

CHAPTER 154: ZONING

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GENERAL PROVISIONS

§ 154.001 TITLE.

This chapter shall be known and cited as the “City of Linden Zoning Ordinance” and may be referred to herein as “this chapter” or “chapter”.

(Ord. 285, passed 12-8-2003)

§ 154.002 PURPOSE.

(A) The purpose of this chapter is to promote, protect, regulate, restrict, and provide for the use of land and buildings within the city; to meet the needs of the state’s residents for places of residence, recreation,

industry, trade, service, and other uses of land; to ensure that uses of the land shall be situated in appropriate locations and relationships; to limit the inappropriate overcrowding of land and congestion of population and transportation systems and other public facilities; to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility needs; and to promote public health, safety, and welfare.

(B) The city is divided into districts, which include regulations designating land uses or activities that shall be permitted or subjected to special regulations.

(C) It is also the purpose of this chapter to provide for the establishment of a board of appeals and its powers and duties; to provide for the administration and enforcement hereof and for penalties for its violation; and to provide for the repeal of any and all ordinances inconsistent herewith.

(Ord. 285, passed 12-8-2003)

§ 154.003 SCOPE AND CONSTRUCTION OF REGULATIONS.

(A) This chapter shall be liberally construed in such manner as to best implement its purpose. In interpreting and applying the provisions of this chapter, the requirements shall be held to be the minimum for the promotion of the public health, safety, convenience, comfort, prosperity, and general welfare.

(B) No building or structure, or part thereof, shall hereafter be erected, constructed, reconstructed, or altered, and no new use or change shall be made of any building, structure, or land, or part thereof, except as permitted by the provisions of this chapter.

(C) Where a condition imposed by a provision of this chapter upon the use of any lot, building, or structure is conflicting with a condition imposed by any other provision of this chapter, or by the provision of an ordinance adopted under any other law, the provision which is more restrictive shall govern.

(D) Nothing within this chapter shall be construed to prevent compliance with an order by the appropriate authority to correct, improve, strengthen, or restore to a safe or healthy condition, any part of a building or premises declared unsafe or unhealthy.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.004 CONFLICT WITH OTHER LAWS, REGULATIONS, AND AGREEMENTS.

(A) Where any condition imposed by any provision of this chapter upon the use of any lot, building, or structure is either more restrictive or less restrictive than any comparable conditions imposed by any other provision of this chapter or by the provision of any ordinance adopted under any other law, the provision which is more restrictive or which imposes a higher standard or requirement shall govern.

(B) This chapter is not intended to modify or annul any easement, covenant, or other private agreement provided that where any provision of this chapter is more restrictive or imposes a higher standard or requirement than such easement, covenant, or other private agreement, the provision of this chapter shall govern.

(Ord. 285, passed 12-8-2003)

§ 154.005 VESTED RIGHT.

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

(Ord. 285, passed 12-8-2003)

§ 154.006 RULE APPLYING TO TEXT.

The following rules shall apply to the text and language of this chapter.

(A) The particular shall control the general.

(B) In case of any difference of meaning or implication between the text of this chapter and any caption, the text shall control.

(C) The word “shall” is always mandatory and not discretionary. The word “may” is permissive.

(D) Words used in the present tense shall include the future, words used in the singular number shall include the plural, and the plural shall include the singular, unless the context clearly indicates the contrary.

(E) The word “used” or “occupied” as applied to any land or building, shall be construed to include the words “intended, arranged, or designed to be used or occupied”.

(F) Any word or term not defined herein shall be used with a meaning of common or standard utilization.

(Ord. 285, passed 12-8-2003)

§ 154.007 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Illustrations of specific definitions are provided as Figures 1 through 5 below.

ACCELERATION/DECELERATION LANE. An added roadway lane that permits vehicles to speed up when leaving a site access point or slow down before turning onto a site access point.

ACCESSORY BUILDINGS AND STRUCTURES. A supplementary building or structure on the same lot or parcel of land as the principal building occupied by or devoted exclusively to an accessory use.

ACCESSORY USE. A use reasonably and customarily, incidental and subordinate to the principal use of the premises.

ADULT FOSTER CARE FACILITY. A state-licensed establishment that provides foster care to adults. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. An **ADULT FOSTER CARE FACILITY** does not include convalescent or nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation center, residential centers for persons released from or assigned to a correctional facility, or any other facilities which have been exempted from the definition of **ADULT FOSTER CARE FACILITY** by the Adult Foster Care Facility Licensing Act, M.C.L.A. §§ 400.701 et seq., as amended. The following additional definitions shall apply in the application of this chapter.

(1) **ADULT FOSTER CARE CONGREGATE FACILITY.** An adult foster care facility with the approved capacity to receive more than 20 adults to be provided with foster care.

(2) **ADULT FOSTER CARE FAMILY HOME.** A private residence with the approved capacity to receive six or fewer adults to be provided supervision, personal care, and protection in addition to room and board, 24 hours a day, five or more days a week and for two or more consecutive weeks. The **ADULT FOSTER CARE FAMILY HOME** licensee must be a member of the household and an occupant of the residence.

(3) **ADULT FOSTER CARE LARGE GROUP HOME.** A facility with approved capacity to receive at least 13 but not more than 20 adults to be provided supervision, personal care, and protection in addition to room and board, 24 hours a day, five or more days a week, and for two or more consecutive weeks.

(4) **ADULT FOSTER CARE SMALL GROUP HOME.** An owner-occupied facility with the approved capacity to receive 12 or fewer adults who are provided supervision, personal care, and protection in addition to room and board, for 24 hours a day, five or more days a week, and for two or more consecutive weeks for compensation.

ALLEY. Any dedicated public right-of-way 30 feet or less in width, affording secondary means of access to abutting property not intended for general vehicle circulation nor as primary means of access to property.

ALTERATION. Any change, addition, or modification to a building or structure, including accessory wall signs, which alters structure, exterior walls, or is related to a change of occupancy. Covering of exterior doors, windows, walls, or changes to free-standing or wall sign face are included in this definition.

AMATEUR RADIO ANTENNAS, SATELLITE DISH ANTENNA, AND OTHER SIMILAR STRUCTURES.

(1) Any fixture or apparatus located outdoors, which is designed or utilized to transmit or receive radio, microwave, television, or similar waves, signals, or electrical impulses.

(2) The term **ANTENNA** shall include, but shall not be limited to, **TELEVISION ANTENNAS, CITIZEN BAND RADIO ANTENNAS, AMATEUR RADIO ANTENNAS,** and **SATELLITE DISHES.**

ARCADE. Any place, premises, establishment, building, or portion thereof in a retail or commercial facility in which are located for public use five or more coin or token operated amusement devices. This definition does not include establishments not open to the general public.

AS-BUILT SURVEY. Plans that indicate final construction that occurred on the subject site.

AUTOMOBILE DEALER. A building or premises used primarily for the sale of new or used automobiles.

AUTOMOBILE REPAIR. General repair, engine rebuilding, rebuilding, or reconditioning of motor vehicles; collision service, such as body, frame, or fender straightening and repair, overall painting, and vehicle rustproofing.

AUTOMOBILE SERVICE STATION.

(1) A place that is used or designed to be used for the retail supply of gasoline and other fuels used for the propulsion of motor vehicles, kerosene, motor oil, lubricants, or grease, including sale of accessories and services, such as polishing, washing, cleaning, greasing, undercoating, and minor repairs, but not including bumping, painting, or refinishing thereof.

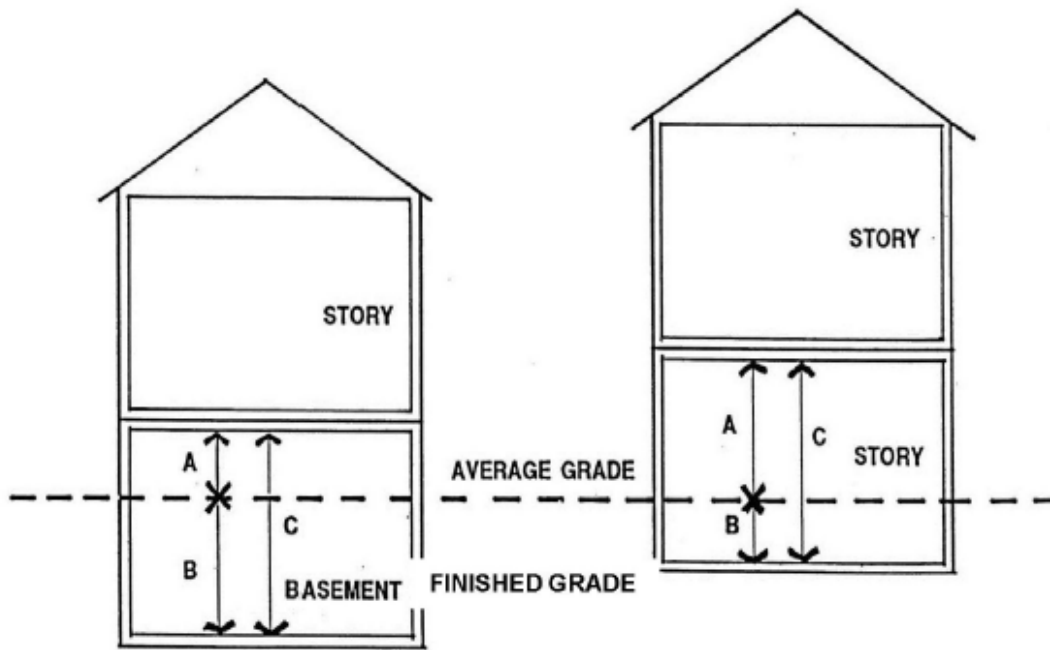
(2) In addition to automobile service, convenience stores and carry-out, drive-in, drive-through, fast-food, and standard restaurants may be included within the same building or on the same site.

AUTOMOBILE WASHES. A building, or portion thereof, the primary purpose of which is that of washing vehicles either by automatic or self-service means.

BASE FLOOD LEVEL. Indicates the water surface elevation resulting from a flood that has a 1% chance of equaling or exceeding that level in any given year.

BASEMENT. The portion of a building having more than one-half of its height below finished grade. (See Figure 1.)

Figure 1



IF THE AVERAGE OF "A" IS EQUAL TO OR LESS THAN 1/2 OF "B", THEN "C" IS A BASEMENT.

IF THE AVERAGE OF "A" IS GREATER THAN 1/2 OF "B" THEN "C" IS A STORY.

BED AND BREAKFAST OPERATIONS. A use which is subordinate to the principal use of a dwelling unit as a single-family dwelling unit and a use in which transient guests are provided a sleeping room and board in return for payment.

BUILDING. A structure having a roof supported by columns or walls.

BUILDING CODE. The currently adopted code or codes regulating building construction in the city.

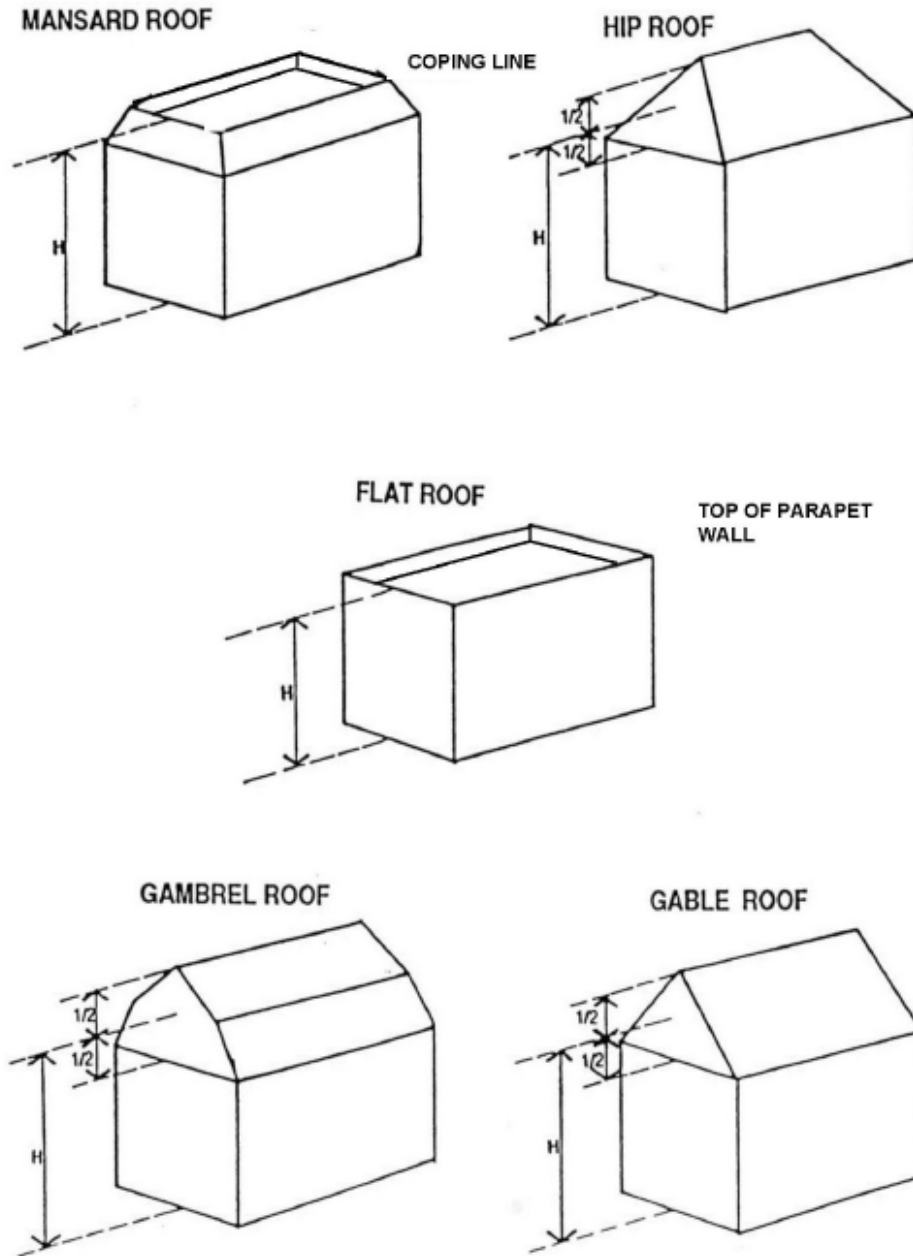
BUILDING ENVELOPE. The buildable area of a parcel or lot formed by setback requirements.

BUILDING HEIGHT.

(1) The building height is the vertical distance measured from the finished grade level to the highest point of the parapet wall if a flat roof; to the coping of mansard roofs; and to the mean height level between eaves and ridges of gable, hip, and gambrel roofs.

(2) Where the building may be situated on sloping terrain, this height shall be measured from the average level of the finished grade at the building wall. (See Figure 2.)

Figure 2



BUILDING OFFICIAL. The administrative official designated by the City Council to enforce the Building Code.

BUILDING SETBACK LINE. The line established by the minimum required setbacks forming the area within a lot in which a building may be located.

CANOPY. A roof-like structure of a permanent nature which projects from the wall of a building and overhangs the public right-of-way.

CANOPY TREE. A deciduous tree whose mature height and branch structure provides foliage primarily on the upper half of the tree and which provides shade to adjacent ground areas.

CARPORT. A covered motor vehicle parking structure accessory to a residential dwelling.

CENTRAL BUSINESS DISTRICT. The primary downtown commercial center of the city.

CERTIFICATE OF OCCUPANCY. The certificate issued by the building official which permits the use of a building in accordance with the approved plans and specifications and which certifies compliance with the provisions of this chapter and the building codes for the use and occupancy of the building in its

several parts together with any special stipulations or conditions of zoning approval and/or the building permit.

CERTIFICATE OF ZONING. A written certificate that a structure, use, or parcel of land is, or will be, in compliance with the requirements of this chapter.

CHURCH, SYNAGOGUE, or OTHER PLACE OF WORSHIP. A building, the primary use of which is regular assembly of persons for religious worship or services together with reasonably closely related activities or uses.

CLINIC. An establishment where human patients are admitted for examination and treatment by a group of physicians, dentists, and other medical specialists and other medical professionals on an out-patient basis, meaning patients do not remain overnight. A **CLINIC** may incorporate customary laboratories and pharmacies incidental or necessary to its operation.

CLUB. The buildings and facilities used by an organization of persons for special purposes or for the promotion of sports, arts, science, literature, politics, social activities, and other similar group activities.

COIN-OPERATED AMUSEMENT DEVICE. Any amusement machine operated by means of a coin or token or activated by any other means, for the purpose of amusement or test of skill. Coin-operated music machines shall not be considered a **COIN-OPERATED AMUSEMENT DEVICE**.

COMMERCIAL USE. The use of property in connection with the purchase, sale, barter, display, or exchange of goods, wares, merchandise, or personal services, and the maintenance or operation of offices.

CONVALESCENT or NURSING HOME. A state licensed facility for the care of children, of the aged or infirm, or a place of rest for those suffering bodily disorders. Said **HOME** shall conform and qualify for license under state law even though state law has different size regulations.

CONVENIENCE GROCERY STORE. A one-story, retail store that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket"). **CONVENIENCE GROCERY STORES** are designed to attract a large volume of stop-and-go traffic.

COPING LINE. The highest point of the sloped mansard roof generally terminated with a metal or stone cap. (See Figure 2.)

CUL-DE-SAC. A dead end, public, or private street which terminates in a circular section which allows for vehicle turnaround.

DAY CARE FACILITIES. The following definitions shall apply in the application of this chapter.

(1) **DAY CARE CENTER.** A state-licensed facility, other than a private residence, receiving more than one or more children for care and supervision for periods less than 24 hours, and where the parents or guardians are not immediately available to the child.

(2) **FAMILY DAY CARE HOME.** A state-licensed, owner-occupied private residence in which one, but not more than six, minor children are received for care and supervision for periods less than 24 hours a day unattended by a parent or legal guardian, excepting children related to an adult member of the family by blood, marriage, or adoption. It includes a home that gives care to an unrelated child for more than four weeks in a calendar year.

(3) **GROUP DAY CARE HOME.** A state-licensed, owner-occupied private residence in which seven, but not more than 12, children are received for care and supervision for periods less than 24 hours a day unattended by a parent or legal guardian, excepting children related to an adult member of the family by blood, marriage, or adoption. It includes a home that gives care to an unrelated child for more than four weeks in a calendar year.

DEFLECTION POINT. The point of change of direction between the forward course and the backward course.

DENSITY. The number of dwelling units developed per gross acre of land.

DETENTION/RETENTION BASIN. A stormwater holding facility intended to hold and release stormwater into a drainage course over a short period of time.

DISTRICT. A portion of the city within which certain uses of land and/or buildings are permitted and within which certain regulations and requirements apply under the provisions of this chapter.

DRIVE-IN ESTABLISHMENT. A business establishment so developed that its principal retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in or momentarily stepped away from their motor vehicles, rather than within a building or structure, so that consumption of goods or services within motor vehicles may be facilitated.

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

DRIVEWAY. 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. In order to be considered a **DRIVEWAY** under this chapter, such an area must be surfaced with concrete, asphalt, brick, cut stone, or a minimum four-inch depth of crushed materials (stone, concrete, asphalt and the like) having a size of at least one-half inch in diameter. Further, such **DRIVEWAY** must be properly graded for drainage and be maintained in good condition free of dust, trash and debris. Within a front yard, newly constructed driveways shall be no less than ten feet in width, and shall be no wider than 32 feet or the width of the garage, whichever is greater.

DWELLING. A building used exclusively as a residence by not more than one family but in no case shall a travel trailer, motor home, trailer coach, automobile chassis, tent, or other portable building be considered a **DWELLING**.

DWELLING, MULTIPLE-FAMILY. A building consisting of three or more dwellings.

DWELLING, SINGLE-FAMILY. A building designed for, or occupied exclusively by, one family.

DWELLING, TWO-FAMILY. A building consisting of two dwellings.

EASEMENT. The right of an owner of property by reason of such ownership, to use the property of another for purposes of ingress, egress, utilities, drainage, and similar uses.

EFFICIENCY UNIT. A dwelling unit consisting of one room, exclusive of bathroom, kitchen, hallway, closets, or dining alcove directly off the principal room.

ELDERLY HOUSING. Any housing intended for, and solely occupied by, persons 62 years of age or older. **ELDERLY HOUSING** shall provide significant facilities and services specifically designed to meet the physical or social needs of older persons, including: dining facilities; housekeeping services; security services; group transportation; and personal response services.

ESSENTIAL SERVICES. Services that are erected, constructed, altered, or maintained by public utilities or municipal agencies of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply, or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, poles, and other similar equipment or accessories reasonably in connection therewith for the furnishing of adequate service by such public utilities or municipal agencies.

EXTRACTIVE OPERATION. Premises from which any rock, gravel, sand, topsoil, or earth in excess of 50 cubic yards in any calendar year is excavated or removed for the purpose of disposition away from the premises except excavation in connection with the construction of a building or within public highway rights-of-way.

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

FENCE. A permanent or temporary barrier enclosing or bordering a plot of land or portion thereof composed of suitable human-made materials. The purpose of this barrier may be for preventing or controlling entrance or exit or to mark boundaries.

FLEA MARKET. A space in which two or more persons sell new or used hard goods, furniture, antiques, novelties, or other merchandise within a permanent enclosed building.

FLOODPLAIN. The land adjacent to a body of water, which has been or may hereafter be covered by floodwater.

GARAGE. A structure which is accessory to a principal residential dwelling and which is used for the parking and storage of vehicles owned and operated by the residents thereof.

GARAGE SALE. A sale of primarily used goods, antiques, curios, clothing, and the like operated on residential property by the owner or occupant on an occasional permitted basis.

GROSS FLOOR AREA. The sum of the gross horizontal areas of the building measured from the interior faces of the exterior walls or from the center line of walls separating two buildings.

GRADE. The degree of rise or descent of a sloping surface. (See Figure 3.)

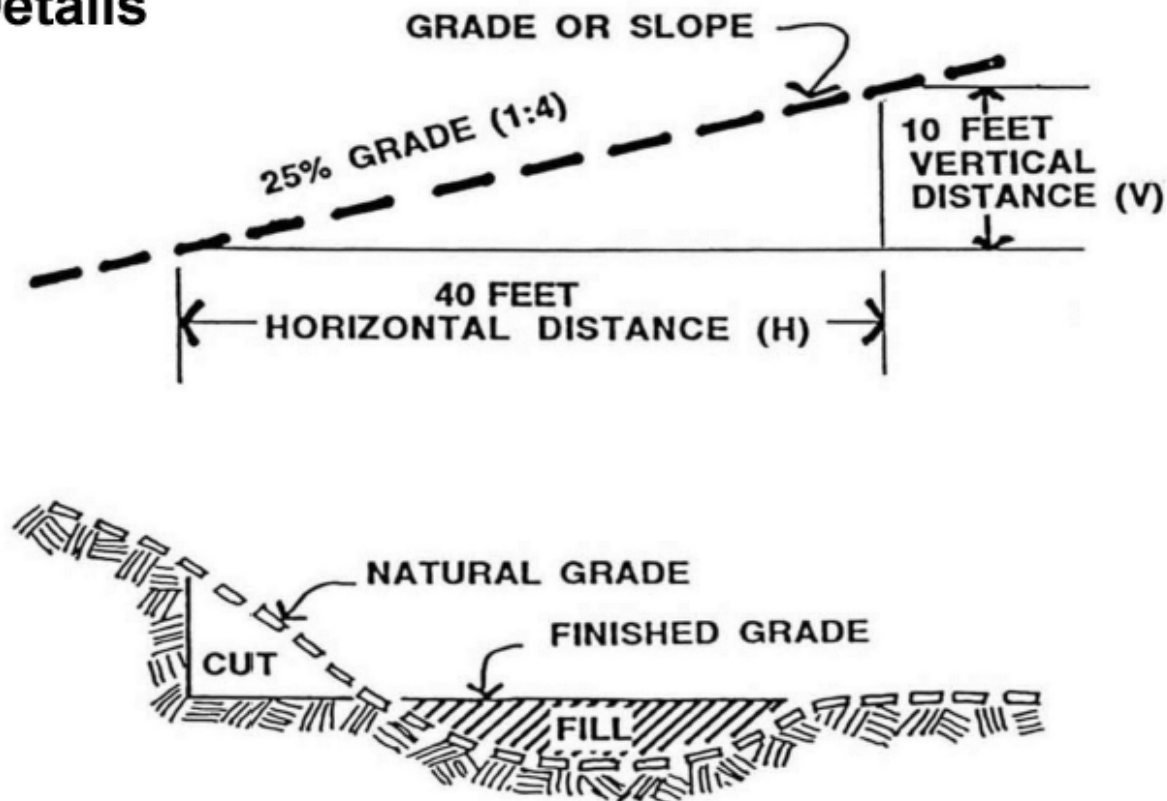
(1) **GRADE, AVERAGE.** The arithmetic average of the lowest and highest grade elevations in an area five feet from the foundation of a building or structure on all sides of the building.

(2) **GRADE, FINISHED.** The final elevation of the ground surface after development.

(3) **GRADE, NATURAL.** The elevation of the ground surface in its natural state, before human-made alterations.

Figure 3

Grade Details



HAZARDOUS SUBSTANCES. Include hazardous chemicals as defined by the State Department of Public Health and the State Department of Labor; flammable and combustible liquids as defined by the Department of State Police, Fire Marshal Division; hazardous materials as defined by the U.S. Department of Transportation; critical materials, polluting materials, and hazardous waste as defined by the State Department of Natural Resources, and hazardous substances as defined in Public Act 457 of 1994, being M.C.L.A. §§ 324.101 et seq., as amended, and by the Federal Comprehensive Environmental Response Compensation and Utility Act of 1980, 94 STAT 2767, as amended.

HISTORIC DISTRICT. An area, or group of areas not necessarily having contiguous boundaries, that contains one resource or a group of resources that are related by history, architecture, archaeology, engineering, or culture, created by the city for the purpose of preservation. The city may establish more than one such **HISTORIC DISTRICT**. For purpose of clarification, however, a historic district may also consist of a single district resource unrelated to its surroundings in historical, architectural, or archaeological significance and so designated by this chapter.

HOME OCCUPATION. An occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood.

JUNK YARD. A place, structure, parcel, or use of land where junk, waste, discard, salvage, or similar materials such as old iron or metal, wood, lumber, glass, paper, rags, cloth, leather, rubber, bagging, cordage, barrels, containers, and the like are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including auto wrecking yards, inoperative machines, used lumber yards, housing wrecking, and structural steel materials and equipment and including establishments for the sale, purchase, or storage of salvaged machinery and the processing of used, discarded, or salvaged materials, for any 30 consecutive days.

KENNEL. Any place or premises where three or more adult dogs, cats, or other domestic pets are maintained, boarded, bred, or cared for in return for remuneration, or are kept for the purpose of sale.

LOADING SPACE. An off-street space on the same lot with a building or group of buildings, for temporary parking of a commercial vehicle while loading and/or unloading merchandise or materials.

LODGING FACILITY. Any establishment in which individual units are rented to transients for periods of less than 30 days for the purpose of sleeping accommodations. The term shall include hotels and motels but shall not include bed and breakfast operations, multiple-family dwellings, or rooming houses.

LOT. A parcel of land, excluding any portion in a street or other right-of-way, of at least sufficient size to meet minimum requirements for use, coverage, lot area, and to provide such yards and other open spaces as herein required. Such **LOT** shall have frontage on a public street, or on an approved private street, and may consist of: a single lot of record; a portion of a lot of record; any combination of complete and/or portions of lots of record; a parcel of land described by metes and bounds. (See Figure 4.)

LOT AREA. The total horizontal area within the lot lines of a lot, but excluding that portion within a street right-of-way.

LOT COVERAGE. The percentage of the lot area covered by the building area.

LOT DEPTH. The mean horizontal distance from the front line to the rear lot line.

LOT IRON. A length of iron rod driven vertically into the ground to indicate a property corner monument. The top of the iron rod may be left at or below natural grade. A cap identifying the registration number of the surveyor responsible for placing the monument should be placed atop the monument.

LOT LINES. Any line dividing one lot from another or from a public right-of-way, and thus constitutes the property lines bounding a lot.

(1) **FRONT LOT LINE.** In the case of an interior lot, it is that line separating said lot from the street. In the case of a corner lot or double frontage lot it is those lines separating said lot from either street.

(2) **REAR LOT LINE.** The lot line opposite the front lot line. In the case of a lot pointed at the rear, the **REAR LOT LINE** shall be an imaginary line parallel to the front lot line, not less than ten feet long lying farthest from the front lot line and wholly within the lot.

(3) **SIDE LOT LINE.** Any lot line other than the front or rear lot line. A **SIDE LOT LINE** separating a lot from another lot or lots is an interior **SIDE LOT LINE**.

LOT OF RECORD. A lot, the dimensions of which are shown on a subdivision plat recorded in the office of the Register of Deeds for the county, or a lot or parcel described by metes and bounds, the accuracy of which is attested to by a licensed professional surveyor, so designated by the state, and said description so recorded or on file with the county.

LOT WIDTH. The required horizontal distance between the side lot lines measured at the two points where the required front yard setback line intersects the side lot lines.

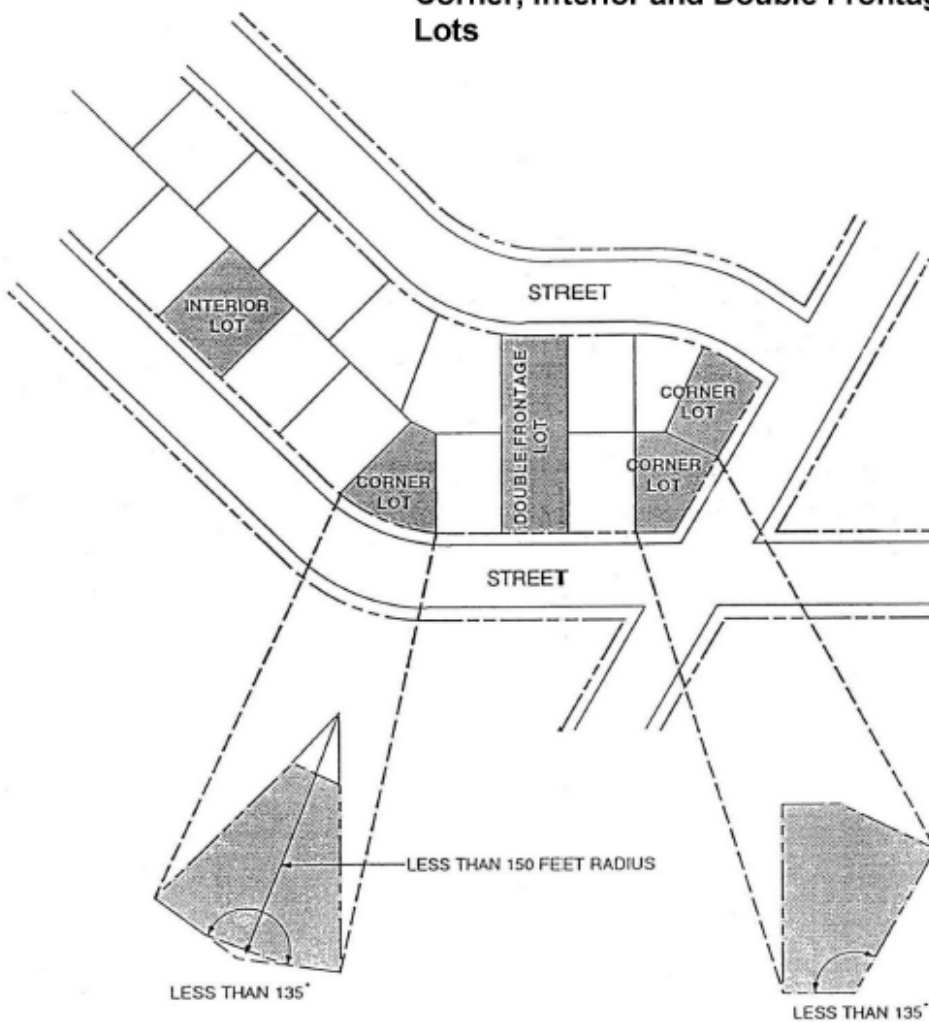
LOT, CORNER. A lot with frontage on two intersecting streets. (See Figure 4.)

LOT, DOUBLE FRONTAGE. A lot other than a corner lot having frontage on two more or less parallel streets. In the case of a row of **DOUBLE FRONTAGE LOTS**, one street will be designated as the front street for all lots in the plat and in the request for a zoning compliance permit. If there are existing structures in the same block fronting one or both of the streets, the required front yard setback shall be observed on those streets where structures presently front. (See Figure 4.)

LOT, INTERIOR. A lot other than a corner lot with only one lot line fronting on a street. (See Figure 4.)

Figure 4

Corner, Interior and Double Frontage Lots



LOT, NONCONFORMING. A lot of record created lawfully prior to the effective date of this chapter which does not meet the dimensional requirements of this chapter. A **NONCONFORMING LOT** of record may be used for uses permitted by right in this chapter, subject to approval of site plan, special use permit, or other permit required by this chapter. The Zoning Administrator shall be empowered to grant administrative variances on lawful **NONCONFORMING LOTS** of record.

MANUFACTURING. The use of land, buildings, or structures for the purpose of manufacturing, assembly, making, preparing, inspecting, finishing, treating, altering, repairing, warehousing, or storing or adapting for sale or other use of any goods, substance, article, thing, or service.

MANUFACTURED HOUSING. The following terms shall apply.

(1) **MOBILE HOME.** A detached portable one-family dwelling, prefabricated on its own chassis and intended for long-term occupancy. The unit contains sleeping accommodations, a flush toilet, a wash basin, a tub or shower, and eating and living quarters. It is designed to be transported on its own wheels or flatbed arriving at the site where it is to be occupied as a complete dwelling without permanent foundation and connected to existing utilities.

(2) **MODULAR HOME.** A structure whose parts are manufactured separately off-site, but fitted together on a site with a permanent residential foundation.

(3) **PRE-MANUFACTURED HOME.** A structure which is capable of being occupied exclusively as a dwelling and which is comprised of prefabricated components which are manufactured off-site, transported, and erected on a lot.

MASTER DEED. The document recorded as part of a condominium subdivision plan to which are attached as exhibits deed covenants, bylaws, easement descriptions, survey, and related documents.

MASTER PLAN. A document containing future development policy, land use, and related plans, together with supporting documents, as most recently adopted by the City Planning Commission pursuant to Public Act 33 of 2008, being M.C.L.A. §§ 125.3801 through 125.3885, as amended.

MEZZANINE. An intermediate level or levels between the floor and ceiling of any story with floor area of not more than one-third of the area of the room or space in which the level is located.

MICRO-CELL. A wireless communications facility consisting of an antenna that is either: four feet in height and having an area of not more than 580 square inches; or, if a tubular antenna, no more than four inches in diameter and no more than six feet in length.

MOBILE HOME PARK. Any parcel of land intended and designed to accommodate more than one mobile home for living use which is offered to the public for that purpose; and any structure, facility, area, or equipment used or intended for use incidental to that living use.

MONUMENT. An object placed to mark the physical location of a position. See **LOT IRON**.

NET FLOOR AREA. Gross floor area less interior spaces used for hallways, closets, mechanical, and electrical equipment, storage, stairwells, and restrooms. **NET FLOOR AREA** shall not be less than 80% of gross floor area, unless otherwise approved by the Planning Commission based on specified spaces or unique floor plan within a building.

NONCONFORMING BUILDING. A building or portion thereof lawfully existing at the effective date of this chapter, or amendments thereto, and which does not conform to the provisions of the chapter in the zoning district in which it is located.

NONCONFORMING USE. A nonconforming use is a use which lawfully occupied a building or land at the effective date of this chapter, or amendments thereto, and that does not conform to the use regulations of the zoning district in which it is located.

NURSERY. Any land, space, building, or structure, or combination thereof, used for the storage of live trees, shrubs, or plants, but not including any land space, building, or structure, or any part thereof, used for the sale of fruits, vegetables, or harvested and cut Christmas trees.

OFF-STREET PARKING AREA. A land surface or facility providing vehicular parking spaces along with adequate drives and aisles for maneuvering so as to provide access for entrance and exit for the parking of more than two automobiles.

OPEN SPACE DEVELOPMENT OPTION. An option that permits development of a site in a manner that preserves a minimum of 20% of the gross acreage of a site in its natural state and/or restricted to active/passive outdoor recreational purposes.

ORDINARY HIGH WATER MARK. The line between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is distinguished from the upland as evidenced in the soil, the configuration of the surface of the soil, and vegetation. On an inland lake, it means the high established level.

PARAPET WALL. A low wall or railing at the edge of a roof.

PARCEL. A lot described by metes and bounds description, whether or not included in a recorded plat or condominium subdivision.

PARKING SPACE. One unit of a parking area provided for the parking of one vehicle, and shall be exclusive of driveways, aisles, or entrances giving access thereto and shall be fully accessible for the storage or parking of permitted vehicles.

PLANNED UNIT DEVELOPMENT (PUD). May include such concepts as cluster development, planned development, community unit plan, planned residential development, and other terminology denoting zoning requirements designed to accomplish the objectives of this chapter through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.

PRINCIPAL BUILDING OR STRUCTURE. The main building or structure in which the primary use is conducted.

PUBLIC STREET. Any right-of-way by easement or ownership and operated by a unit of government including, but not limited to, all major and local streets for which the city receives funds from the State Department of Transportation under provisions of Act 51. No part of any such right-of-way shall be considered when determining compliance with required setback, lot area, or other dimensional requirement of this chapter.

PUBLIC UTILITY. Any person, firm, corporation, or municipal agency authorized under federal, state, county, or municipal regulations to furnish electricity, gas, communications, transportation, water, or sewer services.

RECREATIONAL VEHICLE. Includes the following.

(1) **BOATS AND BOAT TRAILERS.** Includes boats, floats, rafts, canoes, plus the normal equipment to transport them on the highway.

(2) **FOLDING TENT TRAILER.** A canvas folding structure mounted on wheels and designed for travel and vacation use.

(3) **MOTOR HOME.** A recreational vehicle intended for temporary human habitation, sleeping, and/or eating, mounted upon a chassis with wheels and capable of being moved from place to place under its own power. **MOTOR HOMES** generally contain sanitary, water, and electrical facilities.

(4) **OTHER RECREATIONAL EQUIPMENT.** Includes snowmobiles, all-terrain or special-terrain vehicles, utility trailers, plus the normal equipment to transport them on the highway.

(5) **PICKUP CAMPER.** A structure designed to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling during the process of travel, recreational, and vacation uses.

(6) **TRAVEL TRAILER.** A portable vehicle on a chassis, not exceeding 36 feet in length or nine feet in width, which is designed to be used as a temporary dwelling during travel, recreational, and vacation uses, and which may be identified as a "travel trailer" by the manufacturer. **TRAVEL TRAILERS** generally contain sanitary, water, and electrical facilities.

RECREATIONAL VEHICLE PARK. All lands and structures which are designed and operated to accommodate recreational vehicles and provide for outdoor recreation activities.

RESTAURANT. Any establishment whose principal business is the sale of food and beverages to the customer in a ready-to-consume state, and whose method of operation is characteristic of a carry-out, drive-in, drive-through, fast-food, standard restaurant, sidewalk café, or bar/lounge, or combination thereof, as defined below.

(1) **BAR/LOUNGE.** A type of restaurant which is operated primarily for the dispensing of alcoholic beverages, although the sale of prepared food or snacks may also be permitted. If a **BAR** or **LOUNGE** is part of a larger dining facility, it shall be defined as that part of the structure so designated or operated.

(2) **RESTAURANT, CARRY-OUT.** A restaurant whose method of operation involves sale of food, beverages, and/or frozen desserts in disposable or edible containers or wrappers in a ready-to-consume state for consumption primarily off the premises.

(3) **RESTAURANT, DRIVE-IN.** A restaurant designed to permit or facilitate the serving of meals, sandwiches, ice cream, beverages, or other food served directly to or permitted to be consumed by

patrons in cars or other vehicles parked on the premises, or permitted to be consumed by patrons elsewhere on the site outside the main building.

(4) **RESTAURANT, DRIVE-THROUGH.** A restaurant whose method of operation involves minimum waiting for delivery of ready-to-consume food to the customer at a window, permitting the customer to remain in its vehicle, for consumption primarily off the premises. A **DRIVE-THROUGH RESTAURANT** may or may not include features of uses defined as “restaurant, carry-out” or “restaurant, fast-food”.

(5) **RESTAURANT, FAST-FOOD.** A restaurant whose method of operation involves minimum waiting for delivery of ready-to-consume food to the customer at a counter or cafeteria line for consumption where it is served, or at tables, booths, or stands inside or outside of the structure, or for consumption off the premises, but not in a motor vehicle at the site.

(6) **RESTAURANT, STANDARD.** A restaurant whose method of operation involves either the delivery of prepared food by waiters and waitresses to customers seated at tables or the prepared food is acquired by customers at a cafeteria line and is subsequently consumed by the customers at tables.

(7) **SIDEWALK CAFÉ.** An area adjacent to or directly in front of a street-level eating or drinking establishment, located within the lot or the sidewalk area of the public right-of-way, used exclusively for dining, drinking, and pedestrian circulation. The encroachment area of a **SIDEWALK CAFÉ** may be separated from the remainder of the sidewalk by railings, fencing, or landscaping planter boxes or a combination thereof.

RETAINING WALL. A wall designed to resist the lateral displacement of soils and other materials.

RIGHT-OF-WAY. A legal right of passage over, under, and across real property typically associated with roads and railroads.

ROOMING HOUSE. A dwelling in which more than three persons either individually or as families are housed or lodged for hire without meals.

SCREEN. A structure providing enclosure or a visual barrier, such as a fence, wall, or berm, between the area enclosed and the adjacent property. A **SCREEN** may also consist of living materials such as trees and shrubs.

SELF-STORAGE FACILITY. A building consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods.

SETBACK. The minimum required horizontal distance between the building or structure and the front, side, and rear lot lines and natural features.

SHOPPING CENTER. More than one commercial establishment, planned, developed, owned, and managed as a unit, with off-street parking provided on the property.

SIGHT DISTANCE. The length of roadway visible to the driver of a vehicle. Generally related to the distance or time (perception/reaction time) sufficient for the driver to execute a maneuver without striking another vehicle or object in the roadway.

SIGN. A device which is affixed to, or otherwise located or set upon a building, structure, or parcel of land which directs attention to an activity or business. The definition includes interior **SIGNS**, which are directed at persons outside the premises of the **SIGN** owners and exterior **SIGNS**, but not **SIGNS** primarily directed at persons within the premises of the **SIGN** owner. The definition does not include goods for sale displayed in a business window. The following additional definitions are provided.

(1) **“A” FRAME SIGN.** A sign designed in an A-frame fashion, having back-to-back sign faces to identify businesses, and not permanently attached to the ground, building, or other structure. (See also **POSTER PANEL SIGN.**)

(2) **ABANDONED SIGN.** See **OBSOLETE SIGN.**

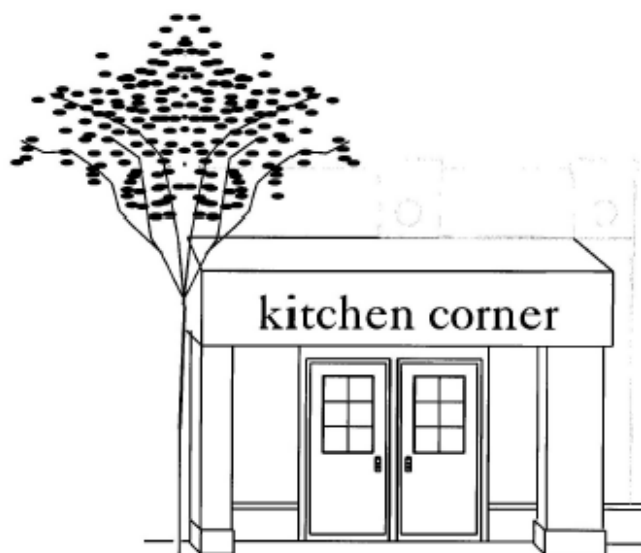
(3) **ANIMATED SIGN.** A sign, other than a changeable copy sign, whereby the sign itself or the information conveyed incorporates or involves action, motion, or the appearance of action or motion, such as flashing lights, color changes, moving parts, reflective materials, scrolling messages, or video-like features.

(4) **BANNER SIGN.** A sign made of fabric, plastic, or other non-rigid material without an enclosing structural framework.

(5) **BILLBOARD SIGN.** An off-premises sign as regulated by Public Act 106 of 1972, being M.C.L.A. §§ 252.301 through 252.323, as amended.

(6) **CANOPY SIGN.** Any sign that is part of, or attached to, a canopy, awning, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area and which does not extend vertically or horizontally beyond the limits of the canopy. For the purposes of this definition, a **CANOPY** shall be defined as a shelter projecting from and supported by the exterior wall of a building constructed of non-rigid materials on a supporting framework.

Canopy Sign



(7) **CHANGEABLE COPY SIGN.** A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. This definition may include a sign where sign information is remotely changed by electronic or electrical signal or a sign where sign copy is physically changed by the personal actions of the sign operator. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a **CHANGEABLE COPY SIGN** for the purposes of this chapter. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a “time and temperature” portion of a sign and not a **CHANGEABLE COPY SIGN** for the purposes of this chapter.

(8) **DIRECTIONAL SIGN.** A sign which gives directions, instructions, or facility information for the use on the lot or parcel on which the sign is located, such as parking or exit and entrance signs.

Directional Sign



(9) **FREESTANDING SIGN.** A sign which is erected upon or supported by the ground, including “pole signs” and “ground signs”. Poster panel signs and sandwich signs shall not be considered a **FREESTANDING SIGN** for the purposes of this chapter.

(10) **GROUND SIGN.** A three dimensional, self supporting, base-mounted freestanding identification sign, consisting of two or more sides extending up from the base, and upon which a message, business, group of businesses, or center name is affixed.

Ground Sign



(11) **INCIDENTAL SIGN.** A small sign, emblem, or decal informing the public of goods, facilities, or services available on the premises. Examples of **INCIDENTAL SIGNS** include credit card signs, signs indicating the hours of business, no smoking signs, signs used to designate restrooms, and signs providing information on business affiliations.

(12) **MARQUEE SIGN.** A sign affixed flat against the surface of a marquee. For the purposes of this definition, a **MARQUEE** shall be defined as a permanent structure constructed of rigid materials that projects from the exterior wall of a building.

(13) **MOTOR VEHICLE SIGN.** A sign measuring more than two square feet in size that is mounted, placed, written, or painted on a vehicle or trailer, whether motor-driven or not.

(14) **MURAL SIGN.** A design or representation which is painted or drawn on a wall, which shall be further defined as the following.

(a) **COMMERCIAL MURAL SIGN.** A mural sign which does advertise an establishment, product, service, or activity.

(b) **NONCOMMERCIAL MURAL SIGN.** A mural sign which does not advertise an establishment, product, service, or activity.

(15) **NAMEPLATE SIGN.** A non-electric, on-premises identification sign giving only the name, address, and/or occupation of an occupant or group of occupants.

(16) **OBSOLETE SIGN.** A sign that advertises a product that is no longer made, an event that has already occurred, or that advertises a business that has closed.

(17) **OFF-PREMISES SIGN.** A sign located on a different lot or parcel from that which is identified on such sign.

(18) **POLE SIGN.** A sign supported on the ground by a pole, braces, or monument, and not attached to any building or other structure.

Pole Sign



(19) **POLITICAL SIGN.** A temporary sign used in connection with local, state, or national elections or referendums.

(20) **PORTABLE SIGN.** A sign designed to be moved easily and not permanently attached to the ground, a structure, or a building, including signs with wheels, hot-air and gas-filled balloons, pennants, streamers, ribbons, pinwheels, nongovernmental flags, and searchlights. A poster panel sign shall not be considered a **PORTABLE SIGN** for the purposes of this chapter.

(21) **POSTER PANEL SIGN.** A sign that is located outside of a business on a daily basis for the purpose of providing the public with information about the business (e.g., products and services offered, daily specials, and the like). **POSTER PANEL SIGNS** include sandwich signs and “A” frame signs.

(22) **PROJECTING SIGN.** A sign other than a wall sign, that is affixed to any building or wall and whose leading edge extends more than 12 inches beyond such building or wall.

Projecting Sign



(23) **REAL ESTATE SIGN.** A temporary sign placed upon property for the purpose of advertising to the public the sale, rental, or lease of said property.

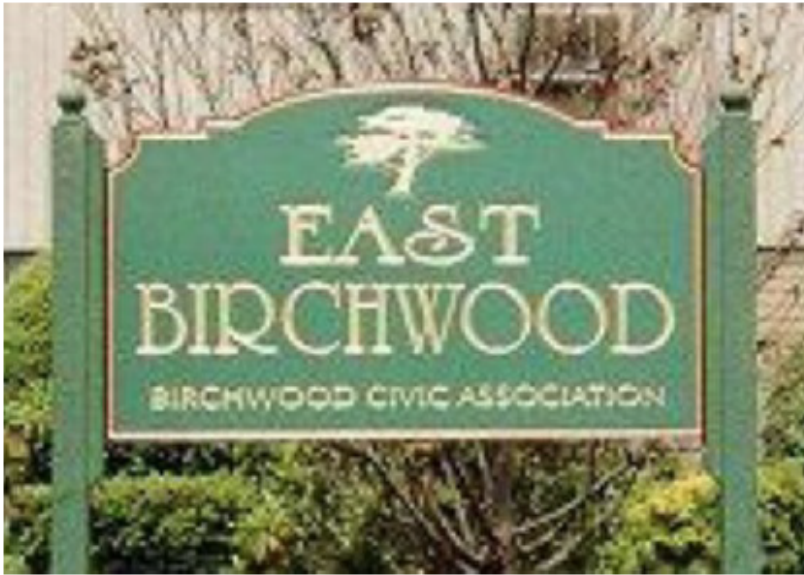
Real Estate Sign



(24) **REAL ESTATE DEVELOPMENT SIGN.** A sign that is designed to promote the sale, rental, or lease of lots, homes, or building space in a real estate development (such as a subdivision or shopping center) which is under construction on the parcel on which the sign is located.

(25) **RESIDENTIAL DEVELOPMENT ENTRY SIGN.** A permanent, on-premises sign identifying a vehicular entrance to a residential subdivision or residential complex.

Residential Development Entry Sign



(26) **ROOF SIGN.** Any sign wholly erected to, constructed, or maintained on the roof structure of any building.

(27) **SANDWICH SIGN.** A sign designed in an A-frame fashion, having back-to-back sign faces to identify businesses, and not permanently attached to the ground, building, or other structure. (See also **POSTER PANEL SIGN.**)

(28) **SIGN SURFACE.** The part of the sign upon, against, or through which the message is displayed or illustrated.

(29) **SPECIAL EVENT SIGN.** Temporary and portable signs containing public messages concerning noncommercial special events that are of a religious, charitable, social, or educational nature.

(30) **TEMPORARY SIGN.** A sign, banner, or other advertising device constructed of cloth, canvas, fabric, plastic, or other light temporary material, with or without structural frame, or any other sign intended for a limited period of display, but not including decorative display for holidays or public demonstration.

(31) **TIME/TEMPERATURE SIGN.** A sign which displays the current time or outdoor temperature or both, and which displays no other material except for the name of the business.

(32) **WALL SIGN.** Any sign that shall be affixed parallel to the wall or printed or painted on the wall of any building; provided, however, said **WALL SIGN** shall not project more than 12 inches from the wall, above the top of the wall, or beyond the end of the building. For the purpose of this chapter, any sign display surface that is affixed flat against the sloping surface of a mansard roof shall be considered a **WALL SIGN**.

Wall Sign



(33) **WINDOW SIGN.** A sign installed inside a window and intended to be viewed from the outside.

SITE CONDOMINIUM. A condominium development containing residential, commercial, office, industrial, or other improvements for uses permitted in the zoning district in which located, in which each co-owner owns exclusive rights to a volume of space within which a structure or structures may be constructed, herein defined as a condominium unit, as described in the master deed. The following additional definitions are provided.

(1) **CONDOMINIUM ACT.** Public Act 59 of 1978, being M.C.L.A. §§ 559.101 through 559.272, as amended.

(2) **CONDOMINIUM DOCUMENTS.** The master deed, recorded pursuant to the Condominium Act, and any other instrument referred to in the master deed or bylaws which affects the rights and obligations of a co-owner in the condominium.

(3) **CONDOMINIUM LOT.** The condominium unit and the contiguous limited common element surrounding the condominium unit, which shall be the counterpart of "lot" as used in connection with a project developed under the Subdivision Control Act, Public Act 288 of 1967, being M.C.L.A. §§ 560.101 through 560.293, as amended.

(4) **CONDOMINIUM UNIT.** The portion of a condominium project designed and intended for separate ownership and use, as described in the master deed.

(5) **COMMON ELEMENTS.** Parts of a property that are necessary or convenient to the existence, maintenance, and safety of a condominium or are normally in common use by all of the condominium residents. Each condominium owner has an undivided ownership interest in the general common elements.

(6) **GENERAL COMMON ELEMENTS.** The common elements other than the limited common elements.

(7) **LIMITED COMMON ELEMENTS.** A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.

(8) **MASTER DEED.** The condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan for the project, and all other information required by § 8 of the Condominium Act.

SITE PLAN. A plan showing all salient features of a proposed development, as required under § 154.024 so that it may be evaluated in order to determine whether it meets the provisions of this chapter. The processing of a **SITE PLAN** will include a preliminary and/or final approval as may be appropriate.

SKETCH PLAN. A preliminary drawing indicating general development of a lot or parcel.

SPECIAL USE. A use which is subject to special approval by the Planning Commission. A **SPECIAL USE** may be granted only in accordance with specific provision in this chapter. A **SPECIAL USE** is not considered to be a nonconforming use.

STORAGE, OUTDOOR. Placing new, used, or obsolete materials, products, or merchandise out of doors. **OUTDOOR STORAGE** is prohibited, except as otherwise provided in this chapter.

STORY. The portion of a building included between the surface of any floor and the surface of the floor above it or, if there is no floor above it, then the space between the floor and the ceiling above it. (See Figure 1.)

STORY, ONE-HALF. The part of a building between a pitched roof and the uppermost full story, said part having a floor area which does not exceed one-half the floor area of said full story, provided the area contains at least 200 square feet with a clear height of at least seven feet, six inches.

STREET. A public thoroughfare, which affords the principal means of access to abutting property.

STREET LINE. The dividing line between the street right-of-way and the lot. When such right-of-way is not definable, a line shall be defined as 33 feet on either side of the center of the street.

STRUCTURE. Anything constructed or erected above ground level which is attached to something located on the ground. **STRUCTURES** typically include such things as buildings, amateur radio towers, sheds, and decks.

SUBSTANTIAL IMPROVEMENT.

(1) Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either: before the improvement or repair is started; or if the structure has been damaged and is being restored, before the damage occurred.

(2) For the purpose of this definition, **SUBSTANTIAL IMPROVEMENT** is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects to external dimensions of the structure.

(3) This term does not include: any improvement of a structure to comply with existing state or local building, health, sanitary, or safety code specifications which are necessary to assure safe occupancy of the structure; or any alteration of a structure listed on the National or State Register of Historic Places or in a local historic district established under state law.

TRIP GENERATION RATE.

(1) The number of trip ends associated with a development based on building area, lot size, number of dwellings, or employees and other parameters.

(2) The number can be estimated using accumulated data or comparable development given in nationally accepted sources, such as the *Trip Generation Manual* prepared by the Institute of Traffic Engineers (ITE) or the Federal Highway Administration (FHWA).

VISUAL BLIGHT. A negative physical appearance in a specific location or area.

WIRELESS COMMUNICATION FACILITIES.

(1) **COLLOCATE.** To place or install wireless communications equipment on an existing wireless communications support structure or in an existing equipment compound. **COLLOCATION** has a corresponding meaning.

(2) **STEALTH.** Any WCSS or WCE which is designed to enhance architectural elements, and WCSS designed to look other than like a tower such as light poles, power poles, and trees. **STEALTH** does not necessarily exclude the use of un-camouflaged lattice, guyed, or monopole tower designs.

(3) **WIRELESS COMMUNICATIONS EQUIPMENT (WCE).** The set of equipment and network components used in the provision of wireless communications services including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, and coaxial and fiber optic cables, but excluding wireless communications support structures.

(4) **WIRELESS COMMUNICATIONS EQUIPMENT COMPOUND (WCEC).** An area surrounding or adjacent to the base of a wireless communications support structure and within which the wireless communications equipment is located.

(5) **WIRELESS COMMUNICATIONS SUPPORT STRUCTURE (WCSS).** A structure that is designed to support, or is capable of supporting, wireless communications equipment, including a monopole, self-supporting lattice tower, guyed tower, water tower, utility pole, or building.

YARD, FRONT.

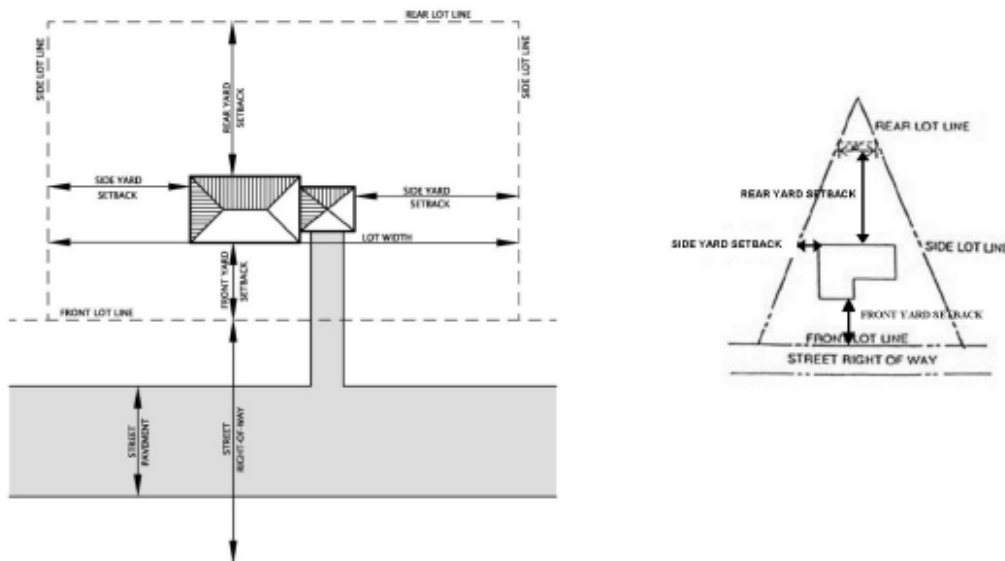
(1) A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the principal building and the front lot line, and measured perpendicular to the building at the closest point to the front lot line.

(2) In all cases, the front lot line shall be considered to be that portion of the lot which abuts a public road right-of-way or private road easement (for currently nonconforming lots). (See Figure 5.)

YARD, REAR. A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the principal building. (See Figure 5.)

YARD, SIDE. A yard between any building and the side lot line, extending from the front yard to the rear yard. The width of the required **SIDE YARD** shall be measured horizontally from the nearest point of the side lot line to the nearest point of principal building. (See Figure 5.)

Figure 5



ZONING ADMINISTRATOR. The City Manager of the City of Linden shall be appointed by City Council to administer this chapter. The City Manager may delegate administrative or enforcement duties to a subordinate.

(Ord. 285, passed 12-8-2003; Ord. 336, passed 6-11-2012; Ord. 355, passed 6-8-2015; Ord. 356, passed 6-8-2015; Ord. 380, passed 9-25-2017; Ord. 381, passed - -2017)

ADMINISTRATION AND ENFORCEMENT

§ 154.020 ZONING ADMINISTRATION.

The Zoning Administrator, or such deputies, shall be appointed by the City Council and designated to administer and enforce the provisions of this chapter.

(Ord. 285, passed 12-8-2003)

§ 154.021 DUTIES.

The Zoning Administrator shall:

(A) Receive and review for completeness all applications for site plan review and special use permits which the Planning Commission is required to decide under this chapter and refer such applications to the Planning Commission for determination;

(B) Receive and review for completeness all applications for appeals, variances, or other matters, which the Zoning Board of Appeals is required to decide under this chapter and refer such applications to the Zoning Board of Appeals for determination;

(C) Receive and review for completeness all applications for amendments to this chapter and refer such applications to the Planning Commission and City Council for determination;

(D) Make periodic site inspections of the city to determine ordinance compliance, and answer complaints on zoning ordinance violations. The Zoning Administrator shall order discontinuance of illegal uses of land, buildings, or structures; removal of illegal buildings or structures; discontinuance of any illegal work being done; and/or shall take any other action authorized by this chapter to ensure compliance with or prevent violations of its provisions;

(E) Grant certificates of zoning compliance, review administratively site plans, and make inspections of premises necessary to carry out administration and enforcement of this chapter;

(F) Implement the decisions of the Planning Commission and City Council; and

(G) Serve as liaison between Planning Commission and Historic District Commission.

(Ord. 285, passed 12-8-2003)

§ 154.022 CERTIFICATES OF ZONING COMPLIANCE.

(A) A building permit for erection, alteration, moving, or structural repair of any building or structure shall not be issued until a certificate of zoning compliance has been issued by the City Zoning Administrator. Issuance of such a certificate shall indicate the use(s) and plans for which the permit is requested comply with this chapter.

(B) It shall be unlawful to use or permit the use of any building or premises, or both, or part thereof, until a certificate of zoning compliance shall have been issued by the Zoning Administrator.

(C) The Zoning Administrator shall maintain a record of all certificates of zoning compliance and said record shall be open for public inspection.

(D) Certificates of zoning compliance authorize only the use, arrangement, and construction set forth in an approved application and plans, therefore no other use, arrangement, or construction is permitted. Use arrangement or construction at variance with the authorization shall be deemed a violation of this chapter. Any change in approved plans shall occur only as provided for in this chapter and shall require issuance of an amended certificate of zoning compliance.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.023 SPECIAL LAND USES.

(A) *Application.* Applications for special land use permits authorized in this chapter shall be submitted to the Zoning Administrator on a form provided by the city. In addition to a complete application form, the

applicant is required to pay all required fees and submit a preliminary site plan prepared in accordance with § 154.024. Incomplete submittals shall not be accepted by the Zoning Administrator.

(B) *Procedures.*

(1) Special land use permits may be granted by the Planning Commission at its discretion.

(2) The Zoning Administrator shall review the proposed application and preliminary site plan to determine if all required information has been supplied, and forward the completed application, preliminary site plan, and supporting data to the Planning Commission.

(3) Upon receipt of the proposed application, the Planning Commission shall hold a public hearing after the notice has been given as set forth in division (B)(4) below.

(4) (a) One notice that such a request has been received shall be published in at least one newspaper of general circulation within the city. Notice shall also be sent by first-class mail or personal delivery to the owners of the property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet regardless of whether the property or occupant is located in the city. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

(b) The notice shall be given not less than 15 days before the date the application will be considered. The notice shall: describe the nature of the special land use request; indicate the property which is the subject of the special land use request; state when and where the special land use request will be considered; indicate when and where written comments will be received concerning the request; and the notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.

(5) Following the public hearing, the Planning Commission may deny, approve, or approve with conditions a request for a special land use. The decision of the Planning Commission shall be incorporated in a statement of conclusions relative to the special land use under consideration. Any decision, which denies a request or imposes conditions upon its approval, shall specify the basis for the denial or the conditions imposed.

(6) The Planning Commission may impose such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights, and for ensuring that the purposes of this chapter and the general spirit and purpose of the district in which the special use is proposed will be observed.

(C) *Basis of determinations.* The Planning Commission shall review the proposed special use in terms of the standards stated within this chapter and shall establish that such use and the proposed location:

(1) Will be harmonious and in accordance with the general objectives or any specific objectives of the Master Plan;

(2) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the area;

(3) Will not be hazardous or disturbing to existing uses or uses reasonably anticipated in the future;

(4) Will be an improvement in relation to property in the immediate vicinity and to the city as a whole;

(5) Will be served adequately by essential public services and facilities or that the persons responsible for the establishment of the proposed use will provide adequately any such service or facility;

(6) Will not create excessive additional public costs and will not be detrimental to the economic welfare of the city; and

(7) Will be consistent with the intent and purposes of this chapter.

(D) *Duration, voiding, and extensions of permit.*

(1) Unless otherwise specified by the Planning Commission, any special land use permit granted under this section shall be null and void unless the development proposed shall have its first building inspection within one year from the date of the granting of the permit. The Planning Commission may grant an extension thereof for good cause for a period not to exceed one year.

(2) The Zoning Administrator may suspend or revoke a permit issued under the provisions of this chapter whenever the permit is issued erroneously on the basis of incorrect information supplied by the applicant or his or her agent and is in violation of any of the provisions of this chapter or of any other ordinances or regulations of the city.

(E) *Re-application.* No application for a special use permit which has been denied wholly or in part shall be re-submitted until the expiration of one year or more from the date of such denial, except on grounds of newly discovered evidence or change of conditions found to be sufficient to justify reconsideration by the Planning Commission.

(Ord. 285, passed 12-8-2003)

§ 154.024 SITE PLAN REVIEW.

The Planning Commission shall have the authority to review and to approve or reject all site plans (i.e., preliminary, final, and combined site plans). Prior to the issuance of building permits or commencement of construction, site plan review and approval is required in accordance with the procedures contained in this section.

(A) *When required.*

(1) Site plan review is required for all proposed uses, including change of use, and certain existing uses within the city where an alteration, addition, expansion, change, or conversion constitutes an increase or reduction to the existing structure or use of more than 500 square feet or 10%, whichever is less; or would require a variance from the provisions of this chapter, regardless of its size.

(2) A site plan shall not be required for individual single- or two-family dwellings, or residential accessory buildings.

(3) The city shall not issue a building permit until a final site plan has been approved and is in effect. A use, not involving a building or structure, shall not be commenced or expanded, nor shall the Zoning Administrator or duly appointed agent issue an occupancy permit for such use until a final site plan has been approved and is in effect.

(4) No grading, removal of trees, or other vegetation, landfilling, or construction of improvements shall commence for any development which requires site plan approval until a final site plan is approved and is in effect, except as otherwise provided in this subchapter.

(B) *Preliminary sketch plan.*

(1) *Administrative Review.*

(a) The intent of this section is to permit the submittal of a preliminary sketch plan in certain specific instances where a complete site plan is not considered essential to ensure compliance with the intent and standards of this chapter. The intent is to also provide for an administrative review by city staff

of Planning Commission approved site plans for compliance with conditions as imposed by the Planning Commission.

(b) In lieu of a complete site plan prepared in accordance with divisions (C) and (D) below, a preliminary sketch plan may be submitted for the uses or activities identified below:

1. Accessory uses incidental to a conforming existing use where said use does not require any variance or further site modifications;
2. Expansion and/or addition of 1,500 square feet or less to an existing conforming structure or use;
3. Alterations to off-street parking layout or installation of pavement or curbing improvements provided the total number of spaces does not change the number of parking spaces by more than 5% or to meet various federal, state, or ADA requirements;
4. Improvements or installation of walls, fences, lighting, or trash containers/enclosures;
5. Approval for establishment of a home occupation; and/or
6. Change of use in the Central Business District limited to a use not exceeding 2,500 square feet or a change of use in any other zoning district limited to a use not exceeding 1,500 square feet.

(c) 1. The procedure for administrative approval of a preliminary sketch plan shall involve the submittal of a preliminary sketch plan meeting the requirements of division (B)(2) below. Additionally, the required application form and fee shall be submitted. The Zoning Administrator shall review the preliminary sketch plan in accordance with the standards of division (D)(3). The Zoning Administrator shall make a report of administrative reviews to the Planning Commission.

2. The Zoning Administrator retains the option to require additional information or a complete site plan for review by the Planning Commission, particularly for sites which do not comply with previously approved site plans, sites with parking deficiencies, sites abutting residential districts, or sites experiencing problems with drainage, traffic, noise, aesthetics, or other general health and safety issues. If a complete site plan is required, the Zoning Administrator shall inform the applicant to submit a set of plans in accordance with this subchapter within 14 days of receipt of the application. The Zoning Administrator shall also have authority to refer any site plan eligible for administrative review to any consultants employed by the city for the purposes of site plan review.

3. The Planning Commission shall require the applicant to deposit a performance guarantee for all projects with greater than \$5,000 in site improvements including, but not limited to, roadways, lighting, utilities, sidewalks, drainage, fences, walls, and landscaping. Such performance guarantee shall be deposited in accordance with § 154.027.

(2) *Information required.* The general information required for all cases includes:

- (a) Details of the proposed changes to the use or structure in question;
- (b) Proprietors', applicants', and owners' names, addresses, and telephone numbers;
- (c) Location map with north point indicated;
- (d) Locations of existing landscaping, lighting, parking, if applicable, including the proposed method of refuse collection;
- (e) Gross acreage and building figures;
- (f) Zoning classification of petitioners' parcel and all abutting parcels;
- (g) An inspection of the site by both the Building Inspector and Fire Chief to ensure compliance with applicable building and fire codes. Documentation of an inspection shall be given to the Zoning Administrator; and

(h) Estimated cost of proposed site improvements including roadways, lighting, utilities, sidewalks, drainage, fences, walls, and landscaping.

(C) *Preliminary site plan.*

(1) *Application.* Any applicant may submit a request for preliminary site plan review by filing with the Zoning Administrator completed forms, payment of the review fee, and 12 copies of the preliminary site plan drawing(s) properly signed and sealed by a licensed professional. The Administrator, upon receipt of the application, shall transmit only complete submittals of the preliminary site plan drawings to the Planning Commission, city planning and engineering consultants, and any other consultants, at least 21 days prior to its next regular meeting. The purpose of such preliminary review is to confirm general compliance with city standards as well as to suggest changes, if necessary, for final site plan approval.

(2) *Information required.* Each preliminary site plan submitted for review shall provide the following information:

- (a) Property owner and applicant name and address;
- (b) Scale, north arrow, and date of plan;
- (c) Location, description, dimensions, and area of the site; zoning classification; and demonstration of compliance with lot area, width, coverage, and setback requirements;
- (d) General topography and soils information and existing natural and human-made features to be retained or removed;
- (e) Use, location, and dimensions of proposed buildings/structures including floor area, number of floors, height, number, and type of dwelling units (where applicable);
- (f) Proposed streets/drives including general alignment, right-of-way, surface type, and width, based on ordinance requirements for proposed use;
- (g) Proposed parking including location and dimensions of spaces and aisles, and surface type;
- (h) Demonstration that all barrier-free requirements have been met;
- (i) Adjacent land uses, property owners, and zoning and location of adjacent buildings and drives/streets;
- (j) Proposed phasing;
- (k) Location and width of any easements on the site; and
- (l) General description and location of proposed service facilities, including water supply facilities, sanitary sewage disposal facilities, and stormwater control facilities.

(3) *Planning Commission action.* The Planning Commission shall approve, approve with conditions, or deny the preliminary site plan within 90 days from the date of the Planning Commission meeting at which the site plan is first heard. The Planning Commission shall set forth the reason for its action in the record of the meeting at which action is taken. The time limit may be extended upon a written request by the applicant and approval by the Planning Commission.

(4) *Effect of approval.* Approval of a preliminary site plan by the Planning Commission shall indicate its general acceptance of the proposed layout of buildings, streets and drives, parking areas, other facilities, and overall character of the proposed development.

(5) *Expiration of approval.* Approval of a preliminary site plan shall be valid for a period of 180 days from the date of approval and shall expire and be of no effect unless an application for a final site plan is filed with the Zoning Administrator within that time period. The Zoning Administrator or duly appointed agent shall, within 30 days of the date of action of the Planning Commission of the preliminary site plan, transmit a written certification of such approval to the applicant.

(D) *Final site plan.*

(1) *Application.* Following approval of a preliminary site plan, the applicant shall submit to the Zoning Administrator 12 copies of a final site plan as well as other data and exhibits hereinafter required, the review fee, and a completed application form. The Administrator, upon receipt of the application, shall transmit only complete submittals of the final site plan drawing(s) to the Planning Commission, city planning and engineering consultants, and any other consultants, prior to its next regular meeting.

(2) *Information required.* A final site plan submitted for review and approval shall contain all of the following data presented in a clear and legible format. Site plans shall consist of an overall plan for the entire development. Sheet size shall be at least 24 inches by 36 inches with plan view drawn to a scale of no greater than one inch equals 50 feet for property less than three acres or no greater than one inch equals 100 feet for property three or more acres.

(a) *General information.*

1. Proprietors', applicants', and owners' names, addresses, and telephone numbers;
2. Date of preparation, including revisions;
3. Scale;
4. North point;
5. Location map drawn at a scale of one inch equals 2,000 feet with north point indicated;
6. Architect, engineer, surveyor, landscape architect, or planner's seal and signature;
7. Existing and proposed lot lines, building or structures, parking areas, drives, and the like on the parcel and within 100 feet of the site;
8. Centerline and existing and proposed right-of-way lines of any street;
9. Zoning classification of petitioner's parcel and all abutting parcels; and
10. Gross acreage figure.

(b) *Physical features.*

1. Acceleration, deceleration, and passing lanes and approaches;
2. Proposed locations of access drives, street intersections, driveway locations, sidewalks, and curbing;
3. Location of existing and proposed service facilities above and below ground, including:
 - a. Chemical and fuel storage tanks and containers;
 - b. Water supply facilities;
 - c. Sanitary sewage disposal facilities;
 - d. Stormwater control facilities and structures; and
 - e. Location of all easements.
4. Location of all structures with setback, yard dimensions, and gross area;
5. Dimensioned parking spaces and parking and loading calculations, drives type of surfacing and on-site circulation patterns;
6. Details of barrier-free parking, access, and similar site features;

7. Dimensioned floor plans, elevations, and proposed construction materials of all proposed buildings on the site;
8. Proposed site lighting information;
9. Location and description of all existing and proposed landscaping, berms, fencing, and screening walls;
10. Trash receptacle pad location, size, and method of screening;
11. Transformer pad location and method of screening;
12. Dedicated road or service drive locations;
13. Entrance details including sign locations, types, and size;
14. Designation of fire lanes; and
15. Any other pertinent physical features.

(c) *Natural features.*

1. Soil characteristics of the parcel to at least the detail provided by the U.S. Soil Conservation Service, Soil Survey of Genesee County, Michigan;
2. Existing topography with a maximum contour interval of two feet. Areas with slopes greater than 10% (one foot of vertical elevation for every ten feet of horizontal distance) shall be delineated. Topography on the site and beyond the site for a distance of 100 feet in all directions shall also be indicated;
3. Grading plan, showing finished contours at a maximum interval of one foot, correlated with existing contours so as to clearly indicate required cutting, filling, and grading;
4. Location of existing drainage courses and associated bodies of water, on and off site, and their elevations. The location of existing wetlands and floodplains shall be included;
5. Location, size, and type of all single trees having a diameter breast height (d.b.h.) of four inches or greater. Wooded areas shall be delineated by symbolic lines tracing the spread of the outermost branches and shall be described as the general sizes and kinds of trees contained; and
6. Keyed plan outlining soil erosion and sedimentation measures to be provided.

(d) *Additional requirements for residential developments.*

1. Density calculations by type of unit by bedroom counts;
2. Designation of units by type and number of units in each building;
3. Carport locations and details where proposed;
4. Specific amount, location, and type of recreation spaces; and
5. Number and location of visitor parking spaces to be provided.

(e) *Additional requirements for commercial and industrial developments.*

1. Loading/unloading areas;
2. Gross floor area; and
3. Number of employees in peak usage.

(3) *Standards for review.* In reviewing the final site plan, the Planning Commission shall determine whether the plan meets the following specifications and standards:

- (a) The plan conforms to the approved preliminary site plan and with all zoning ordinance regulations;
- (b) All required information is provided;
- (c) The proposed use will not be injurious to the surrounding neighborhood and protects the general health, safety, welfare, and character of the city;
- (d) A proper relationship exists between major thoroughfares and proposed service drives, driveways, and parking areas. Proper access to all portions of the site and all sides of any structure is provided. All structures or groups of structures shall be so arranged as to permit emergency vehicle access by some practical means to all sides;
- (e) The location of buildings is such that the adverse effects of such uses will be minimized for the occupants of that use and surrounding areas;
- (f) Natural resources will be preserved to the maximum extent possible in the site design by developing in a manner which will not detrimentally affect or destroy natural features such as lakes, ponds, streams, wetlands, steep slopes, soils, groundwater, and woodlands;
- (g) Stormwater management systems and facilities will preserve the natural drainage characteristics and enhance the aesthetics of the site to the maximum extent possible, and will not substantially reduce or increase the natural retention or storage capacity of any wetland, water body, or watercourse, or cause alterations which could increase flooding or water pollution on or off site;
- (h) Wastewater treatment systems, including on-site septic systems, will be located to minimize any potential degradation of surface water or groundwater quality and meet county and state standards;
- (i) Sites which include storage of hazardous materials or waste, fuels, salt, or chemicals will be designed to prevent spills and discharges of polluting materials to the surface of the ground, groundwater, or nearby water bodies in accordance with county and state standards;
- (j) Landscaping, including grass, trees, shrubs, and other vegetation is provided to maintain and improve the aesthetic quality of the site and area; and
- (k) The proposed use is in compliance with all city ordinances and any other applicable laws.

(4) *Planning Commission action.*

(a) The Planning Commission shall approve, approve with conditions, or deny the final site plan within 90 days of the date of the Planning Commission meeting at which the site plan is first heard. The time limit may be extended upon a written request by the applicant and approved by the Planning Commission. The Planning Commission may suggest and/or require modifications in the proposed final site plan as are needed to gain approval.

(b) In the interest of ensuring compliance with this chapter and protecting the health, safety, and welfare of the residents of the city, the Planning Commission, as a condition of final approval of the site plan, shall require the applicant to deposit a performance guarantee as set forth in § 154.027 for the completion of improvements associated with the proposed use.

(5) *Effect of approval.* Approval of a final site plan authorizes applicant to apply for a building permit, certificate of zoning compliance, and/or certificate of occupancy. A building permit, certificate of zoning compliance, and/or certificate of occupancy will not be granted for site plans approved with conditions until the remaining issues have been addressed and resolved to the satisfaction of the Planning Commission.

(6) *Expiration of approval.* Approval of a final site plan shall expire and be of no effect one year following the date of approval unless construction has begun on the property in conformance with the approved final site plan. The applicant can request a one-year extension from the Planning Commission a month prior to the date of expiration. Approval shall also expire and be of no effect unless a building permit shall have been taken out within 180 days of the date of approval of the final site plan.

(E) *Combining preliminary and final site plans.* An applicant may, at his or her discretion and risk, combine a preliminary and final site plan application for approval. In such a situation the portion of the review process concerning preliminary site plan application and review may be waived by the Planning Commission. The Planning Commission shall have the authority to require submittal of a preliminary site plan separate from a final site plan, where, in its opinion, the complexity and/or scale of the site for the proposed development so warrant.

(F) *Amendment of approved site plan.* The Zoning Administrator shall have the authority to determine if a proposed change requires an amendment to an approved final site plan. A site plan may be amended upon application and in accordance with the procedure herein for a final site plan. The Zoning Administrator may approve minor changes in an approved final site plan, provided that a revised final site plan drawing(s) be submitted showing such minor changes, for purposes of record.

(G) *Modification of plan during construction.* All improvements shall conform to the final site plan. Any changes, which result in a material alteration of the site plan approved by the Planning Commission, shall require re-submittal to the Planning Commission. The Planning Commission or Zoning Administrator may require the applicant to correct the changes so as to conform to the approved final site plan.

(H) *Phasing of development.* The applicant may, at his or her discretion, divide the proposed development into two or more phases. In such case, the preliminary site plan shall cover the entire property involved and shall clearly indicate the location, size, and character of each phase. A final site plan shall be submitted for review and approval for each phase.

(I) *Inspection.*

(1) The Building Inspector or the city's designee shall be responsible for inspecting all improvements for conformance with the approved final site plan. All sub-grade improvements such as utilities, sub-base installations for drives and parking lots, and similar improvements shall be inspected and approved prior to covering. The applicant shall be responsible for requesting the necessary inspections. Prior to final site plan acceptance by the city, the site plan review checklist, approved by the Planning Commission, must be completed by the appropriate city staff documenting conformance with the final site plan.

(2) The Building Inspector/city's designee shall notify the Zoning Administrator, in writing, when a development for which a final site plan is approved has passed inspection with respect to the approved final site plan. The Building Inspector/city's designee shall notify the Zoning Administrator, in writing, of any development for which a final site plan was approved, which does not pass inspection with respect to the approved final site plan, and shall advise the Zoning Administrator of steps taken to achieve compliance. In such case, the Building Inspector/city's designee shall periodically notify the Zoning Administrator of progress towards compliance with the approved final site plan and when compliance is achieved.

(J) *Violations.* The approved final site plan shall regulate development of the property and any violation of this subchapter, including any improvement not in conformance of the approved final site plan, shall be deemed a violation of this chapter as provided in § 154.999, and shall be subject to all penalties therein.

(Ord. 285, passed 12-8-2003; Ord. 317, passed 11-10-2008; Ord. 335, passed 3-26-2012; Ord. 365, passed 6-8-2015; Ord. 377, passed 6-27-2016) Penalty, see § 154.999

§ 154.025 SITE CONDOMINIUM PROJECT REGULATIONS.

(A) *Intent.* Pursuant to the authority conferred by the Condominium Act, being M.C.L.A. § 559.241, preliminary and final site plans shall be regulated by the provisions of this chapter and subject to review by the Planning Commission.

(B) *General requirements.*

(1) Each condominium lot shall be located within a zoning district that permits the proposed use.

(2) Each condominium lot shall front on and have direct access to a public street approved by the city.

(3) For the purposes of this chapter, each condominium lot shall be considered equivalent to a single lot and shall comply with all regulations of the zoning district in which located, and the provisions of any other statutes, laws, ordinances, and/or regulations applicable to lots in subdivisions.

(4) In the case of a site condominium containing single-family, detached dwelling units, not more than one-dwelling unit shall be located on a condominium lot, nor shall a dwelling unit be located on a condominium lot with any other principal structure or use except in a PUD district. Required yards shall be measured from the boundaries of a condominium lot.

(C) *Site plan approval requirements.* Preliminary approval of the site plan and final approval of the site plan and condominium documents by the Planning Commission shall be required as a condition to the right to construct, expand, or convert a site condominium project. No permits for erosion control, building construction, grading, or installation of public water or sanitary sewerage facilities shall be issued for property in a site condominium development until a final site plan has been approved by the Planning Commission and is in effect. Preliminary and final approval shall not be combined.

(1) *Preliminary approval.*

(a) A preliminary site plan pursuant to the standards and procedures set forth in § 154.024 shall be submitted to the Planning Commission for preliminary review.

(b) If the site plan conforms in all respects to applicable laws, ordinances, and design standards, preliminary approval shall be granted by the Planning Commission.

(c) If the site plan fails to conform, the Planning Commission shall either deny the application, or grant preliminary approval with conditions, provided such conditions are met before final approval.

(2) *Final approval.*

(a) Following preliminary approval, the applicant shall submit a final site plan pursuant to the standards and procedures set forth in § 154.024(C). In addition to the final site plan, the condominium documents shall be submitted to the city for the review by the City Attorney and other appropriate staff and consultants. The condominium documents shall be reviewed 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 and/or common areas; and maintenance of stormwater, sanitary, and water facilities and utilities.

(b) The applicant shall also submit engineering plans in accordance with applicable design standards for construction of the project. The city shall submit engineering plans to the City Engineer for review.

(c) Upon completion of the review of the condominium documents and engineering plans and receipt of the recommendations and findings from the City Attorney, and engineering and planning consultants, the site plan shall be submitted to the Planning Commission for final review.

(d) If the site plan, condominium documents, and engineering plans conform in all respects to applicable laws, ordinances, and design standards, final approval shall be granted by the Planning Commission.

(e) If the site plan, condominium documents, or engineering plans fail to conform, final approval shall be denied by the Planning Commission.

(f) In the interest of ensuring compliance with this chapter and protecting the health, safety, and welfare of the residents of the city, the Planning Commission, as a condition of final approval of the site plan, shall require the applicant to deposit a performance guarantee as set forth in § 154.027 for the completion of improvements associated with the proposed use.

(D) *Required improvements.*

(1) All design standards and required improvements that apply to a conventional residential development, shall apply to any condominium development.

(2) Each condominium unit shall be connected to city water, sanitary, and storm sewers, designed and constructed in accordance with city utility standards.

(3) (a) Monuments shall be set at all boundary corners and deflection points and at all road right-of-way intersection corners and deflection points. Lot irons shall be set at all condominium lot corners and deflection points of condominium lot lines.

(b) The city may grant a delay in the setting of required monuments or irons for a reasonable time, but not to exceed one year, on condition that the developer deposit with the City Clerk cash, a certified check, or an irrevocable bank letter of credit to the city, whichever the developer selects, in an amount as determined from time to time by resolution of the Planning Commission. Such deposit shall be returned to the developer upon receipt of a certificate by a surveyor registered in the state that the monuments and irons have been set as required, within the time specified. If the developer defaults, the Planning Commission shall promptly require a registered surveyor to set the monuments and irons in the ground as shown on the condominium site plans, at a cost not to exceed the amount of the security deposit.

(4) Road rights-of-way shall be described separately from individual condominium lots, and shall be accurately delineated by bearings and distances on the condominium subdivision plan and the final site plan. The right-of-way shall be for roadway purposes and for the purposes of locating, installing, maintaining, and replacing of public utilities. The developer shall declare easements to the city for all public water and sanitary sewer lines and appurtenances.

(5) All improvements in a site condominium shall comply with the design specifications as adopted by the Planning Commission and any amendments thereto.

(E) *Information required prior to occupancy.* Prior to the issuance of occupancy permits for any condominium units, the applicant shall submit the following to the Zoning Administrator:

- (1) A copy of the recorded condominium documents (including exhibits);
- (2) A copy of any recorded restrictive covenants;
- (3) A copy of the site plan on laminated photostatic copy or Mylar sheet; and

(4) Evidence of completion of improvements associated with the proposed use including two copies of an as-built survey.

(F) *Revision of site condominium plan.* If the site condominium subdivision plan is revised, the final site plan shall be revised accordingly and submitted for review and approval or denial by the Planning Commission before any building permit may be issued, where such permit is required.

(G) *Amendment of condominium documents.* Any amendment to a master deed or bylaws that affects the approved preliminary or final site plan, or any conditions of approval of a preliminary or final site plan, shall be reviewed and approved by the City Attorney and Planning Commission before any building permit may be issued, where such permit is required. The Planning Commission may require its review of an amended site plan if, in its opinion, such changes in the master deed or bylaws require corresponding changes in the site plan.

(H) *Relocation of boundaries.* Relocation of boundaries between adjoining condominium units, if permitted in the condominium documents, as provided in § 48 of the Condominium Act, shall comply with all regulations of the zoning district in which located and shall be approved by the Zoning Administrator. These requirements shall be made a part of the bylaws and recorded as part of the master deed.

(I) *Subdivision of condominium lot.* Each condominium lot that results from a subdivision of another condominium lot, if such subdivision is permitted by the condominium documents, as provided in § 49 of the Condominium Act, shall comply with all regulations of the zoning district in which located, and shall be approved by the Zoning Administrator. These requirements shall be made a part of the condominium bylaws and recorded as part of the master deed.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.026 USE OF CONSULTANTS.

From time to time, the City Council, Planning Commission, or Zoning Board of Appeals may employ planning, engineering, legal, traffic, or other special consultants to assist in the review of special use permits, site plans, rezoning, or other matters related to the planning and development of the city. The cost of said consultants shall be charged to the applicant or petitioner.

(Ord. 285, passed 12-8-2003)

§ 154.027 PERFORMANCE GUARANTEE.

(A) In the interest of ensuring compliance with 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 Zoning Administrator shall require the applicant to deposit a performance guarantee as set forth herein. 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, streets, lighting, utilities, sidewalks, drainage, fences, screens, walls, and landscaping.

(B) **PERFORMANCE GUARANTEE** as used herein shall mean a cash deposit, certified check, irrevocable bank letter of credit, or corporate surety bond in the amount of the itemized estimated cost of the improvements to be made as determined by the applicant and verified by the city. The city shall be authorized to employ the city engineering and/or planning consultant to review cost estimates and conduct periodic inspection of the progress of improvements.

(C) The performance guarantee shall be deposited with the city prior to the issuance of a building permit for the development and use of the land. Upon the deposit of the performance guarantee, the city shall issue the appropriate building permit.

(D) The approval shall also prescribe the period of time within which the improvements are to be completed. The period will begin from the date of the issuance of the building permit.

(E) The Zoning Administrator, upon the written request of the applicant, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvement.

(F) Upon the satisfactory completion, as determined by the city, of the improvement for which the performance guarantee was required, the city shall return to the applicant the performance guarantee deposited and any interest earned thereon. However, the city is not required to deposit the performance guarantee in an interest-bearing account.

(G) (1) 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.

(2) If the performance guarantee is not sufficient to allow the city to complete the improvements, the applicant shall be required to pay the city all of the additional costs of completing the improvements. Should the city use the performance guarantee, or a portion thereof, to complete the required improvements, any amounts remaining after said completion shall be applied first to the city's administrative costs including, without limitation, attorney fees, planning consultant fees, and engineering consultant fees in completing the improvement with any balance remaining being refunded to the applicant.

(3) If the applicant has been required to post a performance guarantee or bond with another governmental agency other than the city to ensure completion of an improvement, 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 an agreement incorporating the provisions hereof with the city regarding the performance guarantee.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.028 FEES.

The City Council shall establish a schedule of fees, charges, and expenses, and a collection procedure, for building permits, certificates of occupancy, appeals, and other matters pertaining to this chapter. The city shall have the authority to include fees for the use of engineering, planning, legal, or other special consultants. The schedule of fees shall be posted in the city offices, and may be altered or amended only by the City Council. No permit or certificate shall be issued or special use site plan, rezoning, or variance acted upon unless or until such costs, charges, fees, or expenses have been paid in full.

(Ord. 285, passed 12-8-2003)

§ 154.029 AMENDMENTS.

(A) *Initiation of amendment.* The City Council may, from time to time, amend this chapter by changing or supplementing the district map, the districts on said map, or the boundaries of such districts, district regulations, or other provisions of this chapter. An amendment may be initiated by the City Council, by an interested person(s) or their agent(s), or by the Planning Commission, and when requested by an interested party shall be accompanied by a fee in an amount established by resolution of the City Council.

(B) *Amendment review procedure.* The amendment and application materials shall be prepared in accordance with the provisions of this section, and shall be reviewed in accordance with the following procedure. Amendments or application materials that do not meet the stipulated requirements shall be considered incomplete and shall not be eligible for consideration by the Planning Commission.

(1) *Technical review.* Prior to Planning Commission consideration, the proposed amendment and application materials shall be distributed to appropriate city staff and applicable outside agencies and designated city consultants for review.

(2) *Public hearing.* A public hearing shall be held for all proposed amendments in accordance with the procedures set forth in Public Act 110 of 2006, being M.C.L.A. §§ 125.3 et seq., as amended.

(3) *Planning Commission consideration.* Subsequent to the hearing, the Planning Commission shall review the proposed amendment, together with any reports and recommendations from staff, consultants, other reviewing agencies, and any public comments. The Planning Commission shall identify and evaluate all factors relevant to the petition, including the appropriate criteria listed in this section, and shall report its findings and recommendation to the City Council.

(4) *City Council action.* Upon receipt of the report and recommendation from the Planning Commission, the City Council shall consider the proposed amendment. If determined to be necessary, the City Council may refer the amendment back to the Planning Commission for further consideration. In the case of an amendment to the official zoning map, the City Council shall approve or deny the amendment, based upon its consideration of the criteria contained in this section.

(C) *Re-application.* Whenever an application for an amendment to this chapter has been denied by the City Council, a new application for the same amendment shall not be accepted by the Planning Commission for consideration for a period of 365 days, unless, upon recommendation by the Zoning Administrator, the Planning Commission determines that one or more of the following conditions has been met:

(1) There is a substantial change in circumstances relevant to the issues or facts considered during review of the application that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed in the application;

(2) New or additional information is available that was not available at the time of the review that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed; and/or

(3) The new application is materially different from the prior application.

(D) *Criteria for amendment of zoning district map.*

(1) In considering any petition for an amendment to the official zoning districts map, the Planning Commission and City Council shall consider the following criteria in making its findings, recommendations, and decision:

(a) Consistency with the goals, policies, and objectives of the Master Plan and any sub-area plans. If conditions have changed since the Master Plan was adopted, consistency with recent development trends in the area shall be considered;

(b) Compatibility of the site's physical, geological, hydrological, and other environmental features with the uses permitted in the proposed zoning district;

(c) Evidence the applicant cannot receive a reasonable return on investment through developing the property with one or more of the uses permitted under the current zoning;

(d) Compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure, and potential influence on property values;

(e) The capacity of city's utilities and services sufficient to accommodate the uses permitted in the requested district without compromising the health, safety, and welfare of the city;

(f) The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district; and

(g) The apparent demand for the types of uses permitted in the requested zoning district in the city in relation to the amount of land in the city currently zoned to accommodate the demand.

(2) Where a rezoning is reasonable given the above criteria, a determination shall be made that the requested zoning district is more appropriate than another district or amending the list of permitted or special land uses within a district.

(E) *Protests.*

(1) Upon presentation of a protest petition meeting the requirements of this division (E), an amendment to the zoning ordinance which is the object of the petition shall be passed only by a two-thirds vote of the City Council. The protest petition shall be presented to the City Council before final Council action on the amendment, and shall meet signatory requirements of divisions (E)(1)(a) or (E)(1)(b) below:

(a) The owners of at least 20% of the area of land included in the proposed change; or

(b) The owners of at least 20% of the area of land included within an area extending outward 100 feet from any point on the boundary of the land in the proposed change.

(2) For the purposes of this division (E), publicly-owned land shall be excluded in calculating the 20% land area requirement.

(Ord. 357, passed 6-8-2015)

§ 154.030 CONDITIONAL REZONING.

(A) *Intent.* It is recognized that there are certain instances where it would be in the best interests of the city, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this

section to provide a process consistent with the provisions of § 405 of the Zoning Enabling Act, Public Act 110 of 2006, being M.C.L.A. § 125.3405, as amended, by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

(B) *Application and offer of conditions.*

(1) An owner of land may voluntarily offer, in writing, conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.

(2) The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this section.

(3) The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.

(4) The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.

(5) Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this chapter may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this chapter.

(6) Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this chapter may only be commenced if a variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this chapter.

(7) Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this chapter may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this chapter.

(8) The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the City Council provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

(C) *Planning Commission review.* The Planning Commission, after public hearing and consideration of the standards for approval set forth in division (E) below, may recommend approval, approval with recommended changes, or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

(D) *City Council review.* After receipt of the Planning Commission's recommendation, the City Council shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The City Council's deliberations shall include, but not be limited to, a consideration of the standards for approval set forth in division (E) below. Should the City Council consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the City Council shall, in accordance with the State Zoning Enabling Act, being M.C.L.A. § 125.3401, refer such amendments to the Planning Commission for a report thereon within a time specified by the City Council and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

(E) *Factors.* In reviewing an application for the rezoning or land where there is an offer of conditions, factors that should be considered by the Planning Commission and the City Council shall include the following:

(1) Whether the proposed rezoning is consistent with the goals, policies, and future land use map of the city's Master Plan;

(2) The compatibility of all the potential uses allowed in the proposed zoning district with surrounding land uses and zoning districts in terms of land suitability, impacts on the environment, density, and influence on property values;

(3) Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning. Consideration of impact on drains and roads is specifically required; and

(4) Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.

(F) *Approval.*

(1) If the City Council finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written statement of conditions acceptable to the owner and conforming in form to the provisions of this section. The statement of conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the City Council to accomplish the requested rezoning.

(2) The statement of conditions shall:

(a) Be in a form recordable with the Register of Deeds of the county in which the subject land is located or, in the alternative, be accompanied by a recordable affidavit or memorandum prepared and signed by the owner giving notice of the statement of conditions in a manner acceptable to the City Council;

(b) Contain a legal description of the land to which it pertains;

(c) Contain a statement acknowledging that the statement of conditions runs with the land and is binding upon successor owners of the land;

(d) Incorporate by attachment or reference any diagram, plans, or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the statement of conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined;

(e) Contain a statement acknowledging that the statement of conditions or an affidavit or memorandum giving notice thereof shall be recorded with the Register of Deeds of the county by the owner with a copy of the recorded document provided to the city within 45 days of its recording; and

(f) Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the statement of conditions.

(3) Upon the rezoning taking effect, the zoning map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a statement of conditions. The City Clerk shall maintain a listing of all lands rezoned with a statement of conditions.

(4) The approved statement of conditions or an affidavit or memorandum giving notice thereof shall be filed by the owner with the Register of Deeds of the county. The owner shall provide a copy of the recorded document to the city within 45 days of the date of its recording. The City Council shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the city or to any subsequent owner of the land.

(5) Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the statement of conditions.

(G) *Compliance with conditions.*

(1) Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the statement of conditions. Any failure to comply with a condition contained within the statement of conditions shall constitute a violation of this chapter and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.

(2) No permit or approval shall be granted under this chapter for any use or development that is contrary to an applicable statement of conditions.

(H) *Time period for establishing development or use.* Unless another time period is specified in the ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 36 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may, upon written request, be extended by the City Council if:

(1) It is demonstrated to the City Council's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion;

(2) The City Council finds that there has not been a change in circumstances that would render the current zoning with statement of conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy; and

(3) The written request shall be made to the City Council requesting the extension within six months of the end of the 36-month period.

(I) *Reversion of zoning.* If approved development and/or use of the rezoned land does not occur within the time frame specified under division (H) above, then the land shall revert to its former zoning classification as set forth in M.C.L.A. § 125.3405(2). The reversion process shall be initiated by the City Council requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

(J) *Subsequent rezoning of land.* When land that is rezoned with a statement of conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no statement of conditions, whether as a result of a reversion of zoning pursuant to division (I) above or otherwise, the statement of conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the City Clerk shall record with the Register of Deeds of the county in which the land is located a notice that the statement of conditions is no longer in effect.

(K) *Amendment of conditions.*

(1) During the time period for commencement of an approved development or use specified pursuant to division (H) above or during any extension thereof granted by the City Council, the Council shall not add to or alter the conditions in the statement of conditions.

(2) The statement of conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and statement of conditions.

(L) *City right to rezone.*

(1) Nothing in the statement of conditions nor in the provisions of this section shall be deemed to prohibit the city from rezoning all or any portion of land that is subject to a statement of conditions to another zoning classification.

(2) Any rezoning shall be conducted in compliance with this chapter and the State Zoning Enabling Act.

(M) *Failure to offer conditions.* The city shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this chapter.

(Ord. 357, passed 6-8-2015)

ZONING DISTRICT REGULATIONS

§ 154.045 DISTRICT DESIGNATIONS.

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

Zoning District	Description
Zoning District	Description
CBD	Central Business District
GC	General Commercial
LI	Limited Industrial
LS	Local Service
PUD	Planned Unit Development
R-1	Single-Family Residential
R-2	Single-Family Residential
R-3	Single-Family Residential
R-4	Multiple-Family Residential
R-5	Mobile Home Park

(Ord. 285, passed 12-8-2003)

§ 154.046 ZONING DISTRICT MAP.

(A) *Identified.* The zoning districts as provided in § 154.045 are bounded and defined as shown on the map entitled "Zoning District Map of the City of Linden" referred to herein as "zoning district map". The zoning district map, along with all notations, references, and other explanatory information, shall accompany and be made a part of this chapter.

(B) *Authority.* Regardless of the existence of purported copies of the zoning district map, which may be published, a true and current copy of the zoning district map available for public inspection shall be located in and maintained by the office of the City Clerk. The Clerk's copy shall be the final authority as to the current status of any land, parcel, lot, district, use, building, or structure in the city.

(C) *Interpretation of district boundaries.* Where uncertainty exists with respect to the boundaries of any of the districts indicated on the zoning district map, the following rules shall apply:

(1) A boundary indicated as approximately following the centerline of a highway, alley, or easement shall be construed as following such centerline;

(2) A boundary indicated approximately following a recorded lot line or the line bounding a parcel shall be construed as following such line;

(3) A boundary indicated as approximately following a municipal boundary line shall be construed as following such line;

(4) A boundary indicated as following a railroad line shall be construed as being located midway in the right-of-way;

(5) A boundary indicated as following a shoreline shall be construed as following such shoreline, and in the event of change in the shoreline shall be construed as following the shoreline existing at the time the interpretation is made;

(6) The boundary indicated as following the centerline of a stream or river, canal, lake, or other body of water shall be construed as following such centerline;

(7) A distance not specifically indicated on the official zoning map shall be determined by the scale of the map; and

(8) Where an existing physical feature is at variance with that shown on the official zoning map or any other circumstances not covered by divisions (C)(1) through (C)(7) above, the Zoning Board of Appeals shall interpret the location of the zoning district boundary.

(Ord. 285, passed 12-8-2003)

§ 154.047 APPLICATION OF DISTRICT REGULATIONS.

(A) The regulations herein established within each zoning district shall be the minimum regulations for promoting and protecting the public health, safety, and general welfare and shall be uniform for each class of land, building, structure, or uses throughout each district.

(B) No building shall hereafter be erected, altered, or moved, nor shall any building or premises hereafter be used for any purpose other than is permitted in the district in which said building or premises is located, except by appeal as herein described by this chapter. Wherever the requirements of this chapter are at variance with the requirements of any other adopted regulations, or ordinances, the most restrictive or those imposing the higher standards shall govern. Except as hereinafter provided, district regulations shall be applied in the following manner.

(1) Uses in districts.

(a) *Permitted uses.* Permitted uses shall be permitted by right only if specifically listed as principal permitted uses in the various zoning district or are similar, as determined by the Planning Commission, to such listed uses.

(b) *Accessory uses and buildings.* Accessory uses are permitted only if such uses are clearly incidental to the permitted principal uses.

(c) *Special uses.* Special uses are permitted as listed or if similar, as determined by the Planning Commission, to the listed special uses.

(2) Application of area and width regulations.

(a) The area or width of a lot shall not be reduced below the minimum requirements herein established for the district in which such lot is located.

(b) Every parcel of land shall meet the minimum lot width requirements set forth in § 154.049 and shall have frontage on and direct access to a public street which has been accepted for maintenance by the city.

(3) Application of yard regulations.

(a) No part of a yard required for any building for the purposes of compliance with this chapter shall be included as a part of a yard or other open space similarly required for another building.

(b) All front yard setback lines shall be the minimum perpendicular distance measured from the right-of-way of the road upon which a lot or parcel fronts to the nearest point of the principal structure.

(c) All side and rear yard setback lines shall be the minimum perpendicular distance between the nearest point on the side or rear of the structure and the side or rear lot line opposite thereof.

(d) On corner lots the required front yards shall be provided along both street frontages.

(e) No building, structure, fence, or other permanent improvement shall be permitted to be erected or located within a public right-of-way except for those improvements authorized by the city.

(4) *Application of height regulations.*

(a) No building shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height limit hereinafter established for the district in which the building is located, as set forth in § 154.049.

(b) Roof structures for the housing of elevators, stairways, tanks, ventilating fans, or similar mechanical equipment required to operate and maintain the building, and fire or parapet walls, skylights, towers, steeples, and screens, flagpoles, chimneys, smokestacks, water tanks, or similar structures may be erected above the height limits herein prescribed. No such structure shall exceed by more than 15 feet the height limit of the district in which it is located.

(c) Wireless communication facilities shall be subject to the regulations set forth in § 154.098.

(5) *Location and number of buildings on lot of record.*

(a) Every building erected, altered, or moved shall be located on a lot of record as defined herein.

(b) Only one single-family dwelling shall be permitted per lot. Where more than one single-family dwelling is located on a lot of record at the time of adoption of this chapter, said dwelling shall not be divided from the lot except in conformity with the requirements of this chapter.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.048 PURPOSES AND USES WITHIN ZONING DISTRICTS.

(A) *R-1, R-2, and R-3, Single-Family Residential Districts.*

(1) *Purpose.* These districts are provided for in those areas of the city served by public water and a public sanitary sewer and where the principal use is intended to be single-family dwellings developed at various lot sizes. In addition to the dwellings permitted in this zoning district, certain non-residential and public uses may be permitted through special use approval.

(2) *Permitted uses.*

(a) A single-family dwelling and any use, building, or structure accessory thereto;

(b) Public parks and playgrounds;

(c) Family day care home;

(d) Adult foster care small group homes serving six persons or less and adult foster care family homes;

(e) Private, elementary, middle, and high schools; and/or

(f) Churches, synagogues, and other places of worship.

(3) *Special uses.*

(a) Open space development subject to the provisions of § 154.086;

(b) Golf courses, including accessory golf driving ranges;

(c) Country clubs, public swimming pools and recreation clubs, private parks and playgrounds;

(d) Private nursery schools and kindergartens;

(e) Group day care homes and day care centers subject to the provisions of § 154.089;

(f) Adult foster care small group homes between six and 12 persons and adult foster care large group homes subject to the provisions of § 154.090;

(g) Two-family dwellings;

(h) Bed and breakfast establishments in the R-3 District, subject to the provisions of § 154.097;

(i) Public buildings and facilities; and/or

(j) Sale of weapons.

(B) *R-4, Multiple-Family Residential District.*

(1) *Purpose.* This district is composed of those areas of the city where the principal use is intended to be multiple-family dwellings. Areas zoned R-4 shall be served by public water and public sanitary sewers, and which abut or are adjacent to such other uses, buildings, structures, or amenities, which support, complement, or serve such a multiple-family density. In addition to the dwellings permitted in this zoning district, certain non-residential and public uses may be permitted through special use approval.

(2) *Permitted uses.*

(a) All permitted uses allowed in the R-1, R-2, and R-3 Districts;

(b) Multiple-family dwellings and any use, building, or structure accessory thereto;

(c) Elderly housing; and/or

(d) Two-family dwellings.

(3) *Special uses.*

(a) Group day care homes and day care centers subject to the provisions of § 154.089;

(b) Adult foster care small group homes between six and 12 persons and adult foster care large group homes subject to the provisions of § 154.090;

(c) Adult foster care congregate facilities subject to the standards of § 154.090;

(d) Nursing homes and convalescent centers; and/or

(e) Sale of weapons.

(C) *R-5, Mobile Home Park Residential District.*

(1) *Purpose.* The intent of this district is to provide for mobile home residential development in areas where the street network, public services, and infrastructure are capable of supporting such development. Areas zoned R-5 shall be located in areas which are compatible with the character and density of adjacent uses.

(2) *Permitted uses.*

(a) Mobile home parks subject to the provisions set forth in § 154.088; and/or

(b) Parks and playgrounds.

(3) *Special uses.*

(a) All special uses allowed in the R-1, R-2, R-3, and R-4 Districts; and/or

(b) Sale of weapons.

(D) *LS, Local Service District.*

(1) *Purpose.* The district is designed primarily for the convenience of persons residing in the city by providing office, limited retail, and business service uses that serve the adjacent and surrounding

neighborhoods. It is the purpose of these regulations to permit development of the enumerated functions in a manner which is compatible with uses in the surrounding area. To these ends, certain uses are excluded which would function more effectively in other districts.

(2) *Permitted uses.*

(a) Executive, administrative, professional, accounting, writing, clerical, stenographic, drafting, and sales offices;

(b) Medical and dental offices, including clinics and medical laboratories;

(c) Banks, credit unions, savings and loan associations;

(d) Public parks and playgrounds;

(e) Public buildings and facilities;

(f) Photographic studios;

(g) Food services including grocery, meat market, bakery, restaurant, delicatessen, and fruit market, and similar self-service units but not including any business of a drive-in type;

(h) Retail sales of drug and health care products, hardware, gifts, dry goods, notions, sporting goods, clothing, furniture, and appliances;

(i) Retail office supply, computer, and business machine sales;

(j) Business service establishments such as printing and photocopying services, mail and packaging services, and typing and secretarial services;

(k) Florist shops;

(l) Personal service establishments, such as barber and beauty shops; watch, clothing, and shoe repair; furniture repair; locksmith; and similar establishments;

(m) Private service clubs, social organizations, and lodge halls;

(n) Funeral homes; and/or

(o) Churches, synagogues, and other places of worship.

(3) *Special uses.*

(a) Veterinary offices and hospitals, including accessory boarding, provided no outdoor exercise runs or pens are permitted;

(b) Retail sale of alcoholic beverages;

(c) Joint working and living quarters (work/live unit), subject to § 154.099;

(d) Sale of weapons; and/or

(e) Day care centers subject to the provisions of § 154.089.

(E) *GC, General Commercial District.*

(1) *Purpose.* This district is intended to accommodate office, business service, and retail uses that serve a larger market than LS District including the city and portions of the surrounding townships. It is the purpose of these regulations to permit development of the enumerated functions in a manner which is compatible with uses in the surrounding area. To these ends, certain uses are excluded which would function more effectively in other districts.

(2) *Permitted uses.*

- (a) All permitted and special uses allowed in LS Local Service District, except for joint working and living quarters;
- (b) Grocery stores, meat market, bakery, delicatessen, and fruit market, and similar retail sales of food and beverages;
- (c) Retail sales of candy and confections, antiques, gifts, dry goods, notions, toys, musical instruments, and clothing;
- (d) Retail sales of drug and health care products, hardware, sporting goods, furniture, paint and home decorating products, and appliances;
- (e) Retail sale of alcoholic beverages;
- (f) Radio, television, and electrical appliance repair, and shops of plumbers, electricians, and other similar services and trades;
- (g) Standard and/or carry out restaurants;
- (h) Laundromats and dry cleaning establishments; and/or
- (i) Planned shopping centers.

(3) *Special uses.*

- (a) Bar/lounge serving alcoholic beverages and/or providing entertainment;
- (b) Fast-food, drive-in, and drive-through restaurants;
- (c) Lodging facilities;
- (d) Sale of new and used automobiles, boats, mobile homes, farm machinery, and other vehicles provided outdoor sales comply with the requirements set forth in § 154.092;
- (e) Automobile service stations and washes subject to the requirements set forth in § 154.094;
- (f) Recreation and amusement services, including theaters, bowling alleys, roller and ice skating rinks, billiard halls, and miniature golf;
- (g) Farm supply and feed stores;
- (h) Sale of building materials, nursery stock, and garden supplies provided outdoor sales comply with the requirements set forth in § 154.068;
- (i) Kennels, including commercial boarding and breeding facilities;
- (j) Sale of weapons; and/or
- (k) Day care centers subject to the provisions of § 154.089.

(F) *CBD, Central Business District.*

(1) *Purpose.* This district is designed to provide for a variety of office, business service, entertainment, and retail uses which occupy the prime retail frontage, by serving the comparison, convenience, and service needs of the market area which includes the city and surrounding townships. The regulations of the CBD District are designed to promote convenient pedestrian shopping and the stability of retail development by encouraging a continuous retail frontage and by prohibiting uses which tend to break up such continuity.

(2) *Permitted uses.*

- (a) All permitted uses allowed in the LS and GC District;
- (b) Theaters, when completely enclosed;

- (c) Private service clubs, social organizations, and lodge halls;
- (d) Lodging facilities;
- (e) Multiple-family dwellings on the second floor and above;
- (f) Public parks and playgrounds; and/or
- (g) Public buildings and facilities.

(3) *Special uses.*

- (a) Bar/lounge serving alcoholic beverages and/or providing entertainment;
- (b) Fast-food restaurants; and/or
- (c) Sale of weapons.

(G) *LI, Limited Industrial District.*

(1) *Purpose.* This district is designed to accommodate industrial, storage, and other uses that generate a minimum of noise, glare, odors, dust, vibration, air and water pollution, fire and safety hazards, or the emission of any potentially harmful or obnoxious matter or radiation or any other nuisance characteristics. It is the purpose of these regulations to permit development of the enumerated functions to protect surrounding areas from incompatible industrial activities, to restrict the intrusion of non-related uses such as residential, agricultural, business, and commercial, except retail businesses that normally do not require the customer to call at the place of business, and to encourage the discontinuance of uses presently existing in the District which are nonconforming by virtue of the type of use. To these ends, certain uses are excluded which would function more effectively in other districts and which would interfere with the operation of the uses permitted in this District.

(2) *Permitted uses.*

- (a) Printing and blueprinting;
- (b) Light manufacturing, processing, assembly, testing, and repair of the following:
 - 1. Communication, transmission, and reception equipment such as coils, tubes, semi-conductors, navigation control equipment, and systems guidance equipment;
 - 2. Data processing equipment and systems;
 - 3. Graphics and art equipment;
 - 4. Metering instruments;
 - 5. Optical devices, equipment, and systems;
 - 6. Stereo, audio units, radio equipment and systems;
 - 7. Photographic equipment;
 - 8. Radar, infrared, and ultraviolet equipment and systems;
 - 9. Scientific and mechanical instruments such as calipers and transits; and/or
 - 10. Testing equipment.
- (c) Light manufacturing, processing, or assembling of the following:
 - 1. Biological products, drugs, medicinal chemicals, and pharmaceutical preparation;
 - 2. Electrical machinery, equipment and supplies, electronic equipment and accessories; and/or
 - 3. Office, computing, and accounting machines.

- (d) Research and design centers for the development of pilot or experimental products, together with related offices for such research facilities;
 - (e) Data processing and computer centers;
 - (f) Warehousing, refrigerated, and general storage, but not including self-storage facilities;
 - (g) Business service establishments such as printing and photocopying services, mail and packaging services, and typing and secretarial services;
 - (h) Training and/or educational centers where such centers are designed and intended to provide training at the business, technical, and/or professional level;
 - (i) Computer and business machine sales when conducted in conjunction with and accessory to a permitted principal use;
 - (j) Printing, publishing, or related activities;
 - (k) Manufacture and repair of signs, and heating and ventilating equipment; and/or
 - (l) Recycling operations.
- (3) *Special uses.*
- (a) Restaurants and cafeteria facilities for employees;
 - (b) Trucking and transit terminals;
 - (c) Contractors' establishments subject to the requirements set forth in § 154.093;
 - (d) Metal fabrication, and tool and die shops;
 - (e) Automobile repair facilities and collision shops;
 - (f) Self-storage facilities, subject to the requirement of § 154.091;
 - (g) Sale of building materials, nursery stock, and garden supplies provided outdoor sales comply with the requirements set forth in § 154.068 and/or
 - (h) Sale of weapons.

(Ord. 285, passed 12-8-2003; Ord. 335, passed 3-26-2012; Ord. 358, passed 6-8-2015; Ord. 360, passed 6-8-2015; Ord. 366, passed 6-8-2015; Ord. 370, passed 6-8-2015)

§ 154.049 SCHEDULE OF AREA, HEIGHT, WIDTH, AND SETBACK REGULATIONS.

(A) *Schedule of area, height, width, and setback regulations.*

	<i>Min. Lot Size</i>		<i>Max. Building Height Space</i>		<i>Min. Yard Setback</i>				<i>Max. Lot Coverage</i>	<i>Footnotes</i>
<i>Zoning District</i>	<i>Area (Sq. Ft.)</i>	<i>Lot Width</i>	<i>Stories</i>	<i>Feet</i>	<i>Front</i>	<i>Side Least</i>	<i>Side Total</i>	<i>Rear</i>		
	<i>Min. Lot Size</i>		<i>Max. Building Height Space</i>		<i>Min. Yard Setback</i>				<i>Max. Lot Coverage</i>	<i>Footnotes</i>
<i>Zoning District</i>	<i>Area (Sq. Ft.)</i>	<i>Lot Width</i>	<i>Stories</i>	<i>Feet</i>	<i>Front</i>	<i>Side Least</i>	<i>Side Total</i>	<i>Rear</i>		

R-1, Single-Family Residential	15,000	100'	2-1/2	35	25'	10'	20'	50'	30%	See divisions (B)(1), (B)(3), (B)(8), and (B)(9) below
R-2, Single-Family Residential	9,600	80'	2-1/2	35	25'	8'	18'	35'	30%	See divisions (B)(1), (B)(3), and (B)(8) below
R-3, Single-Family Residential	8,400	70'	2-1/2	35	25'	8'	18'	35'	30%	See divisions (B)(1), (B)(3), (B)(8), and (B)(9) below
R-4, Multiple-Family Residential	SF: 8,400	70'	2-1/2	35	25'	8'	18'	35'	30%	See divisions (B)(1), (B)(2), (B)(3), and (B)(8) below
	2F: 12,000	100'	2-1/2	35	25'	8'	18'	35'	40%	
	MF: 20,000	300'	2-1/2	35	25'	25'	50'	50'	55%	
R-5, Mobile Home Park	10 acres	See § 154.088	2-1/2	35	See § 154.088	-	See § 154.088	-	-	-
LS - Local Service	12,000	80'	2-1/2	35	25'	10'	20'	20'	40%	See divisions (B)(5) and (B)(8) below
GC - General Commercial	15,000	100'	2-1/2	35	35'	10'	20'	20'	40%	See divisions (B)(5) and (B)(8) below
CBD - Central Business District	-	-	3	40	-	-	-	-	-	See divisions (B)(4) and (B)(8) below
LI - Limited Industrial	1 acre	150'	2	40	50'	50'	100'	50'	40%	See divisions (B)(6) and (B)(8) below

Table notes:

SF: single-family dwellings

2F: two-family dwellings

MF: multiple-family dwellings

(B) Footnotes to schedule of area height, width, and setback regulations.

(1) All dwelling units and occupied buildings shall be served with the city public water supply system and a public sanitary sewer system after the effective date of this chapter.

(2) Multiple-family requirements are as follows.

(a) *Lot area.* Every lot or parcel of land occupied by a multiple-family structure shall contain a minimum of 20,000 square feet and a total area per dwelling unit of 3,500 square feet.

(b) *Distance between buildings.* In addition to the required setbacks from property boundaries, the following minimum distances shall be required between each multiple family structure (See Figure 6):

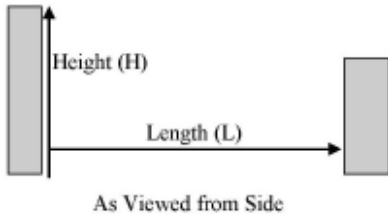
1. Where buildings are front to front or front to rear, two times the height of the taller building, and not less than 50 feet;

2. Where buildings are side to side, one times the height of the taller building, but not less than 25 feet; and

3. Where buildings are front to side, rear to side, or rear to rear, one and one-half times the height of the taller building but not less than 35 feet.

(c) *Front of the building definition.* In applying the above standards, the **FRONT OF THE BUILDING** shall mean that face of the building having greatest length and contains the primary entrance to the building; the rear is that face opposite the front. The side is the face having the smallest dimension.

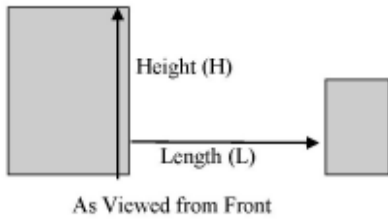
Figure 6



a) Front to Front/Front to Rear:

2 times the height of the taller building, and not less than 50'

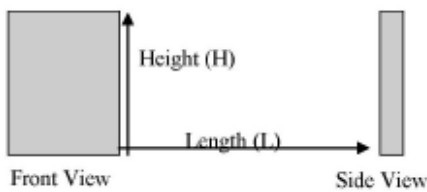
$$L = 2 \times H \text{ (min. 50')}$$



b) Side to Side:

1 times the height of the taller building, not less than 25'

$$L = H \text{ (min. 25')}$$



c) Front to Side/Rear to Side/Rear to Rear:

1 ½ times the height of the taller building, not less than 35'

$$L = 1.5 \times H \text{ (min. 35')}$$

(3) The minimum floor area of dwelling units shall be as follows:

<i>Type of Dwelling</i>	<i>Total Gross Floor Area (Sq. Ft.)</i>
<i>Type of Dwelling</i>	<i>Total Gross Floor Area (Sq. Ft.)</i>
<i>One-family:</i>	
R1 District	1,800
R2 District	1,150
R3 District	960
R4 District	960
<i>Two-family:</i>	
Two-family, per dwelling unit	800
<i>Multiple-family:</i>	
Efficiency Unit	500
1-bedroom unit	700
2-bedroom unit	900
3-bedroom unit	1,100
4-bedroom unit	1,300
Each additional bedroom	90

(4) Any principal building located within the CBD which abuts a dwelling located within the R-1, R-2, or R-3 Districts shall have a minimum setback from the common property line of ten feet.

(5) Any principal building in the LS and GC Districts, which abuts a R-1, R-2, R-3, R-4, or R-5 District shall have a minimum setback of 50 feet from any abutting property line.

(6) Any principal building in the LI District which abuts a R-1, R-2, R-3, R-4, or R-5 District shall have a minimum setback of 100 feet from any abutting property line.

(7) All new lots in the R-3 District shall have a minimum width of 70 feet. All existing lots between 50 and 69 feet in width are based on previous ordinances and shall not be considered as nonconforming lots of this chapter. Therefore, additions and similar alterations may be permitted for houses located on 50-through 69-foot-wide lots, provided that these alterations meet all other schedule of regulation requirements.

(8) All lots established after the effective date of this chapter shall have a lot depth not greater than four times the actual lot width.

(9) All new lots in the R-1 District shall have a minimum lot width of 100 feet and minimum size of 15,000 square feet. All existing lots with widths of at least 80 feet and sizes of at least 9,600 square feet which were approved based on previous ordinances shall not be considered as nonconforming lots of this chapter. Therefore, additions and similar alterations may be permitted for houses located on such lots, provided that these alterations meet all other schedule of regulation requirements.

(10) Within the front yard, the total driveway surface area for single- and two-family dwellings shall not exceed 40% of the total front yard area.

(Ord. 285, passed 12-8-2003; Ord. 374, passed 9-14-2015; Ord. 381, passed - - 2017) Penalty, see § 154.999

GENERAL ZONING PROVISIONS

§ 154.060 INTENT.

The intent of this subchapter is to provide for those regulations which generally apply regardless of the particular zoning district and to those special uses which may be permitted in certain zoning districts.

(Ord. 285, passed 12-8-2003)

§ 154.061 ACCESSORY BUILDINGS AND STRUCTURES.

(A) *Requirements applicable to accessory buildings and structures within residential districts.*

(1) No accessory building or structure shall be built upon a lot or parcel prior to the establishment of a principal building.

(2) A building or structure not attached to a principal building shall be considered an accessory building or structure.

(3) The sum total floor area of all accessory buildings and structures shall not exceed 50% of the total floor area of all stories of the principal building. See § 154.049 for maximum lot coverage allowances.

(4) No accessory building or structure shall exceed 15 feet in height measured from finished grade to the highest point of flat roofs, to the coping line of mansard roofs, and the average height between eaves and the ridge of gable, hip, and gambrel roofs. Where the building may be situated on sloping terrain, this height shall be measured from the average level of the finished grade at the building wall.

(5) In no instance shall an accessory structure be located within a dedicated easement or right-of-way. The applicant shall be responsible for determination of the location of all applicable rights-of-way or easements.

(6) Accessory structures shall be erected only in a rear yard. If the lot is a corner lot, accessory structures shall remain behind all building lines adjacent to streets. Notwithstanding the above, for lots

with direct frontage on Byram Lake, accessory structures may be erected in a front yard, provided the structure is compatible in design and appearance with the principal structure as determined by the Zoning Administrator.

(7) No accessory building or structure shall be constructed within ten feet of any other building located on the same lot or parcel.

(8) Detached accessory buildings and structures shall be located no closer than five feet to any side or rear lot line. The setback for detached accessory buildings and structures which exceed 25% of the total floor area of the principal building and 15% of the total lot area shall be increased to ten feet.

(9) The placement and use of any cargo container as an accessory building or structure is prohibited. For the purposes of this division (9), a cargo container shall be defined as a reusable vessel that was originally designed for or used in the packing, shipping, movement or transportation of freight, articles, goods or commodities, which is capable of being mounted or moved by rail, truck or ship, including any other portable containers or pods used for storage with similar appearance and characteristics of cargo containers. This provision shall not apply to the temporary use of storage containers for construction activities on properties with an active building permit.

(B) *Private swimming pools.* Private swimming pools shall be subject to the following.

(1) No portion of the swimming pool or associated structures shall be permitted to encroach upon any right-of-way.

(2) Front yard and side yard setbacks shall comply with required setbacks specified for the zoning district wherein the pool is located. Rear yard setbacks shall be a minimum of 15 feet.

(3) All swimming pools shall be enclosed in accordance with applicable building codes.

(C) *Requirements applicable to accessory buildings within all other districts.* Accessory buildings shall be subject to the same placement and height requirements as principal structures in the district in which located.

(D) *Amateur radio antennas, satellite dish antenna, and other similar structures.* It is the intent of this section to regulate placement, size, height, and installation of satellite dish antennas in order to preserve the character, scale, and aesthetics of the city. These regulations shall apply to all satellite antenna systems used for home-earth stations by private users and also to short wave and other mass antenna arrays erected on poles and towers, irrespective of whether the same utilize supporting cables or other reinforcement.

(1) Satellite dishes one meter or less in diameter and antennas 12 feet or less in height shall not require permits from the city, but shall be subject to the following: ground-mounted antenna systems are permitted only in rear yards and are required to be set back at least five feet from any side yard line and at least ten feet from any rear yard line.

(2) It is hereby determined that satellite dishes one meter or more in diameter and antennas 12 feet or more in height are of such character that their construction, installation, and use requires the review and approval of the City Planning Commission prior to the installation thereof. Such antennas systems and structures shall be subject to the following.

(a) Applications for a permit to install an antenna system and/or structure shall be submitted to the City Zoning Administrator. Each application for such permit shall include the following:

1. Plot plan showing the location of all elements of the antenna system and of all other buildings, structures, and accessory uses on the same lot and on all lots that are abutting the proposed location;
2. Sketch or actual pictures of the elements included in the proposed antenna system;
3. Detail to indicate parts of the proposed antenna system; and

4. Statement of the visual or environmental impact on the abutting properties at the proposed location and a description of proposed screening or other measures that will minimize these impacts on abutting properties and the residents thereof.

(b) 1. The Zoning Administrator shall submit the application, together with his or her report and recommendations thereon, to the City Planning Commission.

2. The Planning Commission may grant, deny, or approve said request with conditions.

3. Denial of such a request shall be based upon a finding that the proposed installation would have a substantial detrimental effect upon one or more adjoining public or private properties or would otherwise be contrary to the public safety, health, or welfare of the residents of the city.

(c) Ground-mounted antenna systems are permitted only in rear yards and are required to be set back at least five feet from any side yard line and at least ten feet from any rear yard line.

(Ord. 285, passed 12-8-2003; Ord. 359, passed 6-8-2015; Ord. 364, passed 6-8-2015; Ord. 397, passed 12-14-2020; Ord. 399, passed 5-10-2021) Penalty, see § 154.999

§ 154.062 EMERGENCY TEMPORARY DWELLINGS.

(A) *When permitted.* Emergency temporary dwellings may be permitted upon a finding by the city that the principal residential structure has been destroyed in whole or in part by fire, explosion, or natural disaster and therefore is uninhabitable and the standards set forth herein have been met.

(B) *Permit application and review.*

(1) An application for a permit for the emergency temporary use and installation of a mobile home, modular, or prefabricated dwelling unit shall be made to the Zoning Administrator. The application shall be accompanied by a plot plan showing the location of the proposed structure.

(2) The application shall be reviewed by the Zoning Administrator. Approval of the application may be granted upon a finding that all of the following conditions are met:

(a) The principal residential structure has been destroyed in whole or in part by fire, explosion, or natural disaster and therefore is uninhabitable; and

(b) The temporary dwelling unit shall be connected to public sewer and water.

(3) The granting of a permit for an emergency temporary dwelling unit shall be for a period of up to one year from the date of approval. Any conditions of approval shall be specified in writing on the permit.

(4) To guarantee compliance with the provisions of the ordinance and removal of the emergency temporary dwelling upon expiration of the permit, the Zoning Administrator may require a cash bond to be posted prior to the issuance of a permit.

(Ord. 285, passed 12-8-2003)

§ 154.063 SINGLE-FAMILY DWELLINGS, MOBILE HOMES, AND PREFABRICATED HOUSING.

No single-family dwelling (site built), mobile home, modular housing, or prefabricated housing located outside a mobile home park or mobile home subdivision shall be permitted unless said dwelling unit conforms to the following standards.

(A) *Square footage.* Each such dwelling unit shall comply with the minimum square footage requirements of this chapter for the zone in which it is located.

(B) *Dimensions.* Each such dwelling unit shall have a minimum width across any front, side, or rear elevation of 20 feet and shall comply in all respects with the Building Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than

those imposed by the State Construction Code Commission, then and in that event such federal or state standard or regulation shall apply.

(C) *Foundation.* Each such dwelling unit shall be firmly attached to a permanent foundation constructed on the site in accordance with the Building Code and shall have a wall of such dimensions to adequately support the dwelling. All dwellings shall be securely anchored to the foundation in order to prevent displacement during windstorms.

(D) *Undercarriage.* Dwelling units shall not be installed with attached wheels. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage, or chassis.

(E) *Sewage disposal or water supply.* Each such dwelling unit shall be connected to either public sewer and water or approved private systems.

(F) *Storage area.* Each such dwelling unit shall contain a storage capability area either in a basement located under the dwelling, in an attic area, or in a separate or attached structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be at least 10% of the square footage of the dwelling or 100 square feet, whichever shall be less.

(G) *Architecture and compatibility.*

(1) The compatibility of design and appearance shall be determined in the first instance by the Zoning Administrator. The Zoning Administrator may also refer any determination of compatibility to the Planning Commission. Any determination of compatibility shall be based upon the character, design, and appearance of one or more residential dwellings located outside of mobile home parks within 500 feet of the subject dwelling. All dwellings shall be aesthetically compatible in design and appearance with other residences in the vicinity.

(2) All homes shall have a roof overhang of not less than six inches on all sides. Roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling shall be provided. The dwellings shall not have less than two exterior doors with the second one being in either the rear or side of the dwelling. Steps shall also be required for exterior door areas or to porches connected to said door areas where a difference in elevation requires the same. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.

(H) *Additions.* Each such dwelling unit shall contain no addition or room or other area, which is not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.

(I) *Code compliance.* Each such dwelling unit 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 C.F.R. part 3280, and as from time to time such standards may be amended or superseded. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.

(J) *Building permit.* All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable Building Code provisions and requirements.

(K) *Exceptions.* The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in this chapter and pertaining to such parks. Mobile homes which do not conform to the standards of this section shall not be used for dwelling purposes within the city unless located within a mobile home park or a mobile home subdivision district for such uses, or unless used as a temporary residence as otherwise provided in this chapter.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.064 HOME OCCUPATIONS.

(A) *Permitted home occupations.* The following uses shall be permitted as home occupations:

(1) Home offices for such professionals as architects, doctors, brokers, engineers, insurance agents, lawyers, Realtors, accountants, computer programmers, writers, salespersons, and similar occupations;

(2) Personal services, including barber shops, beauty parlors, manicure and pedicure shops, grooming, catering, and chauffeuring services;

(3) Music, dance, art and craft classes, tutoring, and studios for artists, sculptors, musicians, and photographers;

(4) Workshops for tailors, dressmakers, milliners, and craft persons, including weaving, lapidary, jewelry making, model making, cabinetry, and woodworking;

(5) Repair services, limited to watches and clocks, small appliances, instruments, computers, electronic devices, and similar small devices;

(6) Telephone answering or telemarketing; and

(7) Any other use determined by the Planning Commission to be similar to, and compatible with, the above listed uses.

(B) *Prohibited home occupations.* The following uses are expressly prohibited as a home occupation:

(1) Automobile truck, recreation vehicle, boat, motorcycle, or small engine repair, bump and paint shops, salvage or storage yards;

(2) Kennels or veterinary clinics;

(3) Medical or dental clinics;

(4) Retail sales of merchandise;

(5) Eating and/or drinking establishments;

(6) Undertaking and funeral homes; and

(7) Adult uses and sexually-oriented businesses.

(C) *Use standards.*

(1) A home occupation must be clearly incidental and secondary to the primary use of the dwelling unit for dwelling purposes. No more than 25% of the floor area of the dwelling and 25% of the floor area of any accessory structure shall be devoted to a home occupation.

(2) A home occupation use shall not change the character of the residential nature of the premises, both in terms of use and appearance.

(3) A home occupation use shall not create a nuisance or endanger the health, safety, welfare, or enjoyment of any other person in the area, by reason of noise, vibration, glare, fumes, odor, unsanitary, or unsightly conditions, fire hazards, or the like, involved in or resulting from such home occupation.

(4) A home occupation shall not generate sewage or water use in excess of what is normally generated from a single-family dwelling in a residential area.

(5) No employees shall be permitted other than members of the immediate family resident in the dwelling unit.

(6) All activities shall be carried on within an enclosed structure. There shall be no outside display of any kind, or other external or visible evidence of the conduct of a home occupation.

(7) A small announcement sign not to exceed two square feet in area and attached to the front wall of the principal structure shall be permitted. All other signs are prohibited.

(8) No vehicular traffic shall be permitted for the home occupation, other than that which is normally generated for a single-dwelling unit in a residential area, both as to volume and type of vehicles.

(9) Exterior storage of equipment, accessory items, or outdoor display of any kind are prohibited in connection with a home occupation.

(10) The establishment of a home occupation shall not necessitate exterior modification, except as may be required to accommodate physically handicapped persons, or as may be required by the Building Code.

(11) Customer or client visits, and deliveries associated with the home occupation shall be limited to between the hours of 7:00 a.m. and 8:00 p.m.

(D) *Permits.*

(1) (a) A permit must be obtained to lawfully operate a home occupation.

(b) Application shall be made to the Zoning Administrator, who shall approve such requests which demonstrate compliance with the requirements of this section.

(c) In the administration of these provisions, the Zoning Administrator shall be permitted to refer a request to the Planning Commission for review and approval where site conditions may create difficulty in adherence to the standards contained herein.

(2) Should a lawfully established home occupation no longer meet the conditions outlined above or other conditions stipulated for approval, a violation shall be cited against the operator of the home occupation. The operator of the home occupation shall have ten working days to correct the referenced violations. If the violations are not corrected within that time, the permit to operate the home occupation shall be revoked and all related activities must cease.

(3) Home occupation permits shall be limited to the applicant who legally resides in the residence.

(Ord. 285, passed 12-8-2003; Ord. 368, passed 6-8-2015) Penalty, see § 154.999

§ 154.065 ESSENTIAL SERVICES.

Essential services shall be permitted as authorized and regulated by law and other ordinances of the city. The construction of buildings associated with essential services shall be subject to the provisions of § 154.024. Otherwise, the construction, maintenance, and alteration of essential services shall be exempt from the provisions of this chapter.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.066 BUILDINGS TO BE MOVED.

(A) No permit shall be granted for the moving of buildings or structures from without or within the limits of the city to be placed on property within said limits unless the Building Official shall have made an inspection of the building to be moved and has found that it is structurally safe, will not adversely affect the character of existing buildings in the neighborhood of the new location, and will fully comply with the Building Code and other codes regulating public health, safety, and general welfare. A performance bond as established by the Planning Commission of sufficient amount to ensure the cost of completing the building for occupancy within a period of not less than six months from date of permit shall be furnished before permit is issued.

(B) Any building moved within a district and placed upon a foundation or any building moved into a district shall be subject to all the limitations and requirements herein set forth relating to uses, construction, permits, and certificates.

(Ord. 285, passed 12-8-2003)

§ 154.067 TEMPORARY USES.

Seasonal sales, construction offices, and other temporary uses shall require a permit from the Zoning Administrator, unless otherwise specified below, subject to the following standards and conditions.

(A) *Christmas tree sales.* Christmas tree sales are permitted in any business or industrial district for a period not to exceed 60 days. No yard or setback requirements apply, provided that no trees shall be displayed within 30 feet from the intersection of the curb line of any two streets.

(B) *Contractor's offices and equipment sheds.* Contractor's offices and equipment sheds, accessory to a construction project, are permitted and may continue only during the duration of such project. Such building must be removed from the construction site prior to any certificate of occupancy issued to permit occupancy of a building.

(C) *Real estate sales offices.* Real estate offices are permitted where they are located on-site and are incidental to a new housing development, provided that such uses continue only until the sale or lease of all dwelling units in the development. Such uses may not include sleeping or cooking accommodations unless located in the model dwelling unit.

(D) *Seasonal farm produce sales.* Seasonal sales of farm produce are permitted in all zoning districts. Front yard requirements are applicable to structures incidental to such sales. Structures must be removed at the end of the season during which they are used.

(E) *Carnivals and circuses.* Carnivals or circuses, in CBD, LS, GC, or LI districts, are permitted only for a period that does not exceed two weeks. Front yard requirements are not applicable, provided that the location of structures or equipment does not interfere with site vision lines along any public street.

(F) *Garage or porch sales.* Garage or porch sales shall be regulated by § 154.063.

(G) *Rummage sales or special events.* Where a rummage sale or special event is conducted or operated by a nonprofit or charitable organization, such rummage sale or special event shall be allowed in any district, and shall not require approval by the Zoning Administrator, provided that such use shall not exceed ten consecutive days in duration and adequate off-street parking shall be located on the lot.

(H) *Temporary outdoor retail sales.* All temporary outdoor retail sales, including food vendors, seasonal sales, live plants, and parking lot sales are permitted within the GC and CBD Districts, provided that such use shall not exceed 500 square feet in size, exceed ten consecutive days in duration, nor shall it occur more than four times in a calendar year on a site. Temporary outdoor retail sales shall not be conducted in the required setback area of any lot. Off-street parking shall be provided and no parking shall be permitted in the right-of-way. One parking space for each 125 square feet of floor space devoted to the temporary outdoor retail sales shall be provided.

(Ord. 285, passed 12-8-2003; Ord. 359, passed 6-8-2015) Penalty, see § 154.999

§ 154.068 OUTDOOR DISPLAYS OF MATERIALS INTENDED FOR RETAIL SALE OR RENTAL.

(A) The outdoor display of products or materials intended for retail sale or rental may be permitted only in the CBD, LS, and GC Districts, subject to the following conditions.

(B) Outdoor display shall not include any signage in addition to that permitted with the permitted use.

(1) *General standards.*

(a) An outdoor display shall be considered as an accessory use to the principal use conducted on the premises.

(b) The exterior of the premises shall be kept clean, orderly, and maintained.

(c) The city shall not be held liable or responsible for any type of damage, theft, or personal injury that may occur as a result of an outdoor display.

(d) In the administration of these provisions, the Zoning Administrator shall be permitted to refer a request to the Planning Commission for review and approval where site conditions may create difficulty in adherence to the standards contained herein.

(2) *Standards within the CBD District.* An outdoor display may be located in front or adjacent to the establishment. An outdoor display that extends beyond the property lines of the applicant shall require the permission of the affected property owners.

(3) *Public sidewalks.* If an outdoor display is located on a public sidewalk, a minimum of five feet of unobstructed, pedestrian access along the sidewalk shall be maintained. Sufficient room shall also be provided to allow car doors to open along the curbside. An outdoor display on a public sidewalk shall be confined to normal business hours.

(4) *Standards within the LS and GC District.*

(a) An outdoor display may be located within any required yard but shall not be located within any public road right-of-way.

(b) An outdoor display shall not occupy or obstruct the use of any fire lane, required off-street parking, or landscaped area required to meet the requirements of this chapter.

(5) *Building materials, nursery stock, and garden supplies.*

(a) Outdoor sales areas shall not be located within the required front setback, except for sales of living nursery stock. Ornamental displays associated with the sale of nursery stock shall be permitted; however, in no case shall the outdoor storage or sale of bulk materials, such as topsoil, mulch, or gravel, whether packaged or not, be permitted within the front yard setback.

(b) Outdoor sale and display areas that abut residentially zoned or used property shall be screened in accordance with § 154.111(E).

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.069 KEEPING OF ANIMALS.

(A) *Household pets.*

(1) The keeping of household pets, including dogs, cats, fish, birds, hamsters, and other animals generally regarded as household pets is permitted as an accessory use within any zoning district in which dwellings are a permitted principal use.

(2) For all lots or parcels less than one acre in area, not more than three dogs and/or cats (six months or older) shall be kept or housed.

(3) Accessory structures, including kennels, runs, houses, pens, and the like constructed for the keeping of household animals shall comply with the applicable regulations in § 154.061 and the following.

(a) Accessory structures for the keeping of household animals may only be located in the rear yard and may not encroach upon the front and side yards established by any existing principal or accessory structure(s), or the front or side yard requirements for principal structures listed in § 154.049, whichever is greater. In no case shall an accessory structure for the keeping of household animals be located closer than 50 feet from a principal structure on an abutting property.

(b) Accessory structures or yards for the keeping of household animals shall be kept clean and provide a humane area, including the proper provision of food and water, as well as removing and properly disposing of all waste material from which any odor may arise, in a timely and frequent basis.

(B) *Horses.*

(1) Horses may be kept or housed in any zoning district in which dwellings are a permitted principal use, provided the horses are kept on a lot or parcel which is a minimum of five acres in size.

(2) The number of horses permitted shall be determined as follows: one horse per five acres for the first horse; and one additional horse for each additional acre of land thereafter.

(3) All horses shall have enclosed stable space available on site, such stables shall comply with the applicable regulations in § 154.061 and require site plan review in accordance with § 154.024.

(4) Areas in which horses are kept shall be completely enclosed by a fence meeting the requirements of § 154.112.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.070 DOWNTOWN LINDEN HISTORIC DISTRICT OVERLAY.

(A) *Purpose.* The purposes of the Downtown Linden Historic District Overlay are to:

(1) Encourage and direct development within the boundaries of the Downtown Linden Historic District Overlay and implement the city's historic district guidelines;

(2) Encourage a form of development that will achieve the physical qualities necessary to maintain and enhance the economic vitality of Downtown Linden and to maintain the desired character of the city; and

(3) Encourage the renovation of buildings and that new buildings are compatible with their context and the desired character of the city.

(B) *Applicable area.* The Downtown Linden Historic District encompasses the area as illustrated in the Downtown Linden Historic District Overlay Map which is attached as an amendment to and made part of the official zoning map of the city (see attachment A to the ordinance codified herein).

(C) *General standards.*

(1) The provisions of this section shall apply to all new construction or significant alteration that includes, but is not limited to, addition of stories or floors and additions that increase the building footprint.

(2) This section does not exempt any other approvals that may be necessary by the Historic District Commission including, but not limited to, colors and signage.

(3) The design of buildings shall be regulated by the provisions of the Downtown Linden District Overlay and the city's historic district guidelines, approved November 16, 2005, as amended. All other requirements on the location, size, and setbacks of buildings must meet the provisions of this chapter.

(4) This section shall govern the design of all privately owned land within the Downtown Linden Historic District Overlay.

(5) The provisions of the Downtown Linden Historic District Overlay, when in conflict with other provisions of this chapter, shall take precedence.

(D) *Approval process.*

(1) The provisions of § 154.024 shall apply to all applicable projects, as defined in division (B) above, within the Downtown Linden Historic District.

(2) All applicable projects shall be reviewed by the City Historic District Commission and receive a certificate of appropriateness prior to review by the Planning Commission.

(Ord. 285, passed 12-8-2003; Ord. 317, passed 11-10-2008)

SPECIAL ZONING PROVISIONS

§ 154.085 INTENT.

The intent of this subchapter is to provide for those regulations which apply to those specific land uses, which may be treated either as permitted or special land use in certain zoning districts.

(Ord. 285, passed 12-8-2003)

§ 154.086 OPEN SPACE DEVELOPMENT OPTION.

The open space development option may be applied for as a special use in R-1, R-2, and R-3 Districts subject to the standards set forth in § 154.023 and this section.

(A) *Intent.* The intent of the open space development option is to permit the development of residential patterns which, through design innovation, will: allow greater flexibility; encourage a more creative approach to the development of single-family residential areas; encourage a more efficient, aesthetic, and desirable use of the land; provide a more desirable living environment through the preservation and conservation of natural features such as topography, wetlands, woodlands, bodies of water, and other natural assets; and encourage the provision of open space so that benefits may accrue directly to the residents of the development.

(B) *Qualification of parcels.* The parcel must be located in a district zoned for residential use and must meet one or more of the following characteristics listed below. Requests for qualification under these conditions must be supported by documented evidence supplied by the applicant in either narrative or graphic form:

(1) The parcel contains natural assets, which would be preserved through the use of a clustered development. Such assets may include natural stands of large trees, land which serves as a natural habitat for wildlife, wetlands, bodies of water, unusual topographic features, or other natural assets, which should be preserved;

(2) The parcel contains major topographic conditions which would require mass grading resulting in loss of significant natural features; and/or

(3) The parcel contains substantial portions of floodplain and wetlands.

(C) *Site design requirements.* All developments submitted under this option shall conform to the following site design requirements.

(1) Development is permitted as either attached or detached dwelling units, provided the number of attached units shall not exceed 20% of the total number of units.

(2) (a) When completed, the development shall have 20% of the gross acreage in the development devoted to open space, which shall remain in its natural state and/or be restricted to active and/or passive outdoor recreational purposes. Dedication of open space shall comply with the standards set forth in § 154.087. Designated open space shall include area within any greenbelts required by divisions (C)(3) and (C)(4) below, subject to the restrictions contained herein.

(b) The computation of designated open space shall not include: rights-of-way or easements designated for road purposes; areas within the minimum setbacks of a dwelling unit; land which is underwater (lakes, streams, watercourses, and other similar bodies of water); any area to be improved into a lake or pond; and/or more than 25% of the area of regulated wetlands.

(3) (a) In addition to any required minimum setback specified in division (C)(6) below, a greenbelt, the minimum width as set forth below, shall be required along any adjacent public street. The greenbelt shall be measured from the street right-of-way. The Planning Commission, at its discretion, may permit either reductions or variations in width of the greenbelt taking into consideration topographic and/or other natural resource conditions, density of existing vegetation to be preserved, and size and shape of the development site.

(b) The following minimum greenbelt from adjacent public streets shall be applied.

Minimum Width of Greenbelt from Adjacent Public Streets

District	Feet
R-1	50
R-2	35
R-3	35

(4) In order to provide an orderly transition of density when an open space development abuts a single-family residential district of equal or lower density, the Planning Commission, at its discretion, may require one or more of the following measures: designation of open space along the common boundaries; screening in accordance with the requirements of § 154.111(E); and/or an area or row of lots of commensurate size as neighboring residential lots.

(5) The number of dwelling units within any development permitted hereunder shall not exceed the number of dwelling units permitted in the zoning district in which the proposed development is located without application of the open space development option. The applicant must submit a concept plan that illustrates a site layout without the open space development option and all applicable ordinances and laws observed.

(6) Minimum setback requirements are established in a manner which permits variation in the siting of individual dwelling units in order to encourage creativity in design and compatibility with natural resource features. The minimum setback requirements for each dwelling unit shall be shown on the site plan as follows.

(a) In the case of single-family detached dwellings, the following minimum setbacks shall be applied.

Minimum Yard Setbacks Per Unit				
District	Front	Rear	Side	
			Least	Total
R-1	20	30	5	15
R-2	20	30	5	15
R-3	20	30	5	15

(b) In the case of single-family attached dwellings, the following minimum setbacks shall be required.

Minimum Setback		
District	From Internal Streets Right-of-way	From Perimeter Property Boundaries
R-1	20	50
R-2	20	50
R-3	20	50

(7) Any lot contained within an open space development shall have frontage on and direct access to a public street which has been accepted for maintenance by the city. The extent of street frontage shall be determined by the Planning Commission, at its discretion, taking into consideration topographic and/or other natural resource considerations, size, and shape of the development site, and public safety factors.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.087 OPEN SPACE PRESERVATION.

(A) (1) Whenever the preservation of open space is required by this chapter, the applicant shall provide a demonstrated means that all open space portions of the development will be maintained in the manner approved. Documents shall be presented that bind all successors and future owners in fee title to commitments made as a part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the city and the land uses continue as approved in the open space development plan.

(2) The dedicated open space shall be set aside by the applicant through an irrevocable conveyance that is found acceptable to the City Attorney, such as:

- (a) Recorded deed restrictions; and/or
- (b) Covenants that run perpetually with the land.

(B) Such conveyance shall assure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use. Such conveyance shall:

- (1) Indicate the proposed allowable use(s) of the dedicated open space;
- (2) Demonstrate to the satisfaction of the city that dedicated open space shall be maintained;
- (3) Provide standards for scheduled maintenance of the open space; and/or

(4) Provide for maintenance to be undertaken by the city in the event that the dedicated open space is inadequately maintained, or is determined by the city to be a public nuisance, with the assessment of costs upon property owners within the proposed development.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.088 MOBILE HOME PARK REQUIREMENTS.

(A) The Mobile Home Code, as established by the Mobile Home Commission and the State Department of Public Health Rules under the authority of the Mobile Home Commission Act, Public Act 96 of 1987, being M.C.L.A. §§ 125.2301 through 125.2350, as amended, regulates development of mobile home parks. All mobile home parks must be constructed according to the standards of the Code.

(B) In addition to the rules and standards of the state, the city imposes the following conditions:

(1) Mobile home parks shall be constructed, licensed, operated, and managed in accordance with the provisions of the Mobile Home Commission Act, Public Act 96 of 1987, being M.C.L.A. §§ 125.2301 through 125.2350, as amended, and subsequently adopted rules and regulations governing mobile home parks;

(2) Mobile home parks shall not be permitted on parcels less than ten acres in size;

(3) Individual mobile home sites within a mobile home park shall have a minimum lot size of 5,500 square feet per mobile home being served. This 5,500 square foot minimum may be reduced by 20%, provided that the individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through this reduction of the site below 5,500 square feet, an equal amount of land shall be dedicated as open space. In no case shall the open space requirements be less than that required under R125.1946, Rule 946 of the M.A.C.;

(4) The on-site storage of boat trailers, boats, camping units, horse trailers, and similar recreational equipment shall be prohibited on mobile home sites and in designated open space areas. The mobile home park may provide, within the confines of the park, a common outdoor storage area for the storage of the above mentioned equipment;

(5) (a) Mobile home parks shall be landscaped as follows:

1. If the mobile home park abuts an existing residential development, the park shall be required to provide screening along the park boundary abutting the residential development;

2. If the park abuts a non-residential development, the park need not provide screening; and

3. In all cases, however, a park shall provide screening along the park boundary abutting a public right-of-way.

(b) The landscaping shall consist of evergreen trees or shrubs a minimum three feet in height, which are spaced so they provide a continuous screen at maturity. Alternative screening devices may be utilized if they conceal the mobile home park as effectively as the required landscaping described above.

(6) Mobile home parks shall be subject to preliminary plan review requirements and overseen by the Planning Commission in accordance with Public Act 96 of 1987, being M.C.L.A. §§ 125.2301 through 125.2350, as amended; and/or

(7) A permit shall not be required for the construction or erection of canopies or awnings which are open on three sides. A building permit shall be required, however, before the construction or erection of any screened, glassed-in, or otherwise enclosed awning or canopy.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.089 DAY CARE FACILITIES.

(A) *Intent.* It is the intent of this section to establish standards for day care facilities, which will ensure compatibility with adjacent land uses and maintain the character of the neighborhood.

(B) *Application of regulations.*

(1) A state licensed family day care home shall be considered a residential use of property and a permitted use in all residential districts.

(2) The Planning Commission may, by issuance of a special use permit, authorize the establishment of group day care homes and day care centers as specified in district regulations and subject to the standards herein.

(C) *Standards for group day care homes.* Group day care homes shall be considered as a special land use subject to the requirements and standards of § 154.023 and the following additional standards:

(1) The subject parcel shall meet the minimum lot area requirements for the zoning district in which it is located and shall be connected to public sewer and water, where available;

(2) The property is maintained in a manner that is consistent with the character of the neighborhood;

(3) An outdoor play area of at least 500 square feet shall be provided on the premises. Said play area shall not be located within the front yard setback. This requirement may be waived by the Planning Commission if a public play area is within 500 feet of the subject parcel;

(4) All outdoor play areas shall be enclosed by a fence that is designed to discourage climbing, and is at least four feet in height, but no higher than six feet;

(5) The hours of operation do not exceed 16 hours within a 24-hour period. Activity between the hours of 10:00 p.m. and 6:00 a.m. shall be limited so that the drop-off and pick-up of children is not disruptive to neighboring residents;

(6) One off-street parking space per employee not a member of the group day care home family shall be provided; and

(7) Appropriate licenses with the state shall be maintained.

(D) *Standards for day care centers.* Day care centers shall be considered as a special land use subject to the requirements and standards of § 154.023 and the following standards:

(1) The day care center shall be served by public sewer and water, where available;

(2) A separate drop-off and pick-up area shall be provided adjacent to the main building entrance, located off of a public street and the parking access lane, and shall be of sufficient size so as to not create congestion on the site or within a public roadway;

(3) Off-street parking shall be provided at a rate of one space per employee plus one space for every five children enrolled at the facility;

(4) A fenced outdoor play area of at least 1,000 square feet shall be provided on the premises. Said play area shall not be located within the front setback. This requirement may be waived by the Planning Commission if public play area is available 500 feet from the subject parcel; and

(5) Appropriate licenses with the state shall be maintained.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.090 ADULT FOSTER CARE FACILITIES.

(A) *Intent.* It is the intent of this section to establish standards for adult foster care facilities, which will ensure compatibility with adjacent land uses and maintain the character of the neighborhood.

(B) *Application of regulations.*

(1) A state licensed adult foster care small group home serving six persons or less and adult foster care family home shall be considered a residential use of property and a permitted use in all residential districts.

(2) The Planning Commission may, by issuance of a special use permit, authorize the establishment of adult foster care small group homes serving between six and 12 persons and adult foster care large group homes serving between 13 and 20 in the following zoning districts: R-1; R-2; R-3; R-4; and R-5.

(3) The Planning Commission may, by issuance of a special use permit, authorize the establishment of an adult foster care congregate facility serving more than 20 adults in the R-4 District.

(C) *Standards for adult foster care small group homes serving between six and 12 persons and adult foster care large group homes.* Such homes shall be considered as a special land use subject to the requirements and standards of § 154.023 and the following additional standards:

(1) A site plan, prepared in accordance with § 154.024, shall be required to be submitted;

(2) The subject parcel shall meet the minimum lot area requirements for the zoning district in which it is located, provided there is a minimum site area of 1,500 square feet per adult, excluding employees and/or care givers;

(3) The property is maintained in a manner that is consistent with the character of the neighborhood;

(4) One off-street parking space per employee and/or caregiver shall be provided;

(5) At its sole discretion, the Planning Commission may determine that landscape screening in accordance with § 154.111(E) is required; and

(6) Appropriate licenses with the state shall be maintained.

(D) *Standards for adult foster care congregate facilities.* Such facilities shall be considered as a special land use subject to the requirements and standards of § 154.023 and the following standards:

(1) A site plan, prepared in accordance with § 154.024, shall be required to be submitted;

(2) The subject parcel shall meet the minimum lot area requirements for the zoning district in which it is located, provided there is a minimum site area of 1,500 square feet per adult, excluding employees and/or care givers;

(3) Parking requirements as required for convalescent homes and similar facilities, set forth in §§ 154.175 through 154.184 shall be met;

(4) All landscape requirements set forth in § 154.111 shall be met; and

(5) Appropriate licenses with the state shall be maintained.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.091 SELF-STORAGE FACILITIES.

Self-storage facilities shall be subject to the following requirements and conditions.

(A) No activity other than rental of storage units and the rental of outside storage space for recreational vehicles shall be allowed. No commercial, wholesale, retail, industrial, or other business use on, or operated from, the facility shall be allowed, other than those sales conducted to liquidate stored items as performed by owner.

(B) The storage of any toxic, explosive, corrosive, flammable, or hazardous materials is prohibited. Fuel tanks on any motor vehicle, boat, lawn mower, or similar property will be drained or removed prior to storage. Batteries shall be removed from vehicles before storage.

(C) Other than the storage of recreational vehicles, all storage shall be contained within a building. All recreational vehicle storage shall be screened from the view of neighboring properties and public roads in accordance with § 154.111.

(D) Exterior walls of the ends of all storage units shall be of masonry or face-brick construction.

(E) All storage units must be accessible by paved access drives clearly marked to distinguish traffic flow. A minimum 24-foot wide drive shall be provided between buildings. Site circulation shall be designed to accommodate fire trucks, as well as trucks that will customarily access the site.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.092 SALES OF NEW AND USED AUTOMOBILES, BOATS, MOBILE HOMES, FARM MACHINERY, AND OTHER VEHICLES.

Sales for new and used automobiles, boats, mobile homes, farm machinery, and other vehicles shall be subject to the following provisions.

(A) No strings of flags, pennants, or bare light bulbs shall be permitted.

(B) No vehicles or merchandise for sale shall be displayed or stored within any required front yard setback.

(C) No broadcast of continuous music or announcements over any loudspeaker or public address system shall be permitted.

(D) Separation shall be made between the pedestrian sidewalk and vehicular parking and maneuvering areas with the use of curbs, wheel stops, greenbelts, or traffic islands.

(E) All activities related to vehicle washing, service, and repair equipment shall be entirely enclosed within a building.

(F) Driveways shall be designed to accommodate the type and volume of vehicular traffic using the site and located in a manner which is compatible with uses located adjacent to and across the site.

(G) Inoperative or unlicensed vehicles or discarded or salvaged materials shall not be stored outside.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.093 GENERAL, BUILDING, AND LANDSCAPE CONTRACTORS OFFICES AND YARDS.

(A) A contractor's office building shall be of permanent construction. Temporary construction trailers shall be permitted only during the duration of a construction project, in accordance with § 154.067(B). Outdoor storage shall be strictly and clearly accessory to the contractor's principal office use of the property. Only products, materials, and equipment owned and operated by the principal use shall be permitted for storage.

(B) Storage shall not be located within the required front yard. Such storage shall not be located in any required parking or loading space.

(C) Storage shall be screened from the view of public street, and adjacent properties zoned either residential, commercial, or office. Screening measures shall meet the requirements of § 154.111(E).

(D) The location and size of areas for storage, nature of items to be stored therein, and details of the enclosure, including description of materials, height, and typical elevation of the enclosure shall be provided as part of the information submitted under § 154.024.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.094 AUTOMOBILE SERVICE STATIONS AND WASHES.

Automobile service stations and washes shall be subject to the following standards.

(A) Separation shall be made between the pedestrian sidewalk and vehicular parking and maneuvering areas with the use of curbs, wheel stops, greenbelts, or traffic islands.

(B) All activities related to vehicle washing, service, and repair equipment shall be entirely enclosed within a building.

(C) Driveways shall be designed to accommodate the type and volume of vehicular traffic using the site and located in a manner which is compatible with uses located adjacent to and across from the site.

(D) Inoperative or unlicensed vehicles shall not be stored outside for more than seven days. Such storage shall not occur in front of the building front line.

(E) Vehicle sales shall not be permitted on the premises of any automobile service station or wash.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.095 AUTOMOBILE REPAIR AND COLLISION SHOPS.

Automobile repair and collision shops shall be subject to the following standards.

(A) The outside storage of automobiles to be repaired shall be screened from off-site view by walls (including building walls) or fences at least eight feet in height. However, a screening wall or fence less than eight feet high, but not less than six feet high, existing on the date of enactment of this provision may serve in lieu of such eight-foot wall or fence. Fences or walls of six feet in height is permitted in the front yard so long as it does not inhibit the vision of drivers entering or exiting the site. All outside storage areas, including the material and surface of screening walls or fences, shall be specifically shown on the site plan, and be approved by the Planning Commission.

(B) Wrecked, damaged, or otherwise inoperable motor vehicles shall be stored in said parking/storage area for a period not to exceed 96 hours. No more than a total of three such vehicles per service bay shall

be stored at any time.

(C) Storage of materials, supplies, equipment, or similar items shall be in an enclosed building.

(D) Dismantling and/or salvaging of vehicles for parts recovery is prohibited.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.096 SIDEWALK CAFÉ SERVICES AND SALES.

A sidewalk café service operated by a restaurant or other food establishment which sells food for immediate consumption may be permitted in the Central Business District (CBD), subject to the following conditions.

(A) A site plan depicting the location and layout of the café facility shall be required. Approval for the use is to be done administratively by the Zoning Administrator. A permit shall remain in effect, unless a change in ownership occurs or the operation of the café fails to meet the standards contained herein.

(B) A sidewalk café may be located in the front yard of or adjacent to the establishment. A sidewalk café that extends beyond the property lines of the applicant shall require the permission of the affected property owners.

(C) If a sidewalk café is located on a public sidewalk, a minimum of five feet of unobstructed, pedestrian access along the sidewalk shall be maintained. Adequate space shall be provided for vehicle entry between on-street parking spaces and the sidewalk café.

(D) A sidewalk café shall be allowed only during normal operating hours of the establishment.

(E) The exterior of the premises shall be kept clean, orderly, and maintained or the permit may be revoked. All food preparation shall be inside of the premises.

(F) The city shall not be held liable or responsible for any type of damage, theft, or personal injury which may occur as a result of a sidewalk café operation.

(G) All sidewalk cafés shall comply with applicable regulations of the County Health Department and the state.

(H) Use of sidewalks for other than sidewalk café service, particularly for sidewalk sales, is also permitted in the CBD, subject to the above conditions and the following: the time limit for sidewalk sales and other such uses shall be limited. The sidewalk sales shall not exceed 48 hours. In addition, the use of the sidewalk for such at a particular location shall be limited to three times a year.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.097 BED AND BREAKFAST ACCOMMODATIONS.

(A) Each premises must be occupied and operated by its owner.

(B) The proposed use shall not cause a nuisance to adjoining residences due to noise, odor, lighting, or traffic.

(C) No bed and breakfast sleeping room shall be permitted that does not comply with the construction code.

(D) No separate cooking facilities shall be used for bed and breakfast stay.

(E) The stay of bed and breakfast occupants shall be no more than 14 consecutive days and not more than 30 days in any one calendar year.

(F) The operator of each facility shall keep a list of the names of all persons staying at the bed and breakfast; the list shall be available for inspection by the Zoning Administrator.

(G) One bathroom for every three sleeping rooms shall be provided, with a minimum of two bathrooms.

(H) One hard surface parking space such as asphalt or concrete shall be provided off-street in the side or rear yard area for each bed and breakfast bedroom.

(I) One non-illuminated wall sign made of wood shall be permitted, not to exceed six square feet in display area.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.098 WIRELESS COMMUNICATION FACILITIES.

(A) Findings.

(1) The Federal Telecommunications Act of 1996 (“the Act”), being 47 U.S.C. Ch. 5, Subchs. I, II and VI, grants the Federal Communications Commission (FCC) exclusive jurisdiction over:

(a) The regulation of the environmental effects of radio frequency (RF) emissions from telecommunications facilities; and

(b) The regulation of radio signal interference among users of the RF spectrum.

(2) The city’s regulation of WCEC, WCE and WCSS in the city will not have the effect of prohibiting any person from providing wireless telecommunications services in violation of the act.

(B) *Purposes.* The general purpose of this section is to regulate the placement, construction, and modification of WCEC, WCE and WCSS in order to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the city. Specifically, the purposes of this chapter are:

(1) To regulate the location of WCEC, WCE, and WCSS in the city;

(2) To protect residential areas and land uses from potential adverse impact of WCEC, WCE, and WCSS;

(3) To minimize adverse visual impact of WCEC, WCE, and WCSS through careful design, siting, landscaping, and innovative camouflaging techniques;

(4) To promote and encourage the collocation of WCE as a primary option rather than construction of new WCSS;

(5) To promote and encourage utilization of technological designs that will either eliminate or reduce the need for erection of new WCSS structures to support WCE;

(6) To avoid potential damage to property caused by WCEC, WCE, and WCSS by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or are determined to be structurally unsound; and

(7) To ensure that WCEC, WCE, and WCSS are compatible with surrounding land uses.

(C) Collocation of wireless communications equipment (WCE).

(1) To encourage collocation and to minimize the number of WCSS within the city, WCE shall be considered a permitted accessory use and not subject to local zoning approval by the city when all of the following criteria are met:

(a) The WCE will be collocated on an existing WCSS or an existing equipment compound;

(b) The existing WCSS or existing equipment compound is in compliance with local zoning requirements or received prior approval by the city;

(c) The proposed collocation will not:

1. Increase the overall height of the WCSS by more than 20 feet or 10% of its original height, whichever is greater;
2. Increase the width of the WCSS by more than the minimum necessary to permit collocation; and
3. Increase the area of the existing WCEC to greater than 2,500 square feet.

(d) The proposed collocation complies with the terms and conditions of any previous final approval of the WCSS or equipment compound by the city.

(2) WCE installations that are part of a proposed collocation activity that meet the requirements of divisions (C)(1)(a) and (C)(1)(b) above, but do not meet the requirements of division (C)(1)(c) above or division (C)(1)(d) above, shall be subject to special use approval procedures outlined in § 154.023. The Zoning Administrator shall determine that the special use permit application is administratively complete within 14 business days of its receipt. The Planning Commission shall also approve or deny the application not more than 60 days after the application is considered to be administratively complete.

(3) WCE installations that are part of a proposed collocation activity and which also fully meet the requirements of division (C)(1) above shall be considered a permitted use of property and not subject to special use procedures or any other zoning approval by the city. Plans for such installation shall be administratively reviewed by the Zoning Administrator to verify compliance with such requirements. The Zoning Administrator shall complete his or her administrative review of the proposed installation plans within 14 business days of his or her receipt of such plans.

(D) Installation of wireless communications equipment (WCE) not part of a proposed collocation activity.

(1) The installation of a new WCE not part of a proposed collocation activity shall comply with the following provisions.

(a) WCE shall require no personnel on the premises except as is necessary for maintenance and repair of the WCE and/or supporting WCSS.

(b) Equipment shelters, cabinets, and similar structures located within a WCEC shall not be greater than 15 feet in height and shall meet all requirements for accessory buildings specified in § 154.061.

(c) All WCE shall be designed to blend into or meet the aesthetic character of the principal (primary) structure where reasonably practical, taking into consideration the location of the WCE and the line of sight angle and its visibility and distance from the right-of-way and neighboring uses.

(d) WCE proposed to be located on a historic landmark or in a designated historic district may be denied if the WCE would visually detract from the historic character of the historic landmark or district.

(e) This section shall not exempt the applicant from such other government review and permitting procedures (i.e., FCC, FAA, and the like).

(2) The installation of WCE not part of a proposed collocation activity meeting the requirements of division (D)(1) above shall be considered to be a permitted use of property not subject to special use permit approval or any other zoning approval by the city. Plans for such installation shall be administratively reviewed by the Zoning Administrator to verify compliance with such requirements. The Zoning Administrator shall complete his or her administrative review of the proposed installation plans within 14 business days of his or her receipt of such plans.

(E) Development of a new wireless communication equipment compound (WCEC) and wireless communication support structure (WCSS).

(1) A WCEC and WCSS shall be allowed as a special use of land in the General Commercial and Limited Industrial zoning districts subject to the approval procedures of § 154.023 and additional requirements herein.

(2) WCSS are exempt from the maximum height restrictions of the districts where located. WCSS shall be permitted to a height of 150 feet.

(3) The applicant must include a statement in the application of its good faith intent to allow the collocation of the WCE of other entities, provided that the cost of modifying the WCEC and WCSS to accommodate the collocation WCE is borne by the collocating entity.

(4) An application to develop a WCEC and WCSS shall include:

(a) The name, address, and telephone number of the owner and lessee of the parcel of land upon which the WCEC is situated. If the applicant is not the owner of the parcel of land upon which the WCEC is situated, the written consent of the owner shall be evidenced in the application;

(b) The legal description, parcel number, and address of the parcel of land upon which the WCEC is to be situated;

(c) The application shall include a map showing existing and known proposed WCSS within the city, and further showing existing and known WCSS within areas surrounding the borders of the city in the location, and in the area, which are relevant in terms of potential collocation or in demonstrating the need for the proposed facility;

(d) A description of the design plan proposed by the applicant in the city. Applicant must identify its utilization of the most recent technological design, including micro-cell design, as part of the design plan. The applicant must demonstrate the need for a WCSS and why design alternatives, such as the use of micro-cell, cannot be utilized to accomplish the provision of the applicant's telecommunications services;

(e) An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to obtain permission to install or collocate the WCE on city-owned WCSS located within the city limits and/or a one-half mile radius of the proposed WCEC site;

(f) An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to install or collocate the WCE on WCSS owned by others located within the city limits and/or a one-half mile radius of the proposed WCEC site;

(g) Written technical evidence from a licensed engineer(s) that the proposed WCE cannot be installed or collocated on another person's WCSS owned by other persons located within the city limits and/or a one-half mile radius of the proposed WCEC site;

(h) A written statement from a licensed engineer(s) that the construction and placement of the WCSS will not interfere with public safety communications and the usual and customary transmission or reception of radio, television, or other communications services enjoyed by adjacent residential and non-residential properties;

(i) Written, technical evidence from a licensed engineer(s) that the proposed structure will be structurally sound and, at minimum, in conformance with the Building Code, and any other standards outlined in this chapter;

(j) Written, technical evidence from a licensed engineer(s) acceptable to the Fire Chief and the Building Official that the proposed site of the WCEC does not pose a risk of explosion, fire, or other danger to life or property due to its proximity to volatile, flammable, explosive, or hazardous materials such as LP gas, propane, gasoline, natural gas, or corrosive or other dangerous chemicals;

(k) In order to assist city staff and the Planning Commission in evaluating visual impact, the applicant shall submit color photo simulations showing the proposed site of the WCSS with a photo-realistic representation of the proposed WCSS as it would appear viewed from the closest residential property and from adjacent roadways;

(l) The Act gives the FCC sole jurisdiction of the field of regulation of RF emissions and does not allow the city to condition or deny on the basis of RF impacts the approval of any telecommunications facilities (whether mounted on towers or antenna support structures) which meet FCC standards. In order

to provide information to its citizens, the city shall make available upon request copies of ongoing FCC information and RF emission standards for telecommunications facilities transmitting from towers or antenna support structures. Applicants shall be required to submit information on the proposed power density of their proposed telecommunications facilities and demonstrate how this meets FCC standards; and

(m) Written documentation demonstrating compliance with the Bishop International Airport Joint Airport Zoning Ordinance 98-1 and copies of any permits required under such ordinance. For a tower in the vicinity of any other airport, copies of permits from the MDOT Office of Aeronautics as may be required under the state's Tall Structure Act, Public Act 259 of 1959, being M.C.L.A. §§ 259.481 through 259.493, as amended.

(5) The Planning Commission may require an applicant to supplement any information that the Commission considers inadequate or that the applicant has failed to supply. The Commission may deny an application on the basis that the applicant has not satisfactorily supplied the information required in this division (E). The Zoning Administrator shall determine whether the special use permit application is administratively complete within 14 business days of its receipt. The Planning Commission shall approve or deny the application not more than 90 days after the application is considered administratively complete.

(F) *Setbacks.*

(1) All WCSS up to 100 feet in height shall be set back on all sides a distance equal to the underlying setback requirement in the applicable zoning district. WCSS in excess of 100 feet in height shall be set back one additional foot per each foot of tower height in excess of 100 feet.

(2) Setback requirements for WCSS shall be measured from the outermost edge of the WCEC to the property line of the parcel of land on which it is located.

(3) Setback requirements may be modified, as provided in division (P) below, when placement of a WCSS in a location which will reduce the visual impact can be accomplished. For example, adjacent to trees which may visually hide the WCSS.

(4) WCEC shall be separated from all residentially zoned lands by a minimum of 200 feet or 200% of the height of the proposed WCSS, whichever is greater.

(5) Proposed WCEC must meet the following minimum separation requirements from existing WCEC or WCEC which have a special use permit but are not yet constructed at the time a special use permit is granted pursuant to this code.

(a) Monopole WCSS shall be separated from all other WCSS, whether monopole, self-supporting lattice, or guyed, by a minimum of 750 feet.

(b) Self-supporting lattice or guyed WCSS shall be separated from all other self-supporting or guyed WCSS by a minimum of 1,500 feet.

(c) Self-supporting lattice or guyed WCSS shall be separated from all monopole WCSS by a minimum of 750 feet.

(G) *Method of determining WCSS height.* Measurement of WCSS height for the purpose of determining compliance with all requirements of this section shall include the WCSS structure itself, the base pad, and any other telecommunications facilities attached thereto. WCSS height shall be measured from natural grade.

(H) *Illumination.* WSS shall not be artificially lighted except as required by the Federal Aviation Administration (FAA).

(I) *Exterior finish.* WCSS not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, as approved by the appropriate reviewing body.

(J) *Landscaping.* All landscaping on a parcel of land containing WCEC, WCE, and WCSS shall be in accordance with the applicable landscaping requirements in the zoning district where the facilities are located. The city may require landscaping in excess of the requirements in this code of ordinances in order to enhance compatibility with adjacent land uses. Landscaping shall be installed on the outside of any fencing.

(K) *Access.* A parcel of land upon which a WCEC is located must provide access to at least one paved vehicular parking space on site.

(L) *Stealth design.* All towers shall be of stealth design.

(M) *Modification of wireless communication support structures (WCSS).*

(1) A WCSS existing prior to the effective date of this chapter, which was in compliance with the city's zoning regulations immediately prior to the effective date of this chapter, may continue in existence as a nonconforming structure. Such nonconforming structures may be modified or demolished and rebuilt and shall comply with all of the requirements of this chapter including:

(a) The WCSS is being modified or demolished and rebuilt for the sole purpose of accommodating, within six months of the completion of the modification or rebuild, additional WCE comparable in weight, size, and surface area to the WCE of any company currently installed on the WCSS;

(b) An application for a special use permit is made to the Planning Commission. The Zoning Administrator shall determine that the application for approval is administratively complete within 14 business days of its receipt. The Planning Commission shall approve or deny the application not more than 90 days after the application is considered administratively complete. The granting of a special use permit pursuant to this section allowing the modification or demolition and rebuild of an existing nonconforming WCSS shall not be considered a determination that the modified or demolished and rebuilt WCSS is conforming; and

(c) The height of the modified or rebuilt WCSS attached thereto does not exceed the maximum height allowed under this chapter.

(2) Except as provided in this section, a nonconforming structure or use may not be enlarged, increased in size, or discontinued in use for a period of more than 180 days. This chapter shall not be interpreted to legalize any structure or use existing at the time this chapter is adopted which structure or use is in violation of this code of ordinances prior to enactment of this chapter.

(N) *Inspections.*

(1) The city or its agents shall have authority to enter onto the property upon which a WCEC is located to inspect the WCSS for the purpose of determining whether it complies with the Building Code and all other construction standards provided by this code of ordinances and federal and state law.

(2) The city reserves the right to conduct such inspections at any time, upon reasonable notice to the WCEC owner. All expenses related to such inspections by the city shall be borne by the WCEC owner.

(O) *Maintenance.*

(1) WCEC owners shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

(2) WCEC owners shall install and maintain WCSS, WCE, wires, cables, fixtures, and other equipment in substantial compliance with the requirements of the National Electric Safety Code and all FCC, state, and local regulations, and in such manner that will not interfere with the use of other property.

(3) All WCSS and WCE shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any person.

(4) All maintenance or construction of WCSS and WCE shall be performed by licensed maintenance and construction personnel.

(5) All WCSS shall maintain compliance with current RF emission standards of the FCC.

(6) In the event that the use of a WCSS is discontinued by the WCEC owner, the WCEC owner shall provide written notice to the city of its intent to discontinue use and the date when the use shall be discontinued and the WCSS and WCE removed.

(P) *Criteria for site plan development modifications.*

(1) Notwithstanding the requirements provided in this section, a modification to the requirements may be approved by the Planning Commission as a special use. In requesting such modification, the following information shall be provided:

(a) A description of how the plan addresses any adverse impact that might occur as a result of approving the modification;

(b) A description of off-site or on-site factors which mitigate any adverse impacts which might occur as a result of the modification;

(c) A technical study that documents and supports the criteria submitted by the applicant upon which the request for modification is based. The technical study shall be certified by an engineer and shall document the existence of the facts related to the proposed modifications and its relationship to surrounding rights-of-way and properties;

(d) For a modification of the setback requirement, the application shall identify all parcels of land where the proposed WCSS could be located, attempts by the applicant to contract and negotiate an agreement for collocation, and the result of such attempts; and

(e) The Planning Commission may require the application to be reviewed by an independent licensed engineer under contract to the city to determine whether the study supports the basis for the modification requested. The cost of review by the independent licensed engineer shall be reimbursed to the city by the applicant.

(2) The Planning Commission shall consider the application for modification based on the following criteria:

(a) The WCSS as modified will be compatible with and not adversely impact the character and integrity of surrounding properties;

(b) Off-site or on-site conditions exist which mitigate the adverse impacts, if any, created by the modification; and

(c) In addition, the Planning Commission may include conditions on the site where the WCEC and WCSS is to be located if such conditions are necessary to preserve the character and integrity of the neighborhoods affected by the proposed facility and mitigate any adverse impacts which arise in connection with the approval of the modification.

(3) In addition to the requirements of division (P)(1) above, in the following cases, the applicant must also demonstrate, with written evidence, the following:

(a) In the case of a requested modification to the setback requirement, division (F) above, that the setback requirement cannot be met on the parcel of land upon which the WCSS is proposed to be located and the alternative for the person is to locate the WCSS at another site which is closer in proximity to a residentially zoned land;

(b) In the case of a request for modification to the separation and buffer requirements from other WCSS of division (F) above, that the proposed site is zoned General Commercial or Limited Industrial and the proposed site is at least double the minimum standard for separation from residentially zoned lands as provided for in division (F) above;

(c) In the case of a request for modification of the separation and buffer requirements from residentially zoned land of division (F) above, if the applicant provides written technical evidence from a licensed engineer(s) that the proposed WCSS and WCE must be located at the proposed site in order to meet the coverage requirements of the applicant's wireless communications system and if the person is willing to create approved landscaping and other buffers to screen the WCEC and WCSS from being visible to residentially zoned property; and

(d) In the case of a request for modification of the height limit for WCSS, that the modification is necessary to:

1. Facilitate collocation of WCE in order to avoid construction of a new WCSS; or

2. To meet the coverage requirements of the applicant's wireless communications system, which requirements must be documented with written, technical evidence from an engineer(s) that demonstrates that the height of the proposed WCSS is the minimum height required to function satisfactorily, and no WCSS that is taller than such minimum height shall be approved.

(Q) *Abandonment.*

(1) If any WCSS shall cease to be used for a period of 270 consecutive days, the Zoning Administrator shall notify the owner, with a copy to the applicant, that the site will be subject to a determination by the Planning Commission that such site has been abandoned. The owner shall have 30 days from receipt of said notice to show, by a preponderance of the evidence, that the WCSS has been in use or under repair during the period. If the owner fails to show that the WCSS has been in use or under repair during the period, the City Council shall issue a final determination of abandonment for the site. Upon issuance of the final determination of abandonment, the owner shall, within 75 days, dismantle and remove the WCSS.

(2) To secure the obligation set forth in this section, the applicant, and/or owner, shall post a bond, at the time of issuance of the building permit, in the minimum amount of \$50,000. Said bond shall be renewed annually. Such amount shall be determined by the Planning Commission based on the anticipated cost of removal of the WCSS.

(Ord. 285, passed 12-8-2003; Ord. 369, passed 6-8-2015) Penalty, see § 154.999

§ 154.099 JOINT WORKING AND LIVING QUARTERS.

(A) *Purpose.* This section provides standards for the development of new work/live units and for the reuse of existing commercial structures to accommodate work/live opportunities where allowed by the applicable zoning district regulations of the Local Service District (LS). A work/live unit shall function predominantly as work space with incidental residential accommodations that meet basic habitability requirements.

(B) *Design and development standards.*

(1) Work/live units shall be subject to the following criteria, as well as all standards of the LS District.

(2) General prerequisites include the following: at the time of application approval and for the reasonable foreseeable future, the commercial site and surrounding area are suitable for joint residential and commercial use; the project is designed to provide flexible work space in conjunction with living areas that are conducive to work environment; and residential and commercial uses are integrated in such a manner as to address noise, hazardous materials, and other health and safety issues on-site as well as off-site.

(C) *Space requirements.*

(1) The project site must remain primarily in commercial use. At no time shall more than 50% of the combined floor area of buildings identified for reuse or new buildings constructed on a project site be dedicated or used for work/live units. All remaining floor area on a project site shall be dedicated and reserved exclusively for other commercial and uses allowable in the LS District.

(2) All designated work space shall be designed to accommodate commercial uses as evidenced by the provision of flooring, interior storage, ventilation, storefront windows, roll-up doors, and/or other physical improvements of the type commonly found in exclusively commercial facilities used for the same work activity.

(3) The living area of the work/live unit shall be at least 500 square feet and shall not be occupied so that each person residing therein shall have less than 200 square feet of living space.

(4) The living area of the work/live unit shall be attached to or part of the primary building in which a business is normally operated.

(D) *Integration of commercial and living space.* The commercial use shall be the primary focus of the front of the building. Living space shall be physically integrated into the work/live unit and shall not be separately rented, leased, or sold. Mezzanines and lofts within the unit may be used as living space subject to compliance, with the other provisions of this section.

(E) *Parking requirements.* Work/live units shall comply with the parking standards set forth in §§ 154.175 through 154.184. A minimum of two spaces for the residential use shall be included as part of the parking calculation. The Planning Commission may modify this requirement to decrease or increase the required parking as appropriate to allow for the reuse of existing structures with limited parking or to accommodate authorized employees and/or customer or client visits.

(F) *Operating requirement.*

(1) A work/live unit shall be occupied and used only by the owner of the business within the unit and his or her immediate family (specifically defined as spouse and children/stepchildren).

(2) The owner or developer of any structure containing work/live units shall provide written notice to all work/live occupants and users that the surrounding area may be subject to levels of dust, fumes, noise, or other effects associated with commercial uses at higher levels than would be expected in more typical residential areas. Noise and other standards shall be those applicable to commercial properties in the LS District.

(3) An ongoing business must exist to allow residential occupancy of the work/live unit. If the business ceases to operate, the special land use permit shall end and the living area must be vacated within six months of the last day of business.

(4) The business and residential areas must be maintained separately and no business activity inclusive of, but not limited to, storage of any inventory or servicing or maintenance of any product shall be allowed in the residential area.

(5) Special use permits under this section shall be issued for a period of one year and must be renewed annually by application of the occupants. No fee shall be required for this renewal.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

ENVIRONMENTAL PROTECTION AND DESIGN PROVISIONS

§ 154.110 PURPOSE.

Environmental standards are established in order to preserve the short- and long-term environmental health, safety, and quality of the city. No parcel, lot, building, or structure in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious, or otherwise objectionable element or condition so as to adversely affect the surrounding area or adjoining premises. Any use permitted by this chapter may be undertaken and maintained if acceptable measures and safeguards are employed to limit dangerous and objectionable elements to acceptable limits as established by the following performance standards. No use, otherwise allowed, shall be permitted within any district, which does not conform to the following standards of use, occupancy, and operation. These standards are established as minimum requirements to be maintained.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.111 LANDSCAPING, GREENBELTS, BUFFERS, AND SCREENING.

(A) *Intent.* The intent of this section is to:

- (1) Protect and preserve the appearance, character, and value of the community;
- (2) Minimize noise, air, and visual pollution;
- (3) Improve the overall aesthetics and appearance, divide the expanse of pavement, and define parking areas and vehicular circulation within off-street parking lots and other vehicular use areas;
- (4) Require buffering of residential areas from more intense land uses and public road rights-of-way;
- (5) Prevent soil erosion and soil depletion and promote sub-surface water retention;
- (6) Encourage an appropriate mixture of plant material, such as evergreen and deciduous trees and shrubs, to protect against insect and disease infestation and produce a more aesthetic and cohesive design; and
- (7) Encourage the integration of existing woodlands in landscape plans.

(B) *Landscape definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BERM. A landscaped mound of earth, which blends with the surrounding terrain.

BUFFER. A landscaped area composed of living material, a screen wall, berm, or combination thereof, established and/or maintained to provide visual screening, noise reduction, and transition between conflicting types of land uses.

CONFLICTING NON-RESIDENTIAL LAND USE. Any non-residential use, such as office, commercial, industrial, research, parking, or public road right-of-way land use which abuts a residential land use.

CONFLICTING RESIDENTIAL USE. Any residential land use developed at a higher density, which abuts a residential land use developed at a lower density.

GREENBELT. A landscaped area, established at a depth of the minimum required front yard setback within a zoning district, which is intended to provide a transition between a public road right-of-way and an existing or proposed land use and/or between a conflicting land use and an existing or proposed land use.

OPACITY. The state of being impervious to sight.

PLANT MATERIAL. A collection of living evergreen and/or deciduous, woody-stemmed trees, shrubs, vines, and ground cover, including annual and perennial bedding plants.

(C) *Application of requirements.*

(1) These requirements shall apply to all uses for which site plan review is required under § 154.024 and subdivision plat review as required under the Subdivision Control Ordinance.

(2) No site plan, site condominium plan, or subdivision plat shall be approved unless a landscape plan is provided which meets the requirements set forth herein.

(D) *Landscape plan requirements.* A separate detailed landscape plan shall be required to be submitted to the city as part of the site plan review or tentative preliminary plat review. The landscape plan shall demonstrate that all requirements of this section are met and shall include, but not necessarily be limited to, the following items:

- (1) Location, spacing, size, root type, and descriptions for each plant type;

(2) Typical straight cross section including slope, height, and width of berms;

(3) Typical construction details to resolve specific site conditions, such as landscape retaining walls and tree wells used to preserve existing trees or maintain natural grades;

(4) Details in either text or drawing form to ensure proper installation and establishment of proposed plant materials;

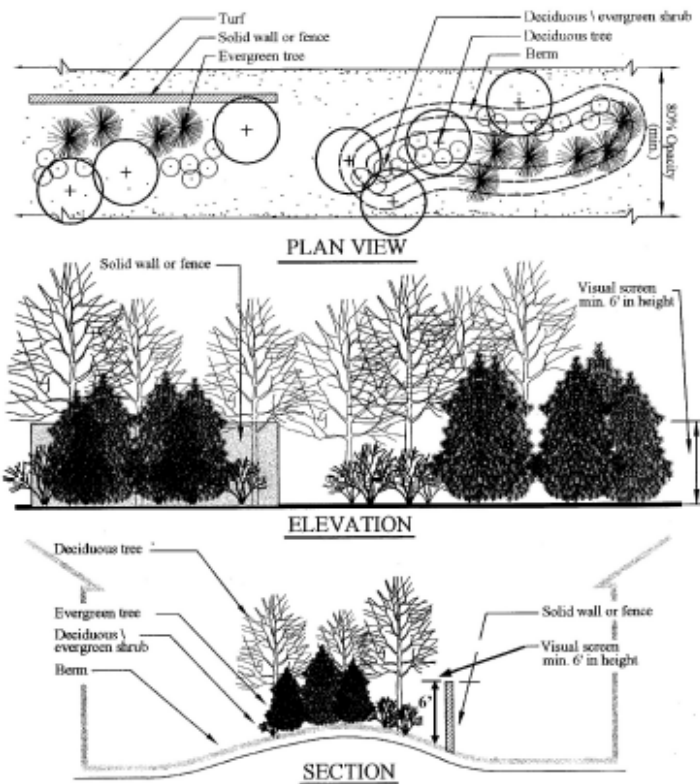
(5) Identification of existing trees and vegetative cover to be preserved;

(6) Identification of grass and other ground cover and method of planting; and

(7) Identification of a landscape maintenance program including statement that all diseased, damaged, or dead materials shall be replaced in accordance with the standards of this chapter.

(E) *Screening between land uses.* (See Figure 7.) Upon any improvement for which a site plan is required, a landscape buffer shall be constructed to create a visual screen at least six feet in height along all adjoining boundaries between either a conflicting non-residential or conflicting residential land use and residentially zoned or used property. The width of the buffer may vary, provided that all standards of this section are met. A landscape buffer may consist of earthen berms and/or living materials so as to maintain a minimum opacity of at least 80%. Opacity shall be measured by observation of any two square yard area of landscape screen between one foot above the established grade of the area to be concealed and the top or the highest point of the required screen. The plantings must meet this standard based upon reasonably anticipated growth over a period of three years. Where a need to provide a greater noise or dust barrier or to screen more intense development is determined by the Planning Commission, a solid wall, fence, or landscaped berm, or combination thereof, shall be required. Such screen shall be a minimum of six feet in height as measured on the side of the proposed wall having the higher grade. When a wall is required by the Planning Commission, the required wall shall be located on the lot line except where underground utilities interfere and except in instances where this chapter requires conformity with front yard setback requirements. Upon review of the landscape plan, the Planning Commission may approve an alternate location of a wall. The Planning Commission shall approve the construction materials of the wall or fence, which may include face brick, integral color split-face masonry, stone, or wood.

Figure 7



(F) *Parking lot landscaping.*

(1) *Required landscaping within parking lots.* Separate landscape areas shall be provided within parking lots in accordance with the following requirements (see Figure 8):

(a) A minimum of one tree shall be provided for every eight parking spaces, provided that a landscape island shall be provided for no more than 16 continuous spaces;

(b) Landscaping shall be arranged in curbed islands within the parking lot, which shall not be less than 50 square feet in area;

(c) A minimum distance of three feet from the backside of the curb and the proposed centerline of the landscape plantings shall be provided. Where vehicles overhang a landscape island or strip, a minimum distance of five feet from the backside of the curb and the proposed centerline of the landscape plantings shall be provided;

(d) The Planning Commission, at its discretion, may approve alternative landscape plantings at the perimeter of parking lots where landscaping within parking lots would be impractical due to the size of the parking lot or detrimental to safe and efficient traffic flow, or would create an unreasonable burden for maintenance and snowplowing; and

(e) All landscaped areas shall be protected with raised concrete curbs.

(2) *Required landscaping at the perimeter of parking lots.* Separate landscape areas shall be provided at the perimeter of parking lots in accordance with the following requirements (see Figure 9): parking lots, which are considered to be a conflicting land use as defined by this chapter shall meet the screening requirements set forth in division (E) above (see Figure 7); parking lots shall be screened from view with a solid wall or landscaped berm at least three feet in height along the perimeter of those sides which are visible from a public road (see Figure 9); and all landscaped areas shall be protected with raised concrete curbs.

Figure 8

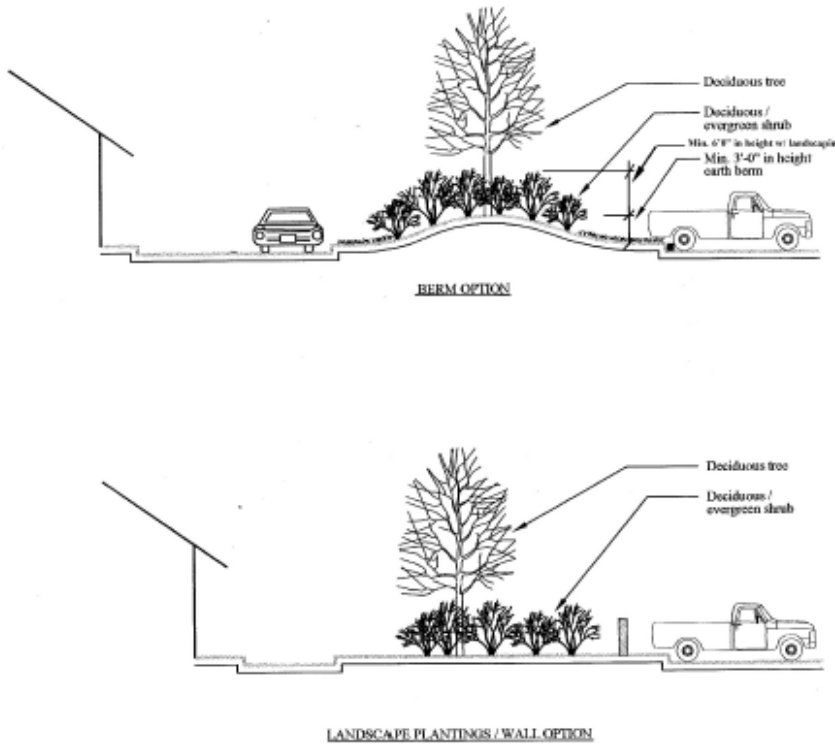
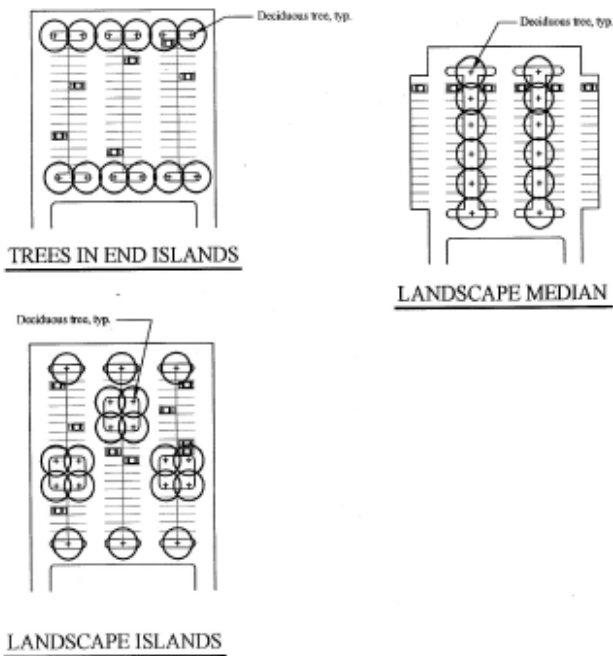


Figure 9



(G) *Greenbelts*. A greenbelt shall be provided which is an area established at a depth of the required front yard setback within a zoning district and landscaped in accordance with the following requirements (see Figure 10):

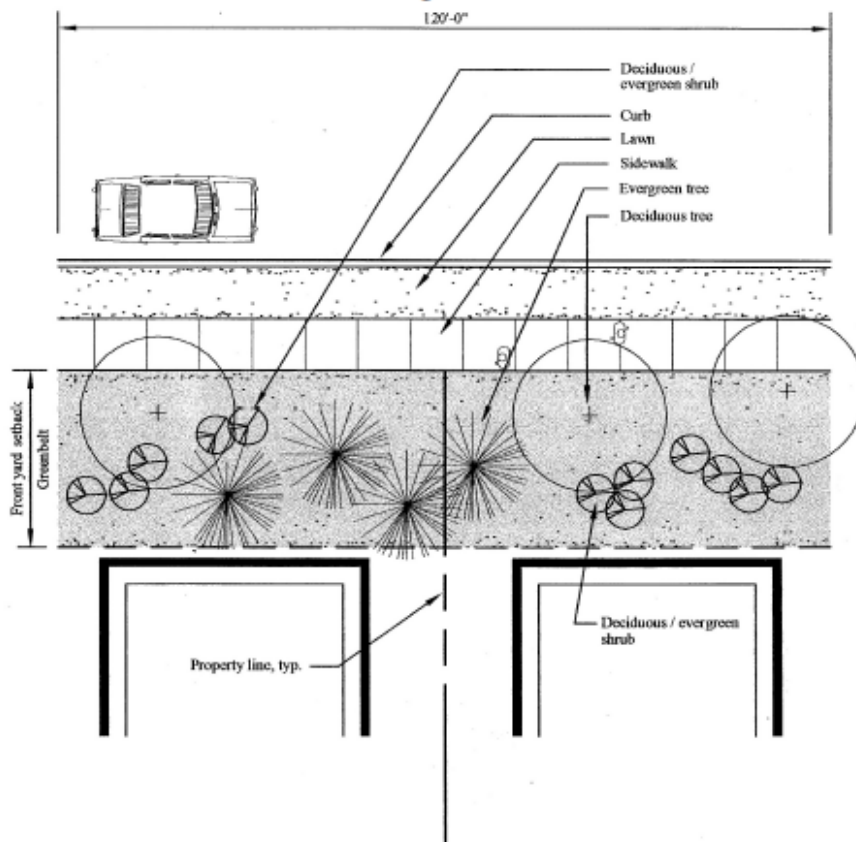
- (1) The greenbelt shall be landscaped with a minimum of one tree for every 30 lineal feet, or fraction thereof, of frontage abutting a public road right-of-way. Non-ornamental deciduous trees within a greenbelt shall be a minimum caliper of two and one-half inches or greater. Evergreen trees within a greenbelt shall be a minimum height of six feet;

(2) If ornamental deciduous trees are substituted for either non-ornamental deciduous trees or evergreen trees, they shall be provided at a minimum of one tree for every 20 lineal feet, or fraction thereof, of frontage abutting a public road right-of-way. Ornamental deciduous trees within a greenbelt shall be a minimum caliper of two inches or greater;

(3) In addition to the required trees within the greenbelt, the remainder of the greenbelt shall be landscaped in grass, ground cover, shrubs, and other natural landscape materials; and

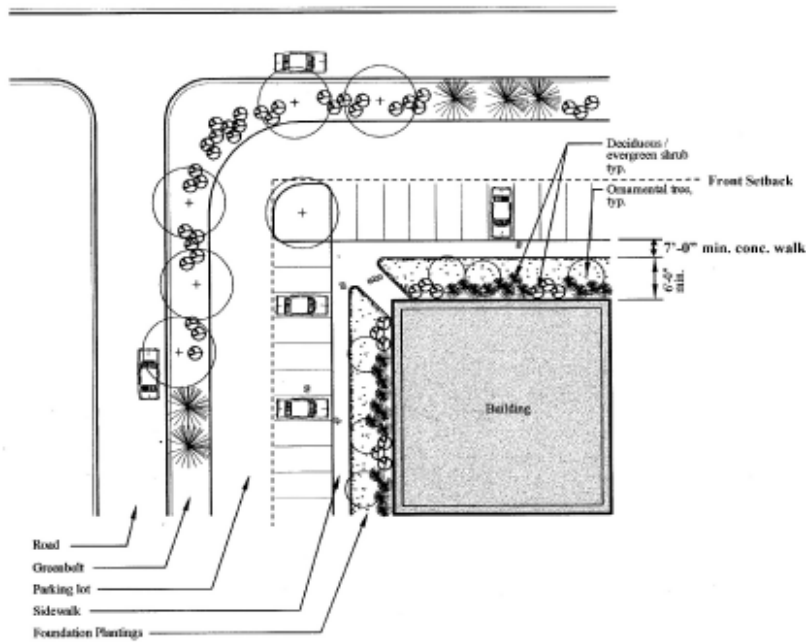
(4) Access drives from public rights-of-way through required greenbelts shall be permitted, but such drives shall not be subtracted from the lineal dimension used to determine the minimum number of trees required.

Figure 10



(H) *Site landscaping*. In addition to any landscape greenbelt and/or parking lot landscaping required by this section, 20% of the site area, excluding existing public rights-of-way, shall be landscaped. Such site area landscaping may include a combination of the preservation of existing tree cover, planting of new trees and plant material, landscape plazas and gardens, and building foundation planting beds. Site area landscaping shall be provided to screen potentially objectionable site features such as, but not limited to, retention/detention ponds, transformer pads, air conditioning units, and loading areas. (See Figure 11.)

Figure 11



(I) *Subdivision and site condominium landscaping.* Landscaping for single-family residential subdivisions and site condominiums shall be provided in accordance with the following requirements.

(1) *Street trees.* The frontage of all internal public or private streets shall be landscaped with a minimum of one tree for every 50 lineal feet, or fraction thereof. Such street trees shall meet the minimum size and spacing requirements set forth in division (L) below.

(2) *Screening between land uses.* Where a subdivision or site condominium contain uses which are defined as conflicting land uses by this section, the screening requirements set forth in division (E) above shall be met.

(3) *Screening from public roads.* Where a subdivision or site condominium abuts a public road right-of-way located outside of the proposed subdivision or site condominium, the screening requirements set forth in divisions (E) above shall be met.

(4) *Other site improvements.* A landscape plan for a subdivision or site condominium development shall also include landscaping details of the entrance to the development, stormwater retention and/or detention areas, community buildings and other recreational areas, and any other site improvement which would be enhanced through the addition of landscaping.

(J) *Screening of trash containers.* (See Figure 12.)

(1) Outside trash disposal containers shall be screened on all sides with an opaque fence or wall, and gate at least as high as the container, but no less than six feet in height, and shall be constructed of material which is compatible with the architectural materials used in the site building or project.

(2) Containers shall be consolidated to minimize the number of collection sites, and located so as to reasonably equalize the distance from the buildings or projects they serve.

(3) Containers and enclosures shall be located away from public view insofar as possible.

(4) Containers and enclosures shall be situated so that they do not cause excessive nuisance or offense to occupants of nearby buildings.

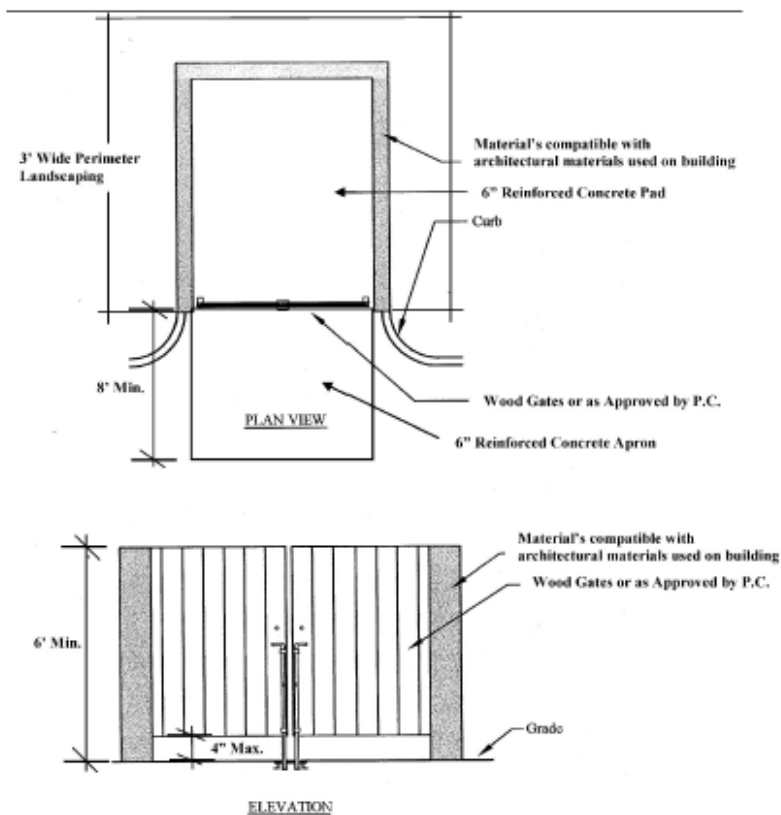
(5) Concrete pads of appropriate size and construction shall be provided for containers or groups of containers. Concrete aprons shall also be provided for bin loading.

(6) For storage of recyclable materials, the enclosure area and pad size shall be increased to amply accommodate the extra materials and their containers.

(7) Screening and gates shall be of a durable construction. Gates shall be made of wood or other durable material and shall be reinforced with a steel sub-structure.

(8) Landscaping shall be provided within three feet of the perimeter of the trash container, and shall consist of evergreen trees or large evergreen shrubs consistent with division (K) below.

Figure 12



(K) *Landscape elements.* The following minimum standards shall apply.

(1) *Quality.* Plant materials shall be of generally acceptable varieties and species, free from insects and diseases, hardy to the county, conform to the current minimum standard of the American Association of Nurserymen, and shall have proof of any required governmental regulations and/or inspections.

(2) *Composition.* A mixture of plant material, such as evergreen, deciduous trees, and shrubs, is recommended as a protective measure against insect and disease infestation. A limited mixture of hardy species is recommended rather than a large quantity of different species to produce a more aesthetic, cohesive design and avoid a disorderly appearing arrangement.

(3) *Berms.* Berms shall be constructed with slopes not to exceed a one to three gradient. Berm slopes shall be protected with sod, seed, mulch, or other form of natural living ground cover.

(4) *Existing trees.* The preservation and incorporation of existing trees is encouraged. Where existing trees are used to satisfy the requirements of this section, the following requirements shall apply:

(a) Paving or other site improvements shall not encroach upon the dripline of the existing tree(s) to be preserved;

(b) If existing plant material is labeled "To Remain" on site plans by the applicant or required by the city, protective techniques such as, but not limited to, fencing or barriers placed at the dripline around the perimeter of the plant material shall be installed during construction. No vehicle or other construction equipment shall be parked or stored within the dripline of any plant material intended to be saved. Other

protective techniques may be used provided such techniques are approved by the Planning Commission; and

(c) In the event that healthy trees which are used to meet the minimum requirements of this chapter or those labeled to remain are cut down, destroyed, damaged, filled, or excavated at the dripline, as determined by the city, the contractor shall replace them with trees which meet ordinance requirements.

(5) *Installation, maintenance, and completion.*

(a) All landscaping required by this chapter shall be planted before obtaining a certificate of occupancy or the appropriate financial guarantee, as set forth in § 154.027, shall be placed in escrow in the amount of the cost of landscaping to be released only after landscaping is completed.

(b) All landscaping and landscape elements shall be planted, and earth moving or grading performed, in a sound workmanlike manner, according to accepted planting and grading procedures.

(c) The owner of property required to be landscaped by this chapter shall maintain such landscaping in a strong and healthy condition, free from refuse, debris, and insects. All materials used to satisfy the requirements of this chapter which become unhealthy or dead shall be replaced within one year of damage or death or the next appropriate planting period, whichever comes first. All landscaped areas shall be provided with a readily available and acceptable water supply. Mulching up to the base of trees shall be prohibited.

(L) *Minimum size and spacing requirements.* Where landscaping is required the following schedule sets forth minimum size and spacing requirements; for representative landscape materials.

Tree Size and Spacing Requirements									
	Minimum Size Allowable (Height/Caliper)				Recommended On-center Spacing (In Feet)				
Trees	6'	3'-4'	2"	2.5"	30	25	15	10	
Tree Size and Spacing Requirements									
	Minimum Size Allowable (Height/Caliper)				Recommended On-center Spacing (In Feet)				
Trees	6'	3'-4'	2"	2.5"	30	25	15	10	
Evergreen Trees:									
Douglas fir	T							T	
Fir	T							T	
Hemlock	T							T	
Pine	T							T	
Spruce	T							T	
Large Deciduous Trees:									
Ash				T	T				
Beech				T	T				

Birch				T			T		
Ginko (male only)				T		T			
Honeylocust (seedless, thornless)				T		T			
Linden				T			T		
Maple				T		T			
Oak				T		T			
Sycamore				T		T			
Narrow Evergreen Trees:									
Arborvitae		T							T
Juniper (selected varieties)		T							T
Red cedar		T							T
Small Deciduous Trees (Ornamental):									
Flowering cherry, plum, pear			T				T		
Flowering crabapple			T					T	
Flowering dogwood (disease resistant)			T					T	
Hawthorn			T					T	
Hornbeam			T				T		
Magnolia			T					T	
Mountain ash			T					T	
Redbud			T				T		

Shrub Size and Spacing Requirements									
	Minimum Size Allowable (Height/Caliper)				Recommended On-center Spacing (In Feet)				
Shrubs	6'	3'-4'	24'-36'	18"-24"	10	6	5	4	3
Shrub Size and Spacing Requirements									
	Minimum Size Allowable (Height/Caliper)				Recommended On-center Spacing (In Feet)				
Shrubs	6'	3'-4'	24'-36'	18"-24"	10	6	5	4	3
Large Deciduous Shrubs:									

Buckthorn/tallhedge		T						T		
Cotoneaster (peking and spreading)			T					T		
Dogwood (red osier and grey)			T				T			
Euonymous (burning bush)			T				T	*		
Flowering quince			T				T			
Honeysuckle			T			T				
Lilac			T			T				
Privet			T				T			
Pyracantha				T				T		
Sumac			T				T			
Viburnum varieties			T				T			
Weigela		T							T	
Large Evergreen Shrubs:										
Alberta spruce		T							T	
Chinensis juniper varieties			T				T			
Hicks yew				T					T	
Mugho pine				T			T			
Pyramidal yew		T				T				
Sabina juniper				T				T		
Spreading yew			T					T		
Small Deciduous Shrubs:										
Barberry				T				T		
Cotoneaster (rockspray, cranberry)				T						T
				T				T		
Dwarf winged euonymus				T				T		*
Fragrant sumac				T						
Japanese quince				T						T
Potentilla				T						T

Spirea				T					T	
<i>Small Evergreen Shrubs:</i>										
Boxwood				T					T	*
Brown's ward's sebiion yews				T						T
Euonymous spreading varieties				T				T		
Horizontalis juniper varieties				T			T			
Table notes: *: for hedge plantings										

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.112 FENCES, WALLS, AND SCREENS.

(A) Any person desiring to build or cause to be built a fence upon property within the city shall first apply to the Zoning Administrator for a permit. Application for such permit shall contain any and all information, including site plan and opacity, which are required and necessary for the determination of whether the erection of such fence would be contrary to the provisions of this chapter.

(B) Except as otherwise required by this chapter, the following regulations shall apply.

(1) In any residential district, fences in the required front yard shall not exceed three feet in height and 65% solid surface. Fences in the side or rear yards shall not exceed six feet in height.

(2) In LS, GC, CBD, and LI Districts, no fence, wall, or other screening structure shall exceed eight feet in height and shall only be placed in side or rear yards.

(3) The use of barbed wire, spikes, nails, or any other sharp point or instrument of any kind on top or on the sides of any fence is prohibited. Barbed wire cradles may be placed on top of fences enclosing public utility buildings or wherever deemed necessary in the interests of public safety.

(4) No fence shall be constructed or maintained which is charged or connected with an electrical current.

(5) Screen and/or retaining walls shall be designed and constructed in accordance with applicable Building Code requirements. Retaining walls shall include face brick and similar materials to ensure that walls are of a high aesthetic quality.

(6) Temporary construction fences and fences required for protection around excavations shall comply with the Building Code. Such fences shall be permitted for as long as 90 days following issuance of the building permit.

(7) Clear vision requirements are:

(a) No fence, wall, screen, hedge, sign, or other structure or planting shall obstruct visibility between the heights of 30 inches and ten feet above the sidewalk grade within 25 feet of the intersection of two or more streets; and

(b) On any interior lot, no fence, wall, screen, hedge, sign, or other structure or planting shall obstruct the visibility of a driveway, either on a parcel or on an adjacent parcel, between the height of 30 inches and ten feet measured a distance of 20 feet back from the point where the driveway intersects the street.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.113 AIRBORNE EMISSIONS.

(A) *Smoke and air contaminants.* It shall be unlawful for any person, firm, or corporation to permit the emission of any smoke or air contaminant in violation of air quality standards adopted by federal and/or state regulatory authorities.

(B) *Odors.*

(1) Any condition or operation which results in the creation of odors of such intensity and character as to be detrimental to the health and welfare of the public or which interferes unreasonably with the comfort of the public shall be removed, stopped, or so modified as to remove the odor.

(2) The provisions of this section are not intended to apply to farming activities.

(C) *Gases.* The escape or emission of any gas, which is injurious or destructive, harmful to person or property, or explosive shall be unlawful and shall be abated.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.114 NOISE AND VIBRATION.

(A) Noise, which is objectionable as determined by the city due to volume, frequency, or beat shall be muffled, attenuated, or otherwise controlled, subject to the following.

(1) Objectionable sounds of an intermittent nature, or sounds characterized by high frequencies, shall be controlled so as not to become a nuisance to adjacent uses.

(2) Sirens and related apparatus used solely for public purposes are exempt from this requirement. Noise resulting from temporary construction activity shall also be exempt from this requirement.

(3) Noise levels shall not exceed 75 decibels between the hours of 6:00 a.m. and 10:00 p.m. and shall not exceed 60 decibels between the hours of 10:00 p.m. and 6:00 a.m., and must comply with the levels set forth in the following table.

Sound Levels in Decibels at Property Lines		
Sound Level	Adjacent to R-1, R-2, R-3, R-4, and R-5 Districts	Adjacent to LS, GC, CBD and LI Districts
Sound Levels in Decibels at Property Lines		
Sound Level	Adjacent to R-1, R-2, R-3, R-4, and R-5 Districts	Adjacent to LS, GC, CBD and LI Districts
0 to 75	58	73
75 to 150	54	69
150 to 300	50	65
300 to 600	46	61
600 to 1,200	40	55
1,200 to 2,400	33	43
2,400 to 4,800	26	41
Over 4,800	20	35

(4) Noise levels noted in division (A)(3) above may be exceeded with City Council approval for special events and circumstances.

(B) No use shall generate any ground transmitted vibration in excess of the limits set forth below. Vibration shall be measured at the nearest adjacent lot line. The vibration maximums set forth below are stated in terms of particle velocity, which may be measured directly with suitable instrumentation or computed on the basis of displacement and frequency. When computed, the following standards shall apply.

<i>Particle Velocity, Inches Per Second</i>	
<i>Frequency in Cycles per Second</i>	<i>Displacement in Inches</i>
0 to 10	0.0010
10 to 20	0.0008
20 to 30	0.0005
30 to 40	0.0004
40 and over	0.0003

(C) Vibrations resulting from temporary construction activity shall be exempt from the requirements of this section.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.115 USE, STORAGE, AND HANDLING OF HAZARDOUS SUBSTANCES; STORAGE AND DISPOSAL OF SOLID, LIQUID, AND SANITARY WASTES.

(A) It shall be unlawful for any person, firm, corporation, or other legal entity to pollute, impair, or destroy the air, water, soils, or other natural resources within the city through the use, storage, and handling of hazardous substances and/or wastes or the storage and disposal of solid, liquid, gaseous, and/or sanitary wastes.

(B) Any person, firm, corporation, or other legal entity operating a business or conducting an activity which uses, stores, or generates hazardous substances shall obtain the necessary permits or approval from the appropriate federal, state, or local authority having jurisdiction.

(C) (1) Any person, firm, corporation, or other legal entity operating a business or conducting an activity which uses, stores, or generates hazardous substances shall complete and file a hazardous chemicals survey on a form supplied by the city in conjunction with the following: upon submission of a site plan and inventory of hazardous wastes; upon any change of use or occupancy of a structure or premises; and upon any change of the manner in which such substances are handled, and/or in the event of a change in the type of substances to be handled.

(2) All site plans for business or facilities which use, store, or generate hazardous substances shall be reviewed by the Fire Department, City Engineer, and any other appropriate experts determined necessary by the Planning Commission prior to approval by the Planning Commission.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.116 ELECTRICAL DISTURBANCE, ELECTROMAGNETIC, OR RADIO FREQUENCY INTERFERENCE.

No use shall create any electrical disturbance that adversely affects any operations or equipment other than those of the creator of such disturbance, or cause, create, or contribute to the interference with

electronic signals (including television and radio broadcasting transmission) to the extent that the operation of any equipment not owned by the creator of such disturbance is adversely affected.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.117 SITE AND EXTERIOR LIGHTING STANDARDS.

(A) *Light and glare from indirect sources.* The design and/or screening of the development shall ensure that glare from automobile and commercial or industrial vehicle headlights shall not be directed into any adjacent property, particularly residential property. Exterior doors shall be located, operated, and maintained so as to prevent any glare and light from creating a nuisance or safety hazard to operators of motor vehicles, pedestrians, and neighboring land uses.

(B) *Exterior lighting from direct sources.*

(1) Ground illumination shall not exceed 1.5 foot-candles average maintained. The light intensity at ground level shall not exceed 0.1 foot-candles at the property line adjacent to residentially zoned or used property and 1.0 foot candle measured at the property line adjacent to all other uses.

(2) Free standing light standards including base shall not exceed 20 feet in total height and if located in the Linden Historic District, standards and light fixtures shall be of a period design approved by the Historic District Commission prior to final site plan approval by the Planning Commission.

(3) All light fixtures shall be of a sharp cut-off design. Fixtures that allow light to shine on adjoining property or create horizontal glare shall not be approved. Lighting designs that allow light to shine into a public street or right-of-way shall not be approved.

(4) Free standing light fixtures shall be of a design to direct light into the development and away from adjacent property. House side shields shall be required in residential areas adjacent to any illuminated sites.

(C) *Architectural lighting.*

(1) Illumination of buildings, monuments or flags shall not exceed 15 foot-candles average maintained. All fixtures shall be shielded or designed to prohibit glare from shining into any residential area, street or public right-of-way.

(2) Unshielded luminous tube (neon), LED, incandescent or fluorescent lighting shall be prohibited as an architectural detail on the exterior of any structure, including but not limited to rooflines, cornices, eaves, windows, and door openings. The Planning Commission may approve internally illuminated architectural bands or similar shielded lighting accents as part of a site plan, upon determining that such lighting accents would enhance the aesthetics of the site, and would not cause off-site glare or light pollution.

(D) *Window lighting.* All interior light fixtures visible through a window from a public right-of-way or adjacent property shall be shielded to prevent glare at the property line or within a public right-of-way. Unshielded luminous tube (neon), LED, incandescent and fluorescent light fixtures shall be prohibited where the light source would be visible through the window from a public right-of-way or adjacent property.

(E) *Prohibited lighting elements.*

- (1) Running, chasing or otherwise intermittent lighting;
- (2) The internal illumination of translucent building-mounted canopies/awnings;
- (3) The use of laser light sources, searchlights, or any similar high-intensity light.

(F) *Exemptions.* The following are exempt from the lighting requirements of this section, except that the Zoning Administrator may take steps to eliminate the impact of the exempted items when deemed

necessary to ensure that they will not interfere with vehicular traffic or the enjoyment and use of adjacent properties:

- (1) Holiday decorations;
- (2) Window displays without glare;
- (3) Shielded pedestrian walkway lighting;
- (4) Residential lighting with no off-site glare.

(G) *Sign illumination.* Sign illumination shall conform to the provisions of §§ 154.155 through 154.163.

(H) *Submittal requirements.* Lighting designer and/or fixture manufacturer shall provide a drawing with photometric layout of the proposed design to show actual initial foot-candle levels on a plot plan sealed by a professional engineer or architect licensed in the State of Michigan. Submitted drawing shall include detailed fixture schedule, which shall include manufacturer's name, catalog number, lamp type and wattage. A complete set of manufacturer's catalog specification sheets for each fixture type used on lighting design shall be included with photometric submittal.

(Ord. 285, passed 12-8-2003; Ord. 387, passed 9-10-2018) Penalty, see § 154.999

§ 154.118 FIRE HAZARD.

Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire fighting and fire suppression equipment and such safety devices as are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.119 SAFETY.

Existing hazards or potential hazards and nuisances, such as construction sites, junk yards, landfills, sanitary landfills, demolition sites, unused basements, abandoned wells or cisterns and sand, gravel, and stone pits or piles are to be enclosed by suitable fencing or barriers so as not to endanger public health, safety, and welfare.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.120 STORMWATER MANAGEMENT.

(A) (1) All developments and earth changes subject to review under the requirements of this chapter shall be designed, constructed, and maintained to prevent flooding and protect water quality. The particular facilities and measures required on-site shall reflect the natural features, wetlands, and watercourses on the site; the potential for on-site and off-site flooding, water pollution, and erosion; and the size of the site.

(2) Where it is determined that the public storm drainage system lacks sufficient capacity to control drainage to off-site properties and drainageways, the city may require on-site detention storage of stormwater in accordance with the standards of the city and County Drain Commission.

(B) Stormwater management shall comply with the following standards.

(1) The design of storm sewers, detention facilities, and other stormwater management facilities shall comply with the standards of the County Drain Commission or the city design standards, whichever is more restrictive.

(2) Stormwater management conveyance, storage, and infiltration measures and facilities shall be designed to prevent flood hazards and water pollution related to stormwater runoff and soil erosion from the proposed development.

(3) The use of swales and vegetated buffer strips is encouraged in cases where it is safe as a method of stormwater conveyance so as to decrease runoff velocity, allow for natural infiltration, allow suspended sediment particles to settle, and to remove pollutants.

(4) Alterations to natural drainage patterns shall not create flooding or water pollution for adjacent or downstream property owners.

(5) Discharge of runoff from any site, which may contain oil, grease, toxic chemicals, or other polluting materials is prohibited. If a property owner desires to propose measures to reduce and trap pollutants, the owner must meet the requirements of the State Department of Environmental Quality and the County Drain Commissioner, based upon professionally accepted principles, such a proposal shall be submitted and reviewed by the City Engineer, with consultation of appropriate experts.

(6) Drainage systems shall be designed to protect public health and safety and to be visually attractive, taking into consideration viable alternatives.

(7) Maintenance of detention basins shall be the responsibility of the property owner.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.121 REGULATION OF FLOODPLAIN AREAS.

(A) Purpose.

(1) The floodplains of the city are subject to periodic inundation of floodwaters, which result in loss of property, health, and safety hazards, disruption of commerce and governmental service, and impairment of tax base.

(2) It is the purpose of this section to comply with the provisions and requirements of the National Flood Insurance Program, as constituted in accordance with the National Flood Insurance Act of 1968, being 42 U.S.C. §§ 4001 through 4218, and subsequent enactments and rules and regulations promulgated in furtherance of this program by the Federal Emergency Management Agency (FEMA), as published in the Federal Register, Vol. 41, No. 207, October 26, 1976, and redesignated at 44 F.R. 31177, May 31, 1979.

(3) The provisions of this section are intended to:

(a) Help protect human life, prevent or minimize material losses, and reduce the cost to the public for rescue and relief efforts;

(b) Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause excessive increases in flood heights or velocities;

(c) Require that uses vulnerable to floods, including public facilities which serve such uses, shall be protected against flood damage at the time of initial construction;

(d) Protect individuals from buying lands which are designated to be unsuited for intended purposes because of flooding; and

(e) Permit reasonable economic use of property located within a designated floodplain area.

(B) Delineation of floodplain areas.

(1) Designated floodplain areas shall overlay existing zoning districts delineated on the zoning district map of the city. The boundaries of the floodplain areas are identified in the report entitled the "Flood Insurance Study, City of Linden" prepared by FEMA with an effective date of 1980, as may be revised from time to time. The study and accompanying maps are adopted by reference, appended, and declared to be part of this chapter.

(2) The standard applied to establishing the floodplain area is the base floodplain delineated by the base flood. In areas associated with riverine flooding, a floodway is designated within the floodplain area.

(3) Where disputes as to the location of a floodplain area boundary arise, the Zoning Board of Appeals shall resolve the dispute in accordance with §§ 154.215 through 154.219.

(C) *Application of regulations.*

(1) In addition to other requirements of this chapter applicable to development in the underlying zoning district, compliance with the requirements of this section shall be necessary for all development occurring within designated floodplain areas. Conflicts between the requirements of this section and other requirements of this chapter or any other ordinance shall be resolved in favor of this section, except where the conflicting requirement is more stringent and would further the objectives of this section. In such cases, the more stringent requirement shall be applied.

(2) Upon application for land use permits, the Zoning Administrator shall determine whether said use is located within a designated floodplain area utilizing the documents cited in division (B) above. The issuance of a land use permit within the floodplain area shall comply with the following standards:

(a) The requirements of this section shall be met;

(b) The requirement of the underlying districts and all other applicable provisions of this chapter shall be met; and

(c) All necessary development permits shall have been issued by appropriate local, state, and federal authorities, including a floodplain permit, approval, or letter of authority from the state's Floodplain Regulatory Authority, found in Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act (NREPA), Public Act 451 of 1994, being M.C.L.A. §§ 324.11501 et seq., as amended. Where a development permit cannot be issued prior to the issuance of a zoning compliance permit, a letter from the issuing agency indicating intent to issue contingent only upon proof of zoning compliance shall be acceptable.

(3) Floodplain management administrative duties are as follows.

(a) With regard to the National Flood Insurance Program, and the regulation of development within the flood hazard area zone as prescribed in division (D) below, the duties of the Zoning Administrator shall include, but are not limited to:

1. Notification to adjacent communities and the Department of Environmental Quality of the proposed alteration or relocation of any watercourse, and the submission of such notifications to the Federal Insurance Administration;

2. Verification and recording of the actual elevation in relation to National Geodetic Vertical Datum (NGVD) of the lowest floor, including basement, of all new or substantially improved structures constructed within the flood hazard area, and in the case of flood proofed structures, the elevation to which the structure was flood proofed; and

3. Recording of all certificates of flood proofing, and written notification to all applicants to whom variances are granted in flood hazard area zone indicating the terms of the variance. A record of all variance notifications and variance actions shall be maintained together with the justification for each variance.

(b) All records and maps pertaining to the National Flood Insurance Program shall be maintained in the office of the Zoning Administrator and shall be open for public inspection.

(c) It shall be the responsibility of the Zoning Administrator to obtain and utilize the best available flood hazard data for purposes of administering the ordinance in the absence of data from FEMA.

(D) *Floodplain standard and requirements.*

(1) The following general standards and requirements shall be applied to all uses proposed to be located within the floodplain area:

(a) All new construction and substantial improvements within a floodplain, including the placement of prefabricated buildings and mobile homes, shall:

1. Be designed and anchored to prevent flotation, collapse, or lateral movement of the structure;
2. Be constructed with materials and utility equipment resistant to flood damage; and
3. Be constructed by methods and practices that minimize flood damage.

(b) All new and replacement water supply systems shall minimize or eliminate infiltration of floodwaters into the systems;

(c) All new and replacement sanitary sewage systems shall minimize or eliminate infiltration of floodwaters into the systems and discharges from systems into floodwaters;

(d) All public utilities and facilities shall be designed, constructed, and located to minimize or eliminate flood damage;

(e) Adequate drainage shall be provided to reduce exposure to flood hazards;

(f) The City Engineer or his or her representative shall review development proposals to determine compliance with the standards in this section, and shall transmit his or her determination to the Zoning Administrator;

(g) Land shall not be divided in a manner creating parcels or lots which cannot be used in conformance with the requirements of this subchapter;

(h) The flood carrying capacity of any altered or relocated watercourse not subject to state and federal regulations designed to ensure flood carrying capacity shall be maintained; and

(i) Available flood hazard data from federal, state, or other sources shall be reasonably utilized in meeting the standards of this section. Data furnished by FEMA shall take precedence over data from other sources.

(2) The following specific standards shall be applied to all uses proposed to be located within the floodplain area but not within the floodway portion of the floodplain area. All new construction and substantial improvements of non-residential structures shall have either:

(a) The lowest floor, including basement, elevated at least one-tenth foot above the base flood level; and

(b) Be constructed such that below base flood level, together with attendant utility and sanitary facilities, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A professional engineer or architect shall certify that the standards of this subparagraph are satisfied, and that the floodproofing methods employed are adequate to withstand the flood depths, pressures, velocities, impact, and uplift forces and other factors associated with base flood in the location of the structure.

(3) The following general standards and requirements shall be applied to mobile homes located within floodplain areas:

(a) Anchoring must meet HUD specifications, per rule 605;

(b) An evacuation plan indicating alternate vehicular access and escape routes shall be filed with the County Sheriff Department for mobile home parks and mobile home subdivisions; and

(c) Mobile homes within Zones A1-30 on the Flood Insurance Rate Map shall be located in accord with the following standards.

1. All mobile homes shall be placed on stands or lots which are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level.

2. Adequate surface drainage away from all structures and access for a mobile home hauler shall be provided.

3. In the instance of elevation on pilings, lots shall be large enough to permit steps, piling foundations shall be placed in stable soil no more than ten feet apart, and reinforcement shall be provided for piers more than six feet above ground level.

4. In mobile home parks and mobile home subdivisions which exist at the time this division (D)(3) is adopted, where repair, reconstruction, or improvement of streets, utilities, and pads equals or exceeds 50% of the value of the streets, utilities, and pads before the repair, the standards in the divisions above shall be complied with.

(4) The following standards shall be applied to all uses proposed to be located within the floodway portion of the floodplain area.

(a) Encroachments, including fill, new construction, substantial improvements, and other development shall be prohibited. Exception to this prohibition shall only be made upon certification by a registered professional engineer or the Department of Environmental Quality that the development proposed will not result in any increases in flood levels during a base flood discharge, and compliance with Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act (NREPA), Public Act 451 of 1994, being M.C.L.A. §§ 324.11501 et seq., as amended.

(b) The placement of mobile homes shall be prohibited.

(c) The uses of land permitted in an underlying zoning district shall not be construed as being permitted within the regulatory floodway, except upon compliance with the provisions of this section.

(E) *Warning and disclaimer of liability.*

(1) The degree of flood protection required by provisions of this section is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study.

(2) Larger floods may occur on rare occasions.

(3) These provisions do not imply that areas outside the floodplain or land uses permitted within such districts will be free from flooding or flood damages nor shall the city or any officer or employee thereof be liable for any flood damages that result from reliance on the provisions of this section or any administrative decision lawfully made thereunder.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.122 BUILDING GRADES.

(A) Any building requiring yard space shall be located at such an elevation that a finished grade shall be maintained to cause the flow of surface water to run away from the walls of the building. All grades shall be established and maintained so that surface water runoff damage does not occur to adjoining properties prior to, during, and after construction.

(B) When a new building is constructed on a vacant lot between two existing buildings or adjacent to an existing building, the project engineer shall use the existing established finished grade or the minimum established grade, in determining the proper grade around the new building. The yard around the new building shall be graded in such a manner as to meet existing codes and to preclude normal runoff of surface water to flow onto the adjacent property.

(C) Final grades shall be approved by the City Engineer who may require a grading plan, which has been duly completed and certified by a professional engineer or land surveyor.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

PLANNED UNIT DEVELOPMENT DISTRICT

§ 154.135 PURPOSE AND INTENT.

Planned unit development (PUD) district regulations are intended to provide for various types of land uses planned in a manner which shall: encourage the use of land in accordance with its character and adaptability; conserve natural resources and energy; encourage innovation in land use planning; provide enhanced housing, employment, shopping, traffic circulation, and recreational opportunities for the people of the city; and bring about a greater compatibility of design and use. The provisions of this subchapter provide enabling authority and standards for the submission, review, and approval of applications for planned unit developments.

(Ord. 285, passed 12-8-2003)

§ 154.136 PUD REGULATIONS.

(A) A planned unit development (PUD) may be applied for in any zoning district. The granting of a planned unit development application shall require a rezoning by way of amendment of this chapter upon the recommendation of the Planning Commission and approval of the City Council.

(B) Any land use authorized in this chapter may be included in a planned unit development, subject to adequate public health, safety, and welfare protection mechanisms being designed into the development to ensure the compatibility of varied land uses both within and outside the development.

(C) The applicant for a planned unit development must demonstrate each of the following criteria as a condition to being entitled to planned unit development treatment:

(1) Granting of the planned unit development will result in at least one of the following:

(a) A recognizable and material benefit to the ultimate users of the project and to the community, where such benefit would otherwise be unfeasible or unlikely to be achieved without application of the planned unit development regulations;

(b) Long-term protection and preservation of natural resources and natural features of a significant quantity and/or quality, where such benefit would otherwise be unfeasible or unlikely to be achieved without application of the planned unit development regulations; or

(c) A nonconforming use shall, to a material extent, be rendered more conforming, or less offensive, to the zoning district in which it is situated.

(2) The proposed type and density of use shall not result in an unreasonable increase in the need for or burden upon public services, facilities, streets, and utilities;

(3) The proposed development shall be consistent with the public health, safety, and welfare of the city;

(4) The proposed development shall not result in an unreasonable negative environmental impact on the subject site or surrounding land;

(5) The proposed development shall not result in an unreasonable negative economic impact upon surrounding properties;

(6) The proposed development shall be under single ownership and/or control such that there is a single person having responsibility for completing the project in conformity with this chapter; and

(7) The proposed development shall be consistent with the goals and policies of the Master Plan.

(Ord. 285, passed 12-8-2003)

§ 154.137 PROCEDURE FOR REVIEW.

(A) *Pre-application conference.* Prior to the submission of an application for planned unit development approval, the applicant shall meet with the Zoning Administrator, together with any staff and consultants

the Administrator deems appropriate. The applicant shall present at such conference, or conferences, at least a sketch plan of the proposed planned unit development, as well as the following information: total number of acres in the project; a statement of the number of residential units, if any; the number and type of non-residential uses, the number of acres to be occupied by each type of use; the known deviations from ordinance regulations to be sought; the number of acres to be preserved as open or recreational space; and all known natural resources and natural features to be preserved.

(B) *Preliminary plan.*

(1) Following the pre-application conference, the applicant shall submit a preliminary site plan of the proposed planned unit development. The preliminary site plan shall be prepared in accordance with the standard set forth in § 154.024(C). A narrative report shall accompany the site plan providing a description of the project, discussing the market concept and feasibility of the project, and explaining the manner in which the criteria set forth in § 154.136(C) have been met.

(2) The preliminary plan shall be noticed for public hearing as a zoning amendment before the Planning Commission. Following the hearing, the Planning Commission shall review the preliminary site plan and shall take one of the following actions.

(a) *Approval.*

1. Upon finding that the preliminary plan meets the criteria and standards set forth in §§ 154.135 and 154.136, the Planning Commission shall grant preliminary approval. Approval shall constitute approval of the uses and design concept as shown on the preliminary plan and shall confer upon the applicant the right to proceed to preparation of the final plan.

2. Approval of the preliminary plan by the Planning Commission shall not constitute rezoning of the property to PUD nor bind the City Council to approval of the final plan.

(b) *Tabling.* Upon finding that the preliminary plan does not meet the criteria and standards set forth in §§ 154.135 and 154.136, but could meet such criteria if revised, the Planning Commission may table action until a revised preliminary plan is resubmitted.

(c) *Denial.* Upon finding that the preliminary plan does not and cannot meet the criteria and standards set forth in §§ 154.135 and 154.136, the Planning Commission shall deny preliminary approval.

(C) *Final plan.* Within six months following receipt of the Planning Commission comments on the preliminary plan, the applicant shall submit a final plan and supporting materials conforming with this section. If a final plan is not submitted by the applicant for final approval within six months following receipt of Planning Commission comments, the preliminary plan approval becomes null and void.

(1) *Information required.* A final site plan and application for a PUD shall contain the following information:

(a) A site plan meeting all requirements of § 154.024(D);

(b) A separately delineated specification of all deviations from this chapter, which would otherwise be applicable to the uses and development proposed in the absence of this planned unit development subchapter;

(c) A specific schedule of the intended development and construction details, including phasing or timing;

(d) A specific schedule of the general improvements to constitute a part of the development including, without limitation, lighting, signage, the mechanisms designed to reduce noise, utilities, and visual screening features;

(e) A specification of the exterior building materials with respect to the structures proposed in the project; and

(f) Signatures of all parties having an interest in the property.

(2) *Planning Commission and action.*

(a) The final plan shall constitute an application to amend this chapter, and shall be noticed for public hearing as a zoning amendment before the Planning Commission, and otherwise acted upon by the Planning Commission and the City Council, as provided by law.

1. *Approval.* Upon finding that the final plan meets the criteria and standards set forth in §§ 154.135 and 154.136, the Planning Commission shall recommend approval to the City Council.

2. *Tabling.* Upon finding that the final plan does not meet the criteria and standards set forth in §§ 154.135 and 154.136, but could meet such criteria if revised, the Planning Commission may table action until a revised final plan is resubmitted.

3. *Denial.* Upon finding that the final plan does not and cannot meet the criteria and standards set forth in §§ 154.135 and 154.136, the Planning Commission shall recommend denial to the City Council.

(b) The Planning Commission shall, to the extent it deems appropriate, submit detailed recommendations relative to the planned unit development project including, without limitation, recommendations with respect to matters on which the City Council must exercise discretion.

(3) *City Council action.*

(a) Upon receiving a recommendation from the Planning Commission, the City Council shall review the final plan. Taking into consideration the recommendations of the Planning Commission and the criteria and standards set forth in §§ 154.135 and 154.136, the City Council shall approve, table or deny the final plan.

(b) Prior to approval of a final plan, the City Council shall require all standards and conditions of approval to be incorporated in a development agreement. The agreement shall be prepared by the City Attorney, reviewed by the City Planner, approved by the City Council, and signed by both the city and the applicant.

(Ord. 285, passed 12-8-2003; Ord. 361, passed 6-8-2015)

§ 154.138 PROJECT DESIGN STANDARDS.

(A) *Residential design standards.*

(1) The property shall be a minimum size of two acres.

(2) (a) Residential density shall not be greater than the maximum density permitted in the zoning district in which the property is situated immediately prior to reclassification under this subchapter.

(b) Additional density for residential uses may be allowed at the discretion of the Planning Commission and based upon a demonstration by the applicant of consistency with the Master Plan and of planning and design excellence resulting in a material benefit to the city, adjacent land uses, and/or the ultimate users of the project, where such benefit would otherwise be unlikely to be achieved without the application of the PUD regulations including, without limitation, innovative design producing significant energy efficiency, pedestrian or vehicular safety, long term aesthetic beauty, and protection and preservation of natural resources and features.

(B) *Non-residential design standards.*

(1) The property shall be a minimum size of one acre.

(2) Non-residential uses may be permitted in combination with other non-residential uses or as part of a common development with residential uses.

(3) The non-residential uses, including parking and vehicular traffic ways, shall be separated and buffered from residential units in a manner consistent with good land and community planning principles.

(C) *General design standards.*

(1) (a) All regulations applicable to setbacks, parking and loading, general provisions, and other requirements shall be met in relation to each respective land use in the development based upon zoning districts in which the use is listed as a principal permitted use. In all cases, the strictest provisions shall apply.

(b) Notwithstanding division (C)(1)(a) above, deviations with respect to such regulation may be granted as part of the overall approval of the planned unit development, provided features or elements demonstrated by the applicant and deemed adequate by the Planning Commission are designed into the project plan for the purpose of achieving the objectives of this subchapter.

(2) To the maximum extent feasible, the development shall be designed so as to preserve the natural resources and natural features. The benefit, which would reasonably be expected to accrue from the proposal, shall be balanced against the reasonably foreseeable detriments of the activity, taking into consideration the local, state, and national concern for the protection and preservation of the natural resources or features and the following criteria:

- (a) The availability of feasible and prudent alternative methods of accomplishing any development;
- (b) The extent and permanence of the beneficial or detrimental effects of the proposed activity; and
- (c) The size, quality, and rarity of the natural resources or natural features which would be impaired or destroyed.

(3) A perimeter setback and berming shall be required from the Planning Commission for the purpose of buffering the development in relation to surrounding properties. If the planned unit development project includes non-residential uses adjacent to a district authorizing residential uses, and/or if the project is larger than one acre in area, such perimeter setback shall be established with a dimension from the property line of up to 50 feet at the discretion of the Planning Commission, taking into consideration the use or uses in and adjacent to the development. The setback distance need not be uniform at all points on the perimeter of the development.

(4) Thoroughfare, drainage, and utility design shall meet or exceed the standards otherwise applicable in connection with each of the respective types of uses served.

(5) Underground installation of utilities shall be required, including electricity and telephone, as found necessary by the Planning Commission.

(6) Pedestrian walkways shall be separated from vehicular circulation, as found necessary by the Planning Commission.

(7) Signage, lighting, landscaping, building materials for the exterior of all structures, and other features of the project shall be designed and completed with the objective of achieving an integrated and controlled development, consistent with the character of the community, surrounding development or developments, and natural features of the area.

(8) Where non-residential uses adjoin off-site residentially zoned property, noise reduction, and visual screening mechanisms such as earthen and/or landscape berms and/or decorative walls, shall be employed. The Planning Commission, at its discretion, shall review and approve the design and location of such mechanisms.

(9) The City Council upon the recommendation of the Planning Commission shall resolve all ambiguities as to applicable regulations using this chapter, the Master Plan, and other city standards or policies as a guide.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.139 CONDITIONS.

(A) Reasonable conditions may be required with the approval of a planned unit development, to the extent authorized by law, for the purpose of ensuring 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, protecting the natural environment and conserving natural resources and energy, ensuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner.

(B) Conditions imposed shall be designed to: protect the public health, safety, and welfare; preserve natural features and resources; and be necessary to meet the intent and purpose of this chapter, and ensure compliance with the standards of this chapter. All conditions imposed shall be made a part of the record of the approved planned unit development.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.140 PHASING AND COMMENCEMENT OF CONSTRUCTION.

(A) *Phasing.* Where a project is proposed for construction in phases, the planning and designing shall be such that, upon completion, each phase shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of the users of the planned unit development and the residents of the surrounding area. All conditions that are phase specific shall be completed during development of the subject phase, and cannot be postponed for completion during other phases. In addition, in developments which include residential and non-residential uses, the relative mix of uses, and the scheduled completion of construction for each phase shall be disclosed and determined to be reasonable at the discretion of the City Council after recommendation from the Planning Commission.

(B) *Commencement and completion of construction.* To ensure completion of required improvements, the city is authorized to impose performance guarantees in accordance with § 154.027. Construction shall be commenced within one year following final approval of a planned unit development and shall proceed substantially in conformance with the schedule set forth by the applicant, as required by division (A) above. If construction is not commenced within such time, any approval of a site plan on the project shall expire and be null and void, provided, an extension for a specified period may be granted by the City Council upon good cause shown if such request is made to the City Council prior to the expiration of the initial period. Moreover, in the event a site plan has expired, the City Council, based on a recommendation from the Planning Commission, shall be authorized to rezone the property in any reasonable manner and, if the property remains classified as PUD, a new application shall be required, and shall be reviewed in light of then existing and applicable law and ordinance provisions.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.141 EFFECT OF APPROVAL.

(A) When approved, the planned unit development amendment, with all conditions imposed, if any, shall constitute the land use authorization for the property, and all improvement and use shall be in conformity with such amendment.

(B) Notice of adoption of the final PUD plan and conditions shall be recorded by the applicant at the County Register of Deeds, evidence of which shall be supplied to the Zoning Administrator.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

SIGNS

§ 154.155 INTENT AND PURPOSE.

(A) The intent of this subchapter is to regulate the location, size, construction, and manner of display of signs and outdoor advertising in order to minimize their harmful effects on the public health, safety, and welfare. While this subchapter recognizes that signs and outdoor advertising are necessary to promote

commerce and public information, failure to regulate them may lead to poor identification of individual businesses, deterioration and blight of the business and residential areas of the city, conflicts between different types of land use, and reduction in traffic safety to pedestrians and motorists. This subchapter is intended to provide a process for the application of sign regulations that will allow creatively designed signs to make a positive visual contribution to the overall image of the city, while also mitigating the impacts of large or incompatible signs.

(B) To achieve its intended purpose, this subchapter has the following objectives:

- (1) To prevent the placement of signs in a manner that will conceal or obscure signs or adjacent businesses;
- (2) To keep the number of signs and sign messages at the level reasonably necessary to identify a business and its products;
- (3) To keep signs within a reasonable scale with respect to the buildings they identify;
- (4) To reduce visual distraction and obstructions to motorists traveling along, entering, or leaving streets;
- (5) To promote a quality manner of display which enhances the character of the city;
- (6) To prevent the proliferation of signs which promote visual blight; and
- (7) To eliminate the potential for any adverse effects on the neighboring properties.

(Ord. 336, passed 6-11-2012)

§ 154.156 GENERAL CONDITIONS.

(A) *Location.* All signs must advertise a business or service on the premises upon which the sign is located and to which the sign is accessory, unless otherwise specified herein.

(B) *Illumination.*

- (1) No sign shall be illuminated by other than electrical or solar powered means.
- (2) The light from illuminated signs shall be directed and shielded in a manner that will not interfere with vehicular traffic or the enjoyment and use of adjacent properties. Particular attention shall be paid to the effect of illuminated signs on neighboring residential uses. The light from illuminated signs shall also comply with the ground illumination standards of § 154.117(B)(1).
- (3) Internal illumination shall be permitted under the following circumstances:
 - (a) Individual back-lit letters which are silhouetted against softly illuminated walls;
 - (b) Individual letters with translucent faces, containing soft lighting elements inside each letter;
 - (c) Metal-faced box signs with cut-out letters and soft-glow fluorescent tubes;
 - (d) Non-moving, non-color changing light-emitting diodes (LED) used in electronic or electrically controlled changeable copy signs; and
 - (e) Exposed tube neon illumination, provided such sign does not include blinking, flashing, scrolling, animation, or any other actual or simulated movement.
- (4) Exposed tube neon illumination is only allowed within the GC and CBD Districts, provided such sign does not include blinking, flashing, scrolling, animation, or any other actual or simulated movement.
- (5) Within a residential district, all signs shall be indirectly illuminated; therefore, no internal illumination is permitted.
- (6) Rear-illuminated (backlit) awnings are prohibited.

(C) *Safety.*

(1) All signs shall be erected and maintained in compliance with all applicable building codes, and other applicable ordinances governing construction within the city. In the event of a conflict between this chapter and other laws, the most restrictive shall govern.

(2) All signs shall be so placed as to not interfere with the visibility or effectiveness of any official traffic sign or signal; driver vision at any access point or intersection; or, pedestrian movement on any public sidewalk.

(3) No sign shall be erected, relocated, or maintained so as to obstruct fire fighting or prevent free access to any door, window, or fire escape.

(D) *Landscape quality and preservation.* In the application of this chapter, it is the intent to protect the public welfare and to enhance the appearance and economic value of the landscape by providing that signs:

(1) Do not interfere with scenic views;

(2) Do not create a nuisance to persons using the public right-of-way;

(3) Do not constitute a nuisance to occupancy of adjacent and contiguous property by their brightness, size, height, or movement;

(4) Are not detrimental to land or property values; and

(5) Contribute to the special character of particular areas or districts in the city.

(E) *Signs prohibited in all districts.* Signs prohibited in all districts are as follows:

(1) Roof signs;

(2) Animated signs; this provision is not intended to exclude a time/temperature sign, as defined, provided no other animated messages are displayed;

(3) Signs affixed to trees, rocks, shrubs, or similar natural features, except, signs denoting a site of historic significance or providing the address of the site;

(4) Signs which imitate traffic signals, traffic direction signs, or similar traffic control devices, and signs which make use of words such as "Stop", "Look", "Danger", or any other words, phrases, symbols, or characters, in such a manner as to interfere with, mislead, or confuse traffic;

(5) Motor vehicle signs, except for motor vehicle signs of a political nature. Signs permanently painted on, magnetically attached, or, otherwise permanently displayed upon a vehicle, licensed and operating on the public streets and highways, identifying the owner's occupation or livelihood, shall be permitted;

(6) Signs other than those erected by a public agency which are located within or overhang the public right-of-way or on public property, unless otherwise specified herein;

(7) Off-premises signs;

(8) Any sign or sign structure which: is structurally unsafe; constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, or abandonment; is capable of causing electric shock to persons who come in contact with it; and is not kept in good repair, such that it has broken parts, missing letters, or non-operational lights;

(9) Any sign unlawfully installed, erected, or maintained;

(10) Pole signs;

(11) Portable signs; and

(12) Marquee signs.

(F) *Signs exempt in all districts.* Signs exempt in all districts include the following:

(1) Nameplates signs not exceeding two square feet in size;

(2) Political signs may be erected 36 days prior to an election. Such signs shall be erected on private property only and no less than 100 feet from any entrance to a building in which a polling place is located. All such signs shall be removed two days following Election Day;

(3) Directional signs, provided they shall not exceed two square feet in size, shall contain no advertising, and shall not be illuminated;

(4) Non-illuminated real estate signs of less than six square feet of display area, when located in any residential zoning district, or not exceeding 20 square feet of display area when located in any other zoning district, and not exceeding a height of six feet in all districts. No more than one such sign shall be permitted per street frontage or water frontage;

(5) Non-illuminated real estate development signs not exceeding 32 square feet of display area and a height of six feet during the period of construction. Such signs shall be removed within 30 days of the issuance of the certificate of occupancy. Signs designating "the future site of" a proposed use or establishment shall not be considered eligible under this division (F);

(6) "No Trespassing" signs not exceeding four square feet of display area;

(7) Incidental signs;

(8) Time/temperature signs; and

(9) Signs advertising garage and yard sales, where licensed by the city in § 116.01 of this code of ordinances, provided they are located on the property where the garage or yard sale is occurring and provided all such signs are removed two days following the garage or yard sale.

(G) *Measurement.*

(1) *Measuring sign area.*

(a) Sign area shall be measured as the square footage of the sign face and any frame or other material or color forming an integral part of the display or used to differentiate it from the background against which it is placed.

(b) When a sign consists solely of lettering or other sign elements printed, painted, or mounted on a wall of a building without any distinguishing border, panel, or background, the calculation for sign area shall be measured by enclosing the most protruding edges of the sign elements within a parallelogram.

(c) The area of a double-faced freestanding or projecting sign shall be computed using only one face of the sign provided that: the outline and dimensions of both faces are identical; and the faces are back to back so that only one face is visible at any given time.

(2) *Measuring sign height.*

(a) The permitted height of all signs supported by the ground shall be measured from the level of the ground, finished surface, adjacent to the sign.

(b) The permitted height of signs shall not be measured from an area of the ground that has been built up or constructed in a manner that would have the effect of allowing a higher sign height than permitted by these regulations (e.g., the height of signs erected on a berm shall be measured from the finished grade adjacent to the berm).

(Ord. 341, passed 3-23-2013; Ord. 336, passed 6-11-2012; Ord. 362, passed 6-8-2015) Penalty, see § 154.999

§ 154.157 PERMITTED SIGNS IN THE CENTRAL BUSINESS DISTRICT (CBD).

(A) Portions of the city are contained within an area described and zoned as the Central Business District (CBD).

(B) Sign regulations for any new use, expanded use, or intensified use of property located entirely or partially within the CBD shall be determined as set forth in this section.

(1) *General requirements.*

(a) Banners containing messages or slogans promoting the city's Central Business District, charitable organization, civic events, and other public activities shall be permitted subject to review by the Zoning Administrator.

(b) In the event that multiple independent businesses occupy the same building, the number of signs, the location of signs, and the total area of signs shall remain the same as if there were one business. However, a single sign may be displayed which contains multiple logos or business names.

(2) *Design requirements.*

(a) All signs within the Central Business District (CBD) shall be designed to be compatible with the architectural style of the district and consistent with the city's CBD sign guidelines provided herein. Logos (registered, TM, SM) shall be exempt from the design requirements with the exception of non-registered portions of a sign, which shall be subject to said design guidelines, including poles, standard brackets, decorative trim, associated landscaping, and other appurtenances.

(b) Standards shall include compatibility with building architecture, use of antique lighting, and identifying symbology. Signs should be easy to read and uncluttered; and text should be sized for the respective distance of the readers.

(c) The following additional design standards shall apply:

1. Sign illumination shall not cause direct glare onto a public street and shall comply with the ground illumination standards of § 154.117(B)(1). All signs shall be indirectly illuminated; therefore, no internal illumination is permitted;

2. A sign handwritten or painted on cardboard, plywood, sheet metal, or other material is prohibited for window placement; and

3. Sign colors shall blend with the building facade and be compatible with the property's use.

(d) Sign approval from the Historic District Commission shall be required.

(3) *Projecting signs.* Projecting signs may be allowed subject to the following requirements:

(a) Projecting signs shall be made of materials that are consistent with the historic period and character of the building to which they are attached. Allowable sign materials may include, but are not limited to, durable wood, metal, stainless steel, bronze or brass, stone or brick, and synthetic materials treated to appear as wood or natural material. However, in no case shall exterior sign materials include sheet plastic, plastic substrates, aluminum, interior grade wood, or unfaced plywood;

(b) Projecting signs shall clear grade level below the sign by a minimum of eight feet;

(c) Projecting signs shall not exceed a display area of ten square feet (see also division (B)(5)(c) below);

(d) A maximum of two projecting signs per business are permitted, with a maximum of one such sign per facade; and

(e) Projecting signs shall project no more than five feet from the building, or one-third of the sidewalk width, whichever is less.

(4) *Canopy signs.* Canopy signs may be allowed, subject to the following requirements:

- (a) Canopy signs shall not extend into any public right-of-way more than seven feet or over the sidewalk more than one-half the width of the sidewalk, whichever is less;
- (b) The minimum clearance of such sign is eight feet, six inches measured from the sidewalk surface;
- (c) Letters, graphics, or logos may not cover more than 20% of the canopy surface area, or 45 square feet, whichever is less. Canopy signs shall only be made of coated or uncoated canvas; and
- (d) No canopy sign shall be allowed on a building facade that includes a wall sign.

(5) *Wall signs.* Wall signs may be allowed subject to the following conditions:

- (a) Wall signs shall be made of materials that are consistent with the historic period and character of the building to which they are attached. Allowable sign materials may include, but are not limited to, durable wood, metal, stainless steel, bronze or brass, stone or brick, and synthetic materials treated to appear as wood or natural material. However, in no case shall exterior sign materials include sheet plastic, plastic substrates, aluminum, interior grade wood or unfaced plywood;
- (b) A maximum of two wall signs are allowed per building. Only one wall sign shall be allowed on the front facade of a building. A second wall sign shall be allowed on either the side or rear facade of a building. The maximum area of any wall signs shall not exceed 10% of the wall area that the sign is affixed to, or 45 square feet, whichever is less, provided that the total of area of all exterior (wall and projecting) signs in combination shall not exceed 60 square feet;
- (c) Where a wall sign is located on the same facade as a projecting sign, the combined area of both signs shall not exceed 10% of the wall area that the signs are affixed to, or 45 square feet, whichever is less;
- (d) All wall signs shall be safely and securely attached to the building by means of metal anchors, bolts, or expansion screws. In no case shall any wall sign be secured with wire, straps of wood, or nails;
- (e) The sign shall not be placed to obstruct any portion of a window, doorway, transom, or other architectural detail;
- (f) No wall sign shall cover wholly or partially any wall opening, nor project beyond the ends or top of the wall to which it is attached; and
- (g) All signs shall be indirectly illuminated; therefore, no internal illumination is permitted.

(6) *Poster panel, "A" frame, and sandwich signs.* Poster panel, "A" frame, and sandwich signs may be allowed subject to the following standards:

- (a) The signs shall be made of durable quality materials as approved by the Sign Review Committee;
- (b) The signs shall be removed daily;
- (c) Only one such sign per occupied storefront shall be permitted;
- (d) The signs shall have a maximum of two faces, each face ten square feet or less in area. The maximum height of the sign shall be four feet;
- (e) A poster panel, "A" frame, or sandwich sign shall be permitted on a public sidewalk in the CBD, provided a minimum of five feet of unobstructed, pedestrian access along the sidewalk is maintained. Adequate space shall be provided for vehicle entry between on-street parking spaces and the sign; and
- (f) Letters, graphics, or images shall be professionally hand-lettered, die-cut self-adhesive, manual changeable copy, or blackboard hand-lettered.

(7) *Ground signs.*

(a) Ground signs shall be permitted in the CBD subject to the standards of division (B)(1) above and § 154.158.

(b) Allowable ground sign materials may include, but are not limited to, durable wood, metal, stainless steel, bronze or brass, stone or brick, and synthetic materials treated to appear as wood or natural material. However, in no case shall exterior sign materials include sheet plastic, plastic substrates, aluminum, interior grade wood, or unfaced plywood.

(8) *Window signs.*

(a) Except for signs whose sole function is to indicate whether or not the establishment is open as regulated under division (B)(8)(e) below, all window signs in the Central Business District shall be subject to approval by the Zoning Administrator after review by the Historic District Commission.

(b) Permanent window signs which promote product shall be made of clear materials, such as transparent plastic, with lettering painted or attached to them. Incidental signs shall be exempt from this regulation.

(c) If window signs occupy more than 50% of the window area in which they are displayed, they shall be treated as wall signs and shall conform to all provisions applicable to wall signs, with the exception of division (B)(5)(d) above. However, in no case shall windows providing interior views to passersby be more than 75% covered.

(d) If window signs occupy more than 50% of the window area in which they are displayed, they shall be treated as wall signs and shall conform to all provisions applicable to wall signs. However, in no case shall windows providing interior views to passersby be more than 75% covered.

(e) Window signs in the Central Business District shall not be illuminated except as provided in division (B)(8)(f) below.

(f) Signs whose sole function is to indicate whether or not the establishment is open shall be a permitted window sign, subject to the following:

1. No more than one such sign shall be permitted per storefront;
2. Such sign is no more than two square feet in area; and
3. Illumination of such signs shall: be limited to no more than two colors; and have a static display and not include blinking, flashing, scrolling, animation, or any other actual or simulated movement.

(g) A temporary sign or banner sign installed inside a window shall be regulated under § 154.160(B).

(Ord. 341, passed 3-23-2013; Ord. 336, passed 6-11-2012; Ord. 362, passed 6-8-2015) Penalty, see § 154.999

§ 154.158 PERMITTED GROUND SIGNS (ALL DISTRICTS EXCEPT CBD).

(A) *General requirements.*

(1) One ground sign shall be permitted per lot which has frontage on only one public road.

(2) Two ground signs shall be permitted per premises which has frontage on two public roads. One sign shall not exceed the area requirements set forth herein. The second sign shall not exceed 50% of the area requirements set forth herein.

(3) A ground sign shall have a setback of ten feet from a public road right-of-way and a setback distance equal to the height of the sign from all other property boundaries.

(B) *Specific requirements.* Ground signs shall be permitted by district in accordance with the following requirements.

District	Height (Feet)	Area (Sq. Ft.)
CBD	4	20 For all other requirements, see § 154.157(B)(7)
GC District All permitted and special land uses	6	50
LI District All permitted and special land uses	6	30
LS District All permitted and special land uses	6	20
R-1, R-2, R-3, R-4, and R-5 Districts All residential developments, permitted non-residential uses, and special land uses	4	20

(Ord. 285, passed 12-8-2003; Ord. 367, passed 6-8-2015) Penalty, see § 154.999

§ 154.159 PERMITTED WALL SIGNS (ALL DISTRICTS EXCEPT CBD).

The following wall signs shall be permitted in the following districts in accordance with the regulations herein.

(A) General requirements.

(1) All wall signs shall be safely and securely attached to the building by means of metal anchors, bolts, or expansion screws. In no case shall any wall sign be secured with wire, straps of wood, or nails.

(2) (a) One wall sign shall be permitted per lot. One additional wall sign may be permitted if at least one of the following conditions exists:

1. The lot has frontage on more than one public right-of-way;
2. The lot includes a building with more than one wall providing an individual means of access to the public; and
3. The lot includes a building where the only means of access to the public is provided from a wall other than the front wall.

(b) Where two wall signs are permitted, the total allowable square footage of the two wall signs in combination shall not exceed 150% of the maximum allowable square footage for the district as specified in division (B) below.

(3) For lots containing individual buildings with distinct and separate uses, one wall sign shall be permitted for each such building. However, the total allowable square footage of all wall signs in combination shall not exceed the maximum allowable square footage for the district as specified in division (B) below.

(4) For shopping centers located in the LS and GC districts, one wall sign shall be permitted per store front. The maximum area for each wall sign shall not exceed one square foot per lineal foot of frontage of the store front.

(B) *Specific requirements.* Wall signs shall be permitted by district in accordance with the following requirements, unless otherwise noted in this chapter.

District	Height (Feet)	Area
CBD	-	See § 154.157(B)(5)
GC District All permitted and special uses	4	1 square foot for each lineal foot of building frontage not to exceed a total of 100 square feet
LI District All permitted and special uses	4	1 square foot for each lineal foot of building frontage not to exceed a total of 40 square feet
LS District	4	1 square foot for each lineal foot of building frontage not to exceed a total of 40 square feet
R-1, R-2, R-3, R-4 and R-5 Districts All permitted non-residential uses and special land uses	2	1 square foot for each lineal foot of building frontage not to exceed a total of 20 square feet

(Ord. 285, passed 12-8-2003; Ord. 367, passed 6-8-2015) Penalty, see § 154.999

§ 154.160 PERMITTED TEMPORARY SIGNS.

The following temporary signs shall be permitted in accordance with the regulations herein.

(A) *Temporary signs and banners signs (all districts).*

(1) In all districts, the Zoning Administrator may allow a new business, as part of its start-up phase, to use a temporary sign for up to a 45-day period. All temporary signs permitted under this provision shall otherwise comply with all requirements pertaining to height and area for the zoning district in which the sign is located.

(2) Within the CBD, GC, and LS Districts, the Zoning Administrator may allow one banner sign per premises for up to 30 days and no more than four times during the calendar year. Only those businesses with direct pedestrian access from the public right-of-way shall be permitted to have a banner sign. The banner sign shall not exceed 20 square feet in area in the CBD or 50% of the allowable wall sign size in the GC and LS Districts. Neither the height nor the width of a banner sign shall exceed ten feet. Banner signs shall not be located in a public right-of-way, must be affixed to the principal building of the business and shall be located and designed to avoid interference with or distraction to vehicular and pedestrian traffic.

(3) A weekend or holiday banner sign may be allowed and does not require a sign permit, provided the sign is erected after the opening of business on the weekend or holiday and removed prior to the end of business on the weekend or holiday. Further, such signs shall not exceed 20 square feet in area and neither the height nor the width of such signs shall exceed ten feet. Such signs shall not be located in a public right-of-way, must be affixed to the principal building of the business and shall be located and designed to avoid interference with or distraction to vehicular and pedestrian traffic.

(4) All other temporary signs and banner signs are strictly prohibited.

(5) The color of temporary signs within the Central Business District (CBD) shall be selected from a historic color palate as approved by the City Historic District Commission.

(B) *Special event signs (all districts).*

(1) Special event signs, not exceeding 48 square feet of display area, may be permitted subject to approval by the Zoning Administrator.

(2) The Zoning Administrator may permit signs in excess of 48 square feet when such is deemed necessary.

(Ord. 285, passed 12-8-2003; Ord. 372, passed 6-8-2015) Penalty, see § 154.999

§ 154.161 MISCELLANEOUS PERMITTED SIGNS.

(A) Additional signage for drive-in and drive-through establishments (all districts).

(1) Additional signage for drive-in establishments shall be permitted subject to the following:

(a) Such signage shall only be located adjacent to, and shall be oriented to only be visible from, designated drive-in parking spaces. No such signage shall be located within a required front yard.

(b) No more than one sign per designated drive-in parking space is allowed, not to exceed 12 square feet in area and six feet in height.

(c) Internally illuminated signs, including electronic or digital signage, shall only be allowed within the GC District and shall be at least 50 feet from any Residential District.

(d) Approval by the Sign Review Committee shall be required.

(2) Additional signage for drive-through establishments shall be permitted subject to the following:

(a) Such signage shall only be located adjacent to, and shall be oriented to only be visible from, designated drive-through lanes. No such signage shall be located within a required front yard.

(b) No more than two signs per designated drive-through lane are allowed, one not exceeding the maximum allowable area for ground signs for the district in which the property is located, and the second not exceeding 50% of the maximum allowable area for ground signs for the district in which the property is located. Such signs may not exceed eight feet in height.

(c) Internally illuminated signs, including electronic or digital signage, shall only be allowed within the GC District and shall be at least 50 feet from any Residential District.

(d) Approval by the Sign Review Committee shall be required.

(B) Changeable copy signs (LS, GC, and LI Districts). Changeable copy signs shall be permitted when incorporated into a permitted wall or ground sign provided that the area devoted to changeable copy does not exceed 50% of the wall or ground sign area.

(1) Lettering used on changeable copy signs directed to local streets shall not exceed three inches in height.

(2) Lettering used on changeable copy signs directed to major arterial streets shall not exceed six inches in height.

(3) The message on a changeable copy sign controlled by electronic or electrical signal shall not change more than eight times per day and shall not incorporate or involve action, motion, or the appearance of action or motion, such as the use of flashing lights, progressive color changes (only one color per message is allowed), scrolling messages, or video-like features.

(4) A changeable copy sign controlled by electronic or electrical signal shall not be allowed within the CBD District, any residential district, or within 50 feet of any residential district.

(C) Historic markers (all districts).

(1) If a structure within the city has been designated a State Historical Site or listed in the National Register of Historic Places, then a marker designating that fact, obtained from the appropriate state or

federal agency, shall be permitted in addition to any other sign or signs which may lawfully be placed on the structure or the property on which the structure is located.

(2) Anyone wishing to place a historic marker on a structure or property shall complete and file a sign permit application with the Zoning Administrator. No fee shall be charged for a historic marker application.

(D) *Window signs (all districts except CBD).*

(1) Permanent window signs which promote product shall be made of clear materials, such as transparent plastic, with lettering painted or attached to them. Incidental signs shall be exempt from this regulation.

(2) Window signs do not require sign permits, nor count in the calculation of total building signage permitted. However, window signs shall not exceed more than 30% of the total window area on the floor level and no more than 50% coverage per window.

(3) If window signs occupy more than 50% of the window area in which they are displayed, they shall be treated as wall signs and shall conform to all provisions applicable to wall signs. However, in no case shall windows providing interior views to passersby be more than 75% covered.

(4) Window signs shall not be illuminated except as provided in division (D)(5) below.

(5) Signs whose sole function is to indicate whether or not the establishment is open shall be a permitted window sign, subject to the following:

(a) No more than one such sign shall be permitted per storefront;

(b) Such sign is no more than two square feet in area; and

(c) Illumination of such signs may only occur within a non-residential district and shall: be limited to no more than two colors; and have a static display and not include blinking, flashing, scrolling, animation, or any other actual or simulated movement.

(6) A temporary sign or banner sign installed inside a window shall be regulated under § 154.160(A).

(E) *Mural signs (all districts).*

(1) Commercial mural signs, as defined in this chapter, may be allowed after review and approval by the Planning Commission, and are further subject to the following standards:

(a) No such mural may be placed on any building or structure that includes nonconforming signs;

(b) Only one wall, facade, or surface of a building or structure may be used for the mural;

(c) The wall, facade, or surface that is used for the mural shall be counted as one sign. The mural will count towards the total wall signage allowed for the business; however, the Planning Commission in its sole discretion may permit murals of larger size. Larger murals shall be permitted when it is determined to demonstrate at least one of the following:

1. Accentuates the historic features of the building;

2. Masks an unattractive building facade;

3. Creates an aesthetically pleasing amenity; and

4. Superior in aesthetics to an attached wall sign.

(d) The owner of record of the building or structure on which the proposed mural is to be placed shall, in writing, consent to the placement of said mural on the property, and shall agree to restore the wall, facade, or surface upon which the mural is placed to its prior existing condition if and at such time the mural is not maintained by the applicant. The permit application shall include a statement detailing the applicant's plans for the maintenance of the mural; and

(e) In the review of a commercial mural sign, the Planning Commission shall grant approval only if the following criteria are met:

1. The placing of the proposed mural at the location selected by the applicant would not constitute a significant traffic safety hazard;

2. Neither the mural, nor the placement of the mural, would endanger the public health, safety, or general welfare; and

3. Neither the mural, nor the placement of the mural, would be injurious to the use and enjoyment of other property in the immediate vicinity of the proposed location.

(2) Noncommercial mural signs, as defined in this chapter, may be allowed after review and approval by the Sign Review Committee, and are further subject to the following standards:

(a) Approval by the Historic District Commission is obtained when such sign is located within the city's Historic District;

(b) Only one wall, facade, or surface of a building or structure may be used for the mural;

(c) Murals shall only be permitted on the side or rear walls of buildings;

(d) Murals shall be allowed only on building walls that do not contain wall signs on the same wall as occupants of the building;

(e) Murals depicting offensive or obscene materials, or partially nude or seminude persons, shall be prohibited;

(f) Materials utilized in painting a mural shall have proven durability and shall be maintained or removed if not maintained; and

(g) The unauthorized inscribing, spraying of paint, or making symbols using chalk, dye, ink, paint, spray paint, or similar materials on public or private places, structures, or other surfaces shall not be permitted.

(F) *Residential development entry signs (all districts).*

(1) For each residential development of four or more dwelling units for which a building permit has been issued, a ground sign may be located adjacent to each public street entrance, at least ten feet from the adjacent public street right-of-way. Such sign location(s) shall have been depicted on a preliminary plat, site condominium plan, or a final site plan approved by the Planning Commission and shall meet standards set forth in this chapter.

(2) Whenever a landscape wall with entrance signage is proposed at or near the entrance to a residential development, the following requirements will apply: the length of the wall may not exceed 25% of the width of the lot on which it is located nor more than 10% of total frontage if a corner lot; a landscape wall shall be designed and located to assure proper vision and site distance at the nearest intersection of public streets or a public street and private driveway; the landscape wall height shall not exceed four feet; and illumination of the landscape wall shall be subject to the standards of § 154.156(B).

(G) *Poster panel, "A" frame, and sandwich signs (all districts except CBD).* Poster panel, "A" frame, and sandwich signs may be allowed subject to the following standards.

(1) The signs shall be made of quality materials.

(2) The signs shall be removed daily.

(3) Only one such sign per occupied storefront shall be permitted.

(4) The signs shall have a maximum of two faces, each face ten square feet or less in area. The maximum height of the sign shall be four feet.

(5) Letters, graphics, or images shall be professionally hand-lettered, or die-cut self-adhesive, manual changeable copy, or black board hand-lettered.

(6) A poster panel, "A" frame, or sandwich sign shall be permitted within the right-of-way only if the sign has no negative effects on public safety and visibility for all vehicles and pedestrians is unobstructed. A minimum of five feet of unobstructed, pedestrian access along the sidewalk is required.

(Ord. 285, passed 12-8-2003; Ord. 372, passed 6-8-2015; Ord. 380, passed 9-25-2017) Penalty, see § 154.999

§ 154.162 ADMINISTRATION.

(A) This subchapter shall be administered by the Zoning Administrator or his or her designated representative.

(B) *Permits required.*

(1) It shall be unlawful to display, erect, relocate, or alter any sign without obtaining a sign permit, except for exempt signs as regulated in § 154.156(F) and other signs specifically noted as not requiring a permit in this chapter.

(2) A permit shall not be required for alterations to an existing sign that are limited to the information communicated on the sign without increasing the sign's size or structural modification, provided all other requirements of this chapter are met. However, a permit shall be required for all such alterations to existing signs located within the CBD District.

(3) Where a sign permit has been issued by the city, it shall be unlawful to change, modify, alter, or otherwise deviate from the terms or conditions of said permit without prior approval of the Zoning Administrator. A written record of such approval shall be entered upon the original permit application and maintained in the files of the city.

(4) The application for a sign permit shall be made by the owner or tenant of the property on which the sign is to be located, or his or her authorized agent, or a sign contractor. Such applications shall be made in writing on forms furnished by the city and shall be signed by the applicant.

(5) The application for a sign permit shall be accompanied by the following plans and other information:

(a) The name, address, and telephone number of the owner or persons entitled to possession of the sign and of the sign contractor or erector;

(b) The location by street address of the proposed sign structure;

(c) Complete information as required on application forms including a site plan and elevation drawings, colors, and caption of the proposed sign, and such other data as are pertinent to the application;

(d) Plans indicating the scope and structural detail of the work to be done, including details of all connections, supports, and footings, and materials to be used;

(e) Methods of illumination for the proposed sign, if any;

(f) Required information for an electrical permit for all electrical signs if the person installing the sign will make the electrical connection; and

(g) A statement of estimated costs of the sign.

(6) (a) Prior to the issuance of a sign permit, the Zoning Administrator or designee shall refer the sign permit application to the Sign Review Committee. The Sign Review Committee shall consist of the following individuals: Zoning Administrator; City Manager; and one member of the Planning Commission, as approved by a majority vote of the Planning Commission.

(b) The Sign Review Committee shall review a sign permit application for compliance with this chapter. A sign permit shall not be issued by the Zoning Administrator until all members of the Sign Review Committee have determined that the sign permit application is in compliance with this chapter. A member of the Sign Review Committee shall have the authority to refer a sign permit application to the Planning Commission and/or City Planning Consultant for additional review or comment prior to the decision of the Sign Review Committee.

(c) Signs proposed to be erected in the CBD District and requiring a permit shall be reviewed by the city's Historic District Commission prior to review by the Sign Review Committee.

(d) A summary of sign review responsibilities is provided as follows.

District	Sign Type	Section No.	Review Responsibility
District	Sign Type	Section No.	Review Responsibility
Any district	Exempt signs	154.156(F)	No permit required
CBD	Projecting signs	154.157(B)(3)	HDC and SRC
CBD	Canopy signs	154.157(B)(4)	HDC and SRC
CBD	Wall signs	154.157(B)(5)	HDC and SRC
CBD	Poster panel, "A" frame, and sandwich signs	154.157(B)(6)	HDC and SRC
CBD	Ground signs	154.157(B)(7)	HDC and SRC
CBD	Window signs	154.157(B)(8)	HDC and ZA
Outside CBD	Ground signs	154.158	SRC
Outside CBD	Wall signs	154.159	SRC
Any district	Temporary signs and banner signs	154.160(A)	ZA
Any district	Weekend/holiday promotional sales banner signs	154.160(A)(3)	No permit required
Any district	Special event signs	154.160(B)	ZA
Any district	Menu board	154.161(A)	SRC
LS, GC, and LI Districts	Changeable copy signs	154.161(B)	SRC
Any district	Historic marker	154.161(C)	SRC
Outside CBD	Window signs	154.161(D)	No permit required
Any district	Commercial mural signs	154.161(E)(1)	PC
Any district	Noncommercial mural signs	154.161(E)(2)	SRC
Any district	Residential development entry signs	154.161(F)	SRC
Outside CDB	Poster panel, "A" frame, and sandwich signs	154.161(G)	SRC

Table notes:

HDC: Historic District Commission

PC: Planning Commission

SRC: Sign Review Committee

ZA: Zoning Administrator

(7) Sign permit applications shall be accompanied by the required sign permit fee, as established by the City Council.

(Ord. 285, passed 12-8-2003; Ord. 353, passed 3-9-2015; Ord. 372, passed 6-8-2015) Penalty, see § 154.999

§ 154.163 INSPECTIONS, MAINTENANCE, AND REMOVAL OF SIGNS.

(A) *Inspections.* Signs for which a permit is required will be inspected upon completion and may be inspected periodically by the Building Department representative for compliance with these regulations and with any applicable ordinances of the city.

(B) *Maintenance.* All signs and components thereof shall be kept in good repair and in a safe, neat, clean, and attractive condition.

(C) *Removal.*

(1) The Zoning Administrator may order the removal of any permanent sign and its supporting structural components erected or maintained in violation of these regulations. The Zoning Administrator shall give 30 days' notice in writing, to the owner of such sign and its supporting structure requiring him or her to bring such sign into compliance within 60 days. Any sign erected of a temporary nature shall require written notice of only three days.

(2) Upon failure to comply with this notice, the Building Official or designee may remove the sign and its supporting structure. The Building Official or designee may remove a sign and its supporting structure immediately and without notice if, in his or her opinion, the condition of the sign and its supporting structure presents an immediate threat to the safety of the public. The cost of such removal by the city shall be assessed against the owner of such sign or the owner of the building, structure, or premises.

(3) Signs within a public right-of-way or on city property may be removed by the city without notice and may be disposed of.

(D) *Obsolete signs.*

(1) An obsolete sign and its supporting structure shall be removed by the property owner or lessee of the premises upon which the sign is located when the business which it advertises has been discontinued for at least 90 days. Except as provided in divisions (D)(2) and (D)(3) below, such removal shall occur within 30 days after written notice from the Zoning Administrator.

(2) A sign which is in conformity with the other provisions of this chapter may remain in place if such sign is obscured by the use of a blank panel attached within the frame of the sign and shall be permitted to remain for a period not to exceed 120 days.

(3) Where a successor to an inactive business agrees, within 30 days of the date of written notice by the Zoning Administrator, to maintain the sign as provided for by these regulations, this removal requirement shall not apply, provided that the existing sign and structure conforms to all current sign requirements.

(E) *Nonconforming signs.*

(1) *Policy.* It is the policy of the city to require that all signs within the city be brought into compliance with the terms of this chapter.

(2) *Valid permit required.* The status afforded to signs and sign structures pursuant to this division (E) shall not be applicable to any sign or sign structure for which a sign permit was initially required but for which no sign permit was ever issued. Such sign and/or sign structures are deemed illegal and are subject to the provisions of division (C) above.

(3) *Existing sign rendered nonconforming.* Nonconforming signs are those signs that do not comply with the size, placement, construction, or other standards or regulations of this chapter, but were lawfully

established prior to its adoption. A nonconforming sign may be continued and shall be maintained in good condition as described elsewhere in this subchapter, however, the following alterations are regulated.

(a) A nonconforming sign shall not be structurally altered or repaired so as to prolong its useful life or so as to change its shape, size, type, or design unless such change shall make the sign conforming.

(b) A nonconforming sign shall not be replaced by another nonconforming sign.

(c) A nonconforming sign shall not be expanded, relocated, or modified in any way that would increase the degree of nonconformity of such sign.

(d) A nonconforming sign shall not be reestablished after obsolescence as defined in division (D) above.

(e) A nonconforming sign must not be reestablished after damage or destruction if the estimated expense of reconstruction exceeds 50% of the appraised replacement cost as determined by the Zoning Administrator or if 50% or more of the face of the sign is damaged or destroyed.

(Ord. 285, passed 12-8-2003; Ord. 372, passed 6-8-2015) Penalty, see § 154.999

OFF-STREET PARKING, LOADING, AND ACCESS CONTROL

§ 154.175 INTENT AND PURPOSE.

The purpose of this subchapter is to ensure the provision of off-street parking facilities that are sufficient in number, adequately sized, and properly designed to meet the range of parking needs and demands that are associated with land uses now in place in the city or with land uses allowed by this chapter.

(Ord. 285, passed 12-8-2003)

§ 154.176 GENERAL PROVISIONS.

(A) *Where required.* In all zoning districts, off-street parking facilities for the storage and parking of self-propelled motor vehicles for the use of occupants, employees, and patrons of the buildings hereafter erected, altered, or changed existing use after the effective date of this chapter, shall be provided as herein prescribed. Such space shall be maintained and shall not be encroached upon so long as said main building or structure remains, unless an equivalent number of such spaces are provided elsewhere in conformance with this chapter.

(B) *Existing off-street parking at effective date of ordinance.* Off-street parking existing at the effective date of this chapter which serves an existing building or use, shall not be reduced or increased in size to less than that required under the terms of this chapter.

(C) *Required greenbelt and setbacks.* Off-street parking, including maneuvering lanes, shall not be located within the required front greenbelt in accordance with § 154.111(F) and the schedule of regulations. Off-street parking shall be permitted within the required side or rear yard setbacks, provided a minimum five-foot setback is maintained between off-street parking and the side and rear lot lines of all adjoining properties.

(D) *Parking duration.* Except when land is used as storage space in connection with the business of a repair or service garage, a 24-hour time limit for parking in non-residential, off-street parking areas shall prevail, it being the purpose and intention of the foregoing that the requirement of maintaining vehicle storage or parking space is to provide for the public safety in keeping parked cars off the streets, but such requirement is not designed to or intended to provide, and it shall be unlawful to permit, the storage or prolonged parking on any such parking area in any such district wrecked or junked cars, or for creating a junk yard or a nuisance in such areas.

(E) *Units and methods of measurement.* For the purpose of determining off-street parking requirements, the following units of measurement shall apply.

(1) *Floor area.* Where floor area is the unit for determining the required number of off-street parking spaces, said unit shall mean the gross floor area, except that floor area within the principal building used for parking, incidental service and storage, housing of mechanical equipment, heating systems, and similar uses need not be included.

(2) *Employees.* For requirements stated in terms of employees, the calculation shall be based upon the maximum number of employees likely to be on the premises during the largest shift.

(3) *Places of assembly.* In stadiums, sports arenas, churches, and other places of assembly in which those in attendance occupy benches, pews, or other similar seating facilities, each 18 inches of such shall be counted as one seat. In cases where a place of assembly has both fixed seats and open assembly area, requirements shall be computed separately for each type and added together, per the requirements of the Building Code.

(4) *Fractional requirements.* When units or measurements determining number of required parking spaces result in requirement of a fractional space, any fraction shall require one parking space.

(F) *Location of parking.*

(1) *Single- and two-family dwellings.*

(a) The off-street parking facilities required for single- and two-family dwellings shall be located on the same lot or plot of ground as the building they are intended to serve, but shall not be considered a parking lot under the provisions of this subchapter.

(b) Off-street parking shall not be permitted within the right-of-way adjacent to the lot except within the street or driveway approach.

(c) Off-street parking shall not be permitted within the front yard, except within a properly constructed driveway, as defined in this chapter.

(d) Where no properly constructed driveway exists, an exception to subsection (c) above, shall be made for an existing driveway within the front yard that is not properly constructed. In such case, off-street parking shall be allowed within an area no wider than 12 feet, or the width of an existing garage, whichever is greater, centered on such existing driveway, but not within any area between the dwelling and street.

(e) The requirement of subsection (c) above, shall not apply to parking for temporary special events normally associated with the residential use of the property such as graduation and holiday parties.

(2) *Multiple-family residential.* The off-street parking facilities for multiple-family dwellings shall be located on the same lot or plot of ground as the dwellings they are intended to serve, and shall consist of a parking lot as set forth in this subchapter. In no event shall any parking space be located nearer than ten feet to any main building.

(3) *Other land uses.* The off-street parking facilities required for all other uses shall be located on the lot or within 500 feet of the permitted uses requiring such off-street parking, such distance to be measured along lines of public access to the property between the nearest point of the parking facility to the building to be served.

(4) *Restriction on parking on private property.* It shall be unlawful for any person, firm, or corporation to park any motor vehicle on any private property without the authorization of the owner or agent of such property.

(Ord. 285, passed 12-8-2003; Ord. 381, passed - - 2017) Penalty, see § 154.999

§ 154.177 OFF-STREET PARKING REQUIREMENTS.

(A) *Generally.* The amount of required off-street parking spaces for new uses or buildings, additions thereto, and additions to existing buildings shall be determined in accordance with the schedule set forth

in § 154.178. Parking requirements listed in § 154.178 shall not include off-street stacking spaces for drive-through facilities set forth in § 154.181.

(B) *Similar uses and requirements.* When a use is not specifically mentioned, the requirements of off-street parking for a similar use shall apply as determined by the Planning Commission.

(C) *Collective provisions.* Nothing in this section shall be construed to prevent collective provisions of off-street parking facilities for two or more buildings or uses, provided:

(1) Such facilities collectively shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with § 154.178. However, the Planning Commission may reduce the total number of spaces by up to 25% upon a determination that the peak space requirements for the individual uses occur at distinctly different times;

(2) Each use served by collective off-street parking shall have direct access to the parking without crossing any public rights-of-way; and

(3) Written easements which provide for continued use and maintenance of the parking shall be submitted to the city for approval.

(D) *Parking exemption.* As of the effective date of this chapter, buildings and uses located within the Central Business District (CBD) shall be exempt from providing off-street parking. However, in no case shall a building or use be expanded to remove off-street parking established before the effective date of this chapter. Parking areas constructed in the CBD shall meet all design requirements of this chapter.

(E) *Flexibility in application.*

(1) (a) The city recognizes that, due to the specific requirements of any given development, inflexible application of the parking standards set forth in § 154.178 may result in development with inadequate parking or parking far in excess of that which is needed.

(b) The former situation may lead to traffic congestion or unauthorized parking on adjacent streets or neighboring sites. The latter situation may result in excessive paving and stormwater runoff and a waste of space, which could be left as open space.

(2) The Planning Commission, based on a recommendation from the Planning Consultant may permit deviations from the requirements of § 154.178 and may require more or allow less parking whenever it finds that such deviations are more likely to provide a sufficient number of parking spaces to accommodate the specific characteristics of the use in question.

(3) (a) The Planning Commission shall attach conditions to the approval of a deviation from the requirement of § 154.178 that bind such approval to the specific use in question.

(b) Where a deviation results in a reduction of parking, the Planning Commission may further impose conditions which ensure that adequate reserve area is set aside for future parking, as needed.

(Ord. 285, passed 12-8-2003; Ord. 371, passed 6-8-2015) Penalty, see § 154.999

§ 154.178 TABLE OF OFF-STREET PARKING REQUIREMENTS.

The amount of required off-street parking space for new uses or buildings, additions thereto, and additions to existing buildings shall be determined in accordance with the following table.

Use	Required No. of Parking Spaces	Per Each Unit of Measure as Follows:	
Use	Required No. of Parking Spaces	Per Each Unit of Measure as Follows:	
Automotive Uses			

Automotive repair facilities and collision shops	3	Per each service stall, plus 1 per each employee at peak shift, plus 1 per each service vehicle
Automobile service stations with convenience store	1	Per each pump unit, plus 3 per each service stall, plus 1 per each employee at peak shift, plus 1 per each 150 sq. ft. of floor area devoted to retail sales and customer service
Automobile service stations without convenience store	1	Per each pump unit, plus 3 per each service stall, plus 1 per each employee at peak shift
Car washes (automatic)	1	Per 200 sq. ft. of floor area of customer waiting and service areas, plus 1 per each vacuum station, plus 1 per each employee at peak shift, plus stacking spaces required per § 154.181
Car washes (self-serve)	1	Per each wash stall, plus 1 per each vacuum station, plus 1 per each employee at peak shift, plus stacking spaces required per § 154.181
Sales of automobile, boats, mobile homes, farm machinery, and other vehicles	1	Per each 200 sq. ft. of showroom floor area, plus 1 per each employee at peak shift, plus 1 per each service stall
General Commercial Uses		
Bars/lounges	1	Per each 3 persons based upon the maximum occupancy load as established by Fire and/or Building Codes, plus 1 per each employee at peak shift
Convenience stores and video stores	1	Per 150 sq. ft. of floor area
Fast-food restaurants	1	Per each 125 sq. ft. of floor area, plus 1 per each employee at peak shift, plus stacking spaces required per § 154.181
Garden stores and nurseries, farm supply and feed stores, building material sales	1	Per each 800 sq. ft. of floor area
Grocery stores, drugstores, and other self-serve retail establishments	1	Per 150 sq. ft. of floor area
Lodging facilities	1	Per each guest bedroom, plus 1 per employee at peak shift, plus amount required for accessory uses, such as a restaurant or cocktail lounge
Movie theaters	1	Per each 4 seats based on the maximum seating capacity, plus 1 per each employee at peak shift

Planned shopping center	1	Per 200 sq. ft. of floor area for the first 15,000 sq. ft., plus 1 per 250 sq. ft. of floor area in excess of 15,000 sq. ft.	
Retail sale of furniture, appliances, hardware	1	Per each 150 sq. ft. of floor area, plus 1 per each employee at the peak shift	
Retail stores, not specifically enumerated herein	1	Per each 150 sq. ft. of floor area specified herein	
Standard restaurants	1	Per each 3 seats, based on maximum occupancy per Building Code, plus 1 per each employee at peak shift	
Industrial Uses			
Contractors office	1	Per each employee at peak shift	
Industrial or manufacturing establishments	1	Per each employee at peak shift, or 1 per each 800 sq. ft. of floor area (whichever is greater)	
Self-storage facilities	1	Per each employee at peak shift, plus 1 per each 250 sq. ft. of office area	
Warehouses and storage buildings	1	Per each employee at peak shift, or 1 per each 2,000 sq. ft. of floor area (whichever is greater)	
Institutional Uses			
Child care center or nursery schools	1	Per each 5 students, plus	
	Churches/other institutions for religious worship	1	Per each 3 seats based on maximum seating capacity in the main place of assembly therein, as established by Fire and/or Building Codes
Day care homes	1	Per each employee and/or caregiver	
Elementary and middle schools	1	Per each teacher, plus 1 per each 25 students, plus 1 per each employee at peak shift, plus 1 per 3 seats for auditoriums, stadiums, and the like	
High schools, trade schools, colleges, and universities	1	Per each teacher, plus 1 per each 10 students, plus 1 per each employee peak shift, plus 1 per three seats for auditoriums, stadiums, and the like	
Hospitals	1	Per each 4 beds, plus 1 per staff doctor, plus 1 per each employee at peak shift	
Libraries and museums	1	Per each 500 sq. ft. of floor area	
Nursing homes and convalescent centers	1	Per each 5 beds, plus 1 per each staff doctor, plus 1 per each employee at peak shift	
Private clubs and lodges	1	Per each 3 individual members allowed within the maximum occupancy load as established by Fire and/or Building Codes	

Stadiums, sports arenas, and auditoriums	1	Per each 3 seats based on maximum seating capacity per Building Code
Office and Service Uses		
Banks	1	Per each 200 sq. ft. of floor area, plus stacking spaces required per § 154.181
Barber and beauty shops	3	Per each chair
Business and professional offices	1	Per each 200 sq. ft. of floor area
Funeral home or mortuary	1	Per 50 sq. ft. of floor area
Laundromats	1	Per 2 wash machines
Medical and dental office	1	Per each 150 sq. ft. of floor area
Photographic studios; watch, clothing, and shoe repair; and similar personal service establishments	1	Per 250 sq. ft. of floor area
Recreational Uses		
Bowling alleys	4	Per bowling lane, plus 1 per employee at peak shift, plus amount required for accessory uses such as a restaurant or cocktail lounge
Community building	1	Per each 3 seats based on the maximum occupant load per the Building Code
Golf course, open to the general public	5	Per each hole, plus 1 per each tee of driving range, plus 1 per each employee at peak shift, plus amount required for accessory uses such as a restaurant or cocktail lounge
Private country club, swim or golf clubs, fitness center, or other similar uses	1	Per each 2 memberships, plus 1 per each employee at peak shift, plus amount required for accessory uses such as a restaurant or cocktail lounge
Residential Uses		
Adult foster care homes	1	Per each 3 beds, plus 1 per each employee at peak shift
Elderly housing	1	Per each dwelling unit, plus 1 per each 10 dwelling units, plus 1 per each employee at peak shift
Mobile home parks	2	Per each trailer unit, plus 1 per each 3 dwelling units, plus 1 per each employee at peak shift
Multiple-family dwelling	2	Per each dwelling, plus 1 per each 10 dwelling units
Single- or two-family dwelling	2	Per each dwelling unit

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

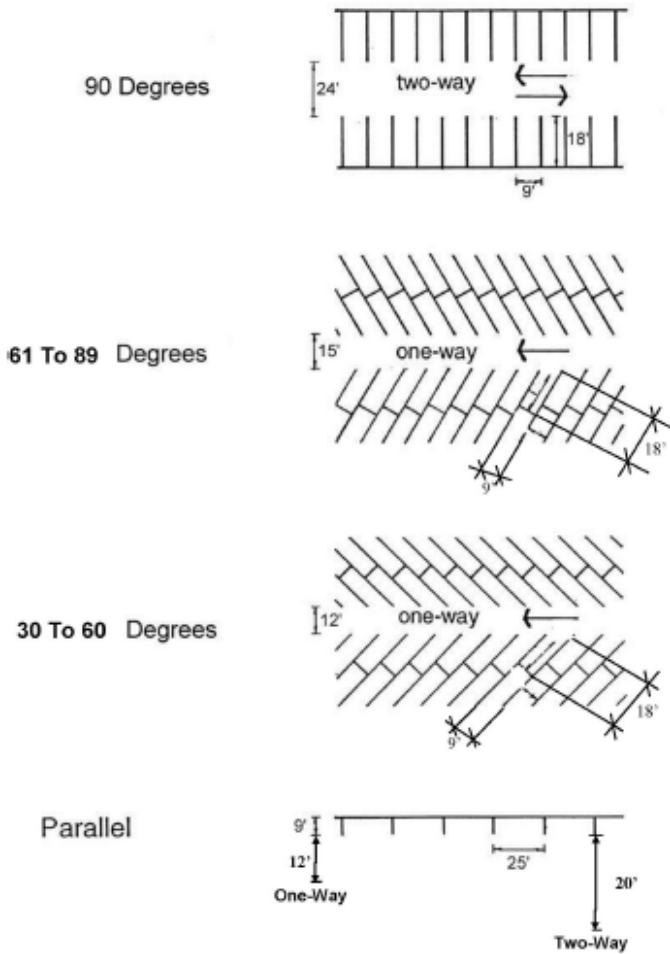
§ 154.179 OFF-STREET PARKING LOT DESIGN AND CONSTRUCTION.

(A) The construction of any parking lot shall be in accordance with the requirements of the provisions of this chapter and completed before a certificate of occupancy is issued.

(B) Unless incorporated in a site plan, prepared and approved in accordance with § 154.024, plans for the development of any parking lot must be submitted to the Zoning Administrator, prepared at a scale of not less than 50 feet equals one inch for submittal to the Planning Commission for approval. All information, including existing and proposed grades, drainage, pipe sizes, parking of all dimensions, type of curbing, drive and aisle dimensions, lighting, adjacent main buildings, sidewalks, landscaping, surfacing and base materials to be used, signage, use, building area, parking calculations and the layout of the proposed parking lot, and all other necessary information required by § 154.024, must be provided. All such parking lots, driveways, or loading areas required for uses other than single- or two-family residential shall be hard-surfaced with asphalt or concrete pavement. Drainage for parking lots shall conform to the standards set forth in § 154.120 and city design standards. All illumination for all such parking lots shall meet the standards set forth in § 154.117. Parking lot landscaping and buffering requirements shall meet the standards set forth in §§ 154.111(D) and 154.111(E). Adequate ingress and egress to the parking lot, by means of limited and clearly defined drives, shall be provided for all vehicles. To prevent encroaching upon pedestrian walkways or damaging required landscaping, curbing or other appropriate barriers shall be provided. No portion of a parking space and/or maneuvering aisle shall obstruct or encroach upon a pedestrian walkway. Plans for the layout of off-street parking facilities shall be in accordance with the following minimum regulations. (See Figure 13.)

<i>Maneuvering Lane Width</i>				
<i>Parking Pattern</i>	<i>One-way</i>	<i>Two-way</i>	<i>Parking Space Width</i>	<i>Parking Space Length</i>
0 degrees - parallel	12'	20'	9'	25'
30 degrees - 60 degrees	12'	N/A	9'	18'
61 degrees - 89 degrees	15'	N/A	9'	18'
90 degrees	N/A	24'	9'	18'

Figure 13



(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.180 OFF-STREET LOADING REQUIREMENTS.

(A) On the same premises with every building or part thereof, erected and occupied for any uses involving the receipt or distribution of trucks and/or delivery vehicles, material, or merchandise, adequate space for loading and unloading shall be provided.

(B) (1) Off-street loading and unloading space, unless completely and adequately provided for within a building, shall be of sufficient area and height clearance to accommodate vehicles using the loading space, based upon evidence supplied by the applicant and verified by the Planning Commission. Loading and unloading space provided by truck wells located below surface grade shall be protected by pipe railings per Building Code. Drainage shall be provided to prevent the collection of stormwater at the bottom of the truck well. The loading and unloading space shall be a minimum of 12 feet wide by 40 feet long. The space shall not be located in the front yard of a building and shall not be located closer than 50 feet to any residentially zoned parcel. The Planning Commission may permit deviations from this standard with conditions where it deems appropriate.

(2) The number of spaces provided shall be in accordance with the following schedule.

Gross Floor Area (Sq. Ft.)	Loading and Unloading Spaces Required in Terms of Sq. Ft. Gross Floor Area
0 - 20,000	1 space
20,001 - 100,000	1 space plus 1 space for each 20,000 sq. ft. in excess of

	20,000 sq. ft.
100,000 and over	5 spaces

(C) (1) The city recognizes that due to the specific requirements of any given development, inflexible application of off-street loading requirements set forth in division (B) above may result in development with inadequate loading space or loading space in excess of that which is needed. The former situation may lead to traffic congestion or unauthorized loading on and/or off site. The latter situation may result in excessive paving and stormwater runoff and a waste of space, which could be left as open space.

(2) The Planning Commission may permit deviations from the requirements of division (B) above based upon a finding that such deviations are more likely to provide a sufficient number of off-site loading spaces and of adequate size to accommodate the specific characteristics of the use in question.

(3) The Planning Commission shall attach conditions to the approval of a deviation from the requirements of division (B) above that bind such approval to the specific use in question. Where a deviation results in a reduction of off-street loading, the Planning Commission shall further impose conditions, which ensure that adequate usable reserve area is set aside for further off-street loading, if needed. Where area is set aside for reserve off-street loading, it shall be easily developed, not devoted to a use other than open space, and shall be designed to accommodate attendant facilities vehicle such as maneuvering lanes and drainage.

(D) The following additional standards apply to commercial or similar vehicles in residential zoning districts: parking of commercial vehicles in residential zoning districts, which are rated over one ton capacity is prohibited; and open storage of commercial vehicles over one-ton capacity, including semi-trucks and trailers, mobile homes, tractors, bulldozers, earth movers, or other similar equipment is prohibited in any residential zoning district.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.181 OFF-STREET STACKING SPACE FOR DRIVE-THROUGH FACILITIES.

All businesses which provide drive-through facilities for serving customers within their automobile shall provide adequate off-street stacking space and lanes which meets the following requirements.

(A) Each stacking space shall be computed on the basis of eight feet in width and 20 feet in length. Each stacking lane shall be ten feet in width;.

(B) Clear identification and delineation between the drive-through facility and parking lot shall be provided. Drive-through facilities shall be designed in a manner which promotes pedestrian and vehicular safety.

(C) For all drive-through facilities which have a single stacking lane, an escape lane shall be provided which allows other vehicles to pass those waiting to be serviced.

(D) Required stacking spaces may not occupy required or actual front yard setbacks, unless otherwise permitted by the Planning Commission.

(E) The number of stacking spaces per service lane shall be provided for the following uses. When a use is not specifically mentioned, the requirements for off-street stacking space for a similar use shall apply. The Planning Commission may permit deviations from this requirement if it is demonstrated that such deviations are appropriate and will improve the site.

<i>Use</i>	<i>Stacking Spaces Per Service Lane</i>
<i>Use</i>	<i>Stacking Spaces Per Service Lane</i>
Banks	6

Car washes (automatic) entry	8
Car washes (automatic) exit	1
Car washes (self-service) entry	3
Car washes (self-service) exit	1
Dry cleaning	4
Fast-food restaurants	8
Photo service	4

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.182 TRAFFIC IMPACT ANALYSIS.

The Planning Commission may require a traffic impact analysis in order to analyze the effect of development upon existing street traffic. The traffic impact analysis shall be paid for by the developer and shall examine existing and proposed traffic flows, trip generation studies, impacts on major intersections, turning movement analysis, roadway capacity, parking generation, and site ingress/egress. The traffic impact analysis shall be prepared by a registered professional engineer or transportation planner.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.183 ACCESS MANAGEMENT.

(A) Automobile access.

(1) *Access barrier.* Access to public roads shall be controlled in the interest of public safety. Each building or group of buildings used for non-residential purposes, and its parking or service area, shall be physically separated from public roads by a greenbelt, curb, or other suitable barrier against unchanneled motor vehicle access or egress, except for access ways authorized herein. In addition to providing the access barrier, greenbelt requirements shall be provided in accordance with § 154.111.

(2) *Driveway performance standards.* Driveways shall conform to the following performance standards.

(a) Driveway design and placement must be in harmony with internal circulation and parking design such that the entrance can absorb the maximum rate of inbound traffic during a normal peak traffic period.

(b) Sufficient on-site storage must accommodate at least three queued vehicles waiting to park or exit without using a portion of the public right-of-way obstructing existing vehicle sight distance, or otherwise interfering with street traffic.

(c) Provisions for circulation between adjacent parcels are encouraged through coordinated or joint parking systems and driveways.

(d) Driveways shall be designed to accommodate all vehicle types having occasion to enter and exit the site, including delivery vehicles. There shall be clear delineation and/or separation, where appropriate, of entry and exit lanes within driveways.

(e) Driveway placement must be such that loading and unloading activities will in no way hinder vehicle ingress or egress.

(B) Pedestrian access.

(1) *General standard.* The parking and circulation system within each development shall accommodate the movement of vehicles, bicycles, pedestrians, and transit, throughout the proposed development and to and from surrounding areas, safely and conveniently, and shall contribute to the

attractiveness of the development. The on-site pedestrian system must provide continuity, street crossings, visual interest, and security as defined by the standards in this section.

(2) *Safety considerations.* To the maximum extent feasible, pedestrians shall be separated from vehicles.

(a) Where complete separation of pedestrians and vehicles is not feasible, potential hazards shall be minimized by the use of techniques such as special paving, grade separations, pavement marking, signs or striping, bollards, pedestrian safety island, landscaping, lighting, or other traffic calming measures to clearly delineate pedestrian areas, for both day and night use.

(b) Where bicycle paths are required or are specifically part of a site plan and pedestrians and bicyclists share walkways, the pedestrian/bicycle system shall be designed to be wide enough to easily accommodate the amount of pedestrian and bicycle traffic volumes that are anticipated. A minimum width of eight feet shall be required and shall meet American Association of State Highway and Transportation Officials (AASHTO) guidelines. Additional width of up to four feet may be required to accommodate higher volumes of bicycle and pedestrian traffic.

(3) *Curb cuts and ramps.* Curb cuts and ramps shall be located at convenient, safe locations for the physically disabled, for bicyclists, and for people pushing strollers or carts. The location and design of barrier-free spaces, curb cuts, and ramps shall meet the requirements of the State Barrier Free Code and the Americans With Disabilities Act and, to the extent possible, shall avoid crossing or funneling pedestrian traffic through loading areas, drive-through lanes, and outdoor trash storage/collection areas.

(4) *Site amenities.* Development plans shall include site amenities that enhance safety and convenience and promote walking or bicycling as an alternative means of transportation. Site amenities may include bike racks, drinking fountains, canopies, and benches.

(5) *Walkways.*

(a) *Directness and continuity.* Walkways within the site shall be located and aligned to directly and continuously connect areas or points of pedestrian origin and destination, and shall not be located and aligned solely based on the outline of a parking lot configuration that does not provide such direct pedestrian access. Such connecting walkways shall either be grade separated from the parking lot or clearly delineated as to avoid pedestrian/vehicular conflicts with a paved surface not less than six feet in width. Drive aisles leading to main entrances shall have walkways on at least one side of the drive aisle.

(b) *Street crossings.* Where it is necessary for the pedestrian access to cross maneuvering aisles or internal roadways, the crossings shall emphasize and place priority on pedestrian access and safety. The pedestrian crossings must be well marked using such pavement treatments, signs, striping, signals, lighting, pedestrian safety islands, landscaping, and other traffic calming techniques.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.184 OUTDOOR STORAGE OF RECREATION VEHICLES.

In all residential districts, a recreational vehicle may be parked or stored subject to the following conditions.

(A) Storage or parking shall not be permitted on vacant lots or parcels.

(B) Unless within a completely enclosed building, a recreational vehicle shall be parked or stored in one of the following manners:

(1) Within the side or rear yard, but no closer than five feet from any side or rear lot line; or

(2) In those instances where the side or rear yard is not accessible or has insufficient clearance for the passage of a recreational vehicle, the Zoning Administrator may allow the parking or storage of a recreational vehicle in the front yard. In those instances where a recreational vehicle is to be parked or

stored in a front yard, only the driveway portion of such yard shall be utilized and in no instance shall such recreational vehicle be parked or stored in a manner which obstructs pedestrian or vehicular visibility.

(C) No recreational vehicle shall be used for living, sleeping, or housekeeping purposes on the premises, except for occasional living purposes to accommodate visitors not to exceed a maximum period of two weeks.

(D) No recreational vehicle shall be stored on a public street or right-of-way or private road easement.

(E) A recreational vehicle stored outside shall be in a condition for the safe and effective performance of its intended function.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

NONCONFORMING USES, STRUCTURES, AND LOTS

§ 154.195 INTENT.

Certain existing lots, structures, and uses of lots and structures were lawful before this chapter was adopted, but have become nonconformities under the terms of this chapter and its amendments. It is the intent of this chapter to permit such nonconformities to remain until they are discontinued or removed, but not to encourage their survival or, where discontinuance or removal is not feasible, to gradually upgrade such nonconformities to conforming status. Nonconformities shall not be enlarged, expanded, or extended, except as provided herein, and shall not be used as grounds for adding other structures and uses of lots and structures which are prohibited. Nonconformities are declared by this chapter to be incompatible with the structures and uses permitted in the various districts.

(Ord. 285, passed 12-8-2003)

§ 154.196 NONCONFORMING LOTS.

(A) 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 buildings may be erected on any single lot of record at the effective date of adoption or amendment of this chapter. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width, or both, of the lots shall conform to the regulations for the district in which such lot is located.

(B) If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter, and if all or part of the lots do not meet the requirements for lot width and area as established by this chapter, the lands involved shall be considered to be an undivided parcel for the purpose of this chapter, and no portion of said parcel or lot shall be used or sold which does not meet lot width and area requirements established by this chapter, nor shall any division of the parcel or lot be made which leaves remaining any parcel or lot with width or area below the requirements stated in this chapter.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.197 NONCONFORMING USES OF LAND.

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

(A) No such nonconforming uses shall be enlarged or increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.

(B) 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 this chapter.

(C) If such nonconforming use of land ceases operation for more than six consecutive months, or for 18 months during any three-year period, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.198 NONCONFORMING STRUCTURES.

Where a lawful structure exists at the effective date of adoption or amendment of this chapter 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.

(A) No such structure may be enlarged or altered in a way which increases its nonconformity.

(B) Should such structure be destroyed by any means to an extent of more than 50% of replacement value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

(C) 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 located after it is moved.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.199 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 this chapter 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.

(A) 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, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

(B) Any nonconforming use may be extended throughout any interior part of a building which was manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.

(C) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations pertaining to the uses permitted in the district in which such structure is located, and the nonconforming use may not thereafter be resumed. Section 154.198 of this section shall apply to any nonconformity relating to the structure(s).

(D) If such nonconforming use of land ceases operation for more than six consecutive months, or for 18 months during any three-year period, any subsequent use of such land shall conform to the regulations specified by the ordinance pertaining to the uses permitted in the district in which such land is located. Structures occupied by seasonal uses shall be excepted from this provision only so long as seasonal uses shall continue.

(E) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

(F) (1) If no structural alterations are made, any nonconforming use of structure, or structure and premises, may be changed to another nonconforming use of the same or a more restricted classification provided that the Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use.

(2) In permitting such change, the Board of Appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this chapter.

(3) Where a nonconforming use of a structure, land, or structure and land in combination is hereafter changed to a more restrictive classification, it shall not thereafter be changed to a less restricted classification.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.200 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 nonbearing walls, fixtures, wiring, or plumbing to an extent not exceeding 50% of the replacement value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this chapter shall not be increased.

(B) (1) A nonconforming structure, nonconforming portion of a structure, or a structure containing a nonconforming use which is physically unsafe or unlawful due to lack of repairs and maintenance, as determined by the Building Official may be restored to a safe condition.

(2) Where enlargement or structural alternation is necessary to allow compliance with health and safety laws or ordinances, the cost of such work shall not exceed 25% of the structure's fair market value, as determined by the assessor at the time such work is done.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.201 USES ALLOWED AS SPECIAL APPROVAL USES, NOT NONCONFORMING USES.

Any use for which special approval is permitted as provided in this chapter shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

§ 154.202 CHANGE OF TENANCY OR OWNERSHIP.

A change of tenancy, ownership, or management of any existing nonconforming uses of land, structures, and premises is permitted provided no change in the nature or character of such nonconforming uses occur except in conformity with the provisions of this chapter.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

ZONING BOARD OF APPEALS

§ 154.215 AUTHORITY.

A Zoning Board of Appeals is hereby established, the membership, powers, and duties of which are prescribed in Public Act 110 of 2006, being M.C.L.A. §§ 125.3101 et seq., as amended. The Zoning Board of Appeals in addition to the general powers and duties conferred upon it, by said Act, in specific cases and subject to appropriate conditions and safeguards, shall interpret and determine the application of the regulations established under this chapter in harmony with their purpose and intent as hereinafter set forth.

(Ord. 285, passed 12-8-2003)

§ 154.216 MEMBERSHIP.

(A) The Zoning Board of Appeals shall consist of six members: a member of the Planning Commission; and five citizens of the city appointed by the City Council who shall be representative of the various interests and population distribution of the city.

(B) (1) The member of the Planning Commission shall serve a term concurrent with his or her term on the Commission.

(2) The five additional members shall serve for three-year terms. These three-year terms shall be staggered so that not more than two members are appointed each year.

(3) Should a vacancy occur, the City Council shall appoint a replacement within 30 days to fill the unexpired term.

(C) The Zoning Board of Appeals as constituted on the effective date of this chapter shall continue and, upon completion of current terms, appointments by the City Council shall be based upon the manner and terms heretofore set forth.

(Ord. 285, passed 12-8-2003)

§ 154.217 MEETINGS.

(A) All decisions of the Board shall be made at a meeting open to the public. All deliberations of the Board constituting a quorum of its member shall take place at a meeting open to the public except as provided in compliance with the Open Meetings Act, Public Act 267 of 1976, being M.C.L.A. §§ 15.261 through 15.275, as amended.

(B) A majority of the members of the Board shall constitute a quorum for purposes of transacting the business of the Board and the Open Meetings Act, Public Act 267 of 1976, being M.C.L.A. §§ 15.261 through 15.275, as amended. Each member of the Board shall have one vote.

(C) Regular meetings of the Board shall be called as needed in response to receipt of a notice of appeal, so long as the meeting is scheduled within 20 days of the notice of appeal. The meeting can be called by the Zoning Administrator, the Chair of the Appeals Board or, in his or her absence, the Vice-Chair. Public notice of the date, time, and place of a public meeting of the Board shall be given in the manner required by Public Act 267 of 1976, being M.C.L.A. §§ 15.261 through 15.275, as amended.

(D) The business of the Board of Appeals shall be conducted in accordance with its adopted bylaws.

(E) The Chair or, in his or her absence, Vice-Chair may administer oaths and compel the attendance of witnesses.

(Ord. 285, passed 12-8-2003)

§ 154.218 POWERS AND DUTIES.

(A) *General.* The Board has the power to act on matters as provided in this chapter and Public Act 110 of 2006, being M.C.L.A. §§ 125.3101 et seq., as amended. The specific powers of the Board are enumerated in the following divisions of this section.

(B) *Voting.*

(1) The concurring vote of a majority of the members of the Board shall be necessary to reverse an order, requirements, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which the Board is required to pass under an ordinance, or to effect a variation in an ordinance except that a concurring vote of two-thirds of the members of the Board shall be necessary to grant a variance from uses of land permitted in an ordinance.

(2) A member shall be disqualified from a vote in which a conflict of interest exists. Failure of a member to disclose a conflict of interest and be disqualified from a vote shall constitute malfeasance in office.

(C) *Administrative review.* The Board shall hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, or refusal made by the Zoning Administrator or other duly authorized enforcing agent, in enforcing any provision of this chapter.

(D) *Interpretation.*

(1) The Board shall hear and decide requests for interpretation of this chapter or the zoning map taking into consideration the intent and purpose of the ordinance and the Master Plan.

(2) A record shall be kept by the Board of all decisions for interpretation of this chapter or zoning map and land uses which are approved under the terms of this section. The Board shall request the Planning Commission to review any ordinance amendment it deems necessary.

(E) *Variances.*

(1) Upon an appeal, the Board is authorized to grant a variance from the strict provisions of this chapter, whereby extraordinary or exceptional conditions of such property, the strict application of the regulations enacted would result in peculiar or exceptional practical difficulties to, or exceptional undue hardship upon the owner of such property provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this chapter. In granting a variance, the Board may attach thereto such conditions regarding the location, character, and other features of the proposed uses as it may deem reasonable in furtherance of the purpose of this chapter. Further, in granting a variance, the Board shall state the grounds upon which it justifies the granting of a variance as outlined below. When granting any variance, the Board must ensure that the spirit of the ordinance is observed, public safety secured, and substantial justice done.

(2) The applicant must present evidence to show that if this chapter is applied strictly, practical difficulties will result to the applicant and that:

(a) The ordinance restrictions unreasonably prevent the owner from using the property for a permitted purpose;

(b) The variance would do substantial justice to the applicant as well as to other property owners in the district, and a lesser relaxation than that requested would not give substantial relief to the owner of the property or be more consistent with justice to other property owners;

(c) The plight of the landowner is due to the unique circumstances of the property; and

(d) The alleged hardship has not been created by any person presently having an interest in the property.

(Ord. 285, passed 12-8-2003; Ord. 363, passed 6-8-2015)

§ 154.219 PROCEDURE FOR APPEAL.

(A) An applicant requesting any action by the Board shall commence such request by filing a notice of appeal, on the form supplied by the city, accompanied by such appeal fee as determined by the City Council, and all plans, studies, and any other information and data as applicable, all of which shall be made a part of the record.

(B) Any dimension variance requested within the city shall be accompanied by a survey representing the dimension (distance and/or area) which is deficient and nonconforming. The dimension shall be directly measured and certified by a professional surveyor licensed to practice in the state. As it relates to areas, the surveyor shall indicate all field measured dimensions of such parcel and provide the representative calculation. As it relates to property line setbacks or building separations, the dimensions shall be a direct measurement versus calculated. This section may not require a full property line survey of the entire parcel in question but does require a survey as necessary to represent and support the variance request.

(C) Every appeal from a determination of the Zoning Administrator or other duly authorized enforcing agent shall be made by the applicant within 30 days of the date of the order issuance or refusal to issue permit, requirement, or refusal.

(D) The Board shall fix a time for a hearing on the appeal, and shall notify the applicant of the time and place of such hearing. Notice of all public hearings conducted by the Board shall appear in a newspaper of general circulation in the city at least 15 days prior to the hearing where the appeal pertains to a specific parcel(s) of property. Notice of the public hearing shall be sent to the persons to whom real property within 300 feet of the premises in question is assessed, and to the occupants of single- and two-family dwellings within 300 feet regardless of whether the owner or occupant is located in the city, the notice to be delivered personally or by mail addressed to the respective owners and tenants at the address given in the last assessment roll. If the tenant's name is not known, the term "occupant" may be used.

(E) Any person may appear in person at the public hearing, or be represented by an agent or attorney, and present any evidence in support of his or her appeal. The Board of Appeals shall have the power to require the attendance of witnesses, administer oaths, compel testimony, and otherwise cause the production of books, papers, files, and other evidence pertaining to matters properly coming before the Board of Appeals.

(F) The Board shall not decide an appeal until after a public hearing.

(G) The Board may reverse, affirm, vary, or modify, any order, requirement, or determination, as to which it has the power to consider, and have all the powers of the officer or body from whom the appeal was taken and may issue or direct the issuance of a permit.

(H) (1) The Board may impose conditions with any decision. Such conditions imposed shall meet all of the following requirements:

(a) Be designed to protect natural resources, public health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents, and landowners immediately adjacent to the proposed land use or activity, and the community as a whole;

(b) Be related to the valid exercise of the police power, and purposes, which are affected by the proposed use or activity; and

(c) Be necessary to meet the intent and purpose of this chapter, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

(2) Violations of any of these conditions shall be deemed a violation of this chapter, enforceable as such, and/or may be grounds for revocation or reversal of such decision.

(I) All decisions of the Board shall be in writing and so far as it is practicable, in the form of a general statement or resolution reciting the conditions, facts, and findings of the Board. The applicant shall be advised of the decision after the public hearing unless the Board moves for a continuation of such hearing.

(J) Any decision of the Board favorable to the applicant shall remain valid only as long as the information or data relating thereto are found to be correct, and the conditions upon which the decision was based are maintained.

(K) The Board may reconsider an earlier decision if, in the opinion of the Board, circumstances justify taking such action.

(L) (1) No order of the Board of Appeals permitting the erection or alteration of a building shall be valid for a period of longer than one year, unless a building permit for such erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

(2) No order of the 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, however, that such order shall continue in force and effect if a building permit for said erection or alteration is obtained

within such period, and such erection or alteration is started and proceeds to completion in accordance with such permit.

(M) Any party aggrieved by a decision of the Zoning Board of Appeals may appeal to the circuit court in accordance with Public Act 110 of 2006, being M.C.L.A. §§ 125.3101 et seq., as amended.

(Ord. 285, passed 12-8-2003; Ord. 363, passed 6-8-2015) Penalty, see § 154.999

PLANNING COMMISSION

§ 154.230 AUTHORITY.

A Planning Commission for the city is established.

(Ord. 285, passed 12-8-2003)

§ 154.231 MEMBERSHIP.

(A) The Commission shall consist of nine members who shall be representative of important segments of the city, such as the economic, governmental, educational, and social development of the city, in accordance with the major interests as they exist in the city, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce. The membership shall also be representative of the entire geography of the local unit of government to the extent practicable. The Mayor and/or up to three members of the City Council, or any combination thereof, may be appointed to the Planning Commission as ex officio members; however, not more than one-third of the members of the Planning Commission shall be ex officio members. All members, except the Mayor, shall be appointed by the Mayor, subject to the approval of a majority vote of the members elect of the City Council. Except for the Mayor, City Council member(s), one member of the Zoning Board of Appeals, and one member of the Historic District Commission, no member of the Commission shall hold any other municipal office. The Commission members shall serve without compensation, except for necessary expenses in connection with their work. The term of each appointed member shall be three years. The Mayor and the City Council member(s) shall serve only so long as they are members of the City Council. Appointed members of the Planning Commission may, after public hearing, be removed by the Mayor for inefficiency, neglect of duty, or malfeasance in office.

(B) Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the Mayor, subject to the approval by a majority vote of the members elect of the City Council.

(Ord. 285, passed 12-8-2003; Ord. 351, passed 9-15-2014)

§ 154.232 OFFICERS AND RULES.

The Commission shall elect its Chairperson from among the appointed members and shall create and fill such other of its offices as it may determine. The term of the Chairperson shall be one year, with eligibility for reelection. The Commission shall hold at least one regular meeting each month. The City Clerk shall act as Secretary to the Commission. It shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations which record shall be a public record.

(Ord. 285, passed 12-8-2003)

§ 154.233 EMPLOYEES, CONTRACTS, AND EXPENDITURES.

The City Planning Commission may appoint such employees as it may deem necessary for its work, whose appointment, promotion, demotion, and removal shall be subject to the same provisions of law as govern other corresponding civil employees of the city. The Commission may also contract with city planners, engineers, architects, and other consultants for such services as it may require. The expenditures of the Commission, exclusive of gifts, shall be within the amounts appropriated for the

purpose by the City Council, which shall provide the funds, equipment, and accommodations necessary for the work of the Commission.

(Ord. 285, passed 12-8-2003)

§ 154.234 POWERS AND DUTIES.

The City Planning Commission shall have such powers and duties as are granted to a city planning commission by the statutes of the state, to adopt and amend the City Master Plan, conduct surveys and studies, approval, modification, or disapproval of plats, the power to make recommendations regarding zoning and rezoning, and the authority to conduct site plan review procedures for the city.

(Ord. 285, passed 12-8-2003)

§ 154.235 CONTINUITY IN TERMS OF OFFICE.

In order to establish continuity in the terms of office of members of the Planning Commission other than the Mayor and the representative of the City Council, its members shall initially be appointed for staggered terms. According to the original language of approval, three terms would expire in 1988, two would expire in 1987, and two would expire in 1986. The Mayor and City Council representative to the Planning Commission, as stated in § 154.231, shall not be elected to the Planning Commission for a term longer than their respective terms of office on the City Council.

(Ord. 285, passed 12-8-2003)

§ 154.999 PENALTY.

(A) *Enforcement Officer.* The Zoning Administrator, Code Enforcement Officer, Chief of Police or designee of any of them shall be responsible for enforcing violations of this chapter.

(B) *Public nuisance; nuisance per se.* A violation of this chapter is hereby declared to be a public nuisance subject to abatement by the city in any court of competent jurisdiction.

(C) *Municipal civil infractions.* In addition to any other remedies allowed in this chapter, a violation of this chapter is hereby designated as a municipal civil infraction and be subject to the civil fines, sanctions, remedies and procedures set forth in Chapter 33.

(1) *General penalty clause.* A violation of this chapter is hereby designated as a municipal civil infraction and violators shall be subject to the civil fines, sanctions, remedies and procedures as set forth in Chapter 33 and Michigan law.

(2) *Fines paid at Violations Bureau.*

(a) If the civil fine is paid at the Municipal Violations Bureau, the initial fine shall be \$50 or other amount set by resolution of City Council.

1. In the case of another offense within one year of the date of the initial infraction, the civil fine shall be \$100 or other amount set by resolution of City Council. (This shall be known as the second offense.)

2. In the case of another offense within one year of the date of the second offense, the civil fines shall be \$200 or other amount set by resolution of City Council. (This shall be known as the third offense.)

3. In the case of another offense within one year of the date of the third offense, the civil fine shall be \$500 or other amount set by resolution of City Council. (This shall be known as the fourth offense.) All subsequent offenses shall be \$500 or other amount set by resolution of City Council.

(b) All such fines are due and payable at the Violations Bureau no later than 14 days after the date of the violation notice. The Violations Bureau is hereby authorized to accept civil fines in the amounts specified. In case of payment at the Violations Bureau, no costs shall be imposed or collected.

(Ord. 285, passed 12-8-2003; Ord. 383, passed - - 2018)