P	P				
Pool or billiard parlor or club								P				
Professional service establishments providing human health care on an outpatient basis						P	P	P		P		

Public-owned buildings, public utility buildings, telephone exchange buildings, electric transformer stations and sub-stations, gas regulator stations with service yards but without storage yards, water and sewage pumping stations						S	S	P			P	P
Rental business establishments, indoor								P				
Repair garage								P			P	P
Restaurants and taverns serving meals, or snacks, or beverages for indoor consumption or take-out						P	P	P	P			
Retail cold storage establishments.								P				
Retail establishments marketing primarily convenience goods: (a) Convenience store (b) Pharmaceutical stores (c) Bakery (d) Liquor						P	P	P				
Self-service laundry establishments.								P				
Storage facilities (without outdoor storage)								P# (42)	S# (42)			
Studios for dancing, art, music and the like							P			P		

Theaters when completely enclosed.							P	P				
The use of a portion of an office as an accessory residence										S# (54)		
The use of a structure for joint residential and office use							P			S# (45)		
Veterinary clinics with outdoor runs										S# (46)	S# (46)	
Veterinary clinics without outdoor runs							S# (46)	S# (46)	S# (46)		P# (46)	P# (46)
Warehouse and storage facilities when incident to and physically connected with any principal use permitted							P# (47)	P# (47)			P	P
Shopping centers									P			
Radio and television stations									P		P	P
Industrial uses												
Warehousing, wholesaling, processing, and manufacturing facilities and establishments.											P# (48)	P# (48)
Kennels, private											P# (27)	P# (27)
Kennels, commercial											S# (26)	S# (26)

Laboratories											P	P
Storage facilities (with outdoor storage)									S# (42)		P# (42)	P# (42)
Storage facilities for building materials, sand, gravel, stone, lumber, or open storage of contractor's equipment and supplies.											S	S
Processing and manufacturing facilities that use, store or generate hazardous substances in quantities greater than 25 gallons or 100 kilograms (220 pounds) per month											S	S

P= Uses permitted by right.

S= Uses permitted by special use permit.

# = See specific design standards in section 153.901.

<sup>1</sup> MCL 125.3206 requires these to be permitted uses in all residential zones. Conform.

(Code 1989, § 153.310; Ord. of 10-10-2005; Ord. of 2-27-2006; Ord. No. 2009-01, 1-12-2009; Ord. No. 2011-02(B), 6-13-2011; Ord. No. 2016-13, § 2, 9-12-2016; ; Ord. No. 2017-06, § 2, 6-12-2017; Ord. No. 2017-07, § 2, 12-11-2017; Ord. No. 2018-05, §§ 2, 3, 8-13-2018; Ord. No. 2019-05, Arts. II, III, 9-9-2019)

**Editor's note—** Ord. No. 2019-05, Arts. II and III, adopted Sept. 9, 2019, amended and renumbered former § 153.311 as § 153.312.

ARTICLE 4. - SCHEDULE OF REGULATIONS

Sec. 153.401. - Schedule of regulations table.

The following regulations regarding lot sizes, yards, setbacks, lot coverage, building size and densities shall apply within the zoning districts as indicated, including the regulations contained in the footnotes. No building shall be erected, nor shall an existing building be altered, enlarged or rebuilt not shall any open spaces surrounding any buildings be encroached upon or reduced in any manner, except in conformity with the regulations hereby established for the district in which such building is located. No portion of a lot used in complying with provisions of this chapter for yards, courts, lot area occupancy in connection with an existing or projected building or structure, shall again be used to qualify or justify any other building or structure existing or intended to exist at the same time.

		Minimum Lot Area		Maximum Height of Building		Minimum Yard Setback (Per Lot in Feet)						
		Area in Square Feet	Width in Feet	In Stories	In Feet	Front	Sides		Rear	Minimum Floor Area Per Unit (Sq. Ft.)	Maximum Percentage of Lot Coverage (Area of all Structures)	Minimum Open Ratio
Use Districts							Least One	Total Two				
R-1	Single-Family Residential	(a) (b) 9600	(b) 75	2½	30	(c) 30	10 (d)	20 (d)	35 (e)	1,000 (one-story) 1,200 (two-story)	30	
R-2	Two-Family Residential	(a) (b) 10,200	(b) 100	2½	30	(c) 25	10 (d)	20 (d)	25 (e)	900	35	
R-3A	Medium Density Residential	(f) (b) 22,500	(b) 150	2½	30	30	15 (g)	30 (g)	(g)35(e)	(q)	35	20

R-3B	High Density Residential	(b) (f) 10,000	(b) (f) 75	2½	30	30	15 (g)	30 (g)	(g)35(e)	(q)	35	25
R-4	Mobile Home District	See section 153.90(30)										
B-1	Local Business District		66		35	(h) (i) 25	(j)	(j)	(k) 20			
CBD	Central Business District		66		45	(p)			(k)			
B-2	General Business District		66		35	(h) (i) 40	(j)	(j)	(k) (j) 20			
B-3	Heavy Business District		66		35	(h) (i) 40	(j)	(j)	(k) (j) 20			
OS-1	Office Service District		66	(l)	(j) 30	(h) (j) 25	15 (j)	30 (j)	20 (k)			
I-1	Industrial District		66	(m)	(m)	(n)	20 (o)	40 (o)	50 (o)			

(Code 1989, § 153.401; Ord. No. 2016-04, § 1, 3-14-2016)

Sec. 153.402. - Footnotes for schedule of regulations.

- (a) In those instances where public sewers are not provided, all lot areas per dwelling unit shall equal at least 20,000 square feet.
- (b) See section 153.1002 on lot size variation regarding flexibility allowances.
- (c) There shall be a front yard on each street side of a corner lot, except that the buildable width of such lot shall not be reduced to less than 25 feet. No accessory building shall project beyond the front yard line on either street.

- (d) In the event an attached garage is so provided, the minimum side yard contiguous to such garage may be six feet except where additional stories are provided over the garage, then the minimum side yard shall be ten feet. The effect of this v to reduce the total side yard a minimum of four feet in those cases providing for attached garages.
- (e) In the case of a corner lot, the rear yard may be opposite either street frontage, but there shall only be one rear yard.
- (f) The maximum number of dwelling units permitted in the multiple-family district shall be eight dwelling units per acre in the R-3A district, and 12 dwelling units per acre in the R-3B district. In any R-3 district, the area used for computing density shall be the total site area exclusive of any dedicated public right-of-way of either interior or bounding roads.
- (g) In any R-3 district, front, side, or rear yards need not refer to spacing between buildings for a planned development for two or more buildings on the same parcel. In such cases, the minimum distance between any two buildings shall in no instance be less than 30 feet. In any R-3 Multiple-Family District, the planning commission shall establish the maximum number of units permitted in any single building or series of attached buildings in accordance with approval of the site plan as provided for in [article 6](#) of this chapter, provided, further, that no single building or series of attached buildings shall be permitted in excess of 36 dwellings units. In any R-3 district, areas devoted to off-street parking, drive or maneuvering lanes shall not cover more than 30 percent of the area of any required yard or any required minimum distance between buildings except that there shall be no parking in the required front yard.
- (h) The required front yard for new structures built on a block where the existing principal structures have less than the minimum front yard, requirements shall be no less than the average setback of houses on the block.
- (i) Off-street parking may be permitted to occupy a required front yard after approval of the parking plan layout and points of ingress and egress, provided that there shall be maintained a minimum setback in the form of a greenbelt planting strip of 15 feet between the nearest point of the off-street parking area, exclusive of access driveways, and the nearest right-of-way line.
- (j) No yards are required along the interior side lot lines of the District, except as otherwise specified in the building code, provided that is walls of structures facing such interior side lot lines contain windows or other openings, then side yards of not less than ten feet shall be provided. On a corner lot which borders on a residential district there shall be provided a setback of 25 feet on the side of residential street. On an exterior side yard abutting a residential district there shall be provided a setback of ten feet in width.
- (k) Off-street loading space shall be provided in the rear yard in the ratio of a least one space per each establishment and shall be provided in addition to any required off-street parking area.
- (l) Planning developments involving ten acres or more under one ownership shall be subject to the approval of the planning commission, after public hearing, regarding modifications with respect to height regulation. In approving an increase in structure height, all yard measurements shall be at least equal in their depth to the height of the structure.
- (m) In the I-1 Industrial District, there are no height restrictions except in so far as these industrial districts are related to residential districts. When an industrial district lies opposite a residential district or contiguous to a residential district, no building or structure shall exceed a height of three stories, or 50 feet within 20 feet of such residential districts.
- (n) In those instances where the required off-street parking is provided for in the front yard, the minimum front setback shall be 100 feet, providing that at least 20 feet of lawn area is provided between the parking area and the proposed road right-of-way. The lawn area shall be maintained as open space unoccupied and unobstructed from the ground upward except for landscaping of plant material. In those instances where the front yard is planned or used as a

landscape space, the minimum front setback shall be 50 feet. This yard shall remain open and shall not be used for off-street parking. It may, however provide for an entrance drive to the office portion of structure. All yards abutting on a public street shall be considered as front yards for setbacks purposes.

- (o) No building shall be located closer than 100 feet to the outer perimeter (property line) of such district when the property line is contiguous to or lies opposite from any residential district. Required side or rear yards may be used for off-street parking or loading and unloading provided that in such instances it shall be determined that sufficient access to the rear of the building is provided for firefighting or other emergency type equipment.
- (p) Where structures have been built upon a majority of the parcels in the block face, any new structures shall be built to conform with these building setbacks.
- (q) The minimum floor area for apartments is:

Bedrooms	Minimum Floor Area
One	500 square feet
Two	650 square feet
Three or more	650 square feet plus <u>150</u> square feet for each additional bedroom

Minimum floor area requirements for single-family dwelling units and duplexes shall be 900 square feet per dwelling unit.

(Code 1989, § 153.402)

ARTICLE 5. - OFF-STREET PARKING AND LOADING

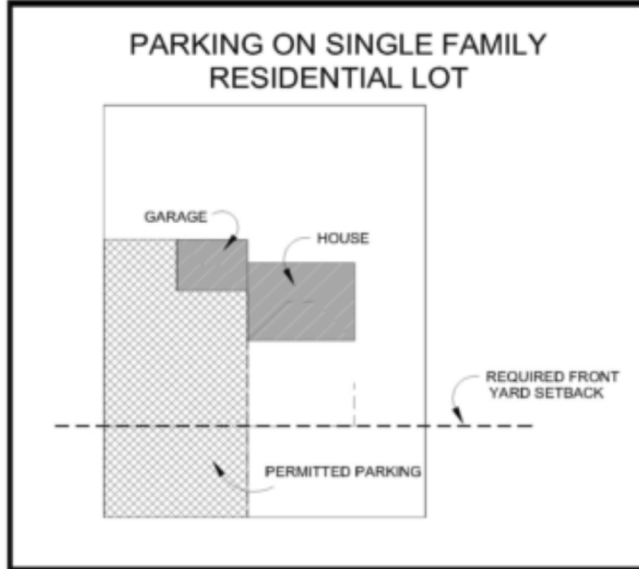
Sec. 153.501. - Parking requirements.

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 spaces, in conjunction with all land or building uses, shall be provided prior to the issuance of a certificate of occupancy as hereinafter prescribed.

- (1) Off-street parking for other than residential uses shall be either on the same lot or within 300 feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot. Current ownership status and contractual uses or other long-term shared arrangements shall be shown on all lots or parcels intended for use as parking by the applicant.
- (2) For uses in the Central Business District (CBD), off-street parking shall be accommodated in public parking spaces. The parking and unloading space requirements contained herein shall not apply to uses in the CBD, at the discretion of the planning commission, if the commission determines that the parking needs of the use are met by any combination of on-street parking, joint use parking, parking on a nearby site and municipal off-street parking.
- (3) Residential off street parking. Residential off street parking spaces shall consist of a parking strip, driveway,



garage, or combination thereof and shall be located on the premises they are intended to serve and be subject to other applicable provision of this chapter. The parking area may be located in front of the garage and or in the side yard of the lot as shown in the figure below. The construction of a circular drive in front of the residence on parcels fronting on major streets may be permitted by approval of the planning commission.



- (4) Any area once designated as required off-street parking shall never be changed to any other use unless and until equal facilities are provided elsewhere.
- (5) Off-street parking existing at the effective date of the ordinance from which this chapter is derived 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 use.
- (6) Two 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.
- (7) The shared use of parking spaces between two adjacent uses may be permitted provided that the applicants can demonstrate a long-term shared arrangement, and that the hours of operation do not overlap.
- (8) Off-street parking areas shall be used for parking only. The storage of merchandise, motor vehicles for sale, trucks, or the repair of vehicles, or other uses is prohibited.
- (9) For those uses not specifically mentioned in this section, the requirements for off-street parking facilities shall be in accordance with a use which the zoning board of appeals considers as being similar in type.
- (10) Any fractional parking space determined as a result of minimum requirements shall result in a full additional space.
- (11) For the purpose of computing the number of parking spaces required, the definition of usable floor area shall govern.
- (12) In addition to space requirements as spelled out in this article, off-street parking spaces for the physically handicapped shall be provided in accordance with state law, as listed in the following table. Signage, pavement markings and accessibility features shall also be in accordance with state law.

#### Michigan Barrier Free Parking Requirements

Total Spaces in Lot	Minimum Number of Handicapped Accessible Parking Spaces Required
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to <u>150</u>	5
<u>151</u> to 200	6
201+	1 per 25 spaces

(13) Front yard parking. No part of any front yard shall be used for any accessory building, garage or other structure, nor shall any motor vehicle be parked in any front yard except upon a driveway. In addition, on a corner lot no motor vehicle shall be parked in the side yard abutting a public street except upon a driveway. Recreational vehicle storage shall comply with the requirements of section 153.109(3)c.

(Code 1989, § 153.501; Ord. No. 2016-02, § 1, 3-14-2016; Ord. No. 2017-07, § 3, 12-11-2017; Ord. No. 2019-01, § 2, 1-14-2019)

Sec. 153.502. - Space requirements; types of use.

The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule:

Use	Parking Space Standard (Number of Minimum Parking Spaces per Unit of Measure)
Auto service stations	Two for each lubrication stall, rack or pit; and one for each single or dual gasoline pump.
Auto wash, automated	One for each employee on the largest working shift, plus five stacking spaces for every 20 feet of automated wash line.
Auto wash, self-serve	One space, plus one space per wash stall, plus two stacking spaces per wash stall.

Banks	One for each 100 square feet of usable floor area. Each drive-through window shall have stacking room for six cars, and a bypass lane shall be provided.
Beauty parlor, barber shops, and/or body art facilities	Two for each chair in the beauty parlor, barber shop, and/or body art facility.
Bed and breakfasts	Two spaces for the residence plus one space per bedroom.
Boardinghouses	One for the resident household plus one additional space for each sleeping room.
Bowling alleys	Five for each bowling lane in addition to spaces required for a restaurant, bar or other accessory use, if applicable.
Business offices or professional offices except as indicated for offices of doctors, dentists, or similar professions	One for each 200 square feet of usable floor area.
Cemeteries	One permanent space for each person on the largest working shift. Cemetery visitors may be accommodated along the interior cemetery drive.
Child care centers	One for each employee plus one for each four children of approved capacity.
Churches or temples	One for each three seats in the main unit of worship, or six feet of pews.
Dance halls, roller rinks, exhibition halls, and assembly halls without fixed seats	One for each three persons allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes.
Elementary, middle and junior high schools	One for each teacher, employee, or administrator, in addition to one space per three seats in the auditorium or gymnasium, whichever is greater.
Establishments for sale and consumption on the premises of beverages, food, or refreshment	One for each three seats plus six stacking spaces per drive-through window.

Fraternity or sorority	Two spaces for maintenance and housekeeping staff plus one for each bed.
Furniture and household appliances, hardware stores, equipment repair shops, showroom of a plumber, decorator, electrician, or similar trade, shoe repair, and other similar uses	One for each 800 square feet of usable floor area. For that floor area used in processing, one additional space shall be provided for each person employed therein.
High school	One for each teacher, employee or administrators, and one for each six students or the requirements for auditorium or stadium, whichever is greater.
Homes for aged and convalescent homes	One for each three beds.
Hospitals	One space per person on the largest working shift plus one for each bed.
Housing for the elderly	One for each dwelling unit.
Industrial or research establishments	Five plus one for every one employees in the largest working shift, or one for every 550 square feet of usable floor space, or whichever is determined to be the greater. Space on site shall also be provided for all construction workers during periods of plant construction.
Laundromats and coin-operated dry cleaners	One for each two machines.
Libraries	One per person on the largest working shift plus one space per <u>150</u> square feet of public useable floor area.
Miniature or par-three golf courses	Three for each one hole, plus one for each employee.
Mobile home park	Two for each mobile home site, plus spaces for all accessory uses, as necessary, plus one space for every three home sites for visitor parking.
Mortuary establishments	One for each 50 square feet of assembly room, usable floor space, parlors, and slumber rooms.

Motel, hotel, or other commercial lodging establishments	One for each rental unit, plus one for each employee on the largest working shift.
Motor vehicle sales and service establishments	One for each 200 square feet of usable floor area of sales room, and one for each auto service stall in the service room.
Nursery schools	One for each teacher, employee, or administrator, plus one space per ten students, in addition to the requirements for auditorium parking.
Outdoor parks and recreation facilities, passive	One for each person on the largest working shift plus one for every five persons expected to visit the park at one time during normal park operations. The planning commission may vary the parking space requirements based on the unique characteristics of the facility.
Outdoor parks and recreation facilities, active	One for each person on the largest working shift plus the following:(a) For recreational stations (including, but not limited to, archery ranges, driving ranges and pistol ranges, one space per station.(b) For athletic facilities, one per every two (players) expected to use each facility at one time.(c) The planning commission may vary the parking space requirements based on the unique characteristics of the facility.
Personal service establishments (including tailors, photocopy centers, photographic studios, tanning salons, video stores, and other similar uses)	One per <u>150</u> square feet of useable floor area, with a minimum of four spaces.
Shopping center	One for each <u>150</u> square feet of usable floor area.
Pool hall	One for each game table or one for each <u>150</u> square feet of usable floor space in game rooms, or whichever is greater.
Private and parochial schools	One for each teacher, employee or administrator, and one for each six students aged 16 or older, or the requirements for auditorium or stadium, whichever is greater.

Private clubs or lodges	One for each three persons allowed within maximum occupancy load as established by local, county, or state fire, building, or health codes.
Private golf clubs, swimming pool clubs, tennis clubs, or other similar uses	One for each two-member families or individuals.
Professional offices of doctors, dentists, or similar professions	One for each 200 square feet of usable floor area in waiting room and one for each examining room, dental chair, or similar use area.
Rental offices for apartments, mobile home parks, and other multiple-family developments	Two spaces plus two spaces per employee on the largest working shift.
Residential, single-family and two-family	Two for each dwelling unit.
Residential, multiple-family	Two for each dwelling unit. In the case of apartment units with community buildings or pools, there shall also be provided one space for each ten dwelling units with access to such facility.
Retail establishments except as specified herein	One for each <u>150</u> square feet of usable floor area. Each drive-through window shall have stacking room for six cars, and a bypass lane shall be provided.
Restaurants, taverns and similar establishments	One per 30 square feet of dining and drinking area. For restaurants, each drive-through window shall have stacking room for six cars, and a bypass lane shall be provided.
Stadium and sports arena or similar outdoor place of assembly	One for each three seats or six feet of benches.
Studios for art, music, dancing and other similar uses	One for each three persons allowed within maximum occupancy load as established by local, county, or state fire, building, or health codes.
Theaters and auditorium	One for each three seats, plus one for each employee.

Wholesale establishments	Five plus one for every employee in the largest working shift, or one for every 1,700 square feet of usable floor space, whichever is greater.
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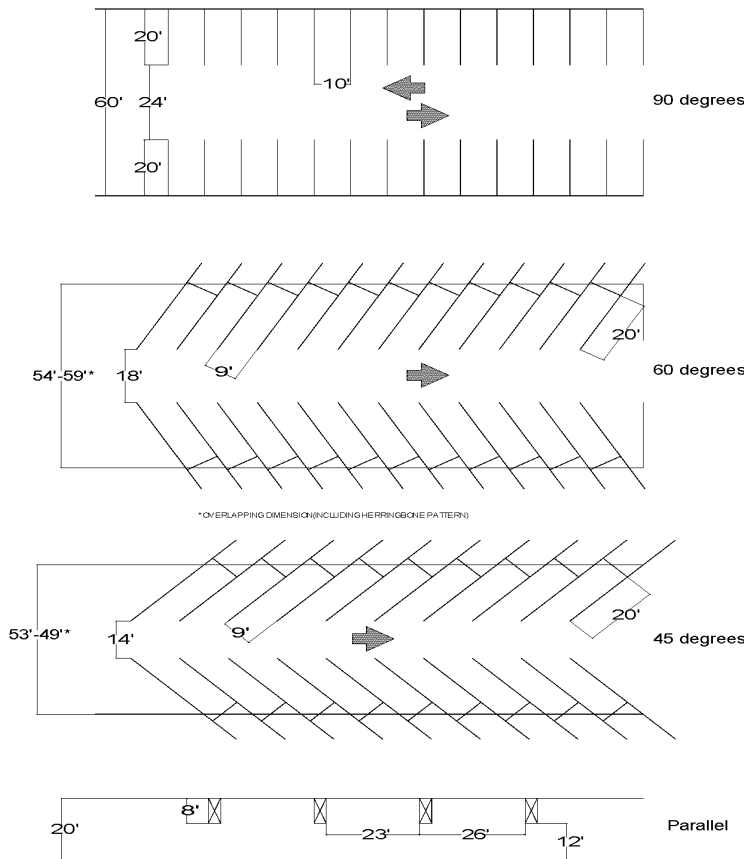
(Code 1989, § 153.502; Ord. No. 2017-06, § 3, 6-12-2017)

Sec. 153.503. - Off-street parking space layout, standards, construction, and maintenance.

Wherever the off-street parking requirements in this chapter require the building of an off-street parking facility, such off-street parking lots shall be laid out, constructed, and maintained in accordance with the following standards and regulations:

- (1) All spaces shall be laid out in the minimum dimensions identified in the illustration below.
- (2) All spaces shall be provided adequate access by means of maneuvering lanes that meet the following requirements. Note that maneuvering lanes shall not include area used for gutter pans.

**PARKING LAYOUTS**



Parking Space Angle	Maneuvering Lane Width
0E—29E (parallel)	12 feet
30E—53E	14 feet

54E—74E	18 feet
75E—90E	24 feet

- (3) Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles. All drives shall be surfaced with an approved bituminous or concrete material. Proposed lighting shall be provided in keeping with the requirements of this chapter.
- (4) Plans for the layout of the parking lot shall show a total dimension across two tiers of spaces and one aisle (maneuvering lane).
- (5) Off-street parking areas shall meet the requirements of the landscaping article, if applicable.
- (6) All parking areas shall have adequate, clearly defined and safe pedestrian routes.
- (7) All parking lots shall meet Michigan Barrier Free Parking Space requirements.
- (8) All parking areas (including loading and unloading areas) must provide for sufficient access for firefighting and access by other emergency vehicles.

(Code 1989, § 153.503)

Sec. 153.504. - Off-street loading and unloading.

On the same premises with every building, structure, or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading, and unloading in order to avoid undue interference with public use of dedicated rights-of-way. Such space shall be provided as follows:

- (1) All spaces in B-1, B-2, CBD, and OS-1 districts shall provide loading and unloading spaces as determined by gross floor area in the following table:

Gross Floor Area (Square Feet)	Loading and Unloading Space Required in Terms of Square Feet of Usable Floor Area
0 through 1,400	None
1,401 through 20,000	One space
20,001 through 100,000	One space plus one space for each 20,000 square feet in excess of 20,001 square feet
100,001 and over	Five spaces

- (2) All spaces in an I-1/LI district shall be laid out in the dimension of at least ten feet by 50 feet, or by 500 square feet in area. Loading dock areas and approaches shall be surfaced with an approved bituminous or concrete



material.

- (3) Loading and/or unloading is restricted to the period of 8:00 a.m. to 8:00 p.m. for all businesses abutting a residential district. A special use permit is required to obtain additional hours.

(Code 1989, § 153.504)

## ARTICLE 6. - SITE PLAN REVIEW

### *Footnotes:*

--- (2) ---

**State Law reference**— *Submission and approval of site plan, MCL 125.3501.*

### Sec. 153.601. - Intent.

These site plan review procedures are instituted to provide an opportunity for the city planning commission to review the proposed use of a site in relation to drainage, pedestrian and vehicular circulation, off-street parking, structural relationships, public utilities, landscaping, accessibility, outdoor lighting, sidewalks, signs and other site design elements which may have an adverse effect upon the public health, safety, morals, and general welfare, as well as to provide for the best interests of the property owner and adjacent property owners.

(Code 1989, § 153.601)

### Sec. 153.602. - Application.

- (a) Site plan review procedures shall apply to all proposed new construction or additions except the following. These exceptions do not relieve the owner from obtaining any or all permits required by this chapter:
- (1) One- and two-family dwellings and their accessory structures.
  - (2) Additions of 750 square feet in area or less to existing buildings which are in conformity with all other provisions of this chapter and are not on parcels adjacent to a residential zoning district.
- (b) Site plan review procedures shall be required for any additions, expansions or changes in use that increase parking space requirements.
- (c) Site plan review shall be required for any accessory structure greater than 1,000 square feet in area.
- (d) Site plan review procedures shall be required prior to the issuance of a special use permit.
- (e) Site plan review shall be required for any proposed condominiums.

(Code 1989, § 153.602; Ord. of 10-10-2016)

### Sec. 153.603. - Site plan review process.

For those uses which require site plan approval, a building permit shall not be issued until a site plan for the use has been approved by the planning commission. The site plan review process shall consist of the following two steps:

- (1) *Step 1: preliminary review.*
  - a. The applicant shall submit seven copies of the complete application (which is comprised of a site plan and a completed application form) and the required fee to the city clerk.
  - b. The city clerk shall distribute the copies of the site plan and application to the following persons and

departments: department of public works, city planner, building department, police department, fire department, and city engineer.

- c. The persons and departments shall review the site plan and application to determine its completeness and identify any concerns or issues associated with the proposed development. All comments shall be returned to the city clerk within ten consecutive calendar days.
- d. The applicant shall be notified of any additions or corrections necessary to comply with the requirements of this chapter.

(2) *Step 2: final review.*

- a. The applicant shall submit 18 copies of the site plan, which was revised based on comments generated during preliminary review. Copies shall be submitted at least ten days prior to the next regularly scheduled planning commission meeting to begin processing the application for official action by the planning commission. Copies submitted within ten days prior to the next regularly scheduled meeting must wait until the following regularly scheduled planning commission meeting for consideration.
- b. The reports generated by the persons and departments reviewing the site plan during preliminary review shall be incorporated into the information packets for the next planning commission meeting and considered by the planning commission.
- c. The planning commission shall review and discuss the site plan.
- d. The planning commission shall either approve the site plan, approve the site plan with conditions, deny the site plan with reasons for denial or postpone the site plan to review further information.
- e. The cost of professional consultant review services shall be paid at the time of the application.

(Code 1989, § 153.603)

Sec. 153.604. - Required information.

A site plan shall be drawn on paper 24 inches by 36 inches and to a minimum scale to present the required information at a legible size. The site plan shall contain the following information:

- (1) North arrow and appropriate scale.
- (2) A location map at a larger scale, indicating the relationship of the site to the surrounding land use and showing the zoning and existing land use of the site and of all adjacent parcels.
- (3) Statistical data including: number of dwelling units, bedroom composition (for example, one-bedroom, two-bedroom, and three-bedroom), if any, and total acreage involved in the project. In the case of mobile home parks, the size and location of each mobile home site shall be shown. In other cases, the location, type, horsepower, fuel, dimension, and other data of all machinery to be used on the proposed site, if applicable.
- (4) The location of principal and accessory buildings and structures on the lot and the relationship of each structure to another, including distances between buildings and setbacks. This shall include all temporary buildings and structures.
- (5) Locations of all buildings within 100 feet of the site.
- (6) Vehicular traffic and pedestrian circulation features within and without the site, including driveways or street intersections within 100 feet of the property. Radii of curbs and internal streets, street widths, sidewalk widths and cross sections of streets and sidewalks.
- (7) The location and dimensions of all off-street parking areas including maneuvering lanes, off-street loading spaces, and other service areas within the development.

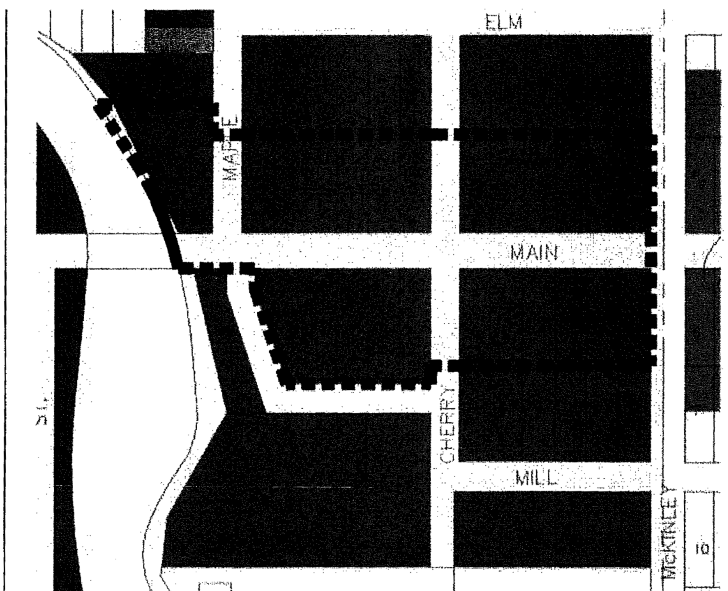
- (8) The location, dimensions, and proposed use of all on-site recreation areas, if any.
- (9) The location of all proposed landscaping, fences, or walls. A landscape plan shall show the location, species, minimum size and minimum spacing of all required plantings, including all trees to remain on site. All trees having a caliper of eight inches or greater, two feet above grade, shall be shown.
- (10) The height and dimensions of all structures.
- (11) Front, rear, and side elevation views of any typical structure proposed for development.
- (12) A floor plan showing existing and proposed uses, number of employees and the usable floor area dedicated to each type of use.
- (13) Designation of fire lanes.
- (14) Spot shot elevations of existing and proposed grades along with existing and proposed contours of one foot intervals, except two foot intervals for areas with grades steeper than 20 percent. In addition, sufficient grades and contours of adjoining parcels, or parts thereof, to show on and off site drainage affecting the parcel.
- (15) The location and capacity of private or public water and sanitary services and solid waste disposal facilities servicing the site, as well as existing and proposed storm sewers, dry wells, retention/detention areas, sumps and drainage patterns. The point of discharge of all drains and pipes shall be specified in the plan. Drainage calculations shall also be provided.
- (16) The location, dimensions, and lighting of all signs.
- (17) The location, intensity, and orientation of outdoor lighting, including footcandles.
- (18) Location and size of interior and exterior areas and structures to be used for the storage, use, loading/unloading, recycling or disposal of hazardous substances.
- (19) Cross sections showing construction of sidewalks, drives and parking areas.
- (20) Location and screening of all outdoor storage areas, including trash receptacles.
- (21) Location of any identified watercourses, water bodies or wetlands, enclosed underground storm drains and the 100-year floodplain.
- (22) Location of all proposed underground or aboveground storage tanks for such uses as fuel storage, waste oil holding tanks, chemical storage, hazardous waste storage, collection of contaminated stormwater or wash water, and all similar uses.
- (23) Delineation of areas on the site which are known or suspected to be contaminated, together with a report on the status of the cleanup.
- (24) The seal of the professional engineer, architect or landscape architect that prepared the site plan.
- (25) A staked property boundary survey and property description of the parcel proposed to be developed, not more than five years old. A mortgage survey shall not be substituted for the required survey.
- (26) The planning commission may waive any of the above requirements if it can be demonstrated that the required information is not relevant to the application. The planning commission may request additional information if needed.

(Code 1989, § 153.604)

Sec. 153.605. - Review and evaluation.

- (a) A complete preliminary site plan shall be referred to the planning commission for its review and evaluation upon completion of all required submittals, as determined by the zoning administrator.

- (b) In the process of reviewing the site plan, the following standards shall be applied to the site plan and considered by the planning commission in determining whether the proposed development is appropriate:
- (1) The location and design of driveways in relation to access streets and in relation to pedestrian traffic.
  - (2) The vehicular and pedestrian traffic circulation within the site and the location of automobile parking areas, with particular regard to the safety and conveniences of both vehicular and pedestrian traffic, and the satisfactory and harmonious relations between the development on the site and the existing and prospective development on the site and the existing and prospective development of contiguous land and adjacent neighborhoods.
  - (3) The adequacy of essential public facilities and services, such as highways, streets, police and fire protection, refuse disposal, utilities, schools and drainage structures, including the size and location of catch basins.
  - (4) The adequacy of landscaping, fences, and walls to achieve the objectives of this chapter and assurances for the continued maintenance of any such facility to which they are appurtenant.
  - (5) Sites at which hazardous substances are stored, used or generated shall be designed to prevent spills and discharges into the air, surface of the ground, groundwater, lakes, streams, rivers or wetlands. Secondary containment for aboveground areas where hazardous substances are stored or used shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance. General purpose floor drains shall only be allowed if they are approved by the responsible agency for connection to the public sewer system, an on-site closed holding tank (not a septic system), or regulated through a state groundwater discharge permit. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances shall be met. No discharge into ground water, including direct and indirect discharges, shall be allowed without required permits and approvals.
  - (6) Physical improvements, including, but not limited to, sidewalks, drives, and parking areas shall be built to adequate standards to minimize premature deterioration.
  - (7) The site plan shall comply with the development standards of this chapter, including such items as minimum lot size, setbacks, maximum building height, minimum off-street parking spaces, etc.
  - (8) Site plans for development within the B-1, B-2 and B-3 zoning districts as well as that portion of the CBD district not covered by the downtown overlay zoning district shall comply with the city design guidelines as adopted by the city council by resolution.



(Code 1989, § 153.605; Ord. No. 2012-01, 3-12-2012)

Sec. 153.606. - Ability to place conditions.

- (a) The planning commission may place conditions on approval of a site plan, including conditions that require conformance with the standards of another local, county or state agency, such as, but not limited to, the county drain commissioner, county health department and the state department of environmental quality. They may do so when such conditions would achieve any of the following:
- (1) Would expedite the approval of the site plan by the planning commission and would not require the developer to return to the planning commission with revised plans.
  - (2) Would ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
  - (3) Would protect the natural environment and conserve natural resources and energy.
  - (4) Would ensure compatibility with adjacent uses of land.
  - (5) Would promote the use of land in a socially and economically desirable manner.
- (b) In determining appropriate conditions, the planning commission shall ensure that:
- (1) There is a rough proportionality between the cost to the developer to provide an improvement in relationship to the impact to be mitigated; and
  - (2) There is a reasonable connection between the condition imposed and the impact it is mitigating.

(Code 1989, § 153.606)

Sec. 153.607. - Performance guarantees.

In the interest of ensuring compliance with the provisions of this chapter, protecting the natural resources and the health, safety and welfare of the residents of the city and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the planning commission may require the applicant to deposit a performance guarantee as set forth herein. Performance guarantees shall be required in instances where an occupancy permit is requested prior to completion of all improvements on an approved site plan. The purpose of the performance guarantee is to ensure completion of improvements connected with the proposed use as required by this chapter, including, but not limited to, roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls, landscaping, and widening strips.

- (1) The term "performance guarantee" as used herein, means a cash deposit, certified check, or irrevocable bank letter of credit in the amount of the estimated cost of the improvements to be made as determined by the applicant and verified by the city engineer.
- (2) Where the planning commission requires a performance guarantee, said performance guarantee shall be deposited with the city manager prior to the issuance of a zoning permit. The city shall deposit the performance guarantee, if in the form of a cash deposit or certified check, in an interest-bearing account.
- (3) An approved site plan shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of the issuance of the building permit.
- (4) In the event the performance guarantee deposited is a cash deposit or certified check, the city shall rebate to the applicant 50 percent of the deposited funds when 60 percent of the required improvements are completed as confirmed by the zoning administrator. The remaining 50 percent of the deposited funds shall be rebated to the

applicant when 100 percent of the required improvements are completed, as confirmed by the zoning administrator.

- (5) Upon the satisfactory completion of the improvements for which the performance guarantee was required, as determined by the zoning administrator, the city treasurer shall return to the applicant the performance guarantee deposited and any interest earned thereon minus any administrative costs.
- (6) In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the city, the city shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements. If the performance guarantee is not sufficient to allow the city to complete the improvements for which it was posted, the applicant shall be required to pay the city the amount by which the costs of completing the improvements exceeds the amount of the performance guarantee. Should the city use the performance guarantee or a portion thereof, to complete the required improvements, any amount remaining after said completion shall be applied first to the city's administrative costs in completing the improvement with any balance remaining being refunded to the applicant. If the applicant has been required to post a performance guarantee with another governmental agency other than the city to ensure completion of an improvement associated with the proposed project prior to the city's approval, the applicant shall not be required to deposit with the city a performance guarantee for that specific improvement. At the time the performance guarantee is deposited with the city and prior to the issuance of a building permit, the applicant shall enter into an agreement incorporating the provisions hereof with the city regarding the performance guarantee.

(Code 1989, § 153.607)

**State Law reference**— Performance guarantee, MCL 125.3505.

Sec. 153.608. - Changes to approved site plans.

- (a) All work conducted related to a project with an approved site plan shall be in conformance to that site plan. Any amendment to an approved site plan shall require the site plan to be resubmitted to the planning commission and go through the entire review process again, starting with the preliminary review, with the exception of minor changes as determined by the city manager or his designee. Minor changes to the site plan may be approved by the zoning administrator, as long as the change does not result in:
  - (1) A violation or easing of conditions of this chapter.
  - (2) A significant change in the use, intensity or character of the development.
  - (3) A significant increase in lot coverage.
  - (4) A reduction in required off-street parking or loading areas or drainage retention or detention capacity.
  - (5) Reduction in standard details such as sidewalk or pavement widths, composition or sub grade preparation.
  - (6) Reduction in utility pipe material size or construction methods.
- (b) Minor changes shall require written notice to the planning commission and a notation added to the record of the decision.

(Code 1989, § 153.608)

Sec. 153.609. - Time limits.

- (a) *Deadline to commence construction.* A building permit for a project approved by site plan approval shall be filed with

the city building inspector within one year from the date of approval of the site plan. If a building permit is not filed within one year, site plan approval shall expire.

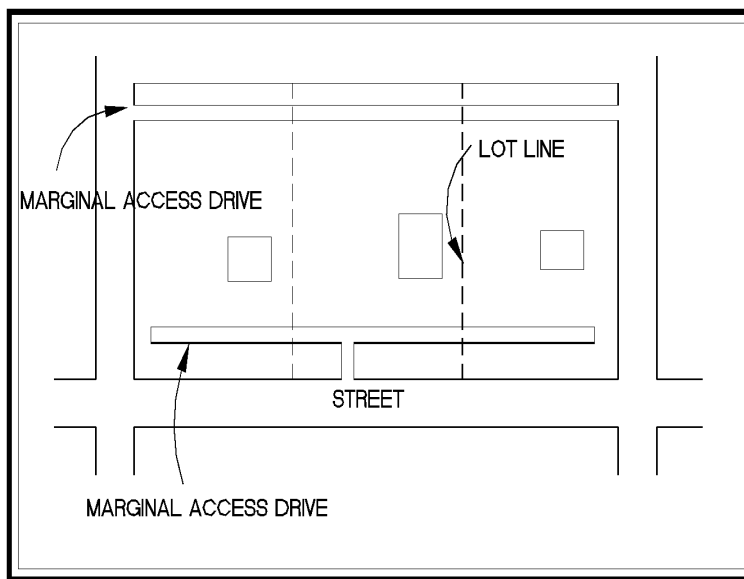
- (b) *Deadline for completion.* A project approved by site plan approval shall be completed within two years from the date that the building permit was filed with the building inspector. If an occupancy permit is not granted within two years, site plan approval shall expire. Partial construction shall be removed within six months after expiration of the site plan.
- (c) *Extensions.* The zoning administrator may grant one extension for an additional one year, provided the building permit has not expired and further provided the applicant can demonstrate that suitable, continual progress has been made on the project.

(Code 1989, § 153.609)

#### Sec. 153.610. - Marginal access drives.

In approving the site plan, marginal access drives may be required.

- (1) The planning commission may require marginal access drives for all uses facing onto major thoroughfares and direct the location of parking areas and marginal access drives in relation to existing conditions as will be most conducive to provide for the convenience and safety of the community.
- (2) Where deemed necessary, the planning commission shall require an easement to all property provided access by the drive for vehicle access to adjacent parking lots and to minimize the need for driveways to each parcel of land and thereby increase the safety and convenience in the use of such areas by the community. Easements shall provide for liability and maintenance of the access drive.



(Code 1989, § 153.610)

#### ARTICLE 7. - SPECIAL USE PERMITS

##### Footnotes:

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**State Law reference**— *Special land uses, MCL 125.3502 et seq.*

## Sec. 153.701. - Intent and purpose.

Rather than permitting by right all of the many and varied land use activities within each zoning district, it is the intent of this chapter to provide a set of procedures and standards for specific uses of land or structures that will allow, on one hand, practical latitude for the investor or developer, but that will, at the same time, promote the intent and purpose of this chapter, and insure that the land use of activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land uses. In order to provide controllable and reasonable flexibility, this chapter permits detailed review of certain specified types of land use activities which, because of its particular and unique characteristics, require special consideration in relation to the welfare of adjacent properties and to the community as a whole. Uses possessing these characteristics may be authorized within certain zoning districts by the issuance of a special use permit. The planning commission shall have the opportunity to impose conditions and safeguards upon each use which are deemed necessary for the protection of the public welfare.

(Code 1989, § 153.701)

## Sec. 153.702. - Permit procedures.

An application for any use identified as a special use in the zoning classification of the subject property shall be submitted and processed under the following procedures:

- (1) *Submission of application.* Any application shall be submitted through the city clerk on a special form for that purpose. Each application shall be accompanied by the payment of a fee as adopted by the city council from time to time.
- (2) *Data required.* Every application shall be accompanied by the following information and data:
  - a. The special use permit application form supplied by the city clerk, filled out in full by the applicant, including a statement of supporting evidence concerning information applicable to the general standards specified in section 153.703(1).
  - b. A complete site plan as required in article 6 of this chapter.
- (3) *Site plan part of approved special use permit.* The site plan, as approved, shall become part of the record of approval, and subsequent actions relative to the activity authorized shall be consistent with the approved site plan. Changes to approved site plans must meet the requirements of section 153.608.
- (4) *Changes to uses approved by special use permit.* Changes to uses approved by special use permit shall require approval by the city planning commission, following the same procedures as if the application were new.
- (5) *Planning commission review.* The application shall be transmitted to the city planning commission for their review.
- (6) *Planning commission public hearing.* Each special use permit application shall require one planning commission public hearing to be noticed and conducted as required by Public Act No. 110 of 2006 (MCL 125.3101 et seq.).
- (7) *Planning commission decision.* Following the public hearing, the planning commission shall consider the special use permit application. If it is felt additional study is necessary, it shall establish the date of an additional meeting. Following review of the proposed special use permit application plan, the planning commission shall approve, approve with conditions, table the decision pending additional information, or disapprove the special use permit application. Following review of the proposed site plan, the planning commission shall approve, approve with conditions, table the decision pending additional information, or disapprove the site plan. The decisions rendered by the planning commission on both the special use permit application and site plan shall be



accompanied by a full explanation of the reason for the action taken and shall be based on the criteria in this chapter. Any permit issued shall contain all the specified conditions under which the use is allowed. Only upon approval of the planning commission shall a special use permit be issued by the zoning administrator.

- (8) *Permit revocation.* The planning commission may revoke any special use permit if the structure or use does not comply with any conditions stated on the permit or imposed at the time of special use approval. Prior to permit revocation, the planning commission shall hold a public hearing on the revocation. The public hearing shall meet the same notice requirements as required for the planning commission's original consideration. Following the public hearing the planning commission shall make a decision regarding revocation based on whether the activities, structures and other site characteristics satisfactorily comply with the conditions stipulated in the special use permit. After a revocation notice has been given, the use for which the permit was granted must cease within 60 days.
- (9) *Violation and penalties.* If the special use permit is revoked, failure to terminate the use for which the permit was granted within 60 days is declared to be a nuisance per se and a violation of the city municipal civil infractions ordinance. The violation shall be reported to the city attorney who is hereby authorized to, and may initiate procedures to eliminate such violations.
- (10) *Reapplication.* No application for a special use permit which has been denied wholly or in part by the planning commission shall be resubmitted until the passage of one year or more from the date of such denial, except on the grounds of newly-discovered evidence or proof of changed conditions.

(Code 1989, § 153.702; Ord. of 10-23-2006(02))

Sec. 153.703. - Basis for determinations.

Before making a recommendation on a special use permit application, the planning commission shall establish that the following general standards, as well as the specific standards outlined in other applicable section of this chapter, shall be satisfied:

- (1) *General standards.* The planning commission shall review each application for the purpose of determining that each proposed use meets the following standards and, in addition, shall find adequate evidence that each use at its proposed location will:
- a. Be harmonious with and in accordance with the general principles and objectives of the city master plan.
  - b. Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character or the general vicinity and that such a use will not change the essential character of the area in which it is proposed.
  - c. Not be hazardous or disturbing to existing or future uses in the same general vicinity.
  - d. Be served adequately by essential public facilities and services such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities and schools.
  - e. Not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any person, property or general welfare by reason of hours of operation or excessive production of traffic, noise, smoke, fumes, glare, vibrations or odors.
- (2) *Conditions.*
- a. The planning commission may impose such additional conditions deemed necessary for the general welfare, for the protection of individual property rights and for insuring that the intent and objectives of this chapter will be observed. Conditions imposed shall do all of the following:

1. Would expedite the approval of the site plan by the planning commission and would not require the developer to submit the site plan to the planning commission with revised plans.
2. Be designed to protect natural resources, the health safety and welfare, as well as the social and economic wellbeing of those who will use the land use or activity under consideration, residents and land owners immediately adjacent to the proposed land use or activity, and the community as a whole.
3. Be necessary to meet the intent and purpose of the zoning regulations; be related to the standards established in this chapter for the land use or activity under consideration; and, be necessary to assure compliance with these standards.
4. Be related to the valid exercise of police power and purposes which are affected by the proposed use or activity.
5. In determining appropriate conditions, the planning commission shall ensure that:
  - i. There is a rough proportionality between the cost to the developer to provide an improvement in relationship to the impact to be mitigated; and
  - ii. There is a reasonable connection between the condition imposed and the impact it is mitigating.
- b. The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and shall remain unchanged except upon an action of the planning commission. The zoning administrator shall maintain a record of changes granted in conditions. The breach of any condition, safeguard, or requirement shall, as determined by the planning commission following a public hearing, invalidate the permit granted.

(Code 1989, § 153.703)

#### Sec. 153.704. - Appeals of special land use decisions.

Special land use decisions are appealable to the zoning board of appeals, following the procedures outlined in section 153.1107.

(Code 1989, § 153.704)

#### Sec. 153.705. - Time limits.

- (a) *Deadline to commence construction.* A building permit for a project approved by special land use approval shall be filed with the city building inspector within one year from the date of approval of the special land use. If a building permit is not filed within one year, special land use approval shall expire.
- (b) *Deadline for completion.* A project approved by special land use approval shall be completed within two years from the date that the building permit was filed with the building inspector. If an occupancy permit is not granted within two years, special land use approval shall expire.
- (c) *Extensions.* The zoning administrator may grant one extension for an additional one year, provided the building permit has not expired and further provided the applicant can demonstrate that suitable, continual progress has been made on the project.

(Code 1989, § 153.705)

## ARTICLE 8. - LANDSCAPE STANDARDS

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**State Law reference**— *Municipal forests, MCL 324.52701 et seq.*

## Sec. 153.801. - Intent and purpose.

The purpose of this article is to promote public health, safety and welfare by providing regulations and requirements for the design, installation and maintenance of landscaping and screening as buffer zones between zoning districts, along roadways, between adjacent buildings and in parking lots. The standards of this article are intended to protect the character of the surrounding area, prevent trespassing into unsafe areas, discourage theft, stabilize soils, control windblown dust and debris, increase ground water infiltration, reduce noise in a well-balanced aesthetically pleasing and functional manner, through requirements for site design and the use of landscape materials. Applicants are encouraged to provide landscaping in addition to the minimum requirements of this chapter to improve the function, appearance and value of their property and surrounding properties.

(Code 1989, § 153.801)

## Sec. 153.802. - Application.

Single-family and duplex residential lots are excluded from the provisions of this article. The requirements set forth in this article shall apply to all lots, sites, and parcels which are subject to local site plan review and are either developed or expanded following the effective date of the ordinance from which this chapter is derived. No site plan shall be approved unless said site plan shall show landscaping consistent with the provisions of this article. All information to determine compliance with this section shall be included on the site plan or on a separate landscape plan.

(Code 1989, § 153.802)

## Sec. 153.803. - Minimum buffer zones.

A buffer zone shall be provided within the setback between the subject site and all adjacent properties according to the table below. Walls or fences shall typically be prohibited along a public street right-of-way or in a front yard unless specifically approved by the planning commission. The height of the wall or berm shall be measured from the surface of the parking area or land on the nonresidential side of the wall. All walls shall meet the standards described in [section 153.804](#).

Zoning of Adjacent Site

Zoning or Use of Subject Site	Single-family or Duplex Residential*	Multiple-family Residential*	Commercial	Industrial
Commercial	"A" and six-foot high wall/fence/berm	"A" and six-foot high wall/fence/berm	None	None
Multiple-family Residential				

"B" and six-foot high wall/fence/berm	None	None	None	
Industrial	"A" and eight-foot high wall/fence/berm	"A" and eight-foot high wall/fence/berm	"B"	None

A = Two deciduous canopy trees and four large shrubs, or one canopy tree, one evergreen tree and four large shrubs per each 25 linear feet along the property line. All property line distances shall be rounded upward to the nearest foot.

B = One deciduous canopy tree and four large shrubs, or one evergreen tree and four large shrubs per each 25 linear feet along the property line. All property line distances shall be rounded upward to the nearest foot.

\* Where the adjacent property, including property across a public street or private road, is zoned or used as single-family or duplex residential, the planning commission may require additional landscaping (trees, fences, shrubs, wall or berm) along the property line or within the site to sufficiently screen the parking lot, vehicle headlights, loading zones, outdoor display areas, storage yards or accessory structures.

\* The planning commission reserves the right to eliminate the need for a wall/fence/berm on a case by case basis, when petitioned by an applicant.

(Code 1989, § 153.803; 2016-15, § 2, 10-10-2016)

#### Sec. 153.804. - Obscuring walls or fences.

Required walls or fences shall comply with the following standards listed:

- (1) Required walls or fences shall be located on the lot line or as close to the lot line as practical to accommodate landscaping, except where underground utilities interfere and except in instances where this chapter requires conformance with yard setback lines. Required walls may be located on the opposite side of an alley right-of-way from a nonresidential zone that abuts a residential zone when mutually agreeable to affected property owners.
- (2) Conditions.
  - a. Such walls and screening barriers shall have no openings for vehicular traffic or other purposes, except as otherwise provided in this chapter and except such openings as may be approved by the planning commission.
  - b. All walls and fences herein required shall be constructed of materials approved by the building inspector to be durable, weather-resistant, rustproof, and easily maintained. Walls or fences shall be constructed of face brick, pressure treated wood, or comparable nonporous facing materials on the exterior sides facing an affected district. If a fence has only one finished side, the finished side shall face the exterior of the lot and posts and stringers shall be placed on the interior side of the fence wood or wood products shall be high quality durable materials as approved by the building inspector. Wood fences shall be sight obscuring sufficient to shield light and block blowing debris.
  - c. Masonry walls shall be erected on a concrete foundation which shall have a minimum depth of 42 inches

below a grade approved by the building inspector and shall be not less than four inches wider than the wall to be erected.

- d. Masonry walls may be constructed with openings which do not in any square section (height and width) exceed 20 percent of the surface. Where walls are so placed, the openings shall be so spaced as to maintain the obscuring character required, and shall not reduce the minimum height requirement. The arrangement of the openings shall be reviewed and approved by the building inspector.
- (3) Walls or fences must be maintained in good condition by the property owner. The fence shall be considered to be in good condition if all three of the following standards have been met:
- a. The fence does not pose a safety concern.
  - b. The fence continues to function as it was designed to function.
  - c. The fence is adequately maintained and has not deteriorated to a significant extent aesthetically.
- (4) Bumper blocks shall be required where parking is adjacent to walls or fences.

(Code 1989, § 153.804; Ord. No. 2016-09, § 1, 5-9-2016)

Sec. 153.805. - Berm standards.

Required berms shall be constructed as landscaped earth mounds with a crest area at least four feet in width. The exterior face of the berm shall be constructed as an earthen slope. 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 planning commission. Whenever an earthen slope is provided, it shall be constructed with a slope not to exceed one foot of vertical rise to three feet of horizontal distance (1:3). Slightly undulating surfaces in an aesthetically pleasing design, as determined by the planning commission, are acceptable.

(Code 1989, § 153.805)

Sec. 153.806. - Required parking lot trees and parking lot islands.

(a) *Number of parking spaces.* The following table provides the number of parking spaces allowed per use:

Use	0—100 parking spaces	101—200 parking spaces	Over 200 spaces
Commercial or Multiple-family	1 canopy tree per 10 spaces	1 canopy tree per 10 spaces	1 canopy tree per 12 spaces
Industrial	1 canopy tree per 12 spaces	1 canopy tree per 15 spaces	1 canopy tree per 15 spaces

- (b) *Tree location.* All of the required parking lot trees shall be placed within the parking lot envelope, described as the area including the parking lot surface and extending 15 feet from the edge of the parking lot. A minimum of one-third of the required trees shall be placed within the interior of the parking area. Landscaping and canopy tree placement shall be dispersed throughout the parking lot in order to balance and soften large areas of pavement and help direct traffic flow within the lot.

- (c) *Tree base.* Each tree shall be surrounded by an area of grass or living ground cover at least 150 square feet in size to provide for adequate resources of air and water. Tree plantings shall also be protected from automobiles with curbing or other suitable devices.
- (d) *Green belt trees.* Required parking lot trees shall not be credited towards required greenbelt or buffer trees.
- (e) *Design of parking lot islands.* All parking lot islands shall be curbed. Islands shall be at least 150 feet in area. Each island shall be at least ten feet wide, with a depth two feet shorter than the depth of the adjacent parking space. Islands shall have a minimum of ten feet at the ends facing main aisles. Corners of parking lot islands shall have a minimum radius of one foot where the island is not adjacent to main traffic aisle.

(Code 1989, § 153.806)

Sec. 153.807. - Green belts required along and within right-of-way.

A green belt shall be planted along the right-of-way of any public street. The planning commission may allow such planting to be placed anywhere within the front yard if there is no front yard parking. The green belt shall meet the following standards:

- (1) The green belt shall include only living materials and planting beds, except for approved sidewalks, signs, driveways and essential services.
- (2) The green belt shall include one deciduous canopy tree per 30 linear feet of the frontage including any openings for driveways, sidewalks, or easements.
- (3) The planning commission may approve substitution of evergreen trees for up to 50 percent of the required green belt trees upon determining evergreens would be consistent with the existing character of the area.
- (4) Greenbelt trees should be arranged to simulate a natural setting such as massing or staggered rows, except where a more formal arrangement is determined to be more consistent with the existing character of the city.
- (5) Landscaping materials arrangement shall ensure adequate site visibility for motorists, adequate clearance for pedestrians and vehicles and accessibility to fire hydrants. Plant materials within the 30-foot site distance triangle shall not be more than 30 inches in height (per section 153.109(11)).

(Code 1989, § 153.807)

Sec. 153.808. - Ten percent site landscape requirements.

In addition to any buffer zone, parking lot trees, or green belts required by this article, ten percent of the total site area excluding existing thoroughfare right-of-way shall be landscaped with plant materials. Required landscaping shall be provided adjacent to or within close proximity to the perimeter of the principal structure. Landscape design is encouraged to face or be visible from public thoroughfares and principal structures on public access ways. A minimum of two-thirds of the required landscaping must be located within the front or side yard setback in order to be counted.

- (1) Plant material and planting design is encouraged to be ornamental in character and based on minimum standards for plant material and spacing.
- (2) Deciduous canopy trees and large evergreens will not be credited for the ten percent landscape requirements.
- (3) Shredded hardwood, bark mulch, stone mulch, or vegetative ground covers shall be utilized within required landscape areas. Grass, lawn or sod will not be credited for principal structure landscape requirements.
- (4) The ten percent landscape requirement will not apply in the CBD if the front of the building is located on the lot line in the front yard.

(Code 1989, § 153.808)

## Sec. 153.809. - Plant material specifications.

All plant material shall be free of disease and insects at time of planting, and conform to the American Standard for Nursery Stock of the American Association of Nurserymen ANZI Z60.1.

(1) *Minimum plant material planting size.*

- a. Evergreen trees shall be a minimum of five feet in height.
- b. Narrow evergreens shall be a minimum of three feet in height.
- c. Ornamental trees shall be a minimum of ten feet in height or 1¾-inch caliper.
- d. Large deciduous shrubs shall be a minimum of four feet in height.
- e. Deciduous canopy trees shall be a minimum of 15 feet in height or two-inch caliper.
- f. Small evergreen or deciduous ornamental shrubs shall be a minimum of 18-inch to 24-inch spread.

(2) *Plant material spacing.*

- a. Plant materials shall not be placed closer than four feet from the fence line or property line. Where plant materials are placed in two or more rows, plantings shall be staggered in rows and/or grouped informally to create a naturalistic appearance.
- b. Evergreen trees shall be planted not more than 15 feet on center.
- c. Narrow evergreens shall be planted not more than six feet on center.
- d. Deciduous canopy trees shall be planted not more than 25 feet on center.
- e. Ornamental trees shall be planted not more than ten feet on center.
- f. Large deciduous shrubs shall be planted not more than four feet on center.

(3) *Plant material and design variety.* The overall landscape plan shall demonstrate a variety of plant material with not more than 50 percent of any one species utilized throughout the design.

(4) *Suggested (not required) plant materials.*

a. *Evergreen trees.*

1. Juniper.
2. Hemlock.
3. Fir.
4. Pine (dwarf, globe, pendulous, species/cultivars are not permitted).
5. Spruce.
6. Douglas-Fir.

b. *Narrow evergreens (dwarf, globe, pendulous, species/cultivars are not permitted).*

1. Column Hinoki cypress.
2. Blue columnar Chinese juniper.
3. Pyramidal red-cedar.
4. Swiss stone pine.
5. Pyramidal white pine.
6. Irish yew.
7. Douglas arbor-vitae.
8. Columnar giant arbor-vitae.

- c. *Ornamental trees.*
    - 1. Flowering crabs.
    - 2. Service berry.
    - 3. Dogwood.
    - 4. Redbud.
    - 5. Hornbeam.
    - 6. Hawthorn.
    - 7. Magnolia.
  - d. *Large deciduous shrubs.*
    - 1. Honeysuckle.
    - 2. Viburnum.
    - 3. Mock-orange.
    - 4. Forsythia.
    - 5. Lilac.
    - 6. Ninebark.
    - 7. Cotoneaster.
    - 8. Hazelnuts.
    - 9. Euonymus.
    - 10. Privet.
    - 11. Buckthorn.
    - 12. Sumac.
  - e. *Deciduous canopy trees.*
    - 1. Oaks.
    - 2. Hard maples.
    - 3. Hackberry.
    - 4. Birch.
    - 5. Beech.
    - 6. Ginkgo (male species only).
    - 7. Honeylocust (thornless and seedless cultivars only).
    - 8. Hop hornbeam.
    - 9. Linden.
- (5) *Trees not permitted as part of an approved landscape plan.*
- a. Box elder.
  - b. Soft maples (silver).
  - c. Elms.
  - d. Poplars (including cottonwoods).
  - e. Willows.
  - f. Horse chestnut (nut bearing).



g. Tree of heaven.

h. Catalpa.

(Code 1989, § 153.809)

Sec. 153.810. - Existing tree preservation incentives.

The standards outlined below are intended to encourage the preservation of quality and mature trees by providing credits, at planning commission approval, toward the required trees for green belts, buffer zones and within parking lots.

- (1) All trees eight-inch caliper and over shall be identified on the site plan with notations of trees to be preserved and trees to be removed.
- (2) Trees intended to be preserved shall be noted with a unique symbol on the site plan and be protected during construction through the use of construction fencing at or beyond the dripline of the tree or trees to be preserved.
- (3) Trees to be preserved shall be considered for credit only if they are located on the developed portion of the site as determined by the planning commission. The planning commission, pursuant to site plan approval, may allow credit for such plant material preservation if it will maintain and encourage the intent of this chapter. To obtain credit consideration, the preserved trees shall be of a high quality and at least two-inch caliper.
- (4) Credit consideration for preserved trees shall be:

Preserved Tree Caliper* (inches)	Number of Trees to be Credited
12 inches and over	3
8 inches to 11.99 inches	2
2½ inches to 7.99	1

\* Caliper is the diameter of a tree trunk and shall be measured at a height six inches above the existing grade up to and including four-inch caliper size and 12 inches above the existing grade for larger sizes.

- (5) To protect and encourage the continued health and vitality of the preserved trees, the ground within the dripline of the trees shall be maintained in the existing natural state. Storage of soils or other materials during or after construction within the tree dripline is prohibited.
- (6) If preserved trees die within three years after construction the property owner shall replace with trees required before credit was allowed. Said trees shall be replaced within 60 days of written notice from the city or within an extended time period as specified in said notice.
- (7) The minimum number of required trees shall not be reduced by less than 50 percent through the use of approved tree credits. However, the planning commission during site plan review, may determine existing landscaping or screening intended to be preserved would provide comparable required landscaping, buffering or screening.

(Code 1989, § 153.810)

Sec. 153.811. - Minimum standard for installation and maintenance.

- (a) *Installation.* Landscaping shall be installed in a sound workman like manner and conform to the American Standard for Nursery Stock ANSI Z60.1. If building or paving construction is completed during a planting season, then no certificate of occupancy will be issued unless the landscaping meets the requirements herein provided. If building or paving construction is completed in an off planting season, the certificate of occupancy will be issued only after the owner provides a performance bond to ensure installation of required landscaping in the next planting season.
- (b) *Material removal.* Tree stakes, guy wires and tree wraps are to be removed after one year.
- (c) *Maintenance.* Green belt areas and plant materials required by this article shall be kept free from refuse and debris. To keep the buffer zone in effect, plant materials shall be maintained in a healthy growing condition, neat and orderly in appearance. If any plant material required by this chapter dies or becomes diseased, they shall be replaced within 30 days of written notice from the city or within an extended time period as specified in said notice.

(Code 1989, § 153.811)

Sec. 153.812. - Compliance for pre-existing sites.

- (a) In any case where site plan review is required and the existing building and/or parking area is being increased by at least 50 percent over the originally approved site plan or the use is being changed to a more intense use, as determined by the planning commission, the site shall be brought into 100 percent compliance with the landscape standards herein.
- (b) In any case where site plan review is required and the existing building and/or parking area is being increased by at least 25 percent over the originally approved site plan or the use is being changed to a more intense use, as determined by the planning commission, the site shall be brought into 50 percent compliance with the landscape standards herein. In situations where the increase in the existing building and/or parking area is less than 25 percent over the original site plan, the requirement of new landscaping shall be equal to two percent of compliance for every one percent of increase in building or parking footprint (example: a building or parking area increase of ten percent requires a 20 percent compliance with the landscape standards). If any development or principal use requiring a certificate of occupancy is destroyed by any means beyond 50 percent of the value of the structure (as determined by calculating twice the structure's state equalized value), the site shall be brought into full compliance with the landscape standards herein.

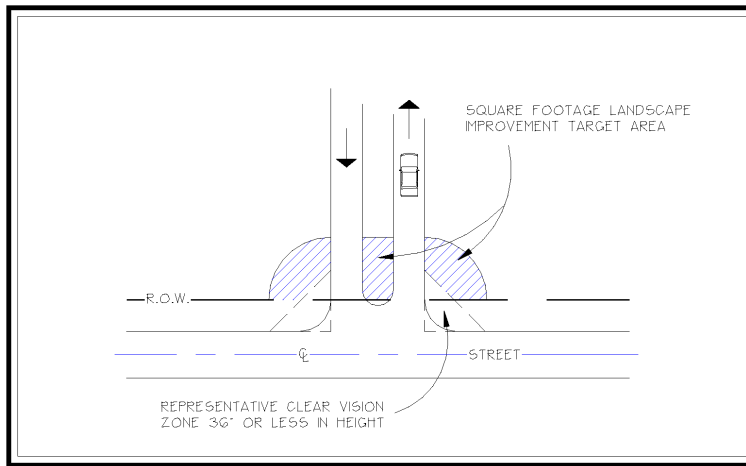
(Code 1989, § 153.812)

Sec. 153.813. - Residential development entry landscaping.

Landscaping shall be required at vehicular entry points for residential developments including subdivisions, condominium developments, multiple-family developments, retirement communities and other developments.

- (1) For residential developments which do not otherwise require landscaping as defined in section 153.802, vehicular entry points shall require landscaping. This shall consist of a minimum of 300 square feet of landscaping which meets the standards in section 153.808(1), (2) and (3). Landscaping shall be generally provided in the area delineated in the illustration set forth in subsection (2) of this section.
- (2) For residential developments which require landscaping, landscaping for residential development entries shall be counted toward the ten percent landscaping requirement in section 153.808. Residential development entry landscaping shall meet the requirements contained in this article. Landscaping shall be generally provided in the

area delineated in the following illustration.



- (3) The developer shall submit a maintenance plan which designates the legal entity to be principally responsible for the continuous maintenance of the entry landscaping and the means for financing the maintenance.

(Code 1989, § 153.813)

#### ARTICLE 9. - STANDARDS

Sec. 153.901. - Corresponding standards.

All uses listed in this article shall be required to meet the corresponding standards for that use.

- (1) Adult day care (one to six persons) shall be subject to the following conditions: The facility is licensed by the state.
- (2) Adult day care (seven to 12 persons) shall be subject to the following conditions: The facility is licensed by the state.
- (3) Adult day care (13 or more persons) shall be subject to the following conditions: The facility is licensed by the state.
- (4) Adult foster care large group homes (13 to 20 persons) and adult foster care small group homes (seven to 12 persons) are subject to the following conditions:
  - a. The facility will meet the residential density requirements for the district it is located in based on one dwelling unit per six household members.
  - b. The facility shall maintain a valid state license to operate as an adult foster care small or large group home.
- (5) Adult foster care family homes and adult foster care small group homes (one to six persons) are subject to the following conditions: The facility is licensed by the state.
- (6) Automobile service stations are subject to the following conditions:
  - a. The curb cuts for ingress and egress to a service station shall not be permitted at such locations that will tend to create traffic hazards in the streets immediately adjacent thereto.
  - b. The minimum lot area shall be 22,500 square feet, and so arranged that ample space is available for motor vehicles which are required to wait.
  - c. There shall be provided, on those sides abutting or adjacent to a residential district, an eight-foot completely obscuring wall. The height of the walls shall be measured from the surface of the ground. The wall may be reduced in height or eliminated upon approval of the planning commission.

- d. All lighting shall be shielded from adjacent residential districts.
  - e. Major engine and body repair, steam cleaning and undercoating when conducted on the site shall be within a completely enclosed building.
  - f. No automobiles or vehicles of any kind shall be stored in the open for a period exceeding one week.
  - g. Accessory uses such as the sale of convenience goods, video rental and car wash facilities may be permitted, provided adequate parking is provided and the accessory uses do not change the general characteristics of the use.
- (7) Automobile wash establishments shall be subject to the following conditions:
- a. The facility must be connected to the city sanitary sewer system.
  - b. Any structures, vacuums or other machinery must be located at least 100 feet from a residence.
  - c. A minimum of six stacking spaces shall be provided for each automatic bay and two stacking spaces shall be provided for each self-service bay.
  - d. A sufficient number of stacking spaces shall be provided between the exit of the automatic bay and the road, as determined by the planning commission.
- (8) Banks shall be subject to the following conditions: Drive-through banking facilities shall be designed to minimize the impact on the neighborhood and surrounding properties.
- (9) Bed and breakfast facilities shall be subject to the provisions of the city Bed and Breakfast Ordinance, adopted October 24, 1994, as amended.
- (10) Boardinghouses shall be subject to the following conditions: The maximum occupancy shall be two persons per bedroom. Maximum occupancy shall be based fire code requirements and the maximum occupancy allowable without altering the character of the structure and property. The maximum number of bedrooms per boardinghouse shall be six.
- (11) Churches and other facilities normally incidental thereto, shall be subject to the following conditions:
- a. Buildings of greater than the maximum height allowed in article 4 of this chapter may be allowed provided front, side, and rear yards are increased above the minimum required yards by one foot for each foot of building height that exceeds the maximum height allowed.
  - b. The church shall be treated as a multiple-family development for the purposes of determining landscaping requirements.
  - c. The site shall be so located as to have at least one property abutting a major thoroughfare or collector street as designated on the major thoroughfare plan. All ingress to and egress from the site shall be directly onto the major thoroughfare, collector street, or a marginal access drive thereof.
  - d. Unless established prior to the effective date of the ordinance from which this article is derived, the minimum site area for all churches shall be three acres.
- (12) Commercially used outdoor recreational space for children's amusement parks, miniature golf courses and similar uses, shall be subject to the following conditions: Such uses shall be fenced on all sides with a four-foot wall or fence.
- (13) Communication antennae on existing structures shall be subject to the following conditions:
- a. Materials used to shield the antenna and associated electrical equipment shall be aesthetically compatible with the surrounding structures and area in terms of color and texture.
  - b. The appearance and character of the structure will not be significantly altered with the addition of the antenna and related equipment.

- c. The height of the existing structure will not be significantly increased with the addition of the antenna.
  - d. The antenna and any associated structures and guy wires shall be inaccessible to the general public.
  - e. The structure is nonresidential in nature.
- (14) Communication towers shall be subject to the following conditions:
- a. A minimum site of 0.75 acres, whether the site is owned by fee title or leased.
  - b. The base of the tower and wire cable supports shall be fenced with a minimum five-foot-high fence.
  - c. The tower must be setback from all property lines a distance equal to its height, unless engineering plans and specifications have been verified by the city engineer that the structure is designed to collapse onto itself in the event of tower failure. The applicant shall incur all cost associated with city engineering review.
  - d. Accessory structures are limited to uses associated with the operation of the tower and may not be located any closer to front or side property lines than 30 feet. Nothing shall prevent an applicant from applying to the board of appeals for a setback variance.
  - e. Accessory structures shall not exceed 600 square feet of gross building area.
  - f. All buffer yard requirements within this chapter shall be met.
  - g. All towers shall be equipped with an anti-climbing device to prevent unauthorized access.
  - h. The plans of the tower construction shall be certified by a professional engineer experienced in structural design or another qualified expert in structural design.
  - i. The applicant shall provide verification that the antenna mount and structure have been reviewed and approved by a professional engineer and that the installation is in compliance with all applicable codes.
  - j. All towers must meet the standards of the Federal Aviation Administration and the Federal Communications Commission.
  - k. Communication towers in excess of 100 feet in height above grade level shall be prohibited within a two-mile radius of a public airport or a one-half-mile radius of a helipad.
  - l. No part of any tower or antenna shall be constructed, located or maintained at any time, permanently or temporarily, on or upon any required setback area for the district in which the antenna or tower is to be located. In no case shall a tower or antenna be located within 30 feet of a front or side property line. Nothing shall prevent an applicant from applying to the board of appeals for a setback variance.
  - m. Metal towers shall be constructed of, or treated with, corrosive-resistant material.
  - n. Antennae and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with all applicable local, state and federal statutes, regulations and standards.
  - o. Towers with antennas shall be designed to withstand a uniform ice loading and wind loading as prescribed in the state construction code.
  - p. All signals and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight feet above the ground at all points, unless buried underground.
  - q. Towers shall be located so that they do not interfere with television or radio reception in nearby residential areas.
  - r. Towers shall be located so there are parking spaces for two vehicles on the property owned and/or leased by the applicant.

- s. The base of the tower shall occupy no more than 500 square feet.
- t. Minimum spacing between tower locations shall be one mile in order to prevent a concentration of towers in one area.
- u. Height of the tower shall not exceed 200 feet from grade within a business district, and 300 feet from grade within an industrial district.
- v. Towers shall not be artificially lighted unless required by the Federal Aviation Administration.
- w. Existing on-site vegetation shall be preserved to the maximum extent practicable.
- x. There shall not be displayed advertising or identification of any kind intended to be visible from the ground or other structures, except as required for emergency purposes. A sign shall identify the owner and an emergency telephone number.
- y. The antenna shall be painted to match the exterior treatment of the tower. The chosen paint scheme should be designed to minimize off-site visibility of the antenna.
- z. Structures shall be subject to any state and federal regulations concerning nonionizing electromagnetic radiation. If more restrictive state or federal standards are adopted in the future, the antenna shall be made to conform to the extent required by such standard or the special use approval will be subject to revocation by the city council. Cost for testing and verification of compliance shall be borne by the operator of the antenna.
- aa. There shall be no employees located on the site on a permanent basis to service or maintain the antenna. Occasional or temporary repair and service activities are excluded from this restriction.
- bb. All parking and drive areas must be paved as provided in this chapter.
- cc. Where the property adjoins any residentially zoned property or land use, the developer shall plant two alternating rows of evergreen trees with a minimum height of five feet on 20 foot centers along the entire perimeter of the tower and related structures. In no case shall the evergreens be any closer than ten feet to any structure.
- dd. The tower shall be removed by the property owner or lessee within six months of being abandoned or expiration of the lease.
- ee. Collocation required.
  - 1. Newly constructed towers shall have three times the capacity of intended use in order that secondary users could lease the balance of the tower capacity at a reasonable rate.
  - 2. The applicant must include a statement in the application and an affidavit stating space on a proposed tower will be made available to future users when technically possible.
  - 3. The applicant shall send a written notice via certified mail to all potential users of the new communication tower offering an opportunity for collocation. The list of potential users shall be provided by the city based on those entities who have requested approval of communication towers in the past, current FCC license holders, and any other entities requesting to be included on the list. Copies of the notice letters shall be provided to the city at the time the application is filed. If, during a period of 30 days after the notice letters are sent to potential users, upon a user's request, in writing, to co-locate on the new communication tower, the applicant shall accommodate the request, unless collocation is not reasonably possible based on the criteria of this subsection.
  - 4. If a communication tower with SUP approval proposes collocation on the tower, the collocation is exempt from the requirement for SUP or zoning permit approval if:

- (i) The tower or other structure complies with the current zoning ordinance or previously received zoning approval.
  - (ii) The antennas will not increase the height of the structure by 20 feet or ten percent of the structure, whichever is greater, or increase the width of the structure to an extent greater than necessary to support the antennas.
  - (iii) The ground area for support equipment will not increase by more than 2,500 square feet.
  - (iv) The proposed antennas will comply with any conditions imposed previously on approval of the tower or the support equipment area.
5. If a communication tower with SUP approval proposes collocation on the tower, but does not meet the requirements of subsection (14)ee.4 of this section, the collocation requires zoning permit approval. If the collocation does not comply with the conditions of the tower SUP or the limit on the number of antenna arrays in the SUP approval, the collocation will require amendment of the SUP.
- (15) Convalescent homes, subject to the following conditions:
- a. No building shall be closer than 40 feet from any property line.
  - b. The building shall not exceed a height of two stories.
  - c. The density of development shall not exceed 12 beds per acre.
  - d. Licensing as required by the state.
- (16) Conversion of single-family homes to two-family dwelling units shall be subject to the following conditions:
- a. The structure and property is considered compatible with adjacent uses.
  - b. Two parking spaces are provided for each unit. Parking spaces shall be located off-street and in the side or rear yard.
  - c. The additional unit does not result in a change in the architectural appearance of the front of the structure.
  - d. Each unit shall have the minimum square footage required for apartments in the R-3B district.
  - e. All requirements for the physically disabled and all barrier free requirements shall be met as required by the state construction code.
- (17) Drive-in establishments or open-front stores shall be subject to the following conditions:
- a. A setback of at least 60 feet from the right-of-way line of any existing or proposed street shall be maintained.
  - b. Ingress and egress points shall be located at least 60 feet from the intersection of any two streets.
  - c. An eight foot completely obscuring wall or fence shall be provided where abutting or adjacent to a residential district. The height of the wall shall be measured from the surface of the ground.
- (18) Drive-through establishments shall be subject to the following conditions:
- a. The minimum width of that portion of the lot fronting on a county primary road shall be 100 feet.
  - b. The minimum separation of entrance and exit drives shall be 60 feet.
  - c. On corner lots, driveways shall be a minimum of 60 feet from the intersection of the right-of-way lines.
  - d. A minimum of four stacking spaces shall be provided for each drive-through window or service area.
- (19) Dry cleaners, furniture refinishers and other services that use similar hazardous material in their work shall be subject to the following conditions: Adequate provisions must be made for the safe storage, use and disposal of all hazardous substances.
- (20) Family child care homes shall be subject to the following conditions:
- a. The facility shall be licensed by the state, and shall comply with all state requirements for a family child care home.

- b. There shall be fencing around any outdoor play areas.
  - c. The building shall retain the appearance of a single-family residence.
  - d. The facility shall not exceed 16 hours of operation in a 24-hour period.
- (21) Farmer's markets shall be subject to the following conditions:
- a. The farmer's market shall be located on city-owned property.
  - b. The farmer's market shall have the appropriate permit to operate as required by the city.
- (22) Foster family group homes shall be subject to the following conditions:
- a. The facility is licensed by the state as a foster family group home and complies with state requirements for a foster family group home.
  - b. The building retains the appearance of a single-family residence.
- (23) Foster family homes shall be subject to the following conditions:
- a. The facility is licensed by the state as a foster family home.
  - b. The building retains the appearance of a single-family residence.
- (24) Group child care homes shall be subject to the following conditions:
- a. The facility is licensed by the state as a group child care home.
  - b. Fencing is provided around any outdoor play areas.
  - c. The building retains the appearance of a single-family residence.
  - d. The use does not exceed 16 hours of operation in a 24-hour period.
  - e. The use is no closer than 1,500 feet to another licensed group child care home.
- (25) Home occupations shall be subject to the following conditions:
- a. All home occupations shall be so conducted as not to be visible on the exterior of a dwelling.
  - b. Traffic and delivery of goods created by the home occupation shall not exceed that normally created by residential uses.
  - c. Not over 25 percent of the floor area of any one story may be used for the home occupation.
  - d. The home occupation shall be conducted only by members of the family residing on the premises.
  - e. No product stored or process undertaken in conjunction with the home occupation shall be injurious or obnoxious to the surrounding neighborhood because of noise or odor.
  - f. Home occupations shall be consistent in character with the surrounding residential area.
- (26) Kennels, commercial, shall be subject to the following conditions:
- a. The facility shall be licensed by the county department of animal control.
  - b. Kennels housing dogs and dog runs shall be a minimum of 300 feet from a residential district.
  - c. All dog runs must be enclosed with fencing and have a concrete surface.
  - d. The applicant must identify an acceptable method of disposing of the animal waste.
  - e. Dogs shall only be permitted outside between the hours of 8:00 a.m. and 9:00 p.m.
- (27) Kennels, private, shall be subject to the following conditions:
- a. All dogs within the facility shall be licensed by the county department of animal control and the facility shall comply with operational standards of the county.
  - b. Kennels (including dog runs) housing dogs shall be a minimum of 50 feet from side or rear lot lines.



- c. All dog runs must be enclosed with fencing and have a concrete surface.
  - d. The applicant must identify an acceptable method of disposing of the animal waste.
  - e. Dogs shall only be permitted outside between the hours of 8:00 a.m. and 9:00 p.m.
- (28) Long-term care facilities shall be subject to the following conditions:
- a. No building shall be located closer than 50 feet to any property line.
  - b. The building shall be treated as a multiple-family residence for the purpose of determining the required landscaping.
  - c. Licensing as required by the state.
- (29) Registered medical marijuana caregivers shall be subject to the following conditions:
- a. They shall operate only in a B-2 Zoning District by special use permit. Each shall submit to a criminal background check, free of felony convictions and criminal charges involving drugs or narcotics.
  - b. No more than one registered primary caregiver may provide medical marijuana care at any premises or parcel of property. (A premises or parcel means: one commercial business premises having a separate postal address and taxed as a separate parcel for real estate tax purposes.)
  - c. Provide medical marijuana care to no more than five qualified patients and only in compliance with MMMA.
  - d. Possess no more than 2.5 ounces of useable marijuana for each qualified patient for whom he provides care, nor have in excess of 12 medical marijuana plants for each qualified patient and only kept in an enclosed locked facility.
  - e. No registered primary caregiver shall grow marijuana for more than one qualifying patient on any premises within the city until such time as said premises have been fully inspected by the chief of the fire department or his designee and the building inspector. Prior to issuance of a special use permit the fire chief and the building inspector shall both certify that they have inspected the premises and find that the premises is equipped with a sufficient number of enclosed and locked facilities for compliance with the MMMA for the number of qualified patients asserted by the registered primary caregiver and that the premises is reasonably equipped with electrical, plumbing and safety equipment so as to allow the safe and legal production of medical marijuana in compliance with all applicable building codes. In the event that a registered primary caregiver wishes to increase the number of qualified patients, not to exceed five qualified patients, then he shall apply for an amendment of the special use permit. The fire chief and the building inspector shall reinspect the premises to assure that there is compliance with building and safety requirements. The chief of police shall inspect for crime prevention through environmental design.
  - f. Said premises used by the medical care provider may be no closer than 500 feet from schools, daycare centers, places of worship, parks, or other medical marijuana caregivers.
  - g. All medical marijuana caregivers and all assistance given to a patient shall occur within the confines of a building authorized by a special use permit under this section and in locations not visible to the public and adjoining users.
  - h. There shall be no signage identifying a medical marijuana caregiver's presence or a place at which medical marijuana is distributed.
  - i. A medical marijuana caregiver who may be operating an existing facility before the date of the ordinance from which this article is derived must make application for and receive approval to continue such operations.
  - j. A property owner or medical marijuana caregiver shall have no vested rights or non-confirming use rights

that would serve as a basis for failing to comply with this chapter or any amendment thereto.

- (30) Mobile home parks shall be subject to the following conditions: Mobile home parks shall be developed to the standards established by the mobile home park commission.
- (31) Motels and hotels shall be subject to the following conditions:
- a. It must be demonstrated that ingress and egress do not conflict with adjacent business uses.
  - b. No kitchen or cooking facilities are to be provided in the units, with the exception of units for the use of the manager or caretaker.
  - c. Each unit shall contain not less than 250 square feet of floor area.
- (32) Municipal buildings and public utility offices, but not including storage yards or transformer stations, shall be subject to the following:
- a. The building shall be treated as a multiple-family development for the purposes of determining landscaping requirements.
  - b. The site shall be so located as to have at least one property abutting a major thoroughfare or collector street as designated on the major thoroughfare plan. All ingress to and egress from the site shall be directly onto the major thoroughfare, collector street, or a marginal access drive thereof.
- (33) Nursery schools, day nurseries, and child care centers (not including dormitories) shall be subject to the following conditions:
- a. For each child so cared for, there shall be provided and maintained a minimum of 100 square feet of outdoor play area.
  - b. There shall be a play space with a total minimum area of at least 1,000 square feet, which and shall be fenced or screened from any adjoining land with planting.
  - c. State licensing as required.
- (34) Offices and showrooms of plumbers, electricians, decorators, or similar trades, shall be subject to the following conditions:
- a. Not more than 25 percent of the floor area of the building or part of the building occupied by that establishment is used for making, assembling, remodeling, repairing, altering, finishing, or refinishing its products or merchandise.
  - b. The ground floor premises facing upon and visible from any abutting street shall be used only for entrances, offices, or display.
  - c. All storage of materials on any land shall be within the confines of the building or part thereof occupied by that establishment.
- (35) Outdoor sales space for exclusive sale of new and secondhand mobile homes, or recreational vehicles, shall be subject to the following conditions:
- a. Ingress and egress to the outdoor sales area shall be at least 60 feet from the intersection of any two streets.
  - b. No major repair or major refinishing shall be done on the lot.
- (36) Reserved.
- (37) Public, parochial, charter, and other private elementary, intermediate or high schools certified by the state that offer courses in general education and not operated for profit shall be subject to the following conditions:
- a. The school shall be treated as a multiple-family development for the purposes of determining landscaping requirements.

- b. The site shall be so located as to have at least one property abutting a major thoroughfare or collector street. All egress from the site shall be directly onto the major thoroughfare, collector street, or a marginal access drive through churches and church lands purchased before the effective date of the ordinance from which this article is derived. Meeting these requirements shall not be prevented from constructing or expanding their facilities and, for the purposes of this chapter, therefore shall not be considered nonconforming.
- (38) Retirement communities (mixed use) shall be subject to the following conditions:
- a. Uses permitted include long-term care facilities, assisted living facilities, independent living facilities, senior housing, extended care facilities, adult day care facilities, as well as recreational and service facilities primarily for the use of the residents.
  - b. All residents of the community must be at least 55 years of age.
  - c. Permitted overall density is 12 dwelling units or beds per acre.
  - d. At least 20 percent of the site must be retained as open space/recreation area.
- (39) Satellite dish antenna signal receiving stations greater than one meter in area shall be permitted subject to the following conditions:
- a. Stations shall not be linked to receivers which are located beyond lots adjacent to the lot on which the satellite dish is located.
  - b. Satellite dish antennas may not be located nearer than six feet from a side or rear lot line and may not be located or placed on an easement.
  - c. The size of the satellite dish antenna shall not be greater than six feet in diameter and shall not rise from the ground level in excess of 15 feet in height, at its maximum point.
  - d. No advertising message or other graphic representation shall be allowed.
  - e. Satellite dish antennae shall be located and screened so as to minimize the impact on surrounding property.
  - f. Satellite dish antenna signal receiving stations in existence at the date of the adoption of the ordinance from which this article is derived which do not comply with all of the provisions of this chapter are hereby determined to be an existing nonconforming use within the meaning of this chapter and, as such, shall have the protections afforded, and be subject to the restrictions imposed on nonconforming uses by this chapter.
- (40) A single-family dwelling and any additions or alterations, thereto, erected or placed in the city, other than mobile homes located in a licensed mobile home park, shall conform to the following regulations in addition to all other regulations of this chapter:
- a. It shall comply with all pertinent building, construction and fire codes for single-family dwellings.
  - b. The plan outline of the dwelling, including only heated living area, shall be large enough to contain within it a square of 20 feet on a side. This size requirement shall not make any houses existing at the date of amendment nonconforming so that they cannot be enlarged or improved.
  - c. It shall be firmly attached to a permanent foundation constructed on the site in accordance with the state construction code and shall have a wall of the same perimeter dimensions as the dwelling and constructed of such materials and type as required in the applicable construction code for single-family dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission and shall have a perimeter wall as required above.
  - d. In the event that a dwelling is a mobile home as defined herein, each mobile home shall be installed with the

wheels removed. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage, or chassis.

- e. It shall be connected to a public sewer and water supply, if available, or if not available, to private facilities approved by the county health department.
- f. It shall comply with all pertinent zoning, subdivision, and other ordinances regulating use, floor area, lot size, setbacks, yards, etc., in the zoning district in which it is located.
- g. It shall comply with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- h. It shall be aesthetically compatible in design and appearance to homes in the neighborhood in which it is located. It shall be the responsibility of the zoning administrator to determine whether this standard is met. The zoning administrator may at his discretion, refer the matter to the zoning board of appeals for the determination. The determination of compatibility shall be based upon the character, design and appearance of residential dwellings (excepting mobile home parks) within 300 feet of the subject dwelling where such area has existing dwellings on not less than 20 percent of the lots situated within said area. Where said area is not so developed, the determination of compatibility shall be based on the character, design, and appearance of the residential dwellings generally found throughout the city. The determination of compatibility shall also be based upon compliance with the following standards:
  - 1. The dwelling shall have a combination of roof overhang and pitch comparable to the overhang and pitch of homes typically found in the neighborhood in which it is to be located.
  - 2. The dwelling shall have a chimney that is constructed of a material and style similar to those of other dwellings typically found in the neighborhood in which it is to be located.
  - 3. The dwelling shall be accessed by exterior abovegrade steps and/or porches which are permanently attached to the ground and to the structure, and which are comparable to steps and/or porches of homes typically found in the neighborhood in which it is to be located.
  - 4. The dwelling (including roof) shall be covered with materials which are in composition, color, texture, malleability, direction of joints, and method of fastening to the structure comparable to those typically found in the neighborhood in which it is to be located.
  - 5. The dwelling shall have windows located on the front, sides, and exterior doors either on the front and rear or front and side as generally found in homes in the neighborhood in which it is to be located.
  - 6. The dwelling shall not have a detached garage, if attached garages are typically found in the neighborhood in which it is to be located.
  - 7. A dwelling may be approved as aesthetically compatible in design and appearance to homes in the neighborhood in which it is to be located, even if all of the above conditions do not exist, provided it is determined that the dwelling and/or its site has other design features which make it aesthetically compatible to homes in the district. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as energy conscious devices such as solar energy, view, unique land contour or relief from the typical or standard designed home.

(41) Stadiums and arenas including baseball, football or other large facility with public seating shall be subject to the

following conditions:

- a. All buildings or activity areas must be at least 100 feet from any side or rear property line adjacent to an existing residence or residentially zoned property line.
- b. Adequate fencing, screening or other appropriate buffering shall be developed to minimize the impacts of the development on surrounding properties, as determined by the planning commission.

(42) Storage facilities with outdoor storage shall be subject to the following conditions:

- a. Minimum parcel area for the entire development is four acres.
- b. Maximum building height shall be 14 feet.
- c. Side and rear setbacks shall be a minimum of 40 feet when adjacent to a residential district.
- d. Parking for the storage leasing office shall be as outlined under this chapter's parking regulations. A ten-foot-wide parking strip shall be required in front of each row of storage units and a 16-foot-wide travel lane provided between buildings.
- e. The storage facility shall be fenced and gated per section 153.804.

(43) Temporary buildings and structures incidental to construction work shall be subject to the following conditions:

- a. All principal and accessory buildings and structures shall meet the setback requirements for the district in question.
- b. The placement and estimated time of removal of the buildings and structures shall be required to be shown on the site plan.
- c. The temporary buildings and structures may be used during construction of permanent buildings and structures on the site or on a nearby site. All temporary buildings and structures shall be removed prior to the permanent structure receiving a certificate of occupancy. In no instance shall the temporary buildings and structures be located on the property for a period of more than one year.

(44) Townhouses shall be subject to the following conditions:

- a. The minimum distances between buildings contained in article 4 of this chapter shall apply. For purposes of this section, all required distances shall apply regardless of actual fee title ownership.
- b. Each dwelling unit, including the appurtenant land areas, shall have direct frontage upon a properly dedicated public street. The minimum street frontage shall be 24 feet.
- c. No building shall be divided into more than four dwelling units.
- d. Each building site shall have a side yard of ten feet on each end of the building structure.
- e. Each building site being divided into four units shall have a minimum area of 14,400 square; each building site being divided into three units shall have a minimum area of 11,400 square feet; each building site being divided into two units shall have a minimum area of 9,000 square feet.

(45) In the OS-1 district, the use of a structure for residential purposes or for joint residential and office use, shall be subject to the following conditions: The structure must have been used for residential purposes at the time of the effective date of the ordinance from which this article is derived or the effective date of the parcels being rezoned to the office-service district.

(46) Veterinary clinics shall be subject to the following conditions:

- a. The facility shall be licensed by the county department of animal control.
- b. Veterinary clinics with outdoor runs shall be a minimum of 300 feet from a residential district. All dog runs must be enclosed and have a concrete surface.

- c. The applicant must identify an acceptable method of disposing of the animal waste, and animal remains.
- (47) Warehouse and storage facilities when incident to and physically connected with any principal use permitted, shall be subject to the following conditions: Such facility is within the confines of the building or part thereof occupied by that establishment.
- (48) Warehousing, wholesaling, processing, and manufacturing facilities and establishments shall be subject to the following conditions: The use is conducted wholly within a completely enclosed building, or within a designated area enclosed on all sides with a six-foot fence or solid wall. The fence or wall shall comply with section 153.804.
- (49) Ponds shall be subject to the following conditions:
- a. Permit procedures. An application for a pond construction or a pond or lake alteration permit shall be subject to site plan approval. For the purposes of pond construction or pond or lake alteration, the following information shall be required on the site plan:
1. Name, address and phone number of applicant.
  2. Location of the lot on which the pond proposed to be constructed or the pond or lake proposed to be altered is situated.
  3. Legal description and tax parcel number of the lot on which the pond proposed to be constructed or the pond or lake proposed to be altered is situated.
  4. Description of the applicant's ownership interest in the lot on which the pond proposed to be constructed or the pond or lake proposed to be altered is situated.
  5. The existing and proposed size of the body of water in acres, including the approximate length, width and depth.
  6. The current use, if any, and the intended use of the pond or lake.
  7. The application shall be accompanied by a general plan of the property on which the proposed pond will be constructed or on which the pond or lake to be altered is located, including its specific location, the location of safety stations required by this section, its intended use, its general size and depth, the method to be used to assure its cleanliness and compliance with all applicable federal, state and local regulations, whether the pond or lake is or will be spring fed, stream fed, surface runoff fed or well fed, and any other information the planning commission may reasonably require.
  8. The general plan will be drawn to a scale of not less than one inch equals 50 feet. Cross sections indicating the depth, slopes, lengths and widths of the pond or lake will be illustrated at a scale of not less than one inch equals 50 feet.
  9. The application shall be accompanied by a neighborhood plan which shall be drawn to a scale of not less than one inch equals 200 feet and which will indicate all parcels of property within 300 feet of the property lines of the property on which the pond or lake is located or proposed to be located. The neighborhood plan shall indicate all structures on the adjacent properties, all natural and manmade drainage systems and the general land or elevation contours at not less than five-foot intervals for the entire land area within 300 feet of the property lines of the property on which the pond or lake is located or proposed to be located.
- b. Additional requirements.
1. In addition to the general plan and neighborhood plan, the applicant will supply the city with a written approval for the proposed construction or alteration from the county drain commission, the county road commission, and any public utility company if any of said entities have any installations, easements,

rights-of-way, or other interest in the property on which the proposed pond is to be constructed or on which an existing pond or lake is proposed to be altered. If the pond or lake is stream fed, a written approval for the proposed construction or alteration will be required from the state department of environmental quality (MDEQ).

2. If there is a watershed on the site on which the pond or lake is located or on which the proposed pond is to be located, the city may require the application to be accompanied by a report by a qualified soils engineer or geologist regarding the effect the proposed pond construction or the proposed pond or lake alteration will have upon the watershed of the area, with particular attention being devoted to the water table, and, if water bodies are to be created, the anticipated permanence of such. The report shall include a groundwater and surface water quality analysis. The analysis shall be completed in accordance with professionally accepted engineering standards. The report shall provide base line water quality data to be used in determining compliance with the requirements of this chapter.
  3. If natural resource deposits are to be extracted, a detailed plan for the extraction of same is required. The plan shall provide for the protection of water courses, water bodies and wetlands from hazardous materials, contamination and erosion directly or indirectly caused by the extraction and restoration activities. The plan shall include a long range timetable for various stages of the operations and a phased restoration plan indicating how the area will be reused in a manner compatible with this chapter and master plan.
  4. The application shall also be accompanied by a detailed explanation as to routing of commercial vehicles to be utilized in the construction, alteration or extraction activities, their size, weight and frequency of trips. If different routes will be used at different stages of the operation, a timetable for such routings shall be included.
- c. Size and location requirements. No permit will be issued for construction of a pond on less than two acres of land. No pond shall be constructed and no pond or lake shall be altered on any parcel of land where the resultant land to water ratio is less than three to one. By way of example, a one-acre pond would require a four-acre parcel and a 1½ acre pond would require a six-acre parcel. All edges of the excavation for any pond constructed or for any pond or lake altered as permitted and provided for in this section must be located a minimum of 50 feet from all property lines, easements, streets, roads, right-of-ways, septic fields, sewer lines, water wells and lines and habitable structures.
- d. Surety requirements.
1. So as to assure timely completion of the proposed construction, alteration, extraction and/or restoration activities in compliance with the terms and conditions of this section, the applicant shall deposit with the city clerk cash, a certified check, an irrevocable bank letter of credit or a surety bond acceptable to the city before a permit can be issued hereunder. This deposit will be held in escrow by the city and will be returned to the applicant upon the timely and successful completion of the proposed construction, alteration, extraction and/or restoration activities as certified by the city.
  2. Such deposit or surety bond shall be conditioned on the project being completed in compliance with the requirements of this subsection and within 120 days. The amounts required for such deposit or surety bond shall be as follows for pond construction and pond or lake alteration:
    - (i) Where the pond proposed to be constructed or the existing or proposed pond or lake alteration is from zero to one acre in size, the amount required shall be \$4,000.00.
    - (ii) Where the pond proposed to be constructed or the existing or proposed pond or lake alteration is from one to two acres in size, the amount required shall be \$8,000.00.

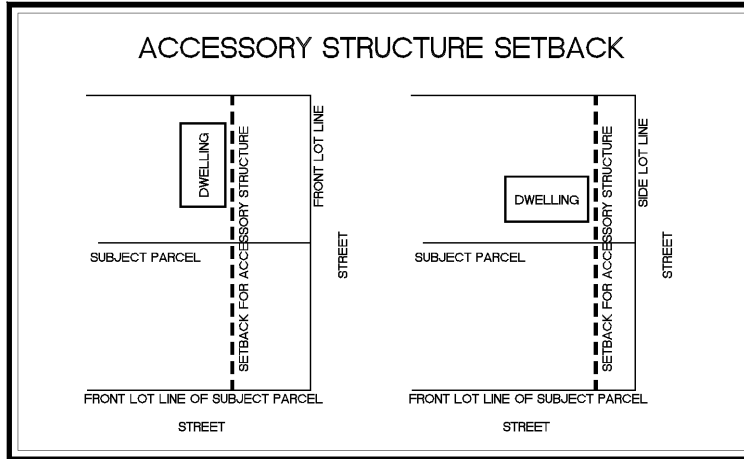
3. If there is a deviation from an approved site plan, the city shall notify the permit holder of such deviation. Failure to correct said deviation within 30 days shall automatically void any permits issued and prevent the issuance of new permits until such time as the deviation has been corrected in keeping with the requirements set forth in this subsection. An applicant may appeal a decision of the city administration to the city council.
4. Where the applicant has failed, neglected or refused to timely and successfully complete the proposed construction or alteration, extraction and/or restoration activities in compliance with the terms and conditions of this section, the cash, certified check, irrevocable letter of credit or surety bond shall be forfeited to the city which shall use such funds to complete such construction, alteration, extraction and/or restoration, or take such other steps as may be necessary to abate any nuisance created and to protect public health, safety and welfare of the residents of the city.
- e. Erosion and restoration. The drainage area above the pond or lake must be protected against erosion and shall be maintained in such a manner as to not cause unique surface runoff or flooding of adjacent land parcels. Excavation and soil disturbances exceeding one acre in area and/or within 500 feet of a stream, lake or other natural body of water shall comply with the requirements of part 91 of Public Act No. 451 of 1994 (MCL 324.9101 et seq.). During construction of a pond or alteration of a pond or lake, perimeters and adjacent excavated areas shall be reclaimed as the work progresses. Banks shall be restored with a minimum of four inches of topsoil and seeded or sodded to prevent erosion.
- f. Embankment slopes. The slope of embankments from the existing grade to the water line shall not exceed a slope of one foot vertical for three feet horizontal (one in three slope). The slope of the bottom of the pond or lake shall not exceed one foot vertical for three feet horizontal (one in three slope) for the first 15 feet inward from the water's edge. Thereafter, the slope shall not exceed 45 degrees (or 1 in 1 slope).
- g. Safety station. One safety station will be provided for every pond that has a depth of water exceeding three feet. For an existing lake, one safety station shall be provided for every two acres of lake area. A safety station consists of equipment that is available at all times for the rescue of a drowning victim. The minimum requirements for a safety station are:
  1. A post two inches by four inches or larger, six feet long and set two feet in the ground.
  2. A new inner tube, ring buoy or other approved personal flotation device (PFD).
  3. A 50-foot length of rope securely tied to the inner tube, ring buoy or PFD.
  4. A pole that is at least 12 feet long.
- h. Issuance of permit.
  1. When it is determined that all of the requirements of this section are met, the planning commission shall approve the site plan and issue a permit for the proposed construction of a pond or alteration of a pond or lake (and any extraction and restoration activities in connection therewith). A permit is valid for 120 days. If, due to conditions beyond the control of the applicant, additional time is required to complete the construction or alteration, the applicant may apply for an extension with the planning commission which may, in its sole discretion, grant such extension.
  2. Should the planning commission refuse to issue a permit or an extension of time for the completion of construction or alteration, it shall provide its reasons for such denial in writing to the applicant. The applicant may appeal such denial to the zoning board of appeals.
- i. Liability. As a condition precedent to the issuance of a permit, the applicant shall agree to indemnify and hold harmless the city, its officials, agents and employees from all liability and damages, including court costs and



attorney's fees that it or they may incur as a result of such pond construction or such pond or lake alteration.

- j. Utilities. The applicant shall have the duty and obligation to stop work and promptly notify the city if at any time during such pond construction or such pond or lake alteration any underground electrical line or conduit, telephone line, water line, drain tile or drain line, or any unidentified line, tile or conduit is uncovered or damaged in any manner. The work stoppage shall continue until the city inspects the site and determines whether construction can continue.
  - k. The planning commission may require the installation of a fence no less than four feet in height to protect the health, safety and welfare of the property owners and/or tenants, neighboring uses and city residents.
- (50) Conventional and site condominium developments shall be subject to the following conditions:
- a. Conventional and site condominium developments shall comply with all applicable design standards in the city subdivision control ordinance, including infrastructure such as streets, utilities and sidewalks.
  - b. Conventional and site condominium developments shall comply with the provisions of article 15 of this chapter.
- (51) Subdivisions shall be subject to the following conditions: Subdivisions shall comply with all standards and procedures in the city subdivision control ordinance.
- (52) Accessory buildings or structures shall be subject to the following regulations:
- a. Where the accessory building or structure is structurally attached to a main building, it shall be subject to, and shall conform to, all regulations of this chapter applicable to main buildings.
  - b. Accessory buildings or structures shall not be erected in any yard except a rear or side yard.
  - c. An accessory building or structure may not occupy more than ten percent of the rear yard with the exception that in residential districts, the maximum floor area for detached accessory buildings is 600 square feet, or ten percent of the rear yard; whichever is greater. In the event where ten percent of the rear yard area is exceeded, the maximum number of detached accessory buildings is limited to one, subject to the 600 square foot limitation.
  - d. No detached accessory building or structure shall be located closer than ten feet to any main building without an approved fire wall. Nor shall it be located closer than six feet to any side lot line and three feet to any rear lot line. In those instances where the rear lot line is coterminous with any alley right-of-way, the accessory building or structure shall be no closer than one foot to the rear lot line. In no instance shall an accessory structure be located within a dedicated easement or right-of-way.
  - e. No detached accessory building or structure in an R-1, R-2, R-3A, R-3B, R-4, B-1, or OS-1 district shall exceed one story or 15 feet in height. Accessory buildings or structures in all other districts may be constructed to equal the permitted maximum height of structures in these districts.
  - f. When an accessory building or structure is located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, the building shall not project beyond the front yard line required on the lot in rear of the corner lot. When the side lot line is substantially a continuation of the side lot line of the lot to its rear, the building shall not project beyond the side yard line of the lot in the rear of the corner lot.
  - g. Any use of an accessory building in any residential, business, or office district for other than the storage of the occupant's private possessions and/or private use, the use of the accessory building shall be prohibited.
  - h. Decks with a height of less than 30 inches from the surface of the ground, and swimming pools, shall be exempt from the area limitations, as imposed through this section and through the schedule of regulations.

- (53) Single-family dwelling units may be permitted in the B-1 zoning district by special use permit, provided:
- There was a structure used as a single-family residence at the time of the adoption of the ordinance from which this chapter is derived.
  - Any expansion of the single-family dwelling unit complies with the setback requirements of the R-1 zoning district unless granted a variance by the zoning board of appeals.
  - Off-street parking is provided on the lot as required by article 5 of this chapter.



- (54) The use of a portion of an office as an accessory residence may be permitted in the O-1 zoning district by special use permit, provided:
- The use is accessory to a permitted use in the O-1 district.
  - The residence does not occupy the front half of the ground floor of the building or over one-half of the total square footage of the building.
  - Off-street parking is provided on the lot as required by article 5 of this chapter.
  - The residence must meet the minimum square footage for apartments required by section 153.402(q).
- (55) Exterior improvements to buildings in the downtown overlay zoning district:
- The front of the building shall be no more than five feet from the lot line.
  - First floors to have a translucent storefront, spanning from pier to pier, consisting of doors, windows and transoms; clear or lightly tinted glazing; 20-foot to 30-foot-wide bays.
  - Existing recessed entrance doors shall not be modified so that they are flush with the exterior wall. Existing flush entrance doors that are replaced shall be replaced with recessed entrance doors where historically appropriate.
  - The exterior materials and colors used shall be historically appropriate. If they appear to be inconsistent with the color and materials used by surrounding buildings, then the recommendation of an architect selected by the city shall be requested.
  - Cornice band over storefronts.
  - Stories above first floor to have "punched" window openings.
  - Facades are to be typically masonry.
  - Roof line should be varied when possible.
  - The use of awnings is encouraged.
  - Signage to be located on awning or sign board over storefront.

- (56) Outdoor display and storage of vehicles may be permitted in the B-3 zoning district by special use permit, provided:
- a. For uses involving outdoor storage only, a screening fence or landscaping shall be provided to obscure the view of the storage areas from the right-of-way.
  - b. For uses involving outdoor display, a landscaping shall be provided adjacent to the right-of-way that does not obscure the view of the display area. The vehicles may not be parked in the landscaped area.
- (57) Body art facilities shall be subject to the following conditions:
- a. Shall not be a body art facility that operates at a fixed or temporary location in the State of Michigan for a time period that does not exceed 14 consecutive days and includes out of state facilities operating within the State of Michigan.
  - b. Annually provides a valid body art facility license to the City of Flushing.
  - c. Meet the licensee duties per MCL 333.13107, as amended.
  - d. No body art facility shall be located within 1,000 feet of another body art facility establishment. Measurement shall be made from the outermost boundary of the lot or parcel upon which the proposed uses will be situated to the outermost boundary of the lot or parcel on which the existing body art facility establishment is located.
- (58) Cidery, distillery, microbrewery and winery shall be subject to the following conditions:
- a. The cidery, distillery, microbrewery and winery must, if required, be properly licensed by any state or federal regulatory agency, including the Michigan Liquor Control Commission.
  - b. All cidery, distillery, microbrewery and winery are permitted a tasting room or tap room that shall be completely separate from the area designated for the manufacturing of the primary alcoholic beverages/products.
  - c. For retail sales and food services (if permitted by law) at a cidery, distillery, microbrewery or winery in a commercial district, the sales and service must be clearly accessory to the production of the beverage being processed. If located in the industrial zoning district, onsite retail and food services is not permitted.
    1. Any outdoor eating areas shall be in compliance with section 110.09 - outdoor cafes.
  - d. Any retail sale of alcoholic beverages at the cidery, distillery, microbrewery or winery must be produced at said facility or other permitted facility under the same ownership.
  - e. Parking for such facilities in a commercial district, shall reference the parking space standard table in article 5, section 153.502, and follow regulations for establishments for sale and consumption on the premises of beverages, food or refreshment. Winery, cidery, microbrewery or distillery in the industrial district shall reference industrial or research establishments for parking requirements. All other applicable parking requirements as listed in article 5 shall be fulfilled.
  - f. All winery, cidery, microbrewery and distillery are subject to requirements and procedures as provided in article 6, site plan review and article 7, special uses.
- (59) [Solar energy collectors.]
- a. All solar energy collectors shall be in compliance with the International Fire Code and be inspected by the fire department.
  - b. The installation of all solar energy collectors shall be in compliance with chapter 54, stormwater management.
  - c. Solar energy collectors shall be in compliance with, permitted under the Michigan Building and Electrical Code and be inspected by the building official.

- d. All solar energy collectors shall have tempered non-reflective surfaces.
- e. All solar energy collectors shall be fitted with an automatic shut off or breaker switch to isolate the panels in case of fire as approved by the fire department and permitted under the electrical code.
- f. Commercial solar energy collectors shall be in compliance with article 8, landscape standards. A fence shall be required meeting section 153.1406, industrial fence construction; restrictions. Such fence shall not have barb wire.
- g. Building mounted solar energy collectors shall be permanently attached to the principle structure. The building mounted solar energy collectors shall not exceed 25 percent of available coverage, excluding windows, skylights and doors, on the rear roof and rear wall combined and/or have a rated output of 13.44 KW or more. Requests for 100 percent coverage of a principle structure's rear roof meeting all standards, eliminates the ability to install such collectors on the rear wall of the principle structure.
- h. Principle structures with solar energy collectors shall be in compliance with article 4, schedule of regulations.
  - 1. Building mounted solar energy collectors shall not project higher than the building roof height.
  - 2. Building solar energy collectors shall not be located within three feet of any peak, eave or valley to maintain adequate accessibility.
  - 3. Commercial solar energy collectors shall not exceed nine feet in height measured from the ground at the base of such equipment.
- i. Commercial solar energy collectors shall be required to plant and maintain native ground covers on site during the operation until the site is decommissioned; excluding ten-foot wide drives to access such collectors.
- j. Commercial solar energy collectors shall submit a financial guarantee in the form of a letter of credit or bond in favor of the municipality equal to 125 percent of the costs to return the site to green space. The financial guarantee shall remain in effect until the operation is decommissioned, solar energy collectors are removed and vegetation is sufficiently established.
  - 1. A site restoration plan shall be required and include provisions for removal of all structures, foundations, electrical equipment and internal or perimeter access roads and restoration of soil and vegetation.
  - 2. Decommissioning of such systems shall occur in the event it is not in use for 12 consecutive months.
- k. Shall provide verification from the electrical utility that infrastructure exists to transport the electricity generated into the larger grid system.
- l. Power and communication lines to electric substations or interconnections shall be buried underground. The planning commission reserves the right to grant an exception to this requirement due to shallow bedrock, watercourses or other elements of the natural landscape and/or required by the utility company.
- m. Shall provide manufacturer's specifications and recommended installation and removal methods for all major equipment making up the solar energy collector system.

(Code 1989, § 153.901; Ord. of 11-8-2004; Ord. of 4-25-2005; Ord. No. 2009-01, 1-12-2009; Ord. No. 2010-03, 6-14-2010; Ord. No. 2011-02(B), 6-13-2011; Ord. No. 2012-01, 3-12-2012; Ord. No. 2013-02, 9-9-2013; Ord. No. 2016-10, § 1, 5-9-2016; Ord. No. 2016-13, § 3, 9-12-2016; Ord. No. 2016-15, § 1, 10-10-2016; Ord. No. 2017-06, § 4, 6-12-2017; Ord. No. 2018-05, § 3, 8-13-2018; Ord. No. 2019-05, Art. IV, 9-9-2019)

*Footnotes:*

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**State Law reference**— *Nonconforming uses or structures, MCL 125.3208.*

## Sec. 153.1001. - Intent.

- (a) Within the districts established by this chapter or amendments that may later be adopted there exists lots, structures, and uses of land and structures which were lawful before this chapter was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this chapter or future amendment.
- (b) It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter 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 district.
- (c) 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 after passage of this chapter by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.
- (d) To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designated use of any building properly used on which actual construction was lawfully begun prior to the effective date of adoption or amendment of the ordinance from which this chapter is derived and upon which a valid building permit is in effect.

(Code 1989, § 153.1001)

## Sec. 153.1002. - Nonconforming lots.

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory building may be erected on any single lot of record that exists at the time of the effective date of adoption or amendment of the ordinance from which this chapter is derived but does not meet the required area or width requirements, provided, however, that all other lot requirements, including required setbacks, are met.

(Code 1989, § 153.1002)

## Sec. 153.1003. - Nonconforming uses of land.

Where, at the effective date of adoption or amendment of the ordinance from which this article is derived, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

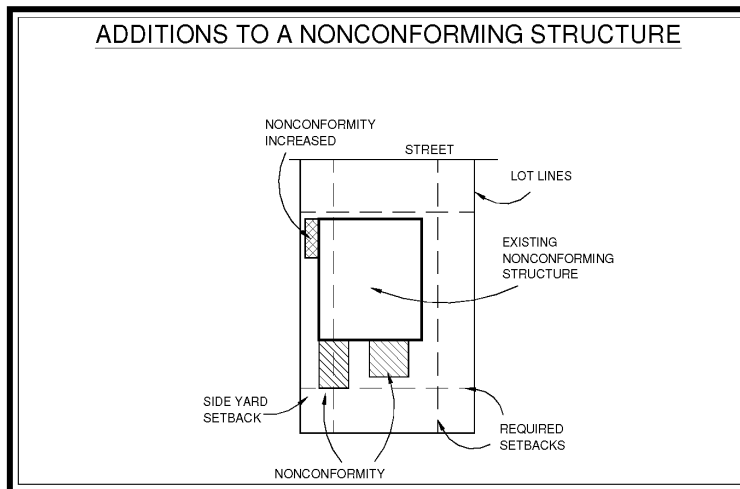
- (1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of the ordinance from which this chapter is derived .
- (2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of the ordinance from which this chapter is derived .
- (3) If such nonconforming use of land ceases for any reason for a period of more than 12 months, this shall be presumed to be proof of intent to abandon such use. Any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which the land is located.

(Code 1989, § 153.1003)

## Sec. 153.1004. - Nonconforming structures.

Where a lawful structure exists at the effective date of adoption or amendment of the ordinance from which this chapter is derived that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such structure may be enlarged, reconstructed or altered in a way which increases its nonconformity. This shall include enlarging or altering both nonconforming area and volume.
- (2) Should such structure be destroyed by any means to an extent of more than 60 percent of the value of the structure, as determined by calculating a value which is twice the structure's state equalized value, it shall not be reconstructed unless it conforms with this chapter. In an area zoned as R-1, where the lot frontage is less than 75 feet and a nonconforming structure has sustained damage in excess of 60 percent of the building value for rebuilding a nonconforming structure, rebuilding of a nonconforming single-family residence is authorized, provided the construction begins not later than six months after the date of loss, is completed within one year from the date of loss, and the vertical and horizontal foot print is not expanded beyond the structure damaged in the loss.
- (3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is moved.



(Code 1989, § 153.1004; Ord. of 5-14-2007)

## Sec. 153.1005. - Nonconforming uses of structures and land.

If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of the ordinance from which this article is derived, that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- (2) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of the ordinance from which

this chapter is derived, but no such use shall be extended to occupy any land outside such building.

- (3) If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that the zoning board of appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally nonconforming or less nonconforming in the district than the existing nonconforming use. In permitting such change, the board of appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this chapter.
- (4) Any structure, or structure and land in combination, in or on which a nonconforming use is replaced 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.
- (5) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or ceases for 12 months, this shall be presumed to be proof of intent to abandon such use of the structure, or structure and premises in combination, which shall not thereafter be used except in conformance with the regulations of the district in which it is located.
- (6) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate its nonconforming status.

(Code 1989, § 153.1005)

Sec. 153.1006. - Repairs and maintenance.

- (a) On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not exceeding 50 percent of the market value of the building, as determined by calculating twice the structure's state equalized value, provided that the cubic content of the buildings as it existed at the time of passage or amendment of the ordinance from which this article is derived shall not be increased.
- (b) Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

(Code 1989, § 153.1006)

Sec. 153.1007. - Special land uses not nonconforming uses.

If a special use permit is issued as provided in this chapter, the use shall not be deemed a nonconforming use, but shall be deemed a conforming use.

(Code 1989, § 153.1007)

Sec. 153.1008. - Change of tenancy or ownership.

There may be a change of tenancy, ownership, or management of any existing nonconforming uses of land, structures, and premises provided there is not change in the nature or character of such nonconforming uses. Change in tenancy, ownership or management shall not remove nonconforming status.

(Code 1989, § 153.1008)

Sec. 153.1009. - Maintenance of record.

The building inspector shall continue to develop and maintain a record of all nonconforming uses, lots and structures.

(Code 1989, § 153.1009)

## ARTICLE 11. - ZONING BOARD OF APPEALS

### *Footnotes:*

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**State Law reference**— *Zoning board of appeals, MCL 125.3601 et seq.*

### Sec. 153.1101. - Creation.

A zoning board of appeals (ZBA) is established in accordance with Public Act No. 110 of 2006 (MCL 125.3101 et seq.).

(Code 1989, § 153.1101)

### Sec. 153.1102. - Membership.

The zoning board of appeals shall consist of not less than five regular members, and two alternate members. Members of the ZBA shall be appointed to staggered terms by resolution of the city council. One member of the ZBA shall be a member of the planning commission. Appointments to fill vacancies caused by members resigning prior to the completion of their term shall be for only the remainder of that term.

(Code 1989, § 153.1102)

### Sec. 153.1103. - Officers and duties.

(a) The zoning board of appeals shall have a chairperson, vice chairperson and a secretary.

(1) The chairperson shall preside at all meetings.

(2) The vice chairperson shall preside in the absence of the chairperson.

(b) If the chairperson and vice chairperson are absent and a quorum is otherwise present, the longest serving ZBA member may serve as a temporary acting chairperson (pro tem) for the purpose of conducting said meeting at his discretion.

(c) An election of officers of the board shall be held at the regular March meeting of each year.

(d) The term of office of chairperson and vice chairperson shall be for one year.

(e) The secretary, designated by the city clerk, shall keep a record of the minutes of all meetings; a record of all transcripts, records, plans, etc., brought before the board, and record the vote of each member upon each question, or if absent or failing to vote.

(Code 1989, § 153.1103; Ord. of 10-23-2006(02))

### Sec. 153.1104. - Meetings.

All regular meetings shall be conducted according to the following order of business:

(1) Regular meetings shall be held quarterly, or more frequently, at the call of the chairperson and at other times as the zoning board of appeals in its rules of procedure specify.



- (2) Special meetings may be called by the chairperson or, in their absence, the vice chairperson, as deemed necessary, days' prior notification. Such notification will include the reason and/or agenda of the special meeting. Special meet must be posted at the city hall.
- (3) Any member of the ZBA may be removed by the city council for misfeasance, malfeasance or nonfeasance in office, upon written charges and after public hearing. A member shall disqualify himself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself from a vote in which the member has a conflict of interest constitutes malfeasance in office. Any regular or alternate member of the ZBA who has three unexcused consecutive meeting absences will be reported to the city council which may establish nonfeasance in office.
- (4) All meetings, hearings, and records shall be open to the public and posted in compliance with Public Act No. 267 of 1976 (MCL 15.261 et seq.), the Open Meetings Act.
- (5) A regular meeting shall be conducted according to the following order of business:
  - a. Call to order.
  - b. Roll call.
  - c. Pledge of allegiance.
  - d. Approval of minutes of the previous meeting.
  - e. Agenda approval.
  - f. Meeting open to the public.
  - g. Old business.
  - h. New business.
  - i. Staff reports.
  - j. Adjournment.
- (6) Meetings of the zoning board of appeals shall be conducted in accordance with the provisions of Robert's Rules of Order, as revised.
- (7) All rules, regulations and procedures of the board shall be in compliance with the Charter and ordinances of the city and the statutes of the state.
- (8) The board shall maintain a record of its proceeding, which shall be filed in the office of the city clerk and shall be a public record.
- (9) The ZBA shall state the grounds of any determination made by the board.

(Code 1989, § 153.1104; Ord. of 10-23-2006(02))

#### Sec. 153.1105. - Voting.

- (a) No meeting may be conducted without a quorum being present. A quorum shall consist of three members of the board including alternate members. The concurring vote of a majority of the appointed members of the board shall be necessary:
  - (1) To reverse any order requirement, decision, or determination of any administrative official or body.
  - (2) To decide in favor of the applicant on any matter upon which the board is required to pass under this chapter.
  - (3) To affirm any interpretation of this chapter text or zoning district map.
  - (4) To effect any variance in the requirements of this chapter, except that a concurring vote of two-thirds of the members of the ZBA shall be necessary to grant a variance from uses of land permitted in an ordinance.

- (b) Voting shall be by roll call vote and shall be recorded by yeas and nays.
- (c) Each member of the board shall vote on each question before the board for determination, unless excused therefrom for reasons involving conflict of interest by the affirmative vote of at least three members of the ZBA. Members shall disqualify themselves from a vote in which the member has a conflict of interest.
- (d) Alternate members.
  - (1) Alternate members may be called on a rotating basis to sit in as regular members in the absence of a regular member.
  - (2) Alternate members of the board may actively participate in the discussions of the board, and may question petitioners as appropriate. Alternate members will not, however, be permitted to make motions or to vote unless they are a designated substitute for a regular member of the board who is absent or who has abstained from voting.
  - (3) An alternate member may also be called to serve as a member for purposes of reaching a decision on a case in which a regular member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in that case until a final decision is made.
  - (4) The alternate member has the same voting rights as a regular member of the zoning board of appeals when designated as a substitute.

(Code 1989, § 153.1105; Ord. of 10-23-2006(02))

Sec. 153.1106. - Powers of board.

- (a) *Generally.* The zoning board of appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms of this chapter. The powers of the zoning board of appeals include:
  - (1) *Appeal of administrative decisions.* To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision, or refusal made by the zoning administrator or any other administrative official or body in carrying out or enforcing any provisions of this chapter.
  - (2) *Interpretation.* To hear requests for interpretation of the text of this chapter as well as the zoning map.
  - (3) *Variance.* To consider use variances and non-use variances.
- (b) *Initiate amendment.* The zoning board of appeals may initiate an amendment to this chapter text or map as permitted in section 153.1202.
- (c) *Determination of hardship to allow variance.* The zoning board of appeals may, at its discretion, allow storage of recreational vehicles, trailer and watercraft upon residential property as provided in section 153.109(3) therein only upon a temporary basis and where the zoning board of appeals determines that a hardship is created and a change would be in the interest of the public's health, safety and welfare.

(Code 1989, § 153.1106; Ord. of 4-24-2006)

Sec. 153.1107. - Appeals.

- (a) An appeal to the zoning board of appeals, based in whole or in part on the provisions of this chapter, may be taken by any person, firm, or corporation aggrieved or by any governmental officer, department, board or bureau affected by the decision of the zoning administrator or any other administrative official or body. Such appeal shall be taken by filing a notice of appeal with the city clerk. Such appeal shall be made in writing on appropriate forms provided by the city clerk, payment of the required fee, and shall specify the grounds for such appeal. The city clerk shall transmit

all papers constituting such appeal to the board. The board may require the applicant to furnish such survey, plans or other information as may reasonably be required, to the board for the proper consideration of the matter. Upon a hearing before the zoning board of appeals, any person or party may appear in person, by agent, or by attorney.

- (b) An appeal shall stay all proceedings in furtherance of the action appealed from unless the city clerk certified to the zoning board of appeals, after notice of appeal shall have been filed with the city clerk, that by reason of facts stated in the certificate, a stay would cause imminent peril to life and property, in which case the proceedings shall not be stayed otherwise than by a restraining order which shall be granted by the zoning board of appeals or by the circuit court on application, on notice of the building inspector and on due cause shown.

(Code 1989, § 153.1107)

Sec. 153.1108. - Variances.

Each case before the zoning board of appeals shall be considered as an individual case. Each shall conform to the detailed application and to the following standards in a manner appropriate to the particular circumstances of such case:

- (1) *Use variances.* In order to approve a variance in the permitted use of land, the applicant must demonstrate unnecessary hardship. To demonstrate unnecessary hardship, the zoning board of appeals must find, by two-thirds of the members of the zoning board appeals, all of the following standards to have been met:
- a. The property cannot be put to a reasonable use as currently zoned.
  - b. The problem is due to unique circumstances peculiar to the property and not to general neighborhood conditions and enforcement of this chapter will create an unnecessary hardship.
  - c. The proposed use will not alter the essential character of the area.
  - d. The problem is not self-created.
  - e. The spirit of this chapter will be observed, public safety secured and substantial justice done if the variance is approved.
- (2) *Non-use variances.* In order to approve a variance in requirements of this chapter relating to the construction, structural changes, or alterations of a building or a structure related to dimensional requirements of this chapter, or to any non-use related standard in the chapter, other than permitted use of the land, the applicant must demonstrate practical difficulty. To demonstrate practical difficulty, the zoning board of appeals must find that all of the following standards have been met:
- a. Strict enforcement of the provisions of this chapter would cause unnecessary hardship and deprive the owners of rights enjoyed by all other property owners within the same district.
  - b. There are conditions and circumstances unique to the property, such as an exceptional narrowness, shallowness, shape or area or topographic conditions, which are not similarly applicable to other properties in the same zoning district.
  - c. The conditions and circumstances unique to the property were not created by the owner or his predecessor in title, within the time following the effective date of the provisions alleged to adversely affect such property.
  - d. The requested variance will not confer special privilege that is denied other properties similarly situated and in the same zoning district.
  - e. In addition to meeting the standards listed above, the requested variance will not be contrary to the spirit and intent of this chapter and will not be detrimental to the public good.

(Code 1989, § 153.1108; Ord. of 10-23-2006(02))

## Sec. 153.1109. - Interpretation.

- (a) The ZBA shall have the power to interpret the provisions of this chapter in such a way as to carry out the intent and purpose of this chapter. In case of any question as to location of any boundary line between zoning districts, the zoning board of appeals shall interpret the zoning map, after recommendation from the city planning commission. In interpreting the location of district boundaries, the ZBA shall use the rules of interpretation identified in section 153.303. The ZBA shall also have the authority of interpreting whether or not a specific use is permitted within a specific zoning district. In carrying out this interpretation, the ZBA may not interpret a specific use as being included in a broader class of uses if that specific use is listed separately in other districts.
- (b) The authority to alter or change this chapter or the zoning map is reserved to the city council, as is provided in this chapter.

(Code 1989, § 153.1109)

## Sec. 153.1110. - Public hearing.

Each application for a variance, appeal or interpretation shall require the zoning board of appeals to hold a public hearing on the application. Notice of the hearing shall be consistent with Public Act No. 110 of 2006 (MCL 125.3101 et seq.).

(Code 1989, § 153.1110)

## Sec. 153.1111. - Conditions of approval.

- (a) The ZBA may place conditions on an affirmative decision when such conditions:
  - (1) Would ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
  - (2) Would protect the natural environment and conserve natural resources and energy.
  - (3) Would ensure compatibility with adjacent uses of land.
  - (4) Would promote the use of land in a socially and economically desirable manner.
- (b) In determining appropriate conditions, the ZBA shall ensure that:
  - (1) There is a rough proportionality between the cost to the developer to provide an improvement in relationship to the impact to be mitigated.
  - (2) There is a reasonable connection between the condition imposed and the impact it is mitigating.

(Code 1989, § 153.1111)

## Sec. 153.1112. - Order; validity; limitation.

- (a) No order of the zoning board of appeals permitting the erection or alteration of buildings shall be valid for a period longer than one year unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is commenced and proceeds to completion in accordance with the terms of such permit and this chapter.
- (b) No order of the zoning board of appeals permitting a use of a building or premises shall be valid for a period longer than one year unless such use is established within such period; provided, such order shall continue in full force and effect if a building permit for such use, erection, or alteration is obtained within such period and such erections or alterations are commenced and proceed to completion in accordance with the terms of such permit.

(Code 1989, § 153.1112)

## Sec. 153.1113. - Board decision final.

The decision of the zoning board of appeals shall be final. Appeals from decisions of the zoning board of appeals shall be made as required by section 605 of Public Act No. 110 of 2006 (MCL 125.3605).

(Code 1989, § 153.1113; Ord. of 10-23-2006(02))

## Sec. 153.1114. - Re-submission of application.

An applicant must wait one year from the date of a zoning board of appeals decision to re-submit an application, unless there has been a significant change in conditions as determined by the zoning board of appeals.

(Code 1989, § 153.1114)

## Sec. 153.1115. - Performance guarantees.

In order to ensure completion of improvements approved by the zoning board of appeals, the zoning board of appeals shall have the authority to require a performance guarantee as per the requirements of section 153.607.

(Code 1989, § 153.1115)

**State Law reference**— Performance guarantee, MCL 125.3505.

## ARTICLE 12. - AMENDMENTS

*Footnotes:*

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**State Law reference**— *Zoning adoption, MCL 125.3401 et seq.*

## Sec. 153.1201. - Authority to amend.

The city council may, from time to time, amend the text or map of this chapter in accordance with the authority of Public Act No. 110 of 2006 (MCL 125.3101 et seq.) and as set forth in the Charter of the city.

(Code 1989, § 153.1201; Ord. of 10-23-2006(02))

## Sec. 153.1202. - Initiating amendments.

- (a) A proposal for an amendment to the text of this chapter may be initiated by any person by the filing of an application for a text amendment, the necessary fees for such text amendment and copy of the proposed text change with the zoning administrator. A text amendment may also be initiated by the zoning administrator.
- (b) Any proposal for an amendment to the zoning ordinance map (i.e., to rezone a parcel) may be initiated by the owner of that parcel or a person with written permission of the owner. The process is initiated with the filing of the following with the city clerk:
  - (1) Three copies of an application for rezoning, which includes the following information:
    - a. Current and proposed zoning.
    - b. Legal description of property.

- c. Name, address and telephone number of owner and applicant.
  - d. Certification that the posting notice as required by section 153.1203 has been completed.
- (2) A map at a scale of not less than one inch equal to 50 feet showing the subject parcel in relation to adjoining parcels of land.
- (3) The necessary fees for such zoning change.
- (c) Any proposal for an amendment to the zoning ordinance text or map may be initiated by the city council, planning commission or ZBA, upon filing with the zoning administrator a resolution duly adopted identifying the proposed amendment.

(Code 1989, § 153.1202)

Sec. 153.1203. - Procedures for amendments.

For text and map amendments, the procedures for notice and hearing shall be governed by Public Act No. 110 of 2006 (MCL 125.3101 et seq.).

(Code 1989, § 153.1203; Ord. of 10-23-2006(02))

ARTICLE 13. - ADMINISTRATION AND ENFORCEMENT

Sec. 153.1301. - Duties and powers.

Except where herein otherwise stated, the provisions of this chapter shall be administered and enforced by the following officials and bodies:

- (1) *Building inspection.* Building inspector duties include:
- a. Issue building permits.
  - b. Grant certificates of occupancy permits.
  - c. Issue special use permits after approval by the planning commission.
  - d. Continue to develop and maintain a record of all nonconforming uses, lots and structures.
  - e. Make inspections of buildings and premises necessary to carry out the duties of administration and enforcement of this chapter.
  - f. Perform such other further functions necessary and proper to enforce and administer the provisions of this chapter.
  - g. Maintain a log of any significant issues or problems associated with the administration of this chapter.
  - h. Issue and serve municipal civil infraction citations for violations of this chapter. This duty may also be carried out by the code enforcement officer whose duties shall also include necessary inspections and such other functions as necessary and proper to enforce and administer provisions of this chapter.
- (2) *Zoning administration.* Zoning administrator duties include:
- a. Issue zoning permits.
  - b. Make inspections to determine compliance with zoning permits.
  - c. Respond to questions from citizens.
  - d. Receive, investigate and process all complaints and notify affected parties of the results of the investigation.

- e. Act in an advisory capacity to the planning commission, ZBA and city manager.
  - f. Prepare reports to the planning commission, ZBA and city manager on zoning matters.
  - g. Maintain records of zoning permits, site plans, special use permits, and other applications and any changes to original applications.
  - h. Ensure project completion prior to refunding performance guarantees.
  - i. Determines if changes to a site plan are minor, as per section 153.608.
  - j. Grant extensions for site plan approval, as per section 153.609.
  - k. Initiate amendments to the zoning ordinance text or map.
  - l. Maintain a log of any significant issues or problems associated with the administration of this chapter.
- (3) *Planning commission*. The planning commission shall have the power to:
- a. Approve site plans.
  - b. Approve special use permits.
  - c. Hold public hearings on amendments to this chapter.
  - d. Initiate amendments to zoning ordinance text or map.
  - e. Develop, update and adopt the city master plan.
  - f. Make recommendations to the zoning board of appeals for interpreting district boundaries.
- (4) *City council*. The city council shall have the power to:
- a. Approve appointments of ZBA and planning commission members.
  - b. Establish fees.
  - c. Initiate amendments to the zoning ordinance text or map.
  - d. Consider and enact amendments to zoning ordinance text and maps.
  - e. Revoke special use permits for non-compliance.
- (5) *City clerk*. The city clerk shall have the power to:
- a. Publish public hearing notices for hearings by the planning commission, city council and ZBA.
  - b. Mail public hearing notices for hearings by the planning commission, city council and ZBA.
  - c. Keep meeting minutes and maintain a record of public meeting minutes.
  - d. Receive applications and maintain records of zoning permits, site plans, special use permits, rezoning requests, and other applications.
  - e. Maintain a record of all map amendments.
  - f. Publish adopted zoning ordinance text or map amendments.
- (6) *Zoning board of appeals*. The zoning board of appeals shall have the power to:
- a. Hear appeals of administrative decisions.
  - b. Hear requests for interpretation of the text of this chapter as well as the zoning map.
  - c. Consider use variances and non-use variances.
  - d. Initiate an amendment to the zoning ordinance text or map as permitted in section 153.1202.

(Code 1989, § 153.1301; Ord. of 4-11-2005(01); Ord. of 10-7-2007)

Sec. 153.1302. - Permits required.

- (a) A zoning permit shall be required prior to changing the use of a parcel of land or building, commencing excavation for, construction of any building or structure, or addition to any existing building or structure, making structural changes, or making repairs to any existing non-conforming building or structure, or moving an existing building.
- (b) A building permit shall be required prior to erecting, moving, repairing, altering, razing or changing the use of any building or structure, as specified herein and provided in the relevant building code adopted by the city.
- (c) A certificate of occupancy shall be required prior to the occupancy of any land, building or structure, as specified herein.

(Code 1989, § 153.1302)

Sec. 153.1303. - Zoning permit.

- (a) It shall be unlawful for any person, firm or corporation to change the use of a parcel of land or building, commence excavation for, or construction of any building or structure, or addition to any existing building or structure, make structural changes, or make repairs to any existing non-conforming building or structure, or move an existing building, or make any exterior changes including painting to a building within the downtown overlay zoning district without first obtaining a zoning permit from the zoning administrator. No building permit shall be issued until an application has been submitted in accordance with the provisions of this chapter showing that the construction and/or use proposed is in compliance with the provisions of this chapter and other applicable codes and ordinances of the city.
- (b) The zoning administrator shall require that all applications for zoning permits be accompanied by plans and specifications including a plot plan, drawn to scale, showing the following:
  - (1) The actual shape, location, and dimension of the lot, drawn to scale.
  - (2) The shape, size, and location of all buildings or other structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.
  - (3) Parking areas and driveways.
  - (4) Distances between all buildings and structures and setbacks distances from all buildings and structures to adjacent property lines.
  - (5) Such other information concerning the lot or adjoining lots, as may be essential for determining whether the provisions of this chapter are being observed; such as grade elevations.
- (c) One copy of the plans shall be returned to the applicant by the zoning administrator, after he shall have marked such copy either as approved or disapproved. The second copy shall be retained in the office of the zoning administrator
- (d) A zoning permit shall be approved if it meets the requirements of this chapter. A zoning permit for any exterior changes including painting within the downtown overlay zoning district shall meet the requirements in section 153.901.
- (e) A zoning permit shall expire within one year from the date of approval unless the applicant receives a building permit for the project.
- (f) Expired zoning permits cannot be renewed without being resubmitted.

(Code 1989, § 153.1303; Ord. No. 2012-01, § 153.1303, 3-12-2012)

Sec. 153.1304. - Building permit; application.

- (a) No building or structure within the municipality shall hereafter be erected, moved, repaired, altered, or razed, nor



shall any work be started to erect, move, repair, or raze, until a building permit shall have been obtained from the building inspector, nor shall any change be made in the use of any building or land without a building permit having been obtained from the building inspector, as provided for in the state construction code.

- (b) No building permit shall be issued to erect a building or structure or make any change of use of a building or land unless it is in conformity with the provisions of this chapter and all amendments hereto. The building inspector shall have the authority to issue permits for temporary buildings and uses for construction purposes, when said building or use will not continue. Unless construction is started within 90 days after the date of issuance of a building permit, the building permit shall automatically become void and fees forfeited. The building inspector may reinstate a building permit that has become void for failure to commence construction without payment of further fees at his discretion. Fees for inspection and the issuance of permits or certificates of occupancy, shall be collected by the building inspector in advance of issuance. The amount of such fees shall be established by resolution of the council.
- (c) Building permits shall expire one year from the date of issuance.
- (d) A one-year renewal may be issued from the building inspector if the exterior of the structure is complete prior to the request for renewal.

(Code 1989, § 153.1304)

Sec. 153.1305. - Final inspection.

Upon the completion of the work authorized by a building permit, the holder thereof shall seek final inspection thereof by notifying the building inspector. The building inspector shall make such final inspection promptly.

(Code 1989, § 153.1305)

Sec. 153.1306. - Certificates of occupancy.

No land, building, structure, or part thereof shall be occupied by or for any use unless and until a certificate of occupancy shall have been issued for such use. The following shall apply in the issuance of such certificate of occupancy:

- (1) The zoning administrator shall inspect each development which requires a zoning permit for final zoning compliance, prior to issuance of a certificate of occupancy. No certificate of occupancy pursuant to the building code of the city shall be issued for any building, structure, or part thereof, or for the use of any land, which is not in accordance with all the provisions of this chapter. This shall include uses approved through the issuance of a site plan, special use permit or variance.
- (2) No building or structure, or part thereof, which is hereafter erected or altered, shall be occupied or used or the same caused to be done, unless and until a certificate of occupancy shall have been issued for such building or structure.
- (3) Certificates of occupancy as required by the building code for new buildings or structures, or parts thereof, or for alterations to or changes of use of existing buildings or structures, shall also require certificates of occupancy as required by this chapter.
- (4) Certificates of occupancy will be issued for existing buildings, structures, or parts thereof, or existing uses of land, if, after inspection, it is found that such buildings, structures, or part thereof, or such use of land, are in conformity with the provisions of this chapter.
- (5) Nothing in this chapter shall prevent the building inspector from the issuing of a temporary certificate of occupancy for a portion of a building or structure in process of erection or alteration, provided that such temporary certificates shall not be effective for a period of time in excess of six months, nor more than five days

after the completion of the building ready for occupancy, and provided further that such portion of the building, structure, or premises is in conformity with the provisions of this chapter.

- (6) A record of all certificates issued shall be kept on file in the office of the building inspector, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.
- (7) Buildings accessory to dwellings shall not require separate certificates of occupancy for the dwelling when shown on the plot plan and when completed at the same time as such dwellings.
- (8) Application for certificates of occupancy shall be made to the building inspector and such certificates shall be issued if, after final inspection, it is found that the building or structure, or part thereof, or the use of land, is in accordance with the provisions of this chapter. If such certificate is refused for cause, the applicant therefor shall be notified in writing of such refusal and cause thereof.

(Code 1989, § 153.1306)

#### Sec. 153.1307. - Penalties.

Any person or firm convicted of violating any provisions of this chapter shall be subject to the penalties provided for in the city municipal civil infractions ordinance.

(Code 1989, § 153.1307)

### ARTICLE 14. - FENCES

#### Sec. 153.1401. - Definitions.

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

*Fence* means any partition, structure, planting, or gate erected as a dividing marker, barrier, or enclosure.

(Code 1967, § 4-2302; Code 1989, § 150.66; Ord. of 9-23-1968)

#### Sec. 153.1402. - Permit required; application.

No fence shall hereafter be erected or altered without first obtaining a permit from the building inspector. Written application for this permit shall be made to the building inspector which shall contain a drawing showing the location, type of fence to be constructed, description of the property, and such other information as may be required by the building inspector in order to determine whether or not the fence will violate any ordinance of this city or law of the state.

(Code 1967, § 4-2303; Code 1989, § 150.67; Ord. of 9-23-1968; Ord. No. 150, § 1, 11-22-1993)

#### Sec. 153.1403. - Fees.

A basic fee as adopted by resolution of the city council from time to time shall be paid with each application for a fence permit filed pursuant to section 153.1402.

(Code 1967, § 4-2304; Code 1989, § 150.68; Ord. of 9-23-1968; Ord. No. 150, § 2, 11-22-1993)

#### Sec. 153.1404. - Fences in residential districts.

Fences are permitted, or required, subject to the following in residential districts:

- (1) Fences on all lots of record in all residential districts which enclose property or are within a required side or rear yard, shall not exceed six feet in height, measured from the surface of the ground, and shall not extend toward the road beyond the front of the house or the required minimum front yard, whichever is greater, unless permitted by the ZBA.
- (2) All fences shall comply with the requirements of this chapter and the building code as it applies to fence installation and materials.
- (3) Barbed wire. No barbed wire fence shall be constructed or maintained nor any spike, nail, barb, or other pointed instrument shall be affixed or placed on any fence so to project therefrom.
- (4) If a fence has only one finished side, the finished side shall face the exterior of the lot and posts and stringers shall be placed on the interior side of the fence.

(Code 1967, § 4-2305; Code 1989, §§ 150.69, 153.111; Ord. of 9-23-1968; Ord. of 5-10-2004; Ord. No. 2016-08, § 1, 5-9-2016)

Sec. 153.1405. - Commercial fence construction; restrictions.

On all commercially zoned property, fences shall not be constructed over seven feet, six inches in height. Barbed wire may be installed in the top one foot of such fence on arms or supports projecting over the private property side of the fence, the lowest to stand at least six feet, six inches above the grade on that side. Fences over six feet in height, exclusive of barbed wire, shall be constructed of incombustible material, except for posts.

(Code 1967, § 4-2306; Code 1989, § 150.70; Ord. of 9-23-1968)

Sec. 153.1406. - Industrial fence construction; restrictions.

On industrial zoned property, fences may be of unlimited height and barbed wire may be used as in section 153.1405. Fences over six feet in height, exclusive of barbed wire, shall be constructed of incombustible materials except for posts.

(Code 1967, § 4-2307; Code 1989, § 150.71; Ord. of 9-23-1968)

Sec. 153.1407. - Location.

(a) All fences shall be located entirely on the property of the person, firm, or corporation erecting the fence.

(b) No fence shall be located nearer than one foot to the inside sidewalk line.

(Code 1967, §§ 4-2308, 4-2310; Code 1989, § 150.72; Ord. of 9-23-1968)

Sec. 153.1408. - Gates.

Gates in fences shall not open over public property.

(Code 1967, § 4-2309; Code 1989, § 150.73; Ord. of 9-23-1968)

Sec. 153.1409. - Electric fences.

No fence shall be charged or connected with an electrical current in a manner as to transmit a current to persons, animals, or things which might intentionally or accidentally come in contact with it.

(Code 1967, § 4-2311; Code 1989, § 150.74; Ord. of 9-23-1968)

Sec. 153.1410. - Maintenance, construction of fences; nuisances.

Fences must be maintained so as not to endanger life or property. Any fence which, through lack of maintenance or type of construction or otherwise, imperils life or property, shall be deemed a nuisance. No fence shall be constructed in a manner or of such materials that it will obstruct vision so to create a hazard to vehicular traffic or pedestrians upon the public streets or sidewalks and any fence so constructed shall be deemed a nuisance. The building inspector shall notify the owner of the property on which such fence is located of the existence of such nuisance and the nuisance shall be abated within six days after receiving notice.

(Code 1967, § 4-2312; Code 1989, § 150.75; Ord. of 9-23-1968)

Sec. 153.1411. - Lot lines.

The building inspector may require the owner of property upon which a fence is located or is to be located to establish lot lines upon the property through placing of permanent markers located by a licensed surveyor. The lot lines shall be established within five days after receiving notice.

(Code 1967, § 4-2313; Code 1989, § 150.76; Ord. of 9-23-1968)

Sec. 153.1412. - Alterations.

Any person, firm, or corporation being the owner, lessee, occupant, or agent for the same, of any property upon which is located a fence contrary to the provisions of this subchapter, shall not alter, change, repair, or rebuild that fence without first having obtained a permit therefor in the manner provided in section 153.1402.

(Code 1967, § 4-2315; Code 1989, § 150.77; Ord. of 9-23-1968)

Sec. 153.1413. - Exemptions.

The fence requirements and limitations of this article shall not apply to school property or city-owned playgrounds or recreational areas.

(Code 1967, § 4-2314; Code 1989, § 150.78; Ord. of 9-23-1968)

Sec. 153.1414. - Enforcement.

Before commencing prosecution under this article, the building inspector shall give notice to persons charged with violating this article. Such notice shall be in writing, and shall be served upon said persons or, at the option of the building inspector, by posting a copy of this notice on the land or attaching a copy of the notice to the building or structure. In addition, a copy of the notice shall be sent by first class mail to the owner of the land, building, or structure at the owner's last known address. The notice shall specify that the failure to remedy the violation within ten days of the date of personal service, or 12 days from the date of mailing, shall result in the issuance of a municipal civil infraction citation. The building inspector is authorized to issue a municipal civil infraction citation.

(Code 1989, § 150.79; Ord. No. 150, 4-11-2005)

ARTICLE 15. - CONDOMINIUMS

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**State Law reference**— *Condominium Act, MCL 559.101 et seq.*

## Sec. 153.1501. - Intent.

The intent of this article is to regulate the division and development of land under the condominium act, Public Act No. 59 of 1978 (MCL 559.101 et seq.) so that the development is comparable in quality of design to property divided and developed by other methods.

(Code 1989, § 153.1501)

## Sec. 153.1502. - Review requirements.

In order to ensure compliance with this chapter, all condominium developments shall follow the special use permit process, including developments consisting solely of single-family or duplex residences, that may otherwise not be required to prepare a site plan. In addition to the information required in article 7 of this chapter, all applicants for condominium site plan review shall submit the following information for planning commission review:

- (1) Copy of the proposed condominium master deed.
- (2) A copy of the proposed condominium subdivision plan. (This may replace the site plan required for site plan review.)
- (3) A copy of the proposed condominium by-laws.

(Code 1989, § 153.1502)

## Sec. 153.1503. - Zoning ordinance standards.

- (a) *Lot size.* In conventional condominium development, the condominium unit is enclosed air space, such as condominium apartments. In a conventional condominium the entire site must meet the minimum lot size requirements for the zoning district in which the parcel is located. For site condominium developments, the condominium unit is a piece of land that is sold as a building site just as lots in a subdivision are sold. Each condominium unit in a site condominium and its associated limited common area are considered equivalent to a "lot" and must meet the minimum lot size requirements for the zoning district in which the parcel is located.
- (b) *Setbacks.* In conventional condominium development the buildings must be setback from the site boundaries as required in the zoning district where the parcel is located. For site condominium developments the setbacks shall be from the outer edge of the "lot" consisting of a condominium unit and their associated limited common area, and shall be consistent with the setbacks for principal structures in the zoning district in which it is located.

(Code 1989, § 153.1503)

## Sec. 153.1504. - Survey requirements.

Conventional condominiums shall comply with the monumenting requirements contained in the Condominium Act, Public Act No. 59 of 1978 (MCL 559.101 et seq.). Site condominium shall comply with the following requirements which are intended to ensure that monumentation is equivalent to the monumentation requirements of a subdivision plat:

- (1) Monuments shall be located in the ground and made according to the following requirements, but it is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the subdivision if the angles points can be readily reestablished by reference to monuments along

the sidelines of the streets.

- (2) All monuments used shall be made of solid iron or steel at least one-half-inch in diameter and 36 inches long and completely encased in concrete at least four inches in diameter.
- (3) Monuments shall be located in the ground at all angles in the boundaries of the site condominium; at the intersection lines of streets and at the intersection of the lines of streets with the boundaries of the site condominium and at the intersection of alleys with the boundaries of the site condominium; at the points of curvature, points of reverse curvature and angle points in the side lines of streets and alleys; and at all angles of an intermediate traverse line.
- (4) If the required location of a monument is in an inaccessible place, or where the locating of a monument would be clearly impractical, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the plat and referenced to the true point.
- (5) If a point required to be monumented is on a bedrock outcropping, a steel rod, at least one-half-inch in diameter shall be drilled and grouted into solid rock to a depth of at least eight inches.
- (6) All required monuments shall be placed flush with the ground where practicable.
- (7) The corner of each area consisting of a unit and the associated limited common area reserved for that unit, and treated as a "lot" under this chapter shall be monumented in the field by iron or steel bars or iron pipes at least 18 inches long and one-half-inch diameter, or other markers approved by the city.
- (8) The planning commission may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one year, on condition the proprietor deposits with the city cash, certified check, or irrevocable bank letter of credit payable to the city, whichever the proprietor selects, in an amount not less than \$250.00 per monument and not less than \$1,000.00 in total, except that lot corner markers shall be at the rate of not less than \$50.00 per marker. Such cash, certified check or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed within the time specified as required. If the proprietor defaults, the city shall promptly require a surveyor to locate the monuments and markers as certified on the plat, as required by this chapter. The city shall be reimbursed for the cost of such work by the proprietors deposits. Additionally, in the event the city incurs costs in excess of the amount deposited, such costs will be charged against the proprietor.

(Code 1989, § 153.1504)

Sec. 153.1505. - Recorded master deed and final engineering approval.

- (a) Following site plan approval, an application for final engineering approval shall be submitted to the planning commission which shall include plans and information in sufficient detail for the city to determine compliance with all applicable laws, codes, ordinances, rules and regulations for the construction of the project.
- (b) Prior to the issuance of building permits for units, the developer shall demonstrate final approval by county and state entities having jurisdiction with regard to any aspect of the development, including, without limitation, roads, water supply and sewage disposal.
- (c) A building permit for construction of a unit on a building site shall be issuable at such time as final engineering plans have been approved by the planning commission, all applicable permits and approvals have been secured from other governmental entities, and all improvements for the project have been constructed. The city council may determine that certain improvements need not be constructed prior to issuance of building permits for units on

building sites on the condition that all improvements will be completed prior to issuance of a certificate of occupancy and the developer posts a performance bond to cover the cost of such improvements, as determined appropriate by the planning commission, following advice of the city engineer, for the timely completion of such improvements.

- (d) Prior to issuance of a building permit, the applicant shall provide the city with a copy of the recorded master deed, including the site plan at a size not to exceed 11 inches by 17 inches. The zoning administrator shall review these documents to ensure that they comply with the approval granted by the planning commission.

(Code 1989, § 153.1505)

Sec. 153.1506. - Amendment to master deed.

Any proposed amendment of a master deed which would involve any subject matter reviewed or reviewable under this article shall be reviewed and approved by the planning commission prior to recordation.

(Code 1989, § 153.1506)

ARTICLE 16. - SITE CONDOMINIUM PROJECTS

*Footnotes:*

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**State Law reference**— *Condominium act, MCL 559.101 et seq.*

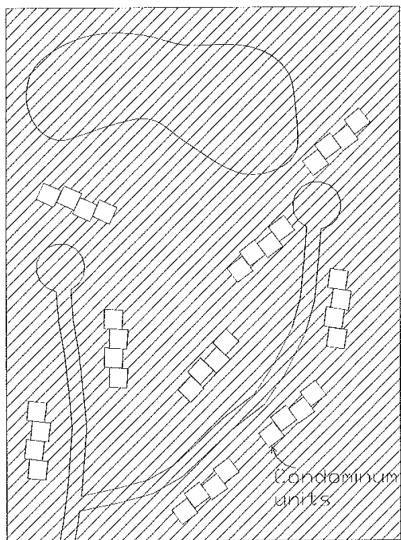
Sec. 153.1601. - Definitions.

- (a) *General definitions.* The following definitions shall apply in the construction and application of this chapter, and are defined both in the context of the Condominium Act, Public Act No. 59 of 1978 (MCL 559.101 et seq.), and in a manner intended to make comparison possible between the terms of this chapter and the subdivision regulations within the Condominium Act:

*Building envelope* means the ground area occupied, or to be occupied by, the principal structure which is, or is intended to be, placed on a building site, together with any attached accessory structures, e.g., house and attached garage.

*Building site* means the condominium unit, including the building envelope and the contiguous limited common area or element under and surrounding the building envelope, and shall be the counterpart of "lot" as used in connection with a project developed under the Land Division Act, Public Act No. 288 of 1967 (MCL 560.101 et seq.).

*Condominium project, conventional,* means a development in which ownership interest is divided under the authority of the Condominium Act, Public Act No. 59 of 1978 (MCL 559.101 et seq.), and in which the condominium unit consists primarily of the dwelling or other principal structure and most of the land in the development is part of the general common area.

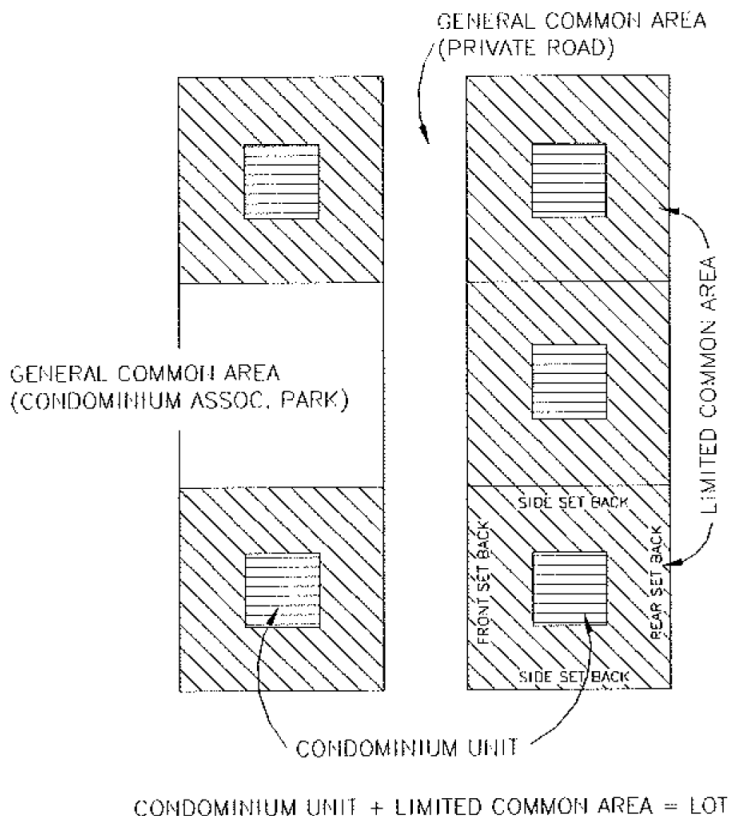


### CONVENTIONAL CONDOMINIUM

 GENERAL COMMON AREAS

*Condominium project, site*, means a development in which ownership interest is divided under the authority of the Condominium Act, Public Act No. 59 of 1978 (MCL 559.101 et seq.), and in which the condominium unit consists of a building site, with or without structures, which along the associated limited common elements, constitutes the equivalent of a lot.

### SITE CONDOMINIUM DEFINITIONS



*Subdivision regulations* means and refers to the subdivision regulations provisions codified as chapter 152, incorporated as part of this section by reference. In construing the subdivision regulations and any other relevant ordinances, reference to principal building or structure shall be construed as being the "building envelope" and reference to lot or parcel shall be construed as being the "building site."

(b) *Other definitions.* All defined terms under the condominium act shall have their same meanings in this chapter.



(Code 1989, § 155.01; Ord. of 3-23-1992, § 1)

Sec. 153.1602. - Zoning regulations to apply.

All site condominium projects and structures herein shall comply with all the use, size, sign, height, area and setback regulations of the zoning district in which the site condominium project is located.

(Code 1989, § 155.02; Ord. of 3-23-1992, § 1)

Sec. 153.1603. - Approval process.

Approval under this section shall be required as a condition to the right to construct, expand or convert a site condominium project in the city. The approval process shall involve three phases:

- (1) Concept plan approval.
- (2) Site plan approval.
- (3) Final engineering plan approval.

(Code 1989, § 155.03; Ord. of 3-23-1992, § 1)

Sec. 153.1604. - Concept plan.

(a) A developer of a site condominium project shall initially submit to the city manager three copies of an application for concept plan approval, accompanied by a concept plan. The concept plan need not be prepared by a registered professional, but shall include the following:

- (1) The name, address, e-mail address and telephone number of:
  - a. All persons, firms or corporations with an ownership interest in the land on which the site condominium project will be located together with a description of the nature of each entity's interest (i.e., fee owner, optionee or land contract vendee).
  - b. All engineers, attorneys, architects or registered land surveyors associated with the project.
  - c. The developer of the site condominium project.

(2) The legal description of the land on which the site condominium project will be developed together with appropriate tax identification numbers.

(3) The current zoning of the parcel and the zoning of adjacent properties.

(4) Location map of the project.

(5) The acreage content of the land on which the site condominium project will be developed.

(6) The purpose of the project (i.e., residential, commercial, industrial, etc.).

(7) Location and size of building sites, envelopes, buildings, roads, parking areas, sidewalks, landscaping features, signs and utilities.

(b) Following review and recommendation by appropriate consultants, the concept plan shall be reviewed by the planning commission for conformance with all applicable laws and ordinances, including the requirements of the subdivision regulations and the zoning code. The planning commission shall also ascertain whether, based upon the submission, it appears, based upon the initial information presented, the concept plan will conform with requirements for site plan review. If the concept plan conforms in all respects, concept plan approval shall be granted by the planning commission. If the concept plan fails to conform, the planning commission shall either deny

the application, or approve the application with conditions with a time limit for compliance with such conditions and resubmission, as deemed appropriate by the planning commission. Concept plan approval shall confer upon the developer a commitment of approval for a period of one year with regard to the size, shape and layout of building sites, and street layout. Such concept plan approval may be extended if applied for by the proprietor within the effective period and approved by the planning commission.

(Code 1989, § 155.04; Ord. of 3-23-1992, § 1; Ord. No. 155, § 1, 3-22-2000)

Sec. 153.1605. - Site plan.

Following approval of the concept plan, if the developer desires to proceed with the project, an application for site plan approval shall be submitted for review in accordance with the requirements of this section. In addition to any information required to be submitted for site plan review, the developer shall include with the application for site plan approval, sufficient information for determination whether the project conforms with all applicable laws, codes, ordinances, rules and regulations enforceable by the city. The application for site plan approval shall include a site plan prepared by a registered professional, and shall include the following:

- (1) Street and utility specifications and sectional diagrams.
- (2) All areas within the 100-year floodplain, wetland areas or bodies of water.
- (3) Existing and projected topographical contours at a minimum of two-foot intervals.
- (4) The application for site plan review shall also include a copy of the proposed master deed, bylaws and any additional documentation to be recorded with the register of deeds, for review and approval by appropriate city consultants. The master deed shall be reviewed by the city council, with the advice of city consultants as deemed appropriate by the city council, with respect to all matters subject to regulation by the city, including, without limitation, ongoing preservation and maintenance of drainage, retention, wetland and other natural areas and common areas, and maintenance of landscaping in common areas, in the project.
- (5) If the site plan conforms in all respects, site plan approval shall be granted by the planning commission. If the site plan fails to conform, the planning commission shall either deny the application, or approve the application with conditions with a time limit for compliance with such conditions and resubmission, as deemed appropriate by the planning commission.
- (6) Site plan approval shall be effective for a period of one year. Such approval may be extended if applied for by the developer within the effective period and granted by the planning commission.

(Code 1989, § 155.05; Ord. of 3-23-1992, § 1; Ord. No. 155, § 1, 3-22-2000)

Sec. 153.1606. - Application for final engineering approval.

Following the grant of site plan approval, if the developer desires to proceed with the project, an application for final engineering approval shall be submitted which shall include plans and information in sufficient detail for the city, and appropriate consultants, to determine compliance with all applicable laws, codes, ordinances, rules and regulations for the construction of the project. Subject to applicable provisions of section 153.1607, a building permit for construction of a unit on a building site shall be issuable at such time as final engineering plans have been approved, all applicable permits and approvals have been secured from other governmental entities, and all improvements for the project have been constructed; provided, however, the planning commission may determine that certain improvements need not be constructed prior to issuance of building permits for units on building sites on the condition that all improvements will be completed prior to

issuance of a certificate of occupancy and the developer posts cash, or a letter of credit or establishes an escrow in the form and amount, and issued by an institution, or, if escrow, with an agent and escrow agreement, determined appropriate by the planning commission following advice of city consultants, for the timely completion of such improvements.

(Code 1989, § 155.06; Ord. of 3-23-1992, § 1; Ord. No. 155, § 1, 3-22-2000)

Sec. 153.1607. - Additional regulations applicable to site condominium projects.

- (a) Each building site shall front on and have direct access to either a public street, or a private road approved pursuant to the procedure contained in chapter 154.
- (b) There shall be compliance with all requirements of the schedule of regulations, and other provisions of this article and other applicable ordinances, with the understanding that reference to "lot" in such regulations shall mean and refer to "building site" as defined in this article, and reference to "building" (meaning principal building) or "structure" (meaning principal structure) shall mean and refer to "building envelope" as defined under this article. In the review of preliminary plans, site plans and engineering plans, it is recognized that it may not be feasible to precisely apply traditional definitions and measures applicable to developments proposed under, for example, the Land Division Act. However, the review of plans submitted under this section shall be accomplished with the objective and intent of achieving the same results, aside from procedure, as if the improvements were being proposed pursuant to the Land Division Act.
- (c) Prior to the issuance of building permits for units, the developer shall demonstrate approval by county and state entities having jurisdiction with regard to any aspect of the development, including, without limitation, roads, water supply and sewage disposal.
- (d) Prior to issuance of certificates of occupancy, the developer shall provide evidence of approval required by any other governmental entities having jurisdiction over any aspect of the site condominium project, and the city manager shall determine that all improvements have been substantially completed in accordance with approved plans.
- (e) With respect to each building envelope, within 60 days following final inspection of the improvement, the developer shall submit to the city manager an "as-built" survey, including dimensions between each improvement and the boundaries of the building site, and distance of each improvement from any wetland, floodplain and/or floodway. The corners of each building site shall be staked in the customary manner in connection with the survey performed from the project by a registered land surveyor or professional engineer.
- (f) The fees for all reviews shall be established by ordinance and/or resolution adopted by the city council.
- (g) Any proposed amendment of a master deed, which would involve any subject matter reviewed or reviewable under this section, shall be reviewed and approved by the planning commission prior to recordation.

(Code 1989, § 155.07; Ord. of 3-23-1992, § 1; Ord. No. 155, § 1, 3-22-2000)

## ARTICLE 17. - DESIGN STANDARDS

Sec. 153.1701. - Design guidelines.

- (a) The purpose of these design guidelines is to provide direction to property owners, developers, city staff and the city planning commissions in the development and redevelopment of property in the city. It is intended to be applied to projects that require site plan review under this chapter.
- (b) Front yard setbacks should match neighboring buildings. New construction should not be set back significantly from

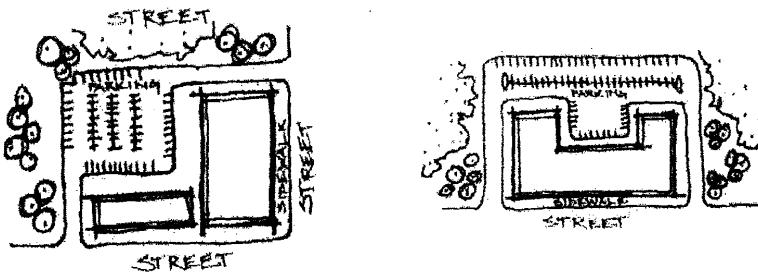
the surrounding buildings. This can create a gap in the "building wall" formed by the row of buildings fronting a street. If a building is set closer than neighboring buildings, care should be taken that it does not obscure these nearby structures.

- (c) Building scale to be similar to neighboring buildings. Scale refers to the relative size of a building as it relates to neighboring buildings. The size and proportions of new development should be related to the scale of nearby buildings. Even if much larger than its neighbors in terms of square footage, the building should maintain the same scale and rhythm as the existing buildings.
- (d) An appropriate building scale can be created with a variety of design elements. The proportion of windows and doors, building massing and other architectural details can all help maintain the human quality and scale of buildings.

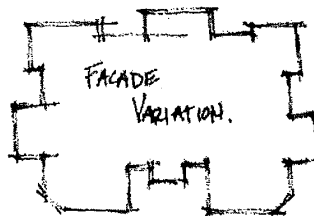
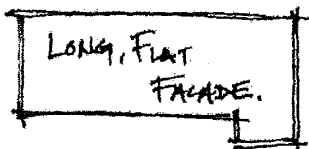
(Ord. No. 2012-01, 3-12-2012)

Sec. 153.1702. - Parking location and size.

- (a) A large expanse of parking lot area in front of buildings should be avoided. Break the parking lot into two or more smaller lots where possible. This can be done by physical separation or by the use of landscaping.
- (b) Parking lots should be located in the rear or side of the lot when appropriate.

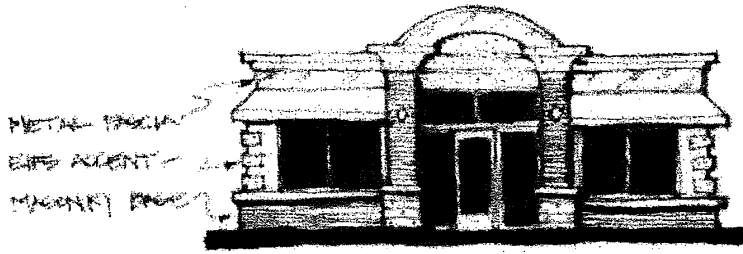


- (c) Use of "typical" (rectangular, low pitched roofed, metal sided) pre-engineered building systems should be discouraged.
- (d) Efforts should be made to enhance building design of the "typical" building type. This can include the use of a greater amount of brick or similar material versus steel and incorporation of variations in roof pitch.
- (e) Facades should be articulated and include architectural detail to provide visual interest and variety on the façade, including variation in depth of the building plane, materials and/or height of a structure that breaks up a plain, monotonous area and creates patterns of light. Articulation should be to a fine grain in relation to the size of the building (i.e., a single bump out of a long facade is not consistent with this standard.)

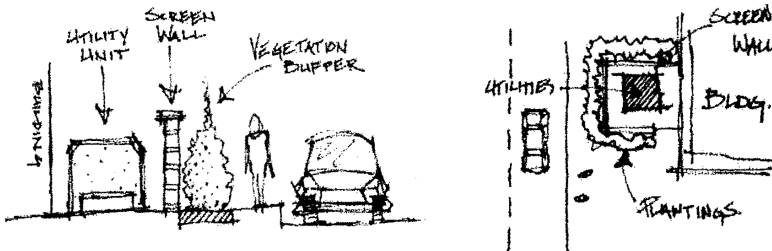


- (f) Existing buildings to be adapted for re-use should be modified as required to be compatible with new use.
- (g) When buildings are reused, structures or other features related to the previous use, but inconsistent with the current use should be removed or modified to fit the current use. Examples could include gas station canopies and pumps and drive-through lanes and windows.
- (h) Less durable and/or high maintenance materials should be limited to trims and details.

- (i) Use of wood, synthetic stucco (commonly referred to as EIFS or "exterior insulating finish system") or similar material shall not be used as the primary siding material but may be used as an accent material to provide interest and contrast.



- (j) Screen mechanical units and utilities from view.
- (k) Efforts should be made to locate mechanical units such as HVAC units and electrical transformers so that they are not visible from adjacent property. If the mechanical unit cannot be located so that it is not visible, it should be screened to obscure it.



(Ord. No. 2012-01, 3-12-2012)

ARTICLE 18. - VALIDITY AND CONFLICT

Sec. 153.1801. - Validity.

Should any section, clause or provision of this chapter be declared by the courts to be invalid, the same shall not affect the validity of this chapter as a whole or any part thereof, other than the part so declared to be invalid.

(Code 1989, § 153.1601)

Sec. 153.1802. - Conflicting provisions.

When any requirement in this chapter conflicts with any requirement of another law or ordinance, the ordinance that imposes greater restrictions shall prevail.

(Code 1989, § 153.1602)