

APPENDIX A - ZONING ORDINANCE

Footnotes:

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Editor's note— Ord. No. 330, adopted Jan. 12, 1998, replaced former App. A of the Code in its entirety. The city's zoning ordinance as set forth in Ordinance No. 330 and amended from time to time is on file in the city clerk's office where it is available for reference and review during normal business hours. Former App. A pertained to zoning regulations. For a detailed history of the provisions of former App. A, see the Code Comparative Table.

Subsequently, Ord. No. 395, adopted August 15, 2006, effective September 27, 2007, adopted provisions designated as a new Appendix A to read as herein set out.

ARTICLE 1. - INTENT

Section 1.00. - Short title.

This ordinance shall be known as the "City of Swartz Creek Zoning Ordinance" and may hereinafter be referred to as "this ordinance."

Section 1.01. - Intent.

This ordinance is based on the City of Swartz Creek Master Plan adopted by the city in 2004, design standards, amendments to those plans and similar plans adopted by the planning commission addressing future development patterns and development goals. This ordinance is intended to implement the master plan through regulations on use of land, buildings and structures to promote the public health, safety and general welfare and to accomplish the objectives listed below.

- A. Establish zoning districts and uniform regulations applicable to each district governing the use of the land, and dimensions for building and site development with such minimum regulations as are deemed necessary to carry out the provisions of this ordinance.
- B. Accommodate and promote land uses which are compatible with the city's character and conserve the property values and long-term stability of residential neighborhoods, commercial districts, industrial areas and special districts.
- C. Encourage use of the land and natural resources in accordance with their character and capability, thus preserving the sensitive and important environmental features in the city, such as wetlands, lakes, prime farmland, Centennial Farms, topography, open space, mature vegetation and wildlife habitat. This ordinance acknowledges the importance of these features on the long-term economic climate of all uses in the city and the overall quality of life for city residents.
- D. Limit or prohibit improper use of land.
- E. Reduce hazards to life and property, particularly for development in the 100-year floodplain.
- F. Promote safe conditions for motorists, pedestrians and bicyclists through maintenance of an acceptable level of service along streets and at driveways within the city. This includes assurance that property owners have reasonable, though not always direct, access to property.
- G. Facilitate adequate and cost effective infrastructure systems, and protect the substantial public investment in those systems, including: transportation, sewage disposal, safe and adequate water supply, education and recreational facilities.
- H. Establish controls over potential land use conflicts and uses which may need special regulation as special land uses to be compatible with surrounding development patterns and zoning.
- I. Promote the gradual elimination of uses, buildings and structures which do not conform with the regulations and standards of this ordinance.
- J. Provide for administration of this ordinance, including resolution of any conflicts with other ordinances, collection of fees, procedures for petitions, hearings and appeals; and to provide for any other matters authorized under the Michigan Zoning Enabling Act (Public Act 110 of 2006).
- K. Balance the city's right to compatible and quality development with the property owners' right to a reasonable rate of return on investment.

Section 1.02. - Vested rights.

- A. *Site plans submitted prior to effective date.*
 1. *Construction begun:* Nothing in this ordinance shall be deemed to require any change in the plans, construction, or designated use of any building upon which actual construction was begun prior to the enactment of this ordinance, provided construction has lawfully begun, is being diligently carried on, and shall be completed within one year of the effective date of this ordinance. The zoning board of appeals may permit an extension of up to one year for completion.
 2. *Application submitted:* An application shall meet the requirements of this ordinance effective on the date of submission. An application submitted before the effective date of this ordinance must be approved by the planning commission by the date that the ordinance takes effect or the requirements of this ordinance shall be followed.
 3. *Application approved:* If an application has been approved within 12 months of the effective date of this ordinance, it shall remain valid if construction is begun within one year and completed within two years of the effective date of this ordinance.
- B. For projects not subject to site plan approval, a building permit must be issued prior to the effective date of this ordinance; otherwise the requirements of this ordinance take effect.
- C. If the conditions of this section are not met, the standards and provisions of this ordinance shall govern.

- D. Nothing in this ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, or classification or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety, and welfare.

Section 1.03. - Conflicting regulations.

- A. Where any provision of this ordinance imposes either greater or lesser restrictions, limitations, conditions, standards, or requirements upon: (1) the use of buildings, structures, or land; (2) the height of buildings or structures; (3) lot coverage; (4) lot areas; (5) yards or other open spaces; or (6) any other use or utilization of land than are imposed or required by such existing laws, ordinances, regulations, private restrictions, or restrictive covenants, the provision or standard which is more restrictive or limiting shall govern.
- B. If there is a conflict between any provision of this ordinance and a provision of the Michigan Zoning Enabling Act (Public Act 110 of 2006, as amended), the provision of the Michigan Zoning Enabling Act shall take precedence over the conflicting provision in this ordinance.
- C. Except as otherwise provided in this ordinance, every building and structure erected; every use of any lot, building or structure established; every structural alteration or relocation of an existing building or structure and every enlargement of, or addition to, an existing use, building or structure occurring after the effective date of this ordinance shall be subject to all regulations of this ordinance which are applicable in the Zoning District in which the use, building, or structure is located.
- D. No setback area or lot existing at the time of adoption of this ordinance shall be reduced in dimensions or area below the minimum requirements set forth herein in this ordinance. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established herein in this ordinance.
- E. This ordinance shall not abrogate or annul any easement, bylaw, master deed, deed restriction, covenant, or private agreement, except that the regulations or provisions of this ordinance shall govern if it imposes a more restrictive or higher standard.
- F. The regulations herein established shall be the minimum regulations for promoting and protecting the public health, safety, and general welfare. Any conflicting laws of a more restrictive nature shall supersede the appropriate provisions of this ordinance.

(Ord. No. 401, § 1, 5-11-09, eff. 6-15-09)

Section 1.04. - Validity and severability clause.

This ordinance and the various components, articles, sections, subsections, sentences, and phrases thereof are hereby declared to be severable. If any court of competent jurisdiction shall declare any part of this ordinance to be unconstitutional or invalid, such ruling shall not affect any other provisions of this ordinance not specifically included in said ruling. Further, if any court of competent jurisdiction shall declare unconstitutional or invalid the application of any provision of this ordinance to a particular parcel, lot, use, building, or structure, such ruling shall not affect the application of said provision to any other parcel, lot, use, building, or structure not specifically included in said ruling.

Section 1.05. - Scope and interpretation.

This ordinance shall not repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws, ordinances or regulations, except those repealed herein by specific reference, or with private restrictions placed upon property by covenant, deed or other private agreement, or with restrictive covenants running with the land to which the city is a party.

Section 1.06. - Repeal of prior ordinance.

The Zoning Ordinance adopted by the City Council of the City of Swartz Creek on the 12th day of January, 1998, and all amendments thereto, are hereby repealed insofar as they conflict with this ordinance. The repeal of the above ordinance and their amendments does not affect or impair any act done, offense committed or right accruing, accrued or acquired or liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted or inflicted.

Section 1.07. - Effective date.

Public hearing having been held hereon, the provisions of this ordinance are hereby effective, pursuant to the provisions of the Michigan Zoning Enabling Act (Public Act 110 of 2006). Made and passed by the City Council of the City of Swartz Creek, Genesee County, Michigan, on this 14th day of August, A.D., 2006.

A. *Date of public hearings:*

- a) *Planning commission:* Tuesday, July 25, 2006.
- b) *City council:* Monday, August 14, 2006.

B. *Date of publications:*

- a) *Planning commission:* Sunday, July 7, 2006 Swartz Creek News.
- b) *City council:* Sunday, July 30, 2006 Swartz Creek News.
- c) *General adoption publication:* Sunday, August 27, 2006.

C. *Date of adoption by city council:* Monday, August 14, 2006.

D. *Date ordinance shall take effect:* Wednesday, September 27, 2006.

ARTICLE 2. - DEFINITIONS

Section 2.00. - Construction of language.

The following rules of construction apply to the text of this ordinance:

- A. The particular shall control the general.
- B. In case of any difference of meaning or implication between the text of this ordinance and any caption or illustration, the text shall control.
- C. The word "shall" is always mandatory and not discretionary. The word "may" is permissive, with the decision made by the planning commission, city council, or zoning board of appeals, as indicated.
- D. The masculine gender includes the feminine and neuter.
- E. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- F. A "building" or "structure" includes any part thereof. The word "dwelling" includes "residence." The word "lot" includes the words "plot" or "parcel".
- G. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
- H. The word "person" includes an individual, a corporation, a co-partnership, a limited liability company, an incorporated or unincorporated association, or any other entity recognizable as a "person" under the laws of Michigan.
- I. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either..." "or," the conjunction shall be interpreted as follows:
 1. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
 2. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination (i.e., "or" also means "and/or").
 3. "Either...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
- J. The terms "abutting" or "adjacent to" include property "across from", such as across a street, alley, or an easement. This term shall also apply to adjacent zoning districts in an adjacent community.
- K. Terms not herein defined shall have the meaning customarily assigned to them.

Section 2.01. - Definitions A—B.

Abandonment: The relinquishment of land or cessation of the use of the land by the owner or lessee without any intention of transferring rights to the land to another owner or of resuming use of the land or building (i.e. a discontinuance and an indication of an intent to abandon).

Accessory buildings or structures: A building or structure on the same lot with the main building or use, but the use of which is clearly incidental to that of the main building or use.

Accessory use: A use which is clearly incidental to, customarily found in connection with, and (except in the case of accessory off-street parking spaces or loading) located on the same zoning lot as, the principal use to which it is related. An accessory use includes, but is not limited to, the following:

- A. Accessory apartment in a one-family dwelling.
- B. Swimming pools for the use of the occupants of a residence or their guests.
- C. Domestic or agricultural storage in a barn, shed, tool room, or similar accessory building or other structure.
- D. Storage of merchandise normally carried in stock in connection with a business or industrial use, unless such storage is excluded in the applicable district regulations.
- E. Storage of goods used in or produced by industrial uses or related activities, unless such storage is excluded in the applicable district regulations.
- F. Accessory off-street parking spaces, open or enclosed, subject to the accessory off-street parking regulations for the district in which the zoning lot is located.
- G. Uses clearly incidental to a main use such as, but not limited to, offices of an industrial or commercial complex located on the site of the commercial or industrial complex.
- H. Accessory off-street loading, subject to the off-street loading regulations for the district in which the zoning lot is located.
- I. Accessory signs, subject to the sign regulations for the district in which the zoning lot is located.
- J. Boat houses used for the accessory storage of boats of any principal use on a zoning lot or parcel.
- K. A use or structure shall only be considered an accessory use where it is built, located, or otherwise placed on a zoning lot with a principal use to which it is accessory thereto and which is permitted in the zoning district in which it is located.

Activity: Any use, operation, development, or action involving a change in, on or to uplands or bottomlands caused by any person, including, but not limited to, constructing, operating, or maintaining any use or development; erecting buildings or other structures; depositing or removing material; dredging; ditching; land balancing; draining or diverting water; pumping or discharge of surface water; grading; paving; vegetative clearing or excavation, mining or drilling operations.

Adult care facility: A facility for the care of adults, over 18 years of age, as licensed and regulated by the state under Michigan Public Act 218 of 1979, and rules promulgated by the State Department of Consumer and Industry Services. Such organizations shall be defined as follows:

- A. *Adult foster care facility:* A governmental or nongovernmental establishment subject to state licensing procedures as may be required having as its principal function the receiving of adults for foster care. It includes facilities and foster care family homes for adults who are aged, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an on-going basis but who do not require continuous nursing care. An adult foster care facility does not include a nursing home, a home for the aged, an alcohol or substance abuse rehabilitation center, a hospital for the mentally ill, or similar facilities.

Adult foster care large group home: Facility with the approved capacity to receive at least 13, but not more than 20 adults who shall be 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.

Adult foster care small group home: Facility with the approved capacity of not more than 12 adults who shall be 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.

Adult foster care family home: A private residence with the approved capacity to receive not more than six adults who shall be provided foster care for five or more days a week and for two or more consecutive weeks. The adult foster care family home licensee shall be a member of the household and an occupant of the residence.

Adult foster care congregate facility: A foster care facility with the approved capacity to receive more than 20 adults to be provided with foster care.

- B. *Adult day care facility:* An unlicensed facility which provides care for elderly and/or functionally impaired adults in a protective setting for a portion of a 24-hour day.

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

- A. *Adult personal service establishment:* Any establishment, club, or business by whatever name designated, which offers or advertises, or is equipped or arranged to provide as part of its services, massages, body rubs, body painting, alcohol rubs, physical stimulation, baths, or other similar treatment by any person. An adult personal service establishment may include, but is not limited to, establishments commonly known as massage parlors, health spas, sauna baths, Turkish bathhouses, and steam baths. The following uses shall not be included within the definition of an adult personal service establishment:
1. Establishments which routinely provide such services by a licensed physician, a licensed chiropractor, a licensed physical therapist, a licensed practical nurse practitioner, or any other similarly licensed medical professional.
 2. Fitness center, as defined herein.
 3. Electrolysis treatment by a licensed operator of electrolysis equipment.
 4. Continuing instruction in martial or performing arts, or in organized athletic activities.
 5. Hospitals, nursing homes, medical clinics, or medical offices.
 6. Barber shops or beauty parlors and salons which offer massages to the scalp, the face, the neck or shoulders only.
 7. Adult photography studios whose principal business does not include the taking of photographs of "specified anatomical areas" as defined herein.
- B. *Adult book store:* An establishment having a substantial portion of its stock-in-trade devoted to the distribution, display, or storage of books, magazines, and other periodicals, photographs, drawings, and other print material which is distinguished or characterized by its emphasis on matters depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" (as defined herein).
- C. *Adult cabaret:* An establishment where live entertainment is provided, presented, permitted or performed, where a substantial portion of performances are distinguished or characterized by an emphasis on or relationship to "specified sexual activities" or "specified anatomical areas" (as defined herein) for observation by or participation of patrons therein. Also, an establishment which features any of the following: topless dancers and/or bottomless dancers, go-go dancers, strippers, male and/or female impersonators or similar entertainers, topless and/or bottomless waiters, waitresses and/or employees.
- D. *Adult motion picture theater or adult live stage performing theater:* An enclosed building wherein still or motion pictures, video tapes or similar material is presented or viewed where a substantial portion is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined herein) for observation by patrons therein. Such an establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.
- E. *Adult model studio:* Any place where models who display "specified anatomical areas" (as defined herein) are present to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons who pay some form of compensation or gratuity. This definition shall not

apply to any accredited art school or similar educational institution.

- F. *Adult motion picture arcade or mini-motion picture theater*: Any place where motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images displayed depict, describe, or relate to "specified sexual activities" or "specified anatomical areas" (as defined herein).
- G. *Adult video store*: An establishment having a substantial portion of its stock-in-trade devoted to the distribution, display, storage, or on-premises viewing of films, movies, motion pictures, video cassettes, slides, or other visual representations which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" (as defined herein), or an establishment with a segment or section devoted to the sale or display of such material.
- H. *Adult outdoor motion picture theater*: A drive-in theater where a substantial portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined herein) for observation by patrons of the theater. Such establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.
- I. *Sexual paraphernalia store*: An establishment having a substantial portion of its stock-in-trade devoted to the distribution, display, or storage, of instruments, devices, or paraphernalia designed for use related to "specified anatomical areas" or as part of, in connection with, or related to "specified sexual activities" (as defined herein), or an establishment with a segment or section devoted to the sale or display of such material.

Special definitions: With respect to adult regulated uses or sexually oriented businesses, the following terms and phrases shall have the following meanings:

- A. *Substantial portion*: A use of activity accounting for more than 20 percent of any one or more of the following: stock-in-trade, sales revenue, display space, floor space, viewing time, movie display time, or entertainment time measured per month.
- B. *Specified anatomical areas*: Portions of the human body defined as follows:
 1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breast below the point immediately above the top of the areola.
 2. Human male genitals in a discernible turgid state, even if completely and opaquely covered.
- C. *Specified sexual activities*: The explicit display of one or more of the following:
 1. Human genitals in a state of sexual stimulation or arousal.
 2. Fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast.
 3. Human sex acts, normal or perverted, actual or simulated including, but not limited to human masturbation, oral copulation, sexual intercourse, or sodomy.
 4. Human excretory functions as part of, or as related to, any of the activities described above.
 5. Physical violence, bondage, mutilation, or rape, actual or simulated, as part of or related to, any of the activities described above.

Alley: Any dedicated public way or private road affording a secondary means of access to abutting property, and not intended for general traffic circulation.

Alterations: Any change, addition, or modification in construction or type of occupancy, or in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed."

Apartment: A suite of rooms or a room in a multiple-family building arranged and intended for a place of residence of a single-family or a group of individuals living together as a single housekeeping unit.

Apartment, accessory: (i.e. "mother-in-law" apartment) A single apartment unit contained within a single-family home meeting the regulations of this ordinance.

Automobile service (gasoline) station: An establishment which includes buildings and premises for the primary purpose of retail sales of gasoline. An automobile gasoline service station may also include an area devoted to sales of automotive items and convenience goods (mini-mart) primarily sold to patrons purchasing gasoline. An establishment which provides vehicle maintenance or repair is not included within this definition.

Automobile service center, major repairs: A place where the following services may be carried out: General repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service, such as body, frame, or fender straightening and repair, overall painting and undercoating of automobiles.

Automobile service center, minor repairs: A place for the sale of minor accessories for motor vehicles and minor automobile repairs, but not including the dispensing, sale, or offering for sale of motor fuels directly to users of motor vehicles or major automobile repairs such as, but not limited to, vehicle body repair, painting, engine rebuilding, auto dismantling, upholstery, glass work, undercoating, steam cleaning, and other such activities.

Automobile wash: Any building or structure or portion thereof containing facilities for washing motor vehicles using production line methods with a conveyor, blower, steam cleaning device or other mechanical washing devices; and shall also include coin- and attendant-operated drive-through, automatic self-serve, track mounted units and similar high volume washing establishments, but shall not include hand washing operations.

Basement: That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story. Should the vertical distance between the floor and midpoint, and ceiling and midpoint, be equal the area shall be counted as a basement.

Bed and breakfast inn: Any dwelling in which overnight accommodations are provided or offered for transient guests for compensation, including provision for a morning meal only for the overnight guest. A bed and breakfast is distinguished from a motel in that a bed and breakfast establishment shall have only one set of kitchen facilities and employ only those living in the house or up to one additional employee.

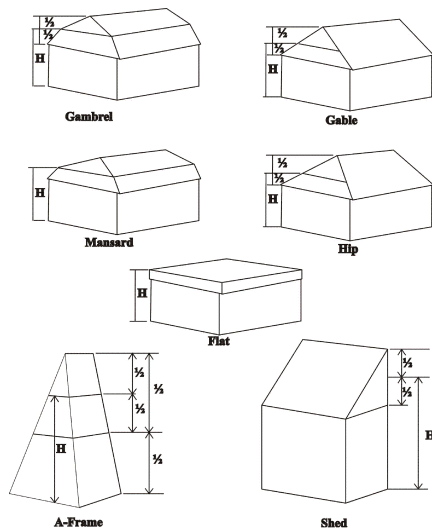
Berm: A mound of soil graded, shaped and improved with landscaping in such a fashion so as to be utilized for screening purposes or as a transition between uses or along major roadways.

Block: The property abutting one side of a street and lying between the two nearest intersecting streets, (crossing or terminating) or between the nearest such street and railroad right-of-way, unsubdivided acreage, lake, river, or live stream; or between any of the foregoing and any other barrier to the continuity of development, or corporate boundary lines of the municipality.

Boarding house: A dwelling where meals, or lodging and meals, are provided for compensation for three or more persons by pre-arrangement for definite periods. A boarding house shall be distinguished from a hotel.

Building: Any structure, either temporary or permanent having a roof supported by columns or walls, and intended for the shelter or enclosure of persons, animals, chattels or property of any kind.

Building, accessory: A building on the same lot with the main building or use, but the use of which is clearly incidental to that of the main building or use.



Building Height

Building height: The vertical distance measured from the established grade to the highest point of the roof surface for flat roof; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip, and gambrel roofs. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall.

Building line: A line formed by the face of the building, and for the purpose of this ordinance, a minimum building line is the same as a front setback line.

Building official: The building official (or similar title) designated by the Swartz Creek City Council responsible for duties as established herein.

Section 2.02. - Definitions C—D.

Canopy: Any overhead protective structure which is constructed in such a manner as to allow pedestrians/vehicles to pass under.

Cemetery: Land used for the burial of the dead, including crematoriums, mausoleums, and mortuaries.

Child care facilities: A facility for the care of children under 18 years of age, as licensed and regulated by the state under Act No. 116 of the Public Acts of 1973 and the associated rules promulgated by the State Department of Social Services. Such care facilities are classified below:

- A. **Child day care center:** A facility other than a private residence, receiving more than six preschool or school age children for group day care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. It includes a facility which provides care for not less than two consecutive weeks, regardless of the number of hours of care per day.
- B. **Foster family home:** A private home in which at least one but not more than four minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.
- C. **Foster family group home:** A private home in which more than four but less than seven children, who are not related to an adult member of the household by blood, marriage, or adoption, are provided care for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.

- D. *Family day care home*: A private home in which one but less than seven minor children are received for care and supervision for periods of less than 24 day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. It includes a home that gives care to an unrelated child for more than four weeks during a calendar year.
- E. *Group day care home*: A private home in which more than six but not more than 12 children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian except children related to an adult member of the family by blood, marriage, or adoption. It includes a home that gives care to an unrelated child for more than four weeks during a calendar year.

City council: The duly elected or appointed City Council of the City of Swartz Creek.

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

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

Commercial vehicle: Any vehicle bearing or required to bear commercial license plates and which falls into one or more of the categories listed below:

- A. Truck tractor.
- B. Semi-trailer, which shall include flat beds, stake beds, roll-off containers, tanker bodies, dump bodies, and full or partial box-type enclosures.
- C. Vehicles of a type that are commonly used for the delivery of ice cream, milk, bread, fruit, or similar vending supply or delivery trucks. This category shall include vehicles of a similar nature which are also of a type commonly used by electrical, plumbing, heating and cooling, and other construction oriented contractors.
- D. Commercial hauling, vehicle repair service, snow plowing, or tow trucks.
- E. Any other vehicle with a commercial license plate having a gross vehicle weight in excess of 10,000 pounds or a total length in excess of 22 feet.

Commercial use: "Commercial use" relates to 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 thereof of offices, or recreational or amusement enterprises.

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

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

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

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

Condominium—Convertible area: A unit or a portion of the common elements of the condominium project referred to in the condominium documents within which additional condominium units or general or limited common elements may be created pursuant to provisions in the condominium documents and in accordance with these zoning regulations and the Condominium Act.

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

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

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

Condominium master deed: The condominium document recording the condominium project as approved by the city including attached exhibits and incorporated by reference the approved bylaws for the project and the approved condominium subdivision plan for the project.

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

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

Condominium unit site (i.e., site condominium lot): The area designating the perimeter within which the condominium unit must be built. After construction of the condominium unit, the balance of the condominium unit site shall become a limited common element. A site condominium lot is considered the same as a zoning lot for purposes of determine compliance with the provisions of this ordinance pertaining to minimum lot size, minimum lot width, minimum lot coverage and maximum floor area ratio.

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

Convenience store: A small-scale retail establishment offering for sale a limited line of groceries and household items intended for the convenience of the neighborhood. *Density:* The number of dwelling units situated on or to be developed per net acre of land. The following calculation shall be utilized in determining maximum density:

- A. The acreage exclusive of paragraphs (B) and (C) below shall be calculated at 100 percent toward the total site acreage.
- B. The acreage comprised of land within the 100-year floodplain elevation, or wetlands protected by the Goemaere-Anderson Wetland Protection Act, PA 203 of 1979, shall be calculated at 25 percent toward the total site acreage.
- C. All open bodies of water and public rights-of-way are excluded from the density calculation.

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

Discontinuance: Vacating of a lot, building or structure; or a ceasing of the activities related to the non-conforming situation.

District: A portion of the incorporated area of the city within which certain regulations and requirements or various combinations thereof apply under the provisions of this ordinance.

Drive-through establishment: A business establishment whose method of operation involves the delivery of a product or service directly to customer inside a vehicle, typically through a window or other appurtenance to a building, where vehicles are queued within a stacking area or approach to the service window or facility.

Drive-through stacking lane: A paved surface designed to accommodate a motor vehicle waiting for entry to any drive-in facility or auto-oriented use, which is located in such a way that a parking space or access to a parking space is not obstructed.

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

Dwelling, single-family: A building designed exclusively for and occupied exclusively by one family.

Dwelling, multiple-family: A residential building or a portion thereof, designed exclusively for occupancy by three or more families living independently of each other, with separate housekeeping, cooking, and bathroom facilities for each. Examples of multiple-family dwellings include dwellings commonly known as apartments and townhouses, which are defined as follows:

- A. *Townhouse:* An attached dwelling unit with common walls, its own front door which opens to the outdoors, and typically, with its own utility connections and front and rear yards. Townhouses are also commonly known as terrace dwellings or row houses.
- B. *Apartment:* An apartment is an attached dwelling unit with common walls, contained in a building with other apartment units which are commonly reached off of a common stair landing or walkway.

Dwelling unit: A building, or portion thereof, designed exclusively and occupied exclusively by one family for residential purposes and having single cooking and bath facilities. In no case shall a travel trailer, motor home, automobile, tent or other portable building defined as a recreational vehicle be considered a dwelling. In the case of mixed occupancy, where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purposes of these zoning regulations:

- A. *Efficiency apartment:* A dwelling unit containing not over 500 square feet of floor area, and consisting of not more than one room in addition to kitchen, dining, and necessary sanitary facilities.
- B. *One-bedroom unit:* A dwelling unit containing a minimum floor area of at least 600 square feet per unit, consisting of not more than two rooms in addition to kitchen, dining, and necessary sanitary facilities.
- C. *Two-bedroom unit:* A dwelling unit containing a minimum floor area of at least 750 square feet per unit, consisting of not more than three rooms in addition to kitchen, dining, and necessary sanitary facilities.
- D. *Three or more bedroom unit:* A dwelling unit wherein for each room in addition to the three rooms permitted in a two-bedroom unit, there shall be provided an additional area of 150 square feet to the minimum floor area of 750 square feet.

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

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

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

- A. The structure is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act, as amended.
- B. The structure is designed to be transported to the site in a nearly complete form, where it is placed on a foundation and connected to utilities.
- C. The structure is designed to be used as either an independent building or as a module to be combined with other elements to form a complete building on the site.

Dwelling unit, mobile home: A mobile home dwelling is a type of manufactured housing that is a structure, transportable in one or more sections, which is built upon a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. Recreational vehicles as described and regulated herein shall not be considered "mobile homes" for the purposes of this ordinance.

Section 2.03. - Definitions E—F.

Easement: A right-of-way granted, but not dedicated, for the limited use of private land for private, public or quasi-public purposes, such as for franchised utilities

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

Essential public services: The erection, construction, alteration, or maintenance by public utilities or municipal departments of underground, surface, or overhead gas, electrical, steam, fuel, or water transmission or distribution system, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants, and similar equipment in connection herewith, but not including buildings, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety, or welfare. This definition includes sewer sub-stations and water towers but does not include wireless communication towers or antennas.

Essential public service/utility buildings: The erection, construction, alteration, or maintenance by public utilities or municipal departments of buildings or structures which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety, or welfare including water supply and sewage plants, electrical transformer stations, and telephone exchange buildings.

Excavation: Any breaking of ground, except common household gardening and ground care.

Family: Either of the following:

- A. A domestic family which is one or more persons related by blood, marriage or adoption occupying a dwelling unit and living as a single housekeeping unit in a dwelling.
- B. The functional equivalent of the domestic family which is persons living together in a dwelling unit whose relationship is of a permanent and distinct domestic character, and is the functional equivalent of a domestic family with a demonstrable and recognizable bond which constitutes the functional equivalent of the bonds which render the domestic family a cohesive unit. All persons of the functional equivalent of the domestic family must be operating as a single housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, combine, federation, or group, coterie, or organization, which is not a recognized religious order, nor include a group of individuals whose association is temporary in character.

Farm operation: A condition or activity which occurs on a farm in connection with the commercial production of farm products, and includes, but is not limited to, marketed produce at roadside stands or farm markets; noise; odors; dust; fumes; operation of machinery and irrigation pumps; ground and aerial seeding and spraying; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides, and the employment and use of labor.

Farm product: Those plants and animals useful to human beings and includes, but is not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, livestock, including breeding and grazing, fruits, vegetables, flowers, seeds, grasses, trees, fish, apiaries, equine and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur.

Fence: A structure of definite height and location to serve as an enclosure in carrying out the requirements of this ordinance.

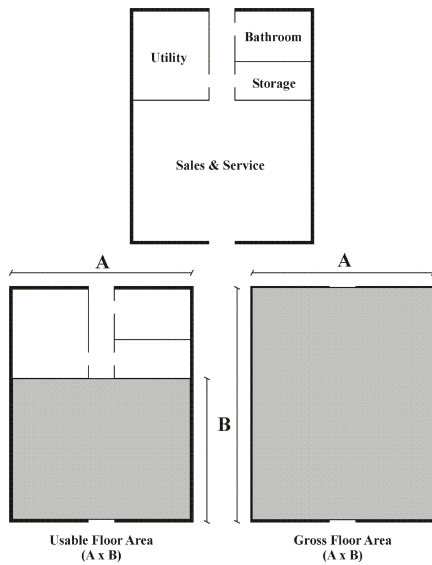
Fence, obscuring: A structure of definite height and location to serve as an obscuring screen in carrying out the requirements of this ordinance.

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

Firearm: An instrument which is capable of hurling a missile by means of exploding or burning powder.

Floodplain: That area which would be inundated by storm runoff or flood water equivalent to that which would occur with a rainfall or flood of 100-year recurrence frequency after total development of the watershed.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.



Floor Area, Gross and Usable

Floor area, gross: The sum of all gross horizontal areas of all floors of a building or buildings, measured from the outside dimensions of the outside face of the outside wall. Unenclosed courtyards or patios shall not be considered as part of the gross floor area except where they are utilized for commercial purposes, such as the outdoor sale of merchandise.

Floor area, residential: For the purpose of computing the minimum allowable floor area in a residential dwelling unit, the sum of the horizontal areas of each story of the building shall be measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches.

Floor area, usable (for the purpose of computing parking): That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, or for utilities or sanitary facilities, shall be excluded from this computation of "usable floor area." Measurement of usable floor area shall be the sum of horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.

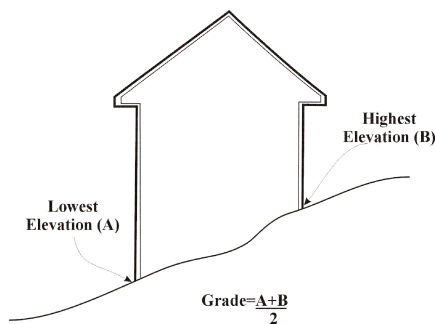
Floor area ratio: The floor area ratio shall be calculated as the ratio of the building floor area as a percentage of the lot area. Principal building floor area shall not include uninhabited attic space, basement, garage, accessory buildings or enclosed/unenclosed porches.

Frontage: The linear dimension of a lot measured along the public road right-of-way line, private road access easement, or shared driveway.

Section 2.04. - Definitions G—H.

Garbage: The word "garbage" shall be made to include every refuse, accumulation of all waste, animal, fish, fowl, fruit or vegetable matter incidental to the preparation, use, cooking, dealing in or storage of meat, fish, fowl, fruit and vegetables, including spoiled food, dead animals, animal manure and fowl manure.

Garage, private: An accessory building or portion of a main building designed or used solely for the storage of motor driven vehicles, boats, and similar vehicles owned and used by the occupants of the building to which it is accessory.



Grade

Grade: The ground elevation established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building.

Greenbelt: A strip of land of definite width and location reserved for the planting of shrubs and/or trees to serve as an obscuring screen or buffer strip in carrying out the requirements of this ordinance.

Gun club: Any club, organization, individual, group of individuals, or use (indoor or outdoor) whether operated for profit or not, which caters or allows the use of firearms.

Home occupation: An accessory use conducted within a permitted dwelling unit and customarily carried on by the inhabitants thereof, for gainful employment involving the manufacture, provision, or sale of goods and/or services.

Hospital: A building, structure, or institution in which sick or injured persons are given medical or surgical treatment and operating under license by the health department and the State of Michigan.

Hotel: A building or part of a building, with a common entrance or entrances, in which the dwelling units or rooming units are used primarily for transient occupancy. A hotel may include a restaurant or cocktail lounge, public banquet halls, ballrooms, or meeting rooms. One or more of the following services are offered:

- A. Maid service;
- B. Furnishing of linen;
- C. Telephone, secretarial, or desk service;
- D. Bellboy service.

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

- A. *Senior apartments:* Multiple-family dwelling units occupied by persons 55 years of age or older.
- B. *Elderly housing complex:* A building or group of buildings containing dwellings where the occupancy is restricted to persons 60 years of age or older or couples where either the husband or wife is 60 years of age or older.
- C. *Congregate or interim care housing:* A semi-independent housing facility containing congregate kitchen, dining, and living areas, but with separate sleeping rooms. Such facilities typically provide special support services, such as transportation and limited medical care.
- D. *Convalescent home, nursing home, or rest home:* A home for the care of the aged, infirm, or those suffering from bodily disorders, wherein two or more persons are housed or lodged and furnished with nursing care. Such facilities are licensed in accordance with Michigan Public Act 139 of 1956, as amended.

Section 2.05. - Definitions I—J.

Industrial use: Any land or building occupied or used for manufacturing or processing purposes.

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

Section 2.06. - Definitions K—L.

Kennel, commercial: Any lot or premises on which three or more dogs, cats or other household pets, six months old or older, are either permanently or temporarily boarded for sale, breeding, boarding, or training purposes. Kennel shall also include any lot or premises where household pets are bred or sold.

Laboratory: A place devoted to experimental study such as testing and analyzing, but not devoted to the manufacturing of a product or products.

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

Lot: A parcel of land, including a site condominium lot, occupied or intended to be occupied by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such yards and open spaces as are required under the provisions of this ordinance. A lot may or may not be specifically designated as such on public records.

Lot, corner: A lot where the interior angle of two adjacent sides at the intersection of two streets is less than 135 degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this ordinance if the arc is of less radius than 150 feet and the tangents to the curve, at the two points, where the lot lines meet the curve or the straight street line extended, form an interior angle of less than 135 degrees.

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

Lot of record: A parcel of land, the dimensions of which are shown on a document or map on file with the county register of deeds or in common use by city or county officials, and which actually exists as so shown, or any part of such parcel held in a record ownership separate from that of the remainder thereof.

Lot, through: Any interior lot having frontage on two more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, all sides of said lots adjacent to streets shall be considered frontage, and front yards shall be provided as required.

Lot, zoning: A single tract of land, located within a single block, which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control.

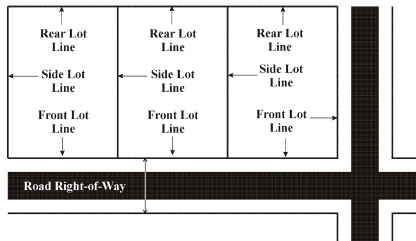
A zoning lot shall satisfy this ordinance with respect to area, size, dimensions, and frontage as required in the district in which the zoning lot is located. A zoning lot therefore, may not coincide with a lot of record as filed with the County Register of Deeds, but may include one or more lots of record.

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

Lot coverage: The part or percent of the lot occupied by buildings including accessory buildings and other impervious areas such as paved areas.

Lot depth: The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

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



Lot Lines

- A. *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 through lot, it is that line separating said lot from any street.
- B. *Rear lot line:* That lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten feet long lying farthest from the front lot line and wholly within the lot. In the case of a corner lot, the rear lot line if the lot line furthest from one of the front lot lines. In the case of a through lot, there shall be three front lot lines and one side lot line and no rear lot line.
- C. *Side lot line:* Any lot line other than the front lot line or rear lot line.

Lot width: The horizontal distance between the side lot lines, measured at the two points where the building line, or setback line intersects the side lot lines.

Section 2.07. - Definitions M—N.

Main building: A building in which is conducted the principal use of the lot upon which it is situated.

Manufactured home: A factory-built, single-family structure, which is manufactured or constructed under authority of 42 U.S.C. Sec. 5403, Federal Manufactured Home Construction and Safety Standards, and is to be used as a place for human habitation, but which is not constructed with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site and which does not have permanently attached to its body or frame any wheels or axles. A modular home is a manufactured home but a mobile home is not. For the purpose of this ordinance, a manufactured home shall be considered the same as any site-built, single-family detached dwelling.

Manufactured home community: A parcel or tract of land under the control of a person upon which three or more manufactured homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a manufactured home, subject to conditions set forth in the Mobile Home Commission Rules and Michigan Public Act 419 of 1976, as amended.

Manufactured home lot: An area within a manufactured home community which is designated for the exclusive use of a specific manufactured home.

Manufactured housing development, planned: A planned unit development which includes manufactured dwelling units in which a concept plan is included with a rezoning to achieve integration with the characteristics of the project area.

Master plan: The adopted comprehensive plan including graphic and written proposals indicating the general location for streets, parks, schools, public buildings, and all physical development of the municipality, and includes any unit or part of such plan, and any amendment to such plan or parts thereof.

Medical clinic: An establishment where human patients who are not lodged overnight are admitted for examination and treatment by one or more physicians, dentists, or similar professions working in cooperation.

Mezzanine: An intermediate floor in any story occupying not to exceed one-third of the floor area of such story.

Migratory labor camp: Temporary facilities provided for the housing of workers who for seasonal purposes are employed in the planting, harvesting, or processing of crops, or for other essential, but temporary employment.

Modular home: A factory-built home which meets all of the following requirements: is designed only for erection or installation on a site-built permanent foundation; is not designed to be moved once so erected or installed; is designed and manufactured to comply with a nationally recognized model building code or an equivalent local code, and recognized as generally equivalent to site-built housing and is not intended to be used other than on a site built permanent foundation.

Motel: A series of attached, semi-detached rental units containing a bedroom, bathroom and closet space. Units shall provide for overnight lodging and are offered to the public for compensation, and shall cater primarily to the public traveling by motor vehicle.

Municipality: The City of Swartz Creek.

Natural features: Any one or more of the following: soils, topography, geology, vegetation, woodlands, hedgerow, historic/landmark tree, animal-life, endangered species habitat, floodplain, watercourse, lakes, rivers, streams, creeks, ponds, wetland, groundwater, watersheds, aesthetic resources, such as views, and microclimate, which is influenced by site topography and vegetation.

Non-conforming buildings or structures: A building or structure or portion thereof lawfully existing at the effective date of this ordinance, or amendments thereto and that do not conform to the provisions of the ordinance in the district in which it is located.

Non-conforming lot: A lot that was lawfully in existence at the effective date of this ordinance, or amendments thereto, which lot does not meet the minimum area or lot dimensional requirements of the zoning district in which the lot is located.

Non-conforming use: A use which lawfully occupied a building or land at the effective date of this ordinance, or amendments thereto and that does not conform to the use regulations of the district in which it is located.

Nursery: A space, building or structure, or combination thereof, for the storage of live trees, shrubs or plants offered for retail sale on the premises including products used for gardening or landscaping. The definition of nursery within the meaning of this ordinance does not include any space, building or structure used for the sale of fruits, vegetables or Christmas trees.

Nuisance factors: An offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of an activity or use across a property line which can be perceived by or affect a human being, or the generation of an excessive or concentrated movement of people or things such as: (a) noise, (b) dust, (c) smoke, (d) odor, (e) glare, (f) fumes, (g) flashes, (h) vibration, (i) shock waves, (j) heat, (k) electronic or atomic radiation, (l) objectionable effluent, (m) noise of congregation of people, particularly at night, (n) passenger traffic, (o) invasion of non-abutting street frontage by traffic.

(Ord. No. 407, § 1, 5-24-11; Ord. No. 431, § 1, 12-12-16)

Section 2.08. - Definitions O—P.

Occupied: Includes the meaning of intent, design or arranged for occupancy.

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

Off-street parking lot: A facility providing vehicular parking spaces along with adequate drives and aisles, for maneuvering, so as to provide access for entrance and exit for the parking of more than three vehicles.

Open front store: A business establishment so developed that service to the patron may be extended beyond the walls of the structure not requiring the patron to enter the structure. The term "open front store" shall not include automobile repair stations or automobile service stations.

Open space: For the purposes of this ordinance, open space shall apply to the improved dedicated or reserved area to be used for leisure or active recreation purposes. That part of a lot, which is open and unobstructed by any built features from its lowest level to the sky, and is accessible to all residents upon the lot. This area is intended to provide light and air, and is designed for environmentally, scenic, or recreational purposes. Open space may include, but is not limited to lawns, decorative plantings, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, living plant materials, wetlands and water courses. Open space shall not be deemed to include driveways, parking lots or other surfaces designed or intended for vehicular travel. Areas qualifying as open space within a PUD shall be more narrowly defined and shall exclude submerged lands and golf courses.

Outdoor dining: Outdoor dining is permitted in Swartz Creek only as accessory uses to the main use of a property as a restaurant. As such, the outdoor dining area must be adjacent to the main use, either on private property or on a public sidewalk. Outdoor cafes consist of tables and chairs, placed for the consumption of food by customers. Service may be self-service or by a waiter.

Parking space: An area of definite length and width. Said area shall be exclusive of drives, aisles or entrances giving access thereto, and shall be fully accessible for the storage or parking of permitted vehicles.

Pond, detention: A designed (although may be a natural area) facility which stores and detains runoff and releases water at a controlled rate. Size will depend on the design storm event (ten-, 25-, 100-year storm). These basins may be dry between runoff events or may be "wet bottom," where a base water level occurs below the elevation of the outlet structure.

Pond, retention: A storm water management facility, either natural or manmade, which does not have an outlet, which captures and holds runoff directed into it.

Principal use: The principal use to which the premises are devoted and the principal purpose for which the premises exist.

Public service: Public service facilities within the context of this ordinance shall include such uses and services as voting booths, pumping stations, fire halls, police stations, temporary quarters for welfare agencies, public health activities and similar uses including essential services.

Public utility: A person, firm, or corporation, municipal department, board or commission duly authorized to furnish and furnishing under federal, state or municipal regulations to the public: gas, steam, electricity, sewage disposal, communication, telegraph, transportation, or water.

(Ord. No. 434, § 1, 10-8-18)

Section 2.09. - Definitions Q—R.

Recreational vehicle: "Recreational vehicles" shall include the following:

- A. *Travel trailer:* A portable vehicle on a chassis, which is designed to be used as a temporary dwelling during travel, recreational, and vacation uses, and which may be identified as a "travel trailer" by the manufacturer. Travel trailers generally contain sanitary, water, and electrical facilities.
- B. *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.
- C. *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.
- D. *Folding tent trailer:* A folding structure mounted on wheels and designed for travel and vacation use.
- E. *Boats and boat trailers:* "Boats" and "boat trailers" shall include boats, floats, rafts, canoes, plus the normal equipment to transport them on the highway.
- F. *Other recreational equipment:* Other recreational equipment includes snowmobiles, all terrain or special terrain vehicles, utility trailers, plus normal equipment to transport them on the highway.

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, or bar/lounge, or combination thereof, as defined below:

- A. *Restaurant, carry out:* A business establishment 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.
- B. *Delicatessen:* A restaurant typically offering sandwiches and other foods and beverages for both carry-out and consumption on the premises. A delicatessen also typically offers meats, cheese and prepared foods on a retail basis.
- C. *Restaurant, drive-in:* A business establishment whose method of operation involves delivery of prepared food so as to allow its consumption in a motor vehicle or elsewhere on the premises, but outside of an enclosed building. A drive-in restaurant may also have interior seating.
- D. *Restaurant, drive-through:* A business establishment whose method of operation involves the delivery of the prepared food to the customer in a motor vehicle, typically through a drive-through window, for consumption off the premises.
- E. *Restaurant, fast-food:* A business establishment 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 at the counter where it is served, or at tables, booths, or stands inside the structure or out, or for consumption off the premises, but not in a motor vehicle at the site.
- F. *Restaurant, open front window:* See "open front store or restaurant."
- G. *Restaurant, standard:* A business establishment whose method of operation involves either the delivery of prepared food by waiters and waitresses to customers seated at tables within a completely enclosed building or the prepared food is acquired by customers at a cafeteria line and is subsequently consumed by the customers at tables within a completely enclosed building.
- H. *Bar/lounge/tavern:* 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. The hours of operation may extend beyond 11:00 p.m.; thereby differentiating it from a standard restaurant. A brewpub or microbrewery that operates beyond 11:00 p.m. is considered a bar, tavern or lounge.

Restaurant, pick-up window: A standard restaurant with an additional method of operation involving the delivery of prepared food to the customer in a motor vehicle, through a pick-up window, for consumption off premises. Outdoor menu boards, ordering capabilities, speakers, and/or electronic or remote communication with restaurant staff from outside the building are not permitted. All orders shall be placed by phone or ordered on-line in advance of window pick-up.

Roadside stands or markets: A roadside stand or market is the temporary use of property or facilities for the selling of produce.

Room: For the purpose of determining lot area requirements and density in a Multiple-Family District, a living room, dining room and bedroom, equal to at least 80 square feet in area. A room shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, hallways, and storage. Plans showing one-, two-, or three-bedroom units and including a "den," "library" or other extra room shall count such extra room as a bedroom for the purpose of computing density.

Row house: A row of houses having at least one sidewall in common with a neighboring dwelling, and usually uniform or nearly uniform plans, fenestration, and architectural treatment.

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

Recyclable items: Recyclable items are items such as newspapers, magazines, books, and other paper products; glass, metals cans; and other products, that can be recycled, reprocessed, and treated to return such products to a condition in which they may again be used in new products.

(Ord. No. 434, § 2, 10-8-18)

Section 2.10. - Definitions S—T.

School, charter (public school academy): A charter school or public school academy is a public school and a school district, and is subject to the leadership and general supervision of the state board over all public education. A public school academy is authorized by the executive action of an authorizing body which may be the board of a school district, an intermediate school board, or the board of a community college or a state public university. A charter school shall not be organized by a church or other religious organization.

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

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

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

Setback: The distance between a front, side, or rear lot line and the nearest supporting member of a structure on the lot. Setbacks shall be measured from the public or private road right-of-way line or shared driveway easement.

Setback, required: The minimum distance established by this ordinance to conform to the required setback provisions of the district in which the lot is located.

Storm water management plan: A plan that includes calculations on the increased storm water run-off to be created by the development or redevelopment of a property and the facilities that will be used to contain the pre- and post-development or redevelopment run-off.

Storm water detention basin/storm water control structure: A structure designed and constructed for the detention and/or treatment of storm water.

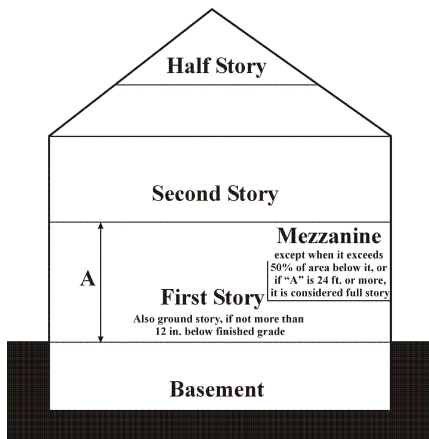


Illustration of Stories

Story: That part of a building, except a mezzanine as defined herein, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next as above. A story thus defined shall not be counted as a story when more than 50 percent, by cubic content, is below the height level of the adjoining ground.

Story, half: An uppermost story lying under a sloping roof having an area of at least 200 square feet with a clear height of seven feet six inches. For the purpose of the ordinance the usable floor area is only that area having at least four feet clear height between floor and ceiling.

Street: A public dedicated right-of-way, other than alley, which affords the principal means of access to abutting property. Various types of streets are defined as follows:

- A. **Alley.** Any dedicated public way affording a secondary means of access to abutting property, and not intended for general traffic circulations.
- B. **Arterial street.** A street which carries high volumes of traffic at relatively high speeds, and serves as an avenue for circulation of traffic onto, off of, or

around the city. An arterial street may also be defined as a major thoroughfare, major arterial, minor arterial or county primary road. Since the primary function of the arterial is to provide mobility, access to adjacent land uses may be controlled to optimize capacity along the roadway.

- C. *Collector road.* A street whose principal function is to carry traffic between minor and local roads and arterial roads but may also provide direct access to abutting properties.
- D. *Cul-de-sac.* A street that terminates in a vehicular turnaround.
- E. *Local or minor street.* A street whose principal function is to provide access to abutting properties and is designed to be used or is used to connect minor and local streets with collector or arterial streets. Local streets are designed for low volumes and speeds of 25 mph or less, with numerous curb cuts and on-street parking permitted.
- F. *Public street.* Any street or portion of a street which has been dedicated to and accepted for maintenance by Swartz Creek, Genesee County, State of Michigan or the federal government.
- G. *Service drive.* An access street which parallels the public right-of-way in front of or behind a building or buildings or may be aligned perpendicular to the street between buildings, which provides shared access between two or more lots or uses.

Structure: Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

Structurally attached: A structural member or support integrally connecting two separate detached buildings or structures exists, which may be a breezeway, roof, or partition wall, other than an abutting fence or wall not exceeding six feet in height. A motor vehicle or a semi-trailer or other type of truck conveyance may not be so attached to a building or structure.

Swimming pool: For the purposes of this ordinance a swimming pool shall be any receptacle utilized for holding water which has a water depth greater than two feet.

Temporary use or building: A use or building to exist during an established and limited period of time.

Tents: Tents as used in this ordinance shall not include those used solely for children's recreational purposes.

Terrace home: One of a row of houses situated on or near the top of a slope.

Trailer coach (motor home): Any vehicle designed, used, or so constructed as to permit its being used as a conveyance upon the public streets or highways and duly licensable as such, and constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping place for one or more persons.

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

Travel trailer: A vehicle designed as a travel unit for occupancy as a temporary or seasonal living unit and not exceeding 200 square feet in area.

Thoroughfares, major: A street identified as a "principal arterial" or "minor arterial" in the city's master plan. These streets are intended to serve as large volume traffic ways for both the immediate city area and the region beyond.

Thoroughfares, secondary: A street identified as a "collector" in the city's master plan. These streets are intended as traffic ways serving primarily the immediate city area and serving to connect with major thoroughfares.

Tourist home: Any dwelling used or designed in such a manner that certain rooms other than those used by the family, and occupied as a dwelling unit are related to the public for compensation and shall cater primarily to the public traveling by motor vehicle.

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

Section 2.11. - Definitions U—W.

Use: The principal purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

Use, accessory: A use subordinate to the main use of a lot and used for purposes clearly incidental to those of the main use.

Utility room: A utility room is a room used primarily for storage, for housing a heating unit, or for laundry purposes.

Variance, dimensional: Permission to depart from the literal requirements relating to setbacks, building height, lot width, and/or lot area as regulated by this ordinance.

Variance, use: Permission to establish a use of land that is otherwise not provided for in the zoning district as regulated by this ordinance.

Section 2.12. - Definitions W—X.

Wading pool: For the purposes of the ordinance a wading pool shall be any receptacle utilized for holding water which has a water depth not exceeding two feet.

Walls, obscuring: An obscuring structure of definite height and location constructed of wood, masonry, concrete or similar material.

Waterway: Any natural or open artificial watercourse, diversion, lake, pond, stream, river, creek, ditch, channel, canal conduit, culvert, drain, gully, ravine or wash in which waters may flow in a definite direction or course, either continuously or intermittently, and which has a definite channel, bed and banks and shall include the floodplain.

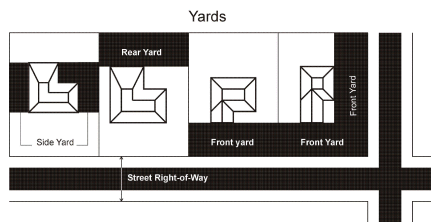
Wetland: Any land characterized by the presence of water at a frequency and duration sufficient to support (and that under normal circumstances does support) wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh.

Wireless communication facilities: All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices, personal communication transmission equipment and exchanges, microwave relay towers, telephone transmission equipment building and commercial mobile radio service facilities. This definition does not include "reception antenna" for an individual lot as otherwise defined and regulated in this ordinance.

- A. *Attached wireless communication facilities:* Wireless communication facilities affixed to existing structures, including but not limited to existing buildings, towers, water tanks, or utility poles.
- B. *Wireless communication support structures:* Structures erected or modified to support wireless communication antennas. Support structures within this definition include, but shall not be limited to, monopoles, lattice towers, light poles, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure.
- C. *Co-location:* Location by two or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, to reduce the overall number of structures required to support wireless communication antennas in the city.

Section 2.13. - Definitions Y—Z.

Yards: The open spaces on the same lot with a main building, unoccupied and unobstructed from the ground upward except as otherwise provided in this ordinance, and as defined herein:



Yards

- A. *Front yard:* An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building. Unless otherwise stipulated in this ordinance, in the case of a corner lot, there shall be two front yards.
- B. *Rear yard:* An open space extending 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 main building. In the case of a corner lot, the rear yard is the yard opposite the shorter of the street frontages.
- C. *Side yard:* An open space between a main building and the side lot line, extending from the front yard to the rear yard the width of which is the horizontal distance from the nearest point on the side lot line to the nearest point of the main building.

Zoning Act: The Michigan Zoning Enabling Act (Public Act 110 of 2006).

Zoning administrator: The zoning administrator (or similar title) designated by the Swartz Creek City Council responsible for duties as established herein.

Zoning board of appeals (ZBA): The Swartz Creek Board of Appeals, created pursuant to the provisions of The Michigan Zoning Enabling Act (Public Act 110 of 2006).

ARTICLE 3. - ZONING DISTRICTS AND MAP

Section 3.00. - Zoning map.

- A. *Established.* The boundaries of zoning districts are hereby established as shown on the Official Zoning Map, City of Swartz Creek Zoning Ordinance, with all notations, references, and other information shown thereon shall be as much a part of this ordinance as if fully described herein.
- B. *Adoption of map.* All zoning districts are hereby described by the boundaries established by the Official Zoning Map of the City of Swartz Creek as adopted _____, 2006 by the City Council, published and effective _____, 2006, this map being a compilation of the geographic designation of all zoning districts, including changes or amendments formally approved by action of the city council since the _____, 2006 zoning map which was adopted _____, 2006.
- C. *Signature.* The official zoning map shall be identified by the signature of the city clerk, under the following words:

"This is to certify that this is the Official Zoning Map referred to in Section _____ of the Zoning Ordinance of the City of Swartz Creek _____, 2006. If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, those changes shall be made on the Official Zoning Map after the amendment has been approved by the City Council together with an entry on the Official Zoning Map as follows: On (date), by official action of the City Council, the following change(s) were made: (brief description with reference number to Council proceedings)."

- D. *Official copy.* One copy of the official zoning map is to be maintained and kept up-to-date by the city clerk's office, accessible to the public, and shall be final authority as to the current zoning status of lands, buildings, and other structures in the city.

Section 3.01. - Boundaries.

The boundaries of these districts are hereby established as shown on the Official Zoning Map, City of Swartz Creek Zoning Ordinance, which accompanies this ordinance, and which map with all notations, references, and other information shown thereon shall be as much a part of this ordinance as if fully described herein. The "official zoning map" may hereinafter be referred to as "the zoning map."

- A. Unless shown otherwise, the boundaries of the districts are lot lines, section lines, the centerlines of streets alleys, roads, or such lines extended, and the corporate limits of the City of Swartz Creek.
- B. Where, due to the scale, lack of detail, or illegibility of the zoning map accompanying this ordinance, if there is any uncertainty, contradiction or conflict as to the intended location of any district boundaries, shown thereon, interpretation concerning the exact location of district boundary lines shall be determined, upon written application, by the zoning board of appeals.

Section 3.02. - Districts.

For the purpose of this ordinance, the City of Swartz Creek is hereby divided into the following districts:

Zoning Districts	
Residential Districts	
R-1	Single-Family Residential District (min. lot size - 11,200 sq. ft.)
R-2	Single-Family Residential District (min. lot size - 7,250 sq. ft.)
R-3	Downtown Residential District (min. lot size - 6,000 sq. ft.)
R4	Two-Family Residential District
RM-1	Multiple-Family Residential District
PUD	Planned Unit Development District
PMSHDD	Planned Manufactured Seniors Housing Development District
Non-Residential Districts	
NBD	Neighborhood Business District
GBD	General Business District
CBD	Central Business District
O-1	Office District
I-1	Light Industrial District
I-2	Heavy Industrial District

Section 3.03. - Zoning of vacated areas.

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

Section 3.04. - Zoning of annexed areas.

Any areas annexed to the City of Swartz Creek shall immediately upon such annexation be automatically classified as R-1, Single-Family Residential District until an amendment to the zoning map for said area has been adopted by the city council. The planning commission shall recommend appropriate zoning for such area within three months after the matter is referred to it by the city council.

Section 3.05. - Districts.

For the purpose of this ordinance, the City of Swartz Creek is hereby regulating land uses into the districts as follows:

	Single Family	Single Family	Downtown Residential	Two-Family	Multi-Family	Planned Manufactured Senior Housing (Article 10)	Planned Unit Development	Neighborhood Business	Central Business	General Business	Office	Light Indu
Residential	R-1	R-2	R-3	R-4	RM-1	PMSHDD	PUD	NBD	CBD	GBD	O-1	I-1
Accessory buildings and uses, customary to residential uses permitted by right	P	P	P	P	P							
Accessory dwelling units	CLU											
Attached single-family houses							P					
Cluster family dwelling units					P		P					
Detached single-family dwellings	P	P	P	P	P	P	P					
Existing single and multiple family homes in non-residential districts								P	P	SLU		
Expansion of apartments within existing building	CLU	CLU	CLU					SLU	CLU			
Family day care	SLU	SLU	SLU	SLU	SLU							
Granny flat	CLU	CLU	CLU									

Group living (adult and child residential facilities)	SLU	SLU	SLU	SLU	SLU			SLU	SLU			
Home occupation	CLU	CLU	CLU	CLU	CLU							
Live/work units, single family									P	CLU		
Manufactured housing						P						
Manufactured housing on individual lots (not part of a park)		SLU	SLU									
Mixed use residential								SLU	CLU			
Multi-family residential dwellings (apartment, senior community, row houses, similar multiple family residential)					P		P					
Multiple attached single family residential (townhouse, rowhouse)					P			P	P (excludes Miller Road corridor)			
Nursing, assisted living	SLU	SLU	SLU	SLU	SLU			SLU	SLU	SLU	SLU	
Two-family dwellings				P	P		P					
Upper floor residential dwellings								SLU	P	CLU		
Commercial	R-1	R-2	R-3	R-4	RM-1	PMSHDD	PUD	NBD	CBD	GBD	O-1	I-1

Accessory buildings and uses, customary to commercial uses permitted by right							CLU	P	P	P	P	
Bank, savings and loan, credit union							CLU	P	P	P	CLU	
Bars, taverns, lounges, micro-breweries, brew-pubs							SLU	P	P	P	P	
Book stores										SLU		
Boutique hotel										SLU		
Convenience store							SLU	CLU	CLU	P		
Crematorium							CLU	P	P	P		
Day care center									SLU	SLU	P	SLU
Drive-through retail, service establishments and drive-through restaurants, except drive-in theaters								P	P	P	P	
Drive-through retail, service establishments, and drive-through restuarants							CLU	P	P	P	SLU	P
Funeral homes and mortuaries							SLU	SLU	SLU	P	P	
Hotels and motels								SLU	CLU	CLU		

Household and family service businesses, such as household equipment servicing (except automobile), laundries, dry cleaners and similar establishments									SLU	SLU		
Limited commercial*			P					SLU	SLU	SLU		
Nursery/garden center									P	P		
Nursing and convalescent care	SLU											P
Outdoor advertising which exclusively advertises a retail								CLU	CLU	P	CLU	
Outdoor retail sales										SLU	SLU	
Pet store										CLU		P
Places of assembly, including places of worship								CLU	P	P	CLU	
Restaurant							SLU	P	P	P	P	
Roadside market							SLU	CLU	CLU	CLU	CLU	

Sec. 34-113. "In addition to the C-1 neighborhood commercial zoning districts, the planning commission may authorize the establishment and construction in residential districts..."								P	P	P		
Second-hand or antique stores										P		P
Shopping center (between 15,000 sq. ft. and 30,000 sq. ft.)										SLU		
Shopping center (greater than 30,000 sq. ft.)								SLU	SLU	SLU		
Shopping center (up to 15,000 sq. ft.)												SLU
Small inn/B&B	CLU	CLU	CLU					CLU			P	

(Ord. No. 440, § 11, 6-10-19)

ARTICLE 4. - SINGLE-FAMILY RESIDENTIAL DISTRICT

Footnotes:

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Editor's note— Ord. No. 440, §§ 1 and 2, adopted June 10, 2019, repealed the former Art. 4, §§ 4.00—4.04, and enacted a new Art. 4 as set out herein. The former Art. 4 pertained to the R-1, Single-Family Residential District and derived from Ord. No. 395, adopted August 15, 2006.

Section 4.00. - Intent.

The R-1 and R-2 districts are designed to be composed of low-density residential home development. The regulations are intended to stabilize, protect and encourage the residential character of the district and prohibit activities not compatible with a residential neighborhood.

The R-3 district is designed to be primarily composed of the smallest residential lots. The regulations are intended to stabilize, protect and encourage the residential character of the existing neighborhood immediately surrounding downtown Swartz Creek. The retention and conservation of the residential neighborhood is vital to the long-term preservation, vitality and economic health of downtown. The residential lots and dwellings in the district are smaller than found elsewhere in the city.

Development is limited to one-family dwellings plus such other uses as schools, parks, churches and certain public facilities which serve residents of the district.

(Ord. No. 440, §§ 1, 2, 6-10-19)

Section 4.01. - Permitted uses.

In the residential districts, land, buildings, and other structures shall be used only for one or more of the uses specified in the table below. Uses denoted by a "P" are permitted by right, whereas uses denoted by "CLU" are considered conditional land uses and uses denoted by a "SLU" are considered special land uses and may be approved by the planning commission subject to the applicable general and specific standards in [Article 22](#), Special Land Uses and [Article 23](#), Conditional Land Uses.

	R-1, Single Family	R-2, Single Family	R-3, Downtown Residential
Accessory buildings, structures, and uses customarily incidental to the principle uses permitted by right	P	P	P
Accessory dwelling units	CLU		
Agriculture	CLU	CLU	CLU
Apartments in single family home			P
Cemetery	CLU	CLU	CLU
Community centers	SLU	SLU	SLU
Detached single-family dwellings	P	P	P
	R-1, Single Family	R-2, Single Family	R-3, Downtown Residential
Essential public service buildings (no outdoor storage)	SLU	SLU	SLU
Expansion of apartments within existing building	CLU	CLU	CLU
Family day care	SLU	SLU	SLU
Granny flat/accessory dwelling unit	CLU	CLU	CLU
Group living (adult and child residential facilities)	SLU	SLU	SLU
Home occupation	CLU	CLU	CLU
Manufactured housing on individual lots (not part of a park, section 20.20)		SLU	SLU
Nursing and convalescent care	SLU		
Nursing, assisted living	SLU	SLU	SLU
Parks (public and private)	SLU	SLU	SLU

Places of assembly, including places of worship (maximum of 499 seats)	SLU	SLU	SLU
Private recreation	SLU	SLU	SLU
Private swimming club	SLU	SLU	SLU
Public library	P	P	P
Public utilities	SLU		
School (public and private)	SLU	SLU	SLU
Small inn/B&B			CLU

(Ord. No. 440, §§ 1, 2, 6-10-19)

Section 4.02. - Site development requirements.

All permitted, conditional and special uses are subject to the following setbacks, height, area, and lot dimensions are required as noted below:

District Regulations	R-1 Requirements	R-2 Requirements	R-3 Requirements
Minimum lot area	11,200 square feet	7,250 square feet	6,000 square feet
Minimum lot width	80 feet	65 feet	60 feet
Minimum front yard setback (a)	30 feet	25 feet	25 feet
Minimum side yard setback (b)	1. 10 feet each side 2. 20 feet (total both sides)	1. 5 feet each side 2. 10 feet combined	1. 5 feet each side 2. 10 feet combined
Minimum rear yard setback	35 feet	30 feet	35 feet
Maximum lot coverage for all buildings	35%	30%	35%
Maximum building height	1. 25 feet or 2. 2 stories	1. 25 feet or 2. 2 stories	1. 25 feet or 2. 2 stories
Minimum floor area per dwelling unit (c)	1,050 square feet	950 square feet	800 square feet

Footnotes to Table:

- a) *Front yards only.* An unenclosed porch may project into a required front yard a distance not to exceed six feet. The porch may be covered with an awning or other type of roof provided the awning or roof does not extend beyond the footprint of the porch. In no case shall the porch be nearer than ten feet to the front lot line. An uncovered stair, necessary landing and/or ramp may project a distance not to exceed 44 inches beyond the covered porch, but in no case may be nearer than ten feet to the front lot line.
- b) *Side yards only.* The side yard abutting upon a street shall not be less than the 25 feet. When there is a common rear yard abutting a side yard on an adjacent lot, the side yard abutting a street shall not be less than 25 feet.
- c) *Floor area of dwelling unit.* Where a single-family dwelling is constructed without a basement, an additional 100 square feet shall be added to the minimum required first floor area requirement to provide space for utilities such as, but not limited to: furnace, hot water tank, laundry tubs,

incinerators, and the like.

(Ord. No. 440, §§ 1, 2, 6-10-19)

Section 4.03. - General development standards.

Buildings and uses in the Single-Family Residential District (R-1, R-2, and R-3) shall also be subject to all applicable standards and requirements set forth in this ordinance, including the following:

- A. Parking and off-street loading and unloading is required in accordance with Article 18.
- B. Exterior lighting is required in accordance with Article 19.
- C. Landscaping is required in accordance with Article 20.
- D. Site plan review is required in accordance with the requirements of Article 21.
- E. Signs are permitted in accordance with the city's sign ordinance, Article 14.

(Ord. No. 440, §§ 1, 2, 6-10-19)

Article 5. - MULTIPLE FAMILY RESIDENTIAL

Footnotes:

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Editor's note— Ord. No. 440, §§ 1 and 3, adopted June 10, 2019, repealed the former Art. 5, §§ 5.00—5.04, and enacted a new Art. 5 as set out herein. The former Art. 5 pertained to the R-2, Single-Family Residential District and derived from Ord. No. 395, adopted August 15, 2006.

Section 5.00. - Intent.

The R-4 District is designed to provide sites for two-family dwelling structures, and related uses, which will generally serve as zones of transition between the non-residential districts and the lower density single-family residential districts.

The RM-1 Multiple-Family Residential District is designed to provide sites for low-rise multiple-family dwelling structures, and related uses, which will generally serve as zones of transition between the non-residential districts and the single-family residential districts, and whose height limitations are generally conducive to single-family residential areas.

(Ord. No. 440, §§ 1, 3, 6-10-19)

Section 5.01. - Permitted uses.

In the residential districts, land, buildings, and other structures shall be used only for one (1) or more of the uses specified in the table below. Uses denoted by a "P" are permitted by right, whereas uses denoted by "CLU" are considered conditional land uses and uses denoted by a "SLU" are considered special land uses and may be approved by the planning commission subject to the applicable general and specific standards in Article 22, Special Land Uses and Article 23, Conditional Land Uses.

	R-4, Two-Family	RM-1, Multi-Family
Accessory building, structures, and uses, customarily incidental to the principle uses permitted by right	P	P
Cemetery	CLU	CLU
Cluster family dwelling units		P
Community centers	SLU	SLU
Detached single-family dwellings	P	P
Essential public service buildings (no outdoor storage)	SLU	SLU
Family day care	SLU	SLU
Golf course (no range)		SLU

Group living (adult and child residential facilities)	SLU	SLU
Home occupation	CLU	CLU
Multi-family residential dwellings (apartment, senior community, row houses, similar multiple family residential)		P
Nursing, assisted living	SLU	SLU
	R-4, Two-Family	RM-1, Multi-Family
Parks (public and private)	SLU	SLU
Places of assembly, including places of worship (less than 250 seats)	SLU	SLU
Places of assembly, including places of worship (between 251-499 seats)	SLU	SLU
Private recreation; pool; clubhouse	SLU	SLU
Public library	P	P
School (public and private)	SLU	SLU
Two-family dwellings	P	P

(Ord. No. 440, §§ 1, 3, 6-10-19)

Section 5.02. - R-4 Site development requirements.

All permitted, special, and conditional land uses are subject to the following setbacks, height, area, and lot dimensions:

District Regulations	R-4 Requirements
Minimum lot area	8,000 square feet per unit
Minimum lot width	100 feet
Minimum front yard setback	30 feet ¹
Minimum side yard setback	10 feet ²
Minimum rear yard setback	35 feet
Maximum lot coverage for all buildings	35%
Maximum building height	1. 25 feet or 2. 2 stories
Minimum floor area per dwelling unit	³ 800 square feet

Footnotes to Table:

1

Front yards only. An unenclosed porch may project into a required front yard a distance not to exceed six feet. The porch may be covered with an awning or other type of roof provided the awning or roof does not extend beyond the footprint of the porch. In no case shall the porch be nearer

than ten feet to the front lot line. An uncovered stair, necessary landing and/or ramp may project a distance not to exceed 44 inches beyond the covered porch, but in no case may be nearer than ten feet to the front lot line.

2 Side yard. The side yard abutting upon a street shall not be less than 25 feet. When there is a common rear yard abutting a side yard on an adjacent lot, the side yard abutting a street shall not be less than 25 feet.

3 Floor area of dwelling unit. Where a single-family dwelling is constructed without a basement, an additional 100 square feet shall be added to the minimum required first floor area requirement to provide space for utilities such as, but not limited to: furnace, hot water tank, laundry tubs, incinerators, and the like.

(Ord. No. 440, §§ 1, 3, 6-10-19)

Section 5.03. - RM-1 Site development requirements.

Multi-Family Residential (RM-1)

A. All permitted, special, and conditional land uses are subject to the following setbacks, height, area, and lot dimensions.

	RM-1
Lot size	
Minimum area	7,200 sq. ft.
Setbacks ¹	
Front yard (min.)	25 ft.
Side yard (min.)	
Least One	10 ft.
Total Two	25 ft.
Rear yard (min.)	35 ft.
Building height	
Stories (max.)	3
Feet (max.)	35 ft.
Building area	
Floor area per unit (min.)	Footnote ²
Lot coverage	
Area of all buildings (max.)	30%

¹ For the purpose of yard regulations, all multiple-family dwellings shall be considered as one building occupying one lot.

² The minimum floor area per dwelling unit shall be:

- a) Efficiency—500 square feet
- b) One-bedroom apartment—600 square feet
- c) Two-bedroom apartment—750 square feet
- d) Three-bedroom apartment—750 square feet. Plus, an additional 150 square feet for each additional bedroom.

e) Not more than ten percent of the total number of units shall be of the efficiency type and in no instance shall the maximum density exceed 12 units per acre.

B. *Yards:* Front, side and rear yards relating to the spacing between buildings shall have the following minimum overall dimensions:

Building Relationship	Minimum Overall Distance Between Buildings (Exclusive of Parking Area)
Front to Side	50 feet
Front to Front	60 feet
Front to Rear	60 feet
Rear to Rear	60 feet
Rear to Side	45 feet
Side to Side	25 feet
Corner to Corner	25 feet

C. *Parking and circulation:*

1. Parking may be permitted in 50 percent of the required rear yard provided that there shall be at least 15 feet of yard space between said parking area and the multiple-family building. Service drives shall have a width of at least 33 feet and shall not be located in any front yard.
2. No multiple-family structure shall exceed 180 feet in length along any one face of the building.

D. *Height exception:* The zoning board of appeals may modify the height requirements where unusual architectural features exist.

(Ord. No. 440, §§ 1, 3, 6-10-19)

Section 5.04. - General development standards.

Buildings and uses in the R-4, Two Family and RM-1, Multiple-Family Residential District shall also be subject to all applicable standards and requirements set forth in this ordinance, including the following:

- A. Parking and off-street loading and unloading is required in accordance with Article 18.
- B. Exterior lighting is required in accordance with Article 19.
- C. Landscaping is required in accordance with Article 20.
- D. Site plan review is required in accordance with the requirements of Article 21.
- E. Signs are permitted in accordance with the city's sign ordinance, Article 14.

(Ord. No. 440, §§ 1, 3, 6-10-19)

Article 6. - PMSHDD Planned Manufactured Seniors Housing Development District

Footnotes:

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Editor's note— Ord. No. 440, §§ 1, and 10, adopted June 10, 2019, repealed the former Art. 6, §§ 6.00—6.04, and renumbered Art. 10 §§ 10.00—10.05 as Art. 6 §§ 6.00—6.05, as set out herein. The former Art. 6 pertained to the R-3, Downtown Residential District and derived from Ord. No. 395, adopted August 15, 2006.

Section 6.00. - Intent.

This Planned Manufactured Seniors Housing Development District (PMSHDD) is intended to encourage innovative design of manufactured housing projects through use of performance standards. This district provides an option for planned manufactured housing projects designed to complement the character of surrounding development and the goals of the city described in the master plan. This district specifically encourages affordable housing opportunities for senior citizens in a more aesthetic environment and at somewhat lower densities than commonly associated with mobile home parks.

Where these techniques are deemed appropriate, a site shall be rezoned in conjunction with review and approval of a site development concept plan. A more detailed site plan shall be approved for the entire PMSHDD or phases prior to construction. The procedure is similar to the city's Planned Unit Development District.

Planned Manufactured Seniors Housing Development Districts shall achieve the following objectives:

1. Provide a quality living environment of affordable homes for residents over the age of 55 years. At least one person residing in the dwelling must be aged 55 years or older.
2. Encourage creative use of land which complements surrounding development.
3. Achieve a development pattern in harmony with the goals and long range land use plan envisioned in the city's master plan.
4. Preserve important natural features such as wetlands, woodland, topography, drainage patterns and geological features.
5. Prevent environmental hazards and soil erosion.
6. Attain more efficient use of land by minimizing utility and road construction costs.
7. Promote efficient use of community facilities by locating affordable housing accessible to parks and the senior center.
8. Create a more desirable environment than would be possible through the application of strict zoning requirements applied in other sections of the ordinance.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 6.01. - General requirements.

Any proposed PMSHDD development shall meet the following requirements:

- A. *Minimum area*—20 acres.
- B. *Permitted uses*—The following uses are permitted in the PMSHDD Districts:
 1. Single-family dwellings including manufactured homes, and modular homes with a minimum floor area of 960 square feet.
 2. Single-family dwellings with a minimum floor area of 700 square feet may be located on interior residential lots (i.e., those not abutting the development's property lines) when comprising not more than 25 percent of the total number of units overall or within any single phase.
 3. Approved customary accessory buildings, structures and uses meeting the standards of this article, such as sales/maintenance office, private garages, carports, enclosed and screened storage areas, community center, parks and recreation facilities.

Each of the above uses is permitted, provided one of the residents of the dwelling is aged 55 years or older.
- C. *Maximum density*—The maximum density shall be six units per acre. Calculation of density shall be the number of living units divided by the overall acreage. The overall acreage for this calculation shall include any common area or private roads, and 25 percent of any wetland areas regulated by the federal or state government. Public rights-of-way and public lands shall be excluded from overall allowable density.
- D. *Access*—The project shall have direct access onto an arterial street as defined in the city's master plan. This access shall have a right-of-way or easement at least 86 feet wide; 100 feet if the entrance includes a boulevard. The city may require outbound lanes, deceleration lanes and bypass lanes to be provided and constructed to city standards upon analysis of the expected traffic impacts.
- E. *Common open space*—At least 400 square feet of common open space shall be provided for each residential lot or unit in the planned manufactured seniors housing development. This common open space may be reduced to 250 square feet per lot or unit if the project is within one-half mile of a city park and that city park provides the additional common area required. The open space must meet the standards listed in section 6.02 G.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 6.02. - Design standards.

- A. *General*. All uses, structures and properties shall comply with all regulations and requirements of this zoning ordinance, the city's subdivision standards, and other city specifications and standards, except as provided in this article.
- B. *Overall project setbacks*:
 - a) A minimum 50-foot wide setback shall be provided along any public street frontage. This setback shall be entirely living plant material except for approved signs, utilities, lighting and necessary roads providing access to the project. This setback may be reduced by the council to 35 feet where significant landscaping (trees and/or berms) are provided.
 - b) A minimum 35-foot wide setback shall be provided along any property line adjacent to a Single-Family Residential District and a 50-foot wide setback where adjacent to an Industrial District. This setback shall include a minimum 20-foot wide greenbelt which includes the equivalent of at least one tree and four shrubs for each 30 feet measured along the property line. Trees shall include both deciduous trees and evergreens. Plant materials shall meet the minimum standards listed in Article 20. Where the adjacent use is industrial, the city council may require more extensive landscaping, berms and/or walls.
 - c) A minimum 20-foot wide setback along all other perimeter property lines with the equivalent of at least one tree for each 40 feet measured along the property line.

- d) The city council may reduce the greenbelt standards of items b) and c) above based on a determination that existing topographic conditions, existing materials or proposed land grading shall perform the same functions as the required greenbelts or setbacks. Such reductions shall be clearly illustrated approved area plan.

C. *Internal dimensional standards.*

- a) *Minimum lot width and area.* Each lot shall have a minimum width of 60 feet and a minimum area of 6,000 square feet. The council may reduce the requirements for non-corner lots abutting open space to a 55-foot minimum width and minimum lot area of 5,500 square feet or where clustering of units at the same overall density which would otherwise be permitted results in more viable open space, recreation areas or preserves natural features.
- b) *Spacing.* Any residential dwelling structure shall be located at least 20 feet from any other residential dwelling structure, measured from the nearest edge of each unit.

1. A manufactured/modular home shall be in compliance with all the following minimum distances:

- (1) Twenty feet from any part of an attached or detached structure of an adjacent manufactured home which is used for living purposes.
 - (2) Ten feet from either of the following:
 - (a) An on-site parking space of an adjacent manufactured home site.
 - (b) An attached or detached structure or accessory of an adjacent manufactured home which is not used for living purposes.
 - (3) Fifty feet from permanent park-owned structures, such as any of the following:
 - (a) Community buildings.
 - (b) Offices.
 - (c) Maintenance and storage facilities.
 - (d) Similar structures.
 - (4) One hundred feet from a baseball or softball field.
 - (5) Twenty-five feet from the fence of a swimming pool.
 - (6) Three feet from on-site detached storage sheds, unless the wall adjacent to the manufactured home is lined with Class A fire resistant material.
 - (7) Attached or detached structures or accessories of a manufactured home that are not used for living space shall be a minimum distance of ten feet from an adjacent manufactured home or its adjacent attached or detached structures.
2. Any part or structure, such as steps, porches, supported or unsupported awning, decks, carport or garages, or similar structures, that is part of a manufactured home shall be set back the following minimum distances:
- (1) Twenty feet from the edge of an internal road.
 - (2) Seven feet from an off-site parking bay.
 - (3) Seven feet from a common sidewalk.
 - (4) Twenty-five feet from a natural or manmade lake or waterway.
 - (5) Steps shall not encroach into parking areas.

The length of a manufactured home site may vary depending on park design and layout and the manufactured home installed; however, a minimum rear yard setback of 15 feet shall be provided, except no additional setback is required where units back up to the required buffer along public streets.

3. *Height.* The maximum height of a residential unit or community building shall be 25 feet. Height of accessory buildings shall not exceed 14 feet.
4. *Parking.* Each residential unit shall have a minimum of three off-street parking spaces. Spaces which conflict with circulation along sidewalks shall not be included in this calculation. In addition, parking in an amount determined by the planning commission shall be provided adjacent to any accessory buildings for residents using recreation facilities, maintenance vehicles, employees and visitors.
5. *Carports, garages, accessory buildings.* Any garages, accessory buildings or carports shall not be permitted in the front yard of any lot (i.e., they must be placed behind the front building line). All detached accessory buildings shall be setback at least ten feet from the lot line and residential unit. Carports shall be set back at least ten feet from adjacent lot lines.

D. *Special standards for residential units.*

- a) *Certification.* All manufactured homes must either be:

1. New and certified by the manufacturer and/or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development, as amended, or any similar successor or replacement standards which may be promulgated; or
2. Used and certified by the manufacturer and/or appropriate inspection agency as meeting the standards referenced in subsection 1. above. In addition, the building administrator or his designee shall inspect each residential unit and determine it to be in (excellent) condition, compatible with new residential units located in this zoning district and safe and fit for residential occupancy.

- b) *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 electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, as amended. Additionally, it shall meet or exceed all applicable roof snow load and strength requirements.
- c) A building permit issued by the city shall be required before construction is started.
- d) All dwelling units and additions thereto must be either:
 - (1) Fastened to minimum six inches wide masonry/concrete foundation which continues around the perimeter of the unit to a depth of at least 42 inches, with anchors placed at a minimum of every six feet; or
 - (2) Fastened to piers pursuant to manufacturer's specifications. Piers shall be installed to a minimum depth of 42 inches.
- e) If attached to foundations, all residential units are hereby required to be fastened directly to their foundations in a manner that eliminates the need for skirting. If attached to piers skirting shall be installed with ten days from the date that said manufactured home is placed upon a site.
- f) All residential units shall meet the following standards:
 - (1) Minimum width of 24 feet.
 - (2) A shingled pitched roof with a minimum slope of 3:1.
 - (3) Exterior materials and overhangs to eaves relationship similar to other homes in the vicinity.
- g) In all instances, wheels, towing apparatus, and exposed chassis shall be removed before occupancy of any housing is permitted.
- h) Storage area. Each such dwelling unit shall contain a storage area equal to ten percent of the square footage of the dwelling or 100 square feet, whichever is less. This storage area may consist of a separate accessory building, garage, fenced; "community" outdoor storage areas with fencing and screening; or mini-storage buildings. Community storage areas shall not be located adjacent to a public roadway or residential district. Carports are not included in calculating this standard; only licensed vehicles may be stored in a carport.

E. *Circulation and access.*

- a) *Access.* Individual dwelling units shall not have direct access to a collector or arterial street, as identified in the city's master plan. Such access shall directly align or be offset at least 250 feet from intersections or commercial driveways on the opposite side of the street. This requirement may be increased by the city to provide greater sight distance.
- b) *Public streets.* Public streets shall be designed and constructed according to city standards. If, in the future, private streets in a PMSHDD are to be dedicated to a public agency, the owners shall first fully agree to bear the full expense of construction or any other action required to make street suitable for public acceptance.
- c) *Private roads.* Any private roads shall have a minimum pavement width of 24 feet wide, measured from back of curb to back of curb, with no parking allowed on any street. All other geometric standards, construction standards and curbing shall conform to the city's public street standards.
- d) *Road design.* All streets shall be hard surface and curvilinear in layout. Intersections shall be aligned or offset at least 150 feet, measured centerline to centerline.
- e) *Minimum size of culs-de-sac.* The maximum length of any cul-de-sac shall be 1,000 feet. No more than 35 units shall be served by a single means of access. The cul-de-sac shall be required to end in a 50-foot turning radius. Parking is not allowed within the turning area and a "No Parking" sign shall be posted.
- f) *Development entrances.* Entrances along a public street shall be directly across from, or at least 250 feet from, another street, private road or non-commercial driveway (spacing measured from centerline to centerline). The council may require two entrances where warranted by volumes from the development or conditions along the public street. Sight distance shall meet the standards of the Association and State and Highway Transportation Officials (AASHTO).
- g) *Sidewalks.* Sidewalks shall be provided on at least one side of all public streets or private roads. The sidewalks shall be connected to existing or future sidewalks along public streets. The minimum sidewalk width shall be five feet. All sections and phases of the PMSHDD shall be interconnected by a sidewalk, bicycle or common area path system which promotes safe and convenient movement of pedestrians throughout the development. Council may also require sidewalk, bicycle or common area path system connections with parks or community facilities in the immediate area.

F. *Utilities and services.*

- a) Each lot, site and principal building in a PMSHDD shall be connected to public water and sanitary sewer.
- b) The PMSHDD shall provide adequate storm drainage. The city council may require open drainage courses or storm water detention ponds.
- c) Electrical, telephone and cable television lines shall be underground. Any meters shall be at uniform locations.
- d) Mail delivery facilities shall be pursuant to local postmaster requirements. Mail box clusters shall be at convenient locations which do not interfere with through traffic.

G. *Open space regulations.*

- a) Community buildings and outdoor recreation facilities may be allowed in the required open space.
- b) Private roads and parking areas shall not be included in calculations of required open space.
- c) Detention ponds shall not comprise more than 25 percent of the required open space.

- d) Open space areas shall be conveniently and equitably located through the PMSHDD in relation to the location of dwelling units and natural features. Cor space should include trails or recreational facilities to encourage their use.
 - e) Open space areas shall be at least two acres in size and length of any such area shall be no longer than one and one-half times its width. The minimum dimensions shall be usable for the functions intended, as determined by the planning commission.
 - f) The city council may require that natural amenities such as ravines, rock outcrops, wooded area, tree or shrub specimens, unique wildlife habitats, ponds, streams and marshes be preserved as part of the open space system of the PMSHDD. However, no more than 50 percent of the required common area shall be wetlands regulated by the state and federal government.
 - g) The common areas shall be owned and maintained by either the developer or a homeowners association.
- H. *Financial agreements.* The applicant shall provide satisfactory financial agreements addressing maintenance of entrances, lighting, signs, private roads, public parking, setback areas, dumpster areas, mail box clusters, landscaping, sidewalks, recreational facilities, community centers, open space and other common elements.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 6.03. - Information required for area (concept) plan.

An area plan for the PMSHDD shall contain all of the information required for a site plan as set forth in section 29.07 herein, and the following information. If the PMSHDD is to be constructed in phases, the information for the area plan listed below shall be provided with site plans provided for each phase.

- A. Name and address of the property owner, developer and preparer of the plan.
- B. Location map illustrating surrounding features, zoning classifications and land use.
- C. Description of existing conditions:
 - 1. Site size and legal description;
 - 2. Topography at one-foot contour intervals;
 - 3. Existing buildings and structures on the site and within 100 feet of all property lines;
 - 4. Public streets, driveways and intersections within 250 feet of the site frontage along public streets;
 - 5. Location of any wetlands, woodlands, floodplains, drainage ways and other significant natural features.
- D. Written report describing the following characteristics of the proposed development:
 - 1. General character and substance;
 - 2. Objectives and purpose to be served;
 - 3. Compliance with regulations and standards;
 - 4. Scale and scope of development proposed;
 - 5. Need for, and economic feasibility of, the proposed development;
 - 6. Community impact statement discussing the relationship to surrounding uses and the potential impact on the: environment, traffic operations, school enrollment, recreation facilities, and utility systems;
 - 7. Proposed phasing; and
 - 8. Compliance with the adopted City of Swartz Creek Master Plan Future Land Use Map, Goals and Objectives.
- E. *Area plan.*
 - 1. Overall density proposed;
 - 2. Location and dimensions of lots;
 - 3. Typical building dimensions and setbacks;
 - 4. Location of any community buildings and other non-residential buildings;
 - 5. Layout of streets, private roads and sidewalks;
 - 6. Locations, size and uses of common open spaces;
 - 7. General description of the organization to be used to own and maintain common open space;
 - 8. General description of covenants, master deed, bylaws, easements or other restrictions to be imposed upon land or building, including cooperation for any homeowner's association, cooperative association, or minimum association;
 - 9. Detail of easements for access to streets, water lines, sanitary sewer, storm sewer, and franchised utilities (such as gas, electric, telephone and cable television) as well as provisions for police and fire vehicles;
 - 10. General landscape concept showing plant materials to be preserved or added, including a plant materials list with the number, type and size of materials shown. Techniques to preserve existing vegetation shall be described;
 - 11. Delineation of any areas to be subdivided under the Subdivision Control Act or included as part of a condominium.
- F. *Additional information to be included with final site plan.*

1. Detailed landscape plan with a plant list and illustrating location of plantings.
2. Roadway cross sections with dimensions.
3. Illustration of all setback and spacing requirements.
4. Details of entrances including any lighting, signs, sight distance, drive widths and landscaping.
5. Street names.
6. Details of lighting fixtures.
7. Utility plans and calculations for sewage and storm water flows.
8. Floor plans and elevations for any community buildings.
9. Dimensional plans and elevations for typical residential units.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 6.04. - Application procedure and zoning approval process.

A. *Procedure for petition and area plan approvals.*

1. Petition for a PMSHDD classification shall be for an amendment to the official zoning map and approval of an area (concept) plan. A petition for a PMSHDD classification for a parcel of land may be made by the owner(s) of record or by any person(s) acting on behalf of the owner(s) of record of the subject parcel.
2. The petition shall be filed with the city clerk who shall transmit the petition and the area plan to the city council. The city council shall forward the petition to the planning commission.
3. The planning commission shall, at the meeting at which it receives the petition and area plan from the clerk, establish a public hearing on the petition, impact report and area plan, said hearing to be held within 45 days of the receipt by the planning commission of the information required in section 6.03. The planning commission shall give notice of the public hearing as required the Michigan Zoning Enabling Act (Public Act 110 of 2006).
4. Following the public hearing and recommendation of the planning commission, the planning commission shall transmit a copy of the petition and area plan to the city council.
5. The city council shall review the petition and area plan application and the city planning commission report thereon, and after holding a public hearing in accordance with the provisions of the Michigan Zoning Enabling Act (Public Act 110 of 2006) shall approve, approve with conditions, deny or table for further consideration the ordinance of adoption of the petition and area plan. Any conditions of approval shall be addressed in a resubmittal of the area plan clearly illustrating the changes. The resubmittal shall be reviewed and approved by the code officer within 60 days of council action.
6. Development agreement. If the petition and area plan are approved by the city council, the applicant and all owner(s) of record or the legal representative of the owner(s) of record of all property included within the PMSHDD shall draft and sign an agreement that the approved petition and area plan shall be binding upon the applicant and owner(s) of record and upon their heirs; successor and assigns. The petition and area plan shall not be officially approved until said agreement has been reviewed by the city attorney, signed by representatives of both parties and received by the city clerk.
7. Following official adoption of the ordinance by the city council, the mayor shall accurately note; and the city clerk shall attest, the PMSHDD District designation for the property on the official zoning map.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 6.05. - Standards for petition and area plan review and approval.

A. *Generally.* The planning commission shall determine that the petition and area plan meet the following standards:

1. The proposed development shall conform to the adopted master plan or any part thereof, or represents land use policy which, in the planning commission's opinion, is a logical and acceptable change from the adopted master plan.
2. The proposed development shall conform to the intent and to all regulations and standards of the PMSHDD District and the zoning ordinance.
3. The proposed PMSHDD shall be compatible with surrounding uses.
4. The proposed development shall be adequately served by public facilities and services such as streets, police and fire protection, parks, community buildings, drainage courses, water and sanitary sewer facilities, and refuse disposal.
5. The common open space, any other common properties, individual properties and all other elements of the PMSHDD are planned to achieve a unified open and recreation area system with open space and all other elements in appropriate locations, suitably related to each other, the site and the surrounding land.
6. The applicant shall have made provisions, satisfactory to the planning commission to assure that those areas shown on the plan for use by residents of the development will be irrevocably committed for that purpose and shall be adequately maintained.
7. The location of the proposed uses, layout of the project and its relation to streets shall promote safe and efficient traffic operations.

8. Where applicable the commission shall determine that noise, odor, light or other external effects from any source whatsoever, which is connected with the proposed use, will not adversely affect adjacent and neighboring land uses and meet the requirements of section 20.04 (performance standards) of this
 9. The proposed development shall create a minimum disturbance to natural features and land forms.
 10. Streets shall follow topography, be properly spaced and be located and aligned in accordance with the intended function of each street. The property shall have adequate access to public streets. The plans shall provide for logical extensions of public streets and shall provide suitable street connections to adjacent parcels, where applicable. All public street construction shall conform to city specifications.
 11. Pedestrian circulation shall be provided for within the site, interconnecting all residential and community areas. The pedestrian system shall provide a logical extension of pedestrian ways from outside the site and shall provide pedestrian connections to the edges of the site, and to Swartz Creek municipal facilities and parks, where appropriate. Sidewalks shall be at least five feet wide and conform to city construction specifications.
 12. Phased developments shall be designed so that each phase will be complete without depending on completion of a future phase.
- B. *Approval of petition and area plan.* Approval of petition and area plan approval by the city council shall have the following effects:
1. Approval shall confer a right to the applicant, for a period of three years from the date of approval, that existing zoning regulations as they apply to the land included in the petition and the area plan, shall remain unchanged, provided that required subsequent planning and/or construction are diligently pursued in accordance with the approved area plan within this time period.
 2. Approval by city council and planning commission of an area plan constitutes acceptance of uses, building location layout of streets, dwelling unit count and types, floor areas, densities, construction schedule and all other elements of the area plan.
 3. If construction of any portion of the area plan is not completed within three years from the date of the area plan's approval by the city council, such area plan shall be null and void as to such portion for which construction is not complete; provided, however, the city council, upon written request of the applicant and upon finding that the area plan has been substantially completed and the applicant is diligently proceeding toward final completion of the plan, may extend the terminations. Upon an area plan becoming void pursuant to the provisions hereof, no construction may commence or continue upon said site unless and until the area plan approval process has been reinstated and completed. In such event, all applicable fees shall be paid.
- C. *Amendment and revision.*
1. A developer may request an amendment to an approved area plan. Any proposed modification to an approved area plan which results in a major change in the plan, as defined in this section, shall require an amendment. All amendments shall follow the procedures and conditions herein required for original submittal and review in full.
 2. A request for amendment shall be in writing to the city council and shall clearly state, and illustrate the changes requested. The applicant should provide documentation to support the changes such as data on changing social or economic conditions, a market study, description of statutory revisions, new state or federal regulations and/or unanticipated site conditions. The applicant should also demonstrate the modifications will mutually benefit the interest of the city, residents and the developer.
 3. The city council shall review the request for amendment. If the changes are determined to be major, as outlined below, the council shall refer the amendment to the planning commission for a review and recommendation. If the changes are found to be minor, the city council shall act on the request. The city council shall notify the planning commission and any other applicable agency of its approval of such minor changes. The revised drawings as approved shall each be signed by the applicant and the owner(s) of record or the legal representative(s) of said owner(s).
 4. Modifications to be considered major changes, for which amendment is required, shall include one or more of the following:
 - a) Change in concept of the development;
 - b) Change in use or character of the development;
 - c) Change in type of dwelling units identified on the approved area plan;
 - d) Change on the number of dwelling units;
 - e) Change in non-residential floor area of over five percent;
 - f) Rearrangements of lots, blocks and building tracts;
 - g) Change in the character or function of any street;
 - h) Reduction in land area set aside for common open space, or the relocation of such area(s); or
 - i) Increase in building height over the maximum stated in this article.
 5. Modification to be considered minor changes, for which approve plans may be revised rather than amended, shall include; among other similar modifications the following:
 - a) A change in residential floor area still meeting the minimum of this article;
 - b) A change in non-residential floor area of five percent or less;
 - c) Minor variations in layout which do not constitute major changes, such as to roadway alignment;
 - d) Any change in the architectural style or building design which still meets the standards of this article.
 6. The city council shall have the authority to determine whether a requested change is major or minor, in accordance with this section. The burden shall be on the applicant to show good cause for any request change.

D. *Performance guarantees.*

1. Performance bonds, irrevocable bank letters of credit, cash deposits, or other forms of security acceptable as to type and amount to the city council shall be provided by the applicant to the city clerk. Such security shall be for construction of site improvements shown on the approved area plan.
2. The applicant shall submit a cost estimate of the improvements to be covered by the guarantee and verified as to amount by the city manager. The city council may release portions of a deposit in relation to work completed and approved upon inspection as complying with an approved plan provided, however, that the balance on deposit will be sufficient to complete remaining site improvements. In the event that the applicant shall fail to provide improvements according to an approved plan, the city council shall have the authority to have such work completed, and to reimburse itself for costs of such work by appropriating funds from the deposited security, or may require performance by the bonding company.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Article 7. - PUD, Planned Unit Development District

Footnotes:

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Editor's note— Ord. No. 440, §§ 1, and 10, adopted June 10, 2019, repealed the former Art. 7, §§ 7.00—7.04, and renumbered Art. 11 §§ 11.00—11.16 as Art. 7 §§ 7.00—7.16, as set out herein. The former Art. 7 pertained to the R-4, Two-Family Residential District and derived from Ord. No. 395, adopted August 15, 2006.

Section 7.00. - Intent.

Planned Unit Development District (PUD) standards are provided to:

- a) Permit flexibility in the regulation of land development allowing for higher quality of design through innovation in land use, variety in design, layout, and type of structures constructed.
- b) Ensure various land uses and building bulk will relate to each other and to adjoining existing and planned uses in such a way that they will be compatible, with no material adverse impact of one use on another.
- c) Protect and preserve natural resources, natural features, open space, and historical or significant architectural features.
- d) Minimize adverse traffic impacts.
- e) Provide convenient vehicular access throughout the development and minimizing adverse traffic impacts.
- f) Provide complete non-motorized circulation to, from, and within developments.
- g) Encourage development of convenient recreational facilities as an integral part of residential developments.
- h) Eliminate or reduce the degree of non-conforming uses or structures.
- i) Promote efficient provision of public services and utilities.
- j) Provide adequate housing and employment.

The PUD standards are not intended to avoid the imposition of standards and requirements of other zoning classifications rather than to achieve the stated purposes herein set forth.

For properties approved for PUD designation, these PUD standards provide the developer with flexibility in design and permit variation of the specific bulk, area, and in some specified situations the density requirements of this ordinance on the basis of the total PUD plan, subject to the approval of the PUD plan by the planning commission and city council in accordance with the requirements as herein set forth.

This article provides for four types of PUD: 1) a residential overlay, 2) a Morrish Road Overlay, 3) a downtown overlay and 4) an industrial overlay. Each of the PUDs include both supplementary standards which apply simultaneously, or replace, standards of the underlying residential zoning district.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 7.01. - Eligibility criteria.

To be eligible for PUD approval, the applicant must demonstrate that each of the following criteria will be met:

- (a) *Demonstrated benefit.* The PUD shall provide one or more of the following benefits not possible under the requirements of another zoning district, as determined by the planning commission:
 - (1) The site has significant natural or historic features which will be preserved through development under the PUD standards, as determined by the planning commission.
 - (2) A complementary mixture of uses or a variety of housing types.
 - (3) The PUD will create a more desirable environment than would be possible through the application of strict zoning requirements applied in other sections of this ordinance.
 - (4) Common open space for passive or active recreational use or a design which preserves common open space, not possible under the standards of

another zoning district.

- (5) Mitigation to offset community impacts.
- (6) Redevelopment of a non-conforming site where creative design can address unique site constraints.
- (b) *Availability and capacity of public services.* The site shall be served by a sanitary sewer system and the municipal water system. The proposed type and density of use shall not result in an unreasonable increase in the use of public services, public facilities, and utility capacities.
- (c) *Compatibility with the master plan.* The proposed development shall not have an adverse impact on future development as proposed in the Swartz Creek Master Plan.
- (d) *Compatibility with the planned unit development intent.* The proposed development shall be consistent with the intent and spirit of this ordinance.
- (e) *Development impact.* The proposed development shall not impede the continued use or development of surrounding properties for uses that are permitted in this ordinance.
- (f) *Unified control of property.* The Planned Unit Development District site shall be under the control of one owner or group of owners and shall be capable of being planned and developed as one integral unit.
- (g) *Petition for PUD.* A PUD zoning classification may be initiated only by a petition.
- (h) *Minimum land area.* No minimum size is required.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 7.02. - Types of PUD zoning designations.

A property meeting the eligibility criteria may be rezoned to a PUD District, based on the requirements shown in Table 7.03 and appropriate requirements contained elsewhere in this ordinance. The PUD rezoning shall be concurrent with the approval of a PUD conceptual plan. Any changes to the underlying/pre-PUD zoning designation may be done concurrently with the PUD rezoning where such rezoning would be in accordance with the city's master plan. The PUD designation shall be noted in the application and on the official zoning map upon approval.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 7.03. - City of Swartz Creek—Planned Unit Development Districts.

District Name	Type of District	Permitted Uses	Special Land Uses	Additional Provisions
Residential Planned Unit Development (RPUD)	Overlay of a residential district	Open space or cluster housing projects with one or more types of residential uses Existing dwellings	Same as underlying residential district	Maximum density, minimum floor area and maximum height shall comply with the dimensional standards of the underlying zoning district, but the lot area, setback and width requirements may be reduced by up to 20 percent with the resultant area preserved as open space. Wetland setbacks may not be reduced. Wetlands and land without perkable soils shall be credited as 25 percent of their area for purposes of calculating overall density. <i>The overall density may be increased by up to ten percent for sites of at least 100 acres where the planning commission determines significant natural resources and open space will be preserved in a natural state and the increased density would be compatible with surrounding zoning.</i>
Morrish Road Planned Unit Development (MRPUD)	Overlay of a GBD District	Same as underlying district Existing dwellings	Same as underlying residential district	Maximum density, minimum floor area and maximum height shall comply with the dimensional standards of the underlying zoning district, but the lot area, setback and width requirements may be reduced by up to 20 percent upon a determination that the building contributes to an attractive entranceway into Swartz Creek, preferably with an emphasis on the well-being of downtown.

<p>Downtown Planned Unit Development (DPUD)</p>	<p>Overlay of the CBD, Central Business District</p>	<p>Same as underlying district Existing dwellings</p>	<p>Same as underlying district</p>	<p>Maximum density, minimum floor area and maximum building height shall comply with the dimensional standards of the underlying zoning district, but the lot area, setback and width requirements may be reduced by up to 20 percent upon a determination that the building contributes to the well-being of the downtown area. On-site parking required by the zoning ordinance may be reduced by up to 25 percent where it can be demonstrated that the parking requirements are excessive, are needed at peak hours only, and/or that alternative parking facilities (including on-street spaces, shared parking areas, municipal parking lots) are available.</p>
<p>Planned Industrial Parks (PID)</p>	<p>Overlay of Industrial District</p>	<p>Uses permitted in the Industrial and Office Districts</p>	<p>Special Land Uses of the Industrial and Office Districts</p>	<p>All buildings, structures, accessory structures and parking areas shall meet the minimum setback standards of the Industrial District along the site lot lines, as specified in the Table of Dimensional Standards. Minimum lot size shall be two acres except up to 25 percent of the total number of lots may be between one and one-half and two acres in size. Maximum building height shall be consistent with the standards for the Industrial District.</p>

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 7.04. - Application and review procedure.

The application process for a PUD involves the following steps:

- A. Request for rezoning to appropriate PUD designation and a conceptual (preliminary) site plan.
- B. A final site plan(s).
- C. A contractual agreement between the applicant and the city.
- D. A final site plan review for each building or project phase, where appropriate.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 7.05. - Zoning and conceptual PUD plan approval process.

- (a) *Pre-application workshop.* An optional pre-application workshop with the planning commission may be requested by the applicant to discuss the appropriateness of a PUD concept, solicit feedback and receive requests for additional materials supporting the proposal. An applicant desiring a workshop shall request placement on the planning commission agenda.
- (b) *Application.* A petition for a PUD District classification for a parcel of land may be made by the owner(s) of record or by any person(s) acting on behalf of the owner(s) of record of the subject parcel. The petition, including 12 copies of all conceptual submittal items listed in section 7.06, shall be filed with the city clerk who shall transmit the petition and the PUD concept plan to the city council. The city council shall forward the petition to the planning commission. The complete application shall be submitted at least 45 days prior to the meeting at which the planning commission shall first review the request.
- (c) *Planning commission public hearing.* The planning commission shall review the rezoning request, the conceptual PUD site plan, and PUD agreement, conduct a public hearing, said hearing to be held within 32 days of the receipt by the planning commission of the information required for the PUD. The planning commission shall give notice of the public hearing as required by The Michigan Zoning Enabling Act (Public Act 110 of 2006).
- (d) Following the public hearing, the planning commission shall make a recommendation to the city council based on the following standards:
 - (1) The PUD shall satisfy the eligibility criteria of section 7.01.
 - (2) The PUD shall comply with the requirements of this article, other applicable sections of this ordinance and the subdivision or condominium requirements of the city, as applicable.

- (3) The PUD shall be designed and constructed in a manner harmonious with the character of adjacent property and the surrounding area.
- (4) The PUD shall be adequately served by essential public facilities and services, such as roads, pedestrian or bicycle facilities, police and fire protection, drainage systems, water supply, and sewage facilities. The design shall minimize the negative impact on the road system in consideration of items such as vehicle trip generation, access location and design, circulation, roadway capacity, traffic operations at proposed access points and nearby intersections.
- (5) The proposed PUD shall not have an unacceptable significant adverse effect on the quality of the natural environment in comparison to the impacts associated with a conventional development.
- (e) *Revisions.* The applicant shall make any revisions to incorporate conditions noted by the planning commission and submit 12 copies to the city to provide sufficient time for review prior to the city council meeting.
- (f) *City council approval of conceptual PUD plan.* Within 90 days following receipt of a recommendation from the planning commission, the city council shall conduct a public hearing on the requested PUD rezoning and the conceptual PUD site plan and either approve, deny or approve with a list of conditions made part of the approval. The city council may require a re-submittal of the conceptual PUD site plan reflecting the conditions for approval by the zoning administrator prior to submittal of a PUD final site plan.
- (g) *Time limits for conceptual plan approval.* Approval of the conceptual PUD site plan by the city council shall confer upon the owner the right to proceed through the subsequent planning phase for a period not to exceed two years from date of approval. If application for final PUD site plan approval is not requested within this time period, the planning commission shall hold a public hearing to revert the site to the pre-PUD zoning. The city council may extend the period up to an additional two years, if requested in writing by the applicant prior to the expiration date.
- (h) *Conditions.* Reasonable conditions may be required with the approval of a PUD 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, ensuring compatibility with adjacent uses of land, promoting the use of land in a socially and economically desirable manner, and further the implementation of the Swartz Creek Master Plan. Conditions attached shall be included in the PUD agreement.
- (i) *Final approvals.* Following approval of the conceptual PUD plan, the application shall follow the procedures and requirements for approvals under the subdivision, condominium or site plan review process, as applicable. All site plans or tentative preliminary plats subsequently submitted shall conform with the preliminary PUD concept plan, all conditions attached to preliminary approval, the PUD agreement and the requirements of this ordinance. Where the planning commission determines that changes to the final site plan or final preliminary plat significantly deviate from the preliminary PUD concept plan, the planning commission shall conduct another public hearing and review the plan as an amended resubmission of the concept plan under the requirements of this article.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 7.06. - Conceptual PUD plan submittal requirements.

The purpose of the conceptual review is to provide a mechanism whereby the applicant can obtain a substantial review of the proposed project in order to prepare final site engineering and architecture plans, and to execute necessary agreements between the applicant and the city. Submittal requirements are listed below.

- A. Current proof of ownership of the land to be utilized or evidence of a contractual ability to acquire such land, such as an option or purchase agreement.
- B. A completed application form, supplied by the city clerk and an application fee. A separate escrow deposit may be required for administrative charges to review the PUD submittal.
- C. Sheet size of submitted drawings shall be at least 24 inches by 36 inches, with graphics at an engineer's scale.
- D. Cover sheet providing:
 - 1. The applicant's name, address, telephone/fax number(s);
 - 2. The name of the development;
 - 3. The preparer's name and professional seal of architect, engineer, surveyor or landscape architect indicating license in the State of Michigan;
 - 4. Date of preparation and any revisions;
 - 5. North arrow;
 - 6. Property lines and dimensions;
 - 7. Complete and current legal description and size of property in acres;
 - 8. Small location sketch of the subject site and area within one-half mile; and to scale;
 - 9. Zoning and current land use of applicant's property and all abutting properties and of properties across any public or private street from the PUD site;
 - 10. Lot lines and all structures on the property and within 100 feet of the PUD property lines;
 - 11. Location of any access points on both sides of the street within 100 feet of the PUD site along streets where access to the PUD is proposed.

- E. An overall area map at a scale of not less than one inch equals 2,000 feet showing the relationship of the development to its surroundings such as major collector roads.
1. Physical development plan prepared at a minimum scale of one inch equals 100 [feet].
 2. Boundaries of proposed PUD and overall property dimensions.
 3. Property lines of adjacent tracts of subdivided and unsubdivided land shown in relation to the PUD site, including those of areas across abutting roads.
 4. Location, widths, and names of existing or prior platted roads and private roads, and public easements within or adjacent to the PUD site, including those located across abutting roads.
 5. Location of existing sewers, water mains, storm drains and other underground facilities within or adjacent to the PUD site.
 6. Topography drawn as contours with a one-foot contour interval. Topography to be based on USGS datum and be extended a minimum distance of 200 feet outside the PUD boundaries.
 7. Location of existing buildings and structures.
 8. Location of significant natural and historical features.
 9. Existing limits of major stands of trees and a tree survey indicating the location, species and caliper of all trees with a caliper over eight inches, measured four feet above grade.
- F. A conceptual PUD site plan sheet including:
1. Conceptual layout of proposed land use, acreage allotted to each use, residential density overall and by underlying zoning district (calculations shall be provided for both overall and useable acreage), building footprints, structures, roadways, parking areas, drives, driveways, and pedestrian paths.
Note: Useable area is total area less public road rights-of-way, year-round surface water bodies, and MDEQ regulated wetlands.
 2. Building setbacks and spacing.
 3. General location and type of landscaping proposed (evergreen, deciduous, berm, etc.) noting existing trees over eight inches in caliper to be retained, and any woodlands that will be designated as "areas not to be disturbed in development of the PUD.
 4. A storm water management system, water supply and wastewater disposal systems, any public or private easements, and a note of any utility lines to be removed.
 5. A list of any requested deviations from the dimensional standards of the zoning ordinance or sign ordinance that otherwise would apply (permitted deviations include: minimum lot width, area or setbacks; private road standards).
 6. If a multi-phase Planned Unit Development District is proposed, the area of each phase must be identified. For residential uses identify the number, type, and density proposed by phase.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 7.07. - Standards for approval of conceptual PUD plan.

Based upon the following standards, the planning commission may recommend denial, approval, or approval with conditions, and the city council may deny, approve, or approve with conditions the proposed Planned Unit Development District.

- A. The Planned Unit Development District meets the qualification requirements.
- B. The uses proposed will have a beneficial effect, in terms of public health, safety, welfare, or convenience, on present and future potential surrounding land uses. The uses proposed will not adversely affect the public utility and circulation system, surrounding properties, or the environment. The public benefit shall be one which could not be achieved under the regulations of the underlying district alone, or that of any other zoning district.
- C. The Planned Unit Development District is generally consistent with the goals, objectives and land use map of the future land use plan.
- D. Judicious effort has been used to preserve significant natural and historical features, surface and underground water bodies and the integrity of the land.
- E. Public water and sewer facilities are available or shall be provided for by the developer as part of the site development. The planning commission may approve a RPUD without public water and sewer, if the overall density is one unit per acres or less.
- F. Safe, convenient, uncongested, and well defined vehicular and pedestrian circulation within and to the site is provided. Drives, streets and other elements shall be designed to discourage through traffic, while promoting safe and efficient traffic operations within the site and at its access points.
- G. Any deviations from the applicable zoning regulations are reasonable and meet the intent of this article.

The city council may impose additional reasonable conditions, 1) to ensure that public services and facilities affected by a Planned Unit Development District will be capable of accommodating increased service and facility loads caused by the Planned Unit Development District, 2) to protect the natural environment and conserve natural resources and energy, 3) to ensure compatibility with adjacent uses of land, and 4) to promote the use of land in a socially and economically desirable manner.

- H. In a Planned Industrial Park (PID) a setback of 50 feet wide shall be provided along the perimeter of the PID fronting on a public street.

- I. In a Planned Industrial Park (PID) a setback of 20 feet wide shall be provided along the perimeter of a PUD development not fronting on a public street. Such setback shall be designed and landscaped as a buffer strip; parking lots and driveways shall not be permitted in such yard, except that drives may cross such setback.
- J. A setback at least 35 feet wide shall be provided along the right-of-way of a public collector street proposed within any PUD, and a setback 50 feet wide shall be provided along the right-of-way of a public principal or minor arterial street proposed within the PUD. Collector roads and principal and minor arterials roads are shown on the Transportation Map in the Swartz Creek Master Plan.
- K. A landscaped setback at least ten feet wide shall be provided between a parking lot of five or more spaces and a property line within any PUD, and 20 feet from the perimeter property line of the PUD, except when adjacent to a public street right-of-way line, existing or proposed, in which case the preceding setbacks shall apply.
- L. All required setbacks shall be landscaped and adequately and permanently maintained by the property owner, tenant, or organization responsible for maintaining common areas as provided herein.
- M. Any single-family dwelling structure shall be located at least 20 feet from any other single-family dwelling structure unless structurally attached thereto.
- N. The location of buildings and uses, and the distances between buildings shall be clearly shown on the area plan and shall control the development and continued use of the property.
- O. There are no height regulations in a PUD provided that any buildings exceeding a height of two and one-half stories or 35 feet shall be approved as to specific height by the city council upon recommendation from the planning commission. Approval shall be based upon findings regarding light, air circulation, views, airport flight patterns and recommendations from the city fire chief regarding fire protection and safety.
- P. Each lot or principal building in a PUD shall have vehicular access from a public street or from a private street.
- Q. Each lot or principal building in a PUD shall have pedestrian access from a public or private sidewalk where deemed necessary by the city council. All parts and phases of the PUD shall be interconnected by a sidewalk system which will provide the necessary, safe and convenient movement of pedestrians. A bicycle path system shall also be provided in the PUD and may be part of the sidewalk system, where approved by the city council. Said system shall be connected to the public sidewalk system.
- R. Public and private streets shall be designed and constructed according to standards established for public streets. If, in the future, private streets in a PUD are to be dedicated to a public agency, the owners shall first fully agree to bear the full expense of construction or any other action required to make streets suitable for public acceptance.
- S. An individual dwelling unit in any single-family, two-family townhouse, or similar residential structure shall not have direct access to a collector or arterial street.
- T. Electrical, telephone, and cable television lines shall be underground.
- U. Open space areas shall be conveniently and equitably located through the PUD in relation to the location of dwelling units and natural features.
- V. Open space areas shall have minimum dimensions which, in the planning commission's opinion, are usable for the functions intended and which will be maintainable.
- W. The city council may require, that natural amenities such as ravines, rock outcrops, wooded areas, tree or shrub specimens, unique wildlife habitats, ponds, streams, and marshes be preserved as part of the open space system of the PUD.
- X. The city council may require dedication for road rights-of-way, schools and/or parks.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 7.08. - Approval of conceptual PUD site plan.

Upon approval of the conceptual PUD site plan by the city council the property shall be rezoned to an appropriate Planned Unit Development District Zoning District, with the underlying zoning district noted on the official zoning.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 7.09. - Expiration.

Approval of the conceptual PUD site plan by the city council shall confer upon the owner the right to proceed through the subsequent planning phase for a period not to exceed two years from date of approval. If application for final PUD site plan approval is not requested within this time period, re-submittal of the application shall be required. The city council may extend the period up to an additional two years, if requested in writing by the applicant prior to the expiration date.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 7.10. - Process for final PUD site plan(s).

- A. The applicant shall submit 12 copies of a detailed final site plan for the entire approved conceptual PUD site plan to the city clerk at least 30 days prior to

the planning commission meeting at which the planning commission shall first review the request.

- B. Upon submission of all required materials and fees required by Article 29, the planning commission shall hold such hearings as may be required by law, and shall approve, deny, or approve with conditions in accordance with the standards and regulations of Article 29, Site Plan Review.
- C. If the final PUD site plan was approved with conditions, the applicant shall submit a revised site plan to the city clerk for approval prior to the issuance of any building permits.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 7.11. - Final PUD site plan submittal procedures and approval.

- A. Final site plan review for each building or project phase shall be submitted according to the procedures and standards contained within this ordinance. The purpose of the PUD final review is to consider the final site plan for the entire PUD which is consistent with the approved conceptual PUD site plan. Receipt of a building permit shall require final approval by the city council.

The final submittal shall include the site plan information required by Article 29, and the following:

- A. *Development agreement.* A proposed written agreement specifying all the terms and understanding of the PUD development, and the conditions upon which the PUD approval was based including a specific list of any approved deviations from the standards of this ordinance. The final site plan shall not be officially approved until said agreement has been reviewed by the city attorney, signed by representatives of both parties and received by the city clerk. The agreement shall be recorded in the office of Genesee County, Registrar of Deeds at the expense of the applicant.
- B. *Hydrological impact assessment.* The planning commission may determine that a hydrological impact assessment is needed describing the existing ground and surface water resources including, but not limited to, a description of the water table, direction of groundwater flow, recharge and discharge areas, lake levels, surface drainage, floodplains, and water quality as well as the projected impact of the proposed development on such resources, in particular impacts associated with water supply development, wastewater disposal, and storm water management.

For projects over 100 acres, the applicant may submit a schematic site plan illustrating general building footprints, parking lot areas, road alignments, open space and general landscaping; with more detailed site plans submitted for the first building or project phase. Each detailed site plan shall be reviewed according to the procedures and standards of Article 29, Site Plan Review.

The final site plan shall be reviewed by the planning commission, which shall make recommendations to city council, according to the procedures outlined in Article 29, Site Plan Review.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 7.12. - Condominium projects.

For any condominium section of a PUD, the applicant shall provide a copy of the master deed and condominium association bylaws for approval by the city council. The condominium documents shall provide limits on use of common areas or open space for accessory structures such as swimming pools, decks, playground equipment and buildings. A plan shall be provided indicating the limits of such accessory structures within a defined envelope.

Prior to approval of the final PUD site plan, the applicant shall submit a written agreement to the city attorney for review and approval by the city council. The agreement shall:

- A. Set forth the conditions upon which the approval is based, with reference to the approved final PUD site plan.
- B. When open space or common areas are indicated in the PUD plan for use by the residents, the open space or common areas shall be conveyed in fee or otherwise committed by dedication to an association of the residents, and the use shall be irrevocably dedicated for the useful life of the residences, and retained as open space for park, recreation or other common uses.
- C. Set forth a program and financing for maintaining common areas and features, such as walkways, signs, lighting and landscaping.
- D. Assure that trees and woodlands will be preserved as shown on the site plan, or replaced on a caliper for caliper basis.
- E. Assure the construction and maintenance of all streets and necessary utilities (including public water, wastewater collection and treatment) through bonds or other satisfactory means, for any and all phases of the PUD. In the case of phased PUDs this requirement shall be reviewed at the time of any final site plan approval.
- F. Address any other concerns of the city regarding construction and maintenance.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 7.13. - Schedule of construction.

Final site plan approval of a PUD, PUD phase or a building within a PUD shall be effective for a period of three years. Further submittals under the PUD procedures shall be accepted for review upon a showing of substantial progress in development of previously approved phases, or upon a showing of good cause for not having made such progress.

In the development of a PUD, the percentage of single-family dwelling units under construction, or lots sold, shall be at least in the same proportion to the percentage of multiple-family dwelling units under construction at any one time, provided that this section shall be applied only if single-family dwelling units comprise 25 percent or more of the total housing stock proposed for the PUD. Non-residential structures designed to serve the PUD residents shall not be built until the PUD has enough dwelling units built to support such non-residential use. The planning commission may modify this requirement in their conceptual or final submittal review process. Further, this restriction does not apply to a Downtown PUD or the Morrish Road PUD since only non-residential might be constructed in the PUD.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 7.14. - Amendments and deviations from approved final PUD site plan.

Deviations from the approved final PUD site plan may occur only when an applicant or property owner who was granted final PUD site plan approval notifies the zoning administrator of the proposed amendment to such approved site plan in writing, accompanied by a site plan illustrating the proposed change. The request shall be received prior to initiation of any construction in conflict with the approved final PUD site plan.

- A. *Procedure.* Within 14 days of receipt of a request to amend the final PUD site plan, the zoning administrator shall determine whether the change is major, warranting review by the planning commission, and city council or minor, allowing administrative approval, as noted below.
- B. *Minor changes.* The zoning administrator may approve the proposed revision upon finding the change would not alter the basic design nor any conditions imposed upon the original plan approval by the planning commission. The zoning administrator shall inform the planning commission of such approval in writing. The zoning administrator shall consider the following when determining a change to be minor.
 1. For residential buildings, the size of structures may be reduced; or increased by five percent, provided the overall density of units does not increase and the minimum square footage requirements are met.
 2. Gross floor area of non-residential buildings may be decreased; or increased by up to five percent or 10,000 square feet, whichever is smaller.
 3. Floor plans may be changed if consistent with the character of the use.
 4. Horizontal and/or vertical elevations may be altered by up to five percent.
 5. Relocation of a building by up to five feet, if consistent with required setbacks and other standards.
 6. Designated "Areas not to be disturbed" may be increased.
 7. Plantings approved in the final PUD landscape plan may be replaced by similar types of landscaping on a one-to-one or greater basis. Any trees to be preserved which are lost during construction may be replaced by at least two trees of the same or similar species.
 8. Improvements or slight relocation of site access or circulation, such as inclusion of deceleration lanes, boulevards, curbing, pedestrian/bicycle paths, etc.
 9. Changes of building materials to another of higher quality, as determined by the zoning administrator.
 10. Slight modification of sign placement or reduction of size.
 11. Internal rearrangement of parking lot which does not affect the number of parking spaces or alter access locations or design.
 12. Changes required or requested by the city, county or state for safety reasons.
- C. *Major changes.* Where the zoning administrator determines the requested amendment to the approved final PUD site plan is major, re-submittal to the planning commission and city council shall be required. Should the planning commission determine that the modifications to the final PUD site plan significantly alter the intent of the conceptual PUD site plan, a revised conceptual PUD site plan shall be submitted.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 7.15. - Performance guarantees.

- A. Performance bonds, irrevocable bank letters of credit, cash deposits, or other forms of security acceptable as to type and amount to the city council shall be provided by the applicant to the city clerk. Such security shall be for construction of site improvements shown on the approved area plan.
- B. The applicant shall submit a cost estimate of the improvements to be covered by the guarantee, and verified as to amount by the city manager. The city council may release portions of a deposit in relation to work completed and approved upon inspection as complying with an approved plan provided however, that the balance on deposit will be sufficient to complete remaining site improvements. In the event that the applicant shall fail to provide improvements according to an approved plan, the city council shall have the authority to have such work completed, and to reimburse itself for costs of such work by appropriating funds from the deposited security, or may require performance by the bonding company.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 7.16. - Appeals and violations.

The zoning board of appeals shall have the authority to hear and decide appeal requests by property owners for variances from the city zoning ordinance. However, the zoning board of appeals shall not have the authority to change conditions or make interpretations to the PUD site plan or written agreement.

A violation of the PUD plan or agreement shall be considered a violation of this ordinance.

- A. Violations of any deviation from the approved PUD site plan, except as authorized in this ordinance, shall be considered a violation of this article and tre misdemeanor. Further, any such deviation shall invalidate the PUD designation.
- B. Violations of any plan approved under this section, or failure to comply with any requirements of this section, including any agreements and conditions attached to any approved plan, shall be considered a violation of this ordinance.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Article 8. - COMMERCIAL DISTRICTS

Footnotes:

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Editor's note— Ord. No. 440, §§ 1, and 4, adopted June 10, 2019, repealed the former Art. 8, §§ 8.00—8.03, and enacted a new Art. 8 as set out herein. The former Art. 8 pertained to the RM-1, Multiple-Family Residential District and derived from Ord. No. 395, adopted August 15, 2006.

Section 8.00. - Intent.

The Neighborhood Business District is intended for the location of retail, service, and office enterprises serving a localized market area. It is intended that uses in this district serve the day to day needs of a neighborhood or group of neighborhoods. It is intended that structures in this district will generally be small in floor and site area.

The Central Business District is designed and intended to promote the development of a pedestrian oriented and accessible district in which a variety of retail, commercial, office, civic and residential uses are permitted. Each use shall be complementary to the stated function and purpose of the district and shall not have adverse impact upon adjacent street capacity and safety, utilities, and other city services.

The Central Business District is further designed and intended to:

- A. Encourage innovative, neo-traditional residential/mixed use developments.
- B. Extend greater opportunities for traditional community living, working, housing and recreation to all citizens and residents of the city.
- C. Encourage a more efficient use of land and of public services and to reflect changes in technology of land development, by directing new development in a traditional pattern of mixed use and varied housing types.
- D. Reduce the excessive sprawl of development and the segregation of land uses that cause unnecessary traffic congestion.
- E. Discourage the development of drive-through facilities, which contributes to traffic congestion.
- F. Discourage the development of separate off-street parking facilities for each individual use, and to encourage the development of off-street parking facilities designed to accommodate the needs of several individual uses.
- G. Prohibit uses that are disruptive to pedestrian activities and have as their principal function the sale and services of motor vehicles, such as at automobile service stations, auto parts retail stores, car washes, new and used motor vehicle sales or service establishments, drive-in restaurants and restaurants with drive-through facilities, businesses with drive-through facilities (such as but not limited to banks, credit unions, pharmacies, etc.).
- H. Promote the creation of urban places which are oriented to the pedestrian thereby promoting citizen security and social interaction.
- I. Promote developments where the physical, visual and spatial characteristics are established and reinforced through the consistent use of compatible urban design and architectural design elements. Such elements shall relate to the design characteristics of an individual structure or development to other existing and planned structures or developments in a harmonious manner, resulting in coherent overall development patterns and streetscape.
- J. Discourage commercial and business uses that create objectionable noise, glare or odors.
- K. Encourage development of an urban "Main Street" with mixed land uses and shared parking.

The GBD, General Business District is intended to accommodate commercial establishments that serve community-wide shopping and service needs, including motorists using 1-69. These districts are intended to create cohesive commercial areas that provide convenient vehicular and pedestrian access between business in attractive settings, thereby ensuring safety, and discouraging undesirable strip commercial development.

(Ord. No. 440, §§ 1, 4, 6-10-19)

Section 8.01. - Permitted uses.

In the Commercial Districts, land, buildings, and other structures shall be used only for one or more of the uses specified in the table below. Uses denoted by a "P" are permitted by right, whereas uses denoted by "CLU" are considered conditional land uses and uses denoted by a "SLU" are considered special land uses and may be approved by the planning commission subject to the applicable general and specific standards in Article 22, Special Land Uses and Article 23, Conditional Land Uses.

	NBD, Neighborhood Business	CBD, Central Business	GBD, General Business
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Accessory buildings, structures, and uses customarily incidental to the principle uses permitted by right	P	P	P
Arcade		P	SLU
Automobile and vehicle dealerships			CLU
Automobile service stations			SLU
Automobile washes, automatic or self-service		CLU	CLU
Bank, savings and loan, credit union	P	P	P
Bars, taverns, lounges, micro-breweries, brewpubs	CLU	P	P
Boutique hotel		P	
Cell tower			SLU
Colleges and vocational schools	SLU	SLU	P
Commercial dog kennels			CLU
Community centers	P	P	P
Conference center/convention center			SLU
Convenience store	P	P	P
Day care center	SLU	SLU	P
Drive-through retail, service establishments, and drive-through restaurants		SLU	SLU
Dry cleaning and self-service laundries	P	P	P
Essential public service buildings (no outdoor storage)	P	P	P
Essential public service buildings (with outdoor storage)			SLU
Existing single and multiple family homes in non-residential districts	P	P	SLU
Expansion of apartments within existing building	SLU	CLU	
Funeral homes and mortuaries	SLU	CLU	CLU
Golf course (no range)		SLU	P
Golf course with range		SLU	SLU
Group living (adult and child residential facilities)	SLU	SLU	
Hospital		SLU	P
Hotels and motels		SLU	SLU

Indoor commercial recreation (health club, handball, racquet ball, bowling, pool, billiards, tennis, batting, archery, soccer fields, indoor pool, ice arena)		SLU	SLU
Live-work units, single family		P	
Medical offices (doctor, dentists, chiropractor and similar profession) greater than 15,000 sq. ft.			SLU
Medical offices (doctor, dentists, chiropractor and similar profession) up to 15,000 sq. ft.	CLU	P	P
Mixed use residential	SLU	CLU	
Multiplex and outdoor theatres (drive-in theatres)			SLU
Multiple attached single family residential units/townhouse/rowhouse (excludes Miller Road corridor)		P	
Nursery/garden center			P
Nursing and convalescent care	SLU	SLU	SLU
Nursing, assisted living	SLU	SLU	SLU
Outdoor recreation		CLU	CLU
Outdoor retail sales			CLU
Parks (public and private)	SLU	SLU	SLU
Personal and business services (beauty/barber, tailor, shoe repair)	P	P	P
Pet boarding and grooming facilities			CLU
Pet store	CLU	P	P
Places of assembly, including places of worship (greater than 500 seats)	SLU	SLU	CLU
Places of assembly, including places of worship (less than 250 seats)	SLU	P	P
Places of assembly, including places of worship (between 251-499 seats)	SLU	CLU	P
Private club, fraternal organization, lodge	CLU	CLU	P
Private recreation			SLU
Professional offices (corporate, lawyers, architects, engineers similar professions) greater than 15,000 sq. ft.			SLU
Professional offices (corporate, lawyers, architects, engineers similar professions) up to 15,000 sq. ft.	CLU	P	P

Public library	P	P	P
Radio station			SLU
Restaurant	P	P	P
Restaurant with outdoor seating/cafe	CLU	CLU	CLU
Retail sales and services (grocery, drug store, clothing, hardware etc.)	P	P	P
Roadside market			SLU
School (public and private)	SLU	SLU	SLU
Servicing and repairing of other types of motor vehicles, trailers and boats			SLU
Shopping center (between 15,000 sq. ft. and 30,000 sq. ft.)			SLU
Shopping center (greater than 30,000 sq. ft.)			SLU
Shopping center (up to 15,000 sq. ft.)	P	P	P
Small inn/B&B	SLU	SLU	SLU
Small manufacturing and processing establishments	CLU	CLU	P
Storage facilities/units			CLU
Studio, such as art, dance, health, music or other similar place of instruction	P	P	P
Upper floor residential dwellings	SLU	P	CLU
Veterinary hospitals		CLU	CLU
Walk-up window retail or restaurant	CLU	CLU	P

(Ord. No. 440, §§ 1, 4, 6-10-19)

Section 8.02. - Site development requirements.

All permitted uses and special land uses are subject to the following setbacks, height, area, and lot dimensions are required as noted below:

District Regulations	NBD	CBD	GBD
Minimum lot area	---	---	---
Minimum lot width	---	---	---
Minimum front yard setback	5 feet	---	5 feet
Maximum front yard setback	---	5 feet	---

Minimum side yard setback	---	---	---
Minimum rear yard setback	20 feet	20 feet	20 feet
Maximum lot coverage for all buildings	0%	0%	0%
Maximum building height	30 feet or 2 stories	40 feet or 3 stories	30 feet or 2 stories

- A. No side yards are required along the interior side lot lines, except as otherwise specified in the Building Code.
- B. On the exterior side yard which borders on a residential district there shall be provided a side yard setback of not less than ten feet. If walls of structures facing such interior side lot lines contain windows, or other openings, side yards of not less than 15 feet shall be provided.
- C. Loading spaces shall be provided in the rear yard. Where an alley exists or is provided at the rear of the buildings, the rear setback and loading requirements may be computed from the center of said alley.
- D. The maximum percentage of coverage shall be determined by the use and the provisions of required off-street parking, loading and unloading and required yards.
- E. A wall or fence shall be provided on those sides of the property abutting land zoned for residential use in the CBD, Central Business District.
- F. A minimum five-foot wide concrete sidewalk shall be provided within the road right-of-way for the entire frontage along a street.
- G. A minimum of five-foot wide greenbelt shall be provided adjacent to a residential district and no structures or off-street parking spaces shall be located within the greenbelt. Grade changes to the greenbelt area shall not be permitted unless the planning commission finds that improved screening of the highway service district could be accomplished by changing the grade. The greenbelt area shall be maintained by one of, or a combination of, the following, depending, upon the characteristics of the area:
 1. The greenbelt area shall be left in its natural state if, in the judgment of the Planning Commission, it would provide the best protection for the residential district and preservation of the natural setting. The Commission may require supplemental plantings, in accordance with the landscape design principles if it is necessary to provide adequate year-round screening.
 2. If sufficient vegetation does not exist in the greenbelt area or if, in the opinion of the planning commission, it would not survive or is not suitable for saving, a minimum four-foot high landscaped earth berm shall be constructed in the greenbelt area. Landscaping shall be carried out in accordance with [Article 20](#), the landscape design principles adopted by the planning commission.
 3. In determining the proper buffering technique, the planning commission shall consider the effectiveness of the buffer in protecting the surrounding area and shall also consider the overall natural and manmade characteristics of the site. The construction of the wall shall be in accordance with [Article 20](#).

(Ord. No. [440](#), §§ 1, 4, 6-10-19)

Section 8.03. - General development standards.

Buildings and uses in the NBD, Neighborhood Business District, CBD, Central Business District, and GBD, General Business District shall also be subject to all applicable standards and requirements set forth in this ordinance, including the following:

- A. Parking and off-street loading and unloading is required in accordance with [Article 18](#).
- B. Exterior lighting is required in accordance with [Article 19](#).
- C. Landscaping is required in accordance with [Article 20](#).
- D. Site plan review is required in accordance with the requirements of [Article 21](#).
- E. Signs are permitted in accordance with the city's sign ordinance, [Article 14](#).

(Ord. No. [440](#), §§ 1, 4, 6-10-19)

Article 9. - O-1 OFFICE DISTRICT

Section 9.00. - Intent.

The O-1, Office District is intended to provide primarily for a community of business offices, professional offices, and research and related facilities. This area is further designed to ensure the compatibility between the permitted and special uses and the existing character of the adjacent land uses.

(Ord. No. [440](#), § 5, 6-10-19)

Section 9.01. - Principle uses permitted.

In the Office District, land, buildings, and other structures shall be used only for one or more of the uses specified in the table below. Uses denoted by a "P" are permitted by right, whereas uses denoted by "CLU" are considered conditional land uses and uses denoted by a "SLU" are considered special land uses and may be approved by the planning commission subject to the applicable general and specific standards in [Article 22, Special Land Uses](#) and [Article 23, Conditional Land Uses](#).

Office District	
Accessory buildings, structures, and uses customarily incidental to the principle uses permitted by right	P
Automobile and vehicle dealerships	CLU
Automobile washes, automatic or self-service	CLU
Banks; credit unions; savings and loans	P
Bars, taverns, lounges, micro-breweries, brew-pubs	CLU
Cell tower	SLU
Colleges and vocational schools	P
Community centers	P
Conference center/convention center	SLU
Day care center	P
Drive-through retail, service establishments, and drive-through restaurants	SLU
Golf course (no range)	P
Golf course with range	SLU
Hospital	P
Indoor commercial recreation (health club, handball, racquet ball, bowling, pool, billiards, tennis, batting, archery, soccer fields, indoor pool, ice arena)	CLU
Medical offices (doctor, dentists, chiropractor and similar profession) (greater than 15,000 sq. ft.)	P
Medical offices (doctor, dentists, chiropractor and similar profession) (up to 15,000 sq. ft.)	P
Multiplex and outdoor theatres (drive-in theatres)	SLU
Nursing, assisted living	SLU
Outdoor recreation	CLU
Outdoor retail sales	
Parks (public and private)	SLU
Personal and business services (beauty/barber, tailor, shoe repair)	P
Pet boarding facilities	CLU

Places of assembly, including places of worship (greater than 500 seats)	P
Places of assembly, including places of worship (less than 250 seats)	P
Places of assembly, including places of worship (between 251—499 seats)	P
Private club, fraternal organization, lodge	CLU
Private recreation	SLU
Professional offices (corporate, lawyers, architects, engineers similar professions) (greater than 15,000 sq. ft.)	P
Professional offices (corporate, lawyers, architects, engineers similar professions) (up to 15,000 sq. ft.)	P
Public library	P
Broadcast station	SLU
Restaurant	P
Restaurant with outdoor seating/cafe	CLU
Retail sales and services (grocery, drug store, clothing, hardware etc.)	P
School (public and private)	SLU
Shopping center (up to 15,000 sq. ft.)	P
Show rooms	SLU
Small manufacturing and processing establishments	CLU
Storage facilities/units	CLU
Studio, such as art, dance, health, music or other similar place of instruction	P

(Ord. No. 440, § 5, 6-10-19)

Section 9.02. - Site development requirements.

All permitted uses and special land uses are subject to the following setbacks, height, area, and lot dimensions are required as noted below:

O-1 District Regulations	Requirements
Minimum lot area	2 acres
Minimum lot width	250 feet
Minimum front yard setback	40 feet
Minimum side yard setback	30 feet each side ¹ 60 feet combined ²

Minimum rear yard setback	30 feet
Maximum lot coverage for all buildings ^a	—
Height	25 feet or 2 stories

Footnotes:

- ¹ The maximum percentage of coverage shall be determined by the use and the provisions of required off-street parking, loading and unloading and required yards.
- ² Off-street parking for visitors may be permitted within the required front yard provided that such off-street parking is not located within 30 feet of the front lot line. The zoning board of appeals may permit the front yard requirement to be reduced to not less than 20 feet for buildings constructed prior to the effective date of this ordinance, provided that minimum off street parking requirements can still be met.
 - a) A minimum five-foot wide concrete sidewalk shall be provided within the road right-of-way for the entire frontage along a street.
 - b) No yard shall be required along the interior side lot lines when said property line is adjacent to like use districts or to railroad rights-of-way. A 20-foot greenbelt shall be provided, in addition to five- to eight-foot completely obscuring wall, within the required yard area and adjacent to the property line, when O-1 Office uses abut residential districts.

(Ord. No. 440, § 5, 6-10-19)

Section 9.03. - General development standards.

Buildings and uses in the O-1, Office District shall also be subject to all applicable standards and requirements set forth in this ordinance, including the following:

- A. Parking and off-street loading and unloading is required in accordance with Article 18.
- B. Exterior lighting is required in accordance with Article 19.
- C. Landscaping is required in accordance with Article 20.
- D. Site plan review is required in accordance with the requirements of Article 21.
- E. Signs are permitted in accordance with the city's sign ordinance, Article 14.

(Ord. No. 440, § 5, 6-10-19)

Article 10. - INDUSTRIAL DISTRICTS

Footnotes:

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Editor's note— Ord. No. 440, § 10, adopted June 10, 2019, renumbered Art. 10 §§ 10.00—10.05 as Art. 6 §§ 6.00—6.05, and § 6 enacted a new Art. 10 as set out herein. See editor's note to Art. 6 pertaining to renumbering the former Art. 10.

Section 10.00. - Intent.

The I-1, Light Industrial District is designed to primarily accommodate wholesale activities, warehousing, and industrial operations whose external, physical effects are restricted to the area of the district and will not affect in a detrimental way any of the surrounding districts. The 1-2, Heavy Industrial District is established primarily for manufacturing, assembling and fabrication activities including large-scale or specialized industrial operations whose external physical effects will be felt to some degree by surrounding districts.

(Ord. No. 440, § 6, 6-10-19)

Section 10.01. - Principal uses permitted.

In the Industrial Districts, land, buildings, and other structures shall be used only for one or more of the uses specified in the table below. Uses denoted by a "P" are permitted by right, whereas uses denoted by "CLU" are considered conditional land uses and uses denoted by a "SLU" are considered special land uses and may be approved by the Planning Commission subject to the applicable general and specific standards in Article 22, Special Land Uses and Article 23, Conditional Land Uses.

	I-1, Light Industrial
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Accessory buildings, structures, and uses customarily incidental to the principle uses permitted by right	P
Adult entertainment regulated uses	SLU
Any production, processing, cleaning, testing, repairing, storage and distribution of materials, goods, foodstuffs and products not involving a normal retail or service activity on the lot	P
Automobile and vehicle dealerships	P
Automobile service stations	P
Automobile washes, automatic or self-service	P
Building supply and equipment stores and yards	SLU
	I-1, Light Industrial
Cell tower	SLU
Colleges and vocational schools	P
Conference center/convention center	SLU
Contractor's establishments not engaging in any retail activities on the site	P
Crematorium	P
Drive-through retail, service establishments, and drive-through restaurants	SLU
Golf course (no range)	P
Golf course with range	P
Hospital	P
Indoor commercial recreation (health club, handball, racquet ball, bowling, pool, billiards, tennis, batting, archery, soccer fields, indoor pool, ice arena)	P
Nursery/garden center	P
Outdoor recreation	P
Outdoor retail sales	P
Outdoor storage	CLU
Outdoor use	SLU
Pet boarding facilities	P
Places of assembly, including places of worship (greater than 500 seats)	P
Private club, fraternal organization, lodge	P
Radio station and television broadcasting	SLU

Research and testing laboratories	P
	I-1, Light Industrial
School (public and private)	SLU
Servicing and repairing of other types of motor vehicles, trailers and boats	P
Showrooms	CLU
Stone cutting and monuments	CLU
Storage facilities/units	P
Studio, such as art, dance, health, music or other similar place of instruction	P
Veterinary hospitals	P

(Ord. No. 440, § 6, 6-10-19)

Section 10.02. - Site development requirements.

All permitted uses and special land uses are subject to the following setbacks, height, area, and lot dimensions are required as noted below:

District Regulations	I-1 Requirements
Minimum lot area	---
Minimum lot width	---
Minimum front yard setback	50 feet
Minimum side yard setback	1. 50 feet (each side) and 2. 100 feet (total both sides)
Minimum rear yard setback	---
Maximum lot coverage for all buildings	---
Maximum building height	40 feet

- A. No side yards are required along the interior side lot lines that abut another property zoned for non-residential use, except as otherwise specified in the building code. On the exterior side yard which borders on a residential district or residential street there shall be provided a setback of not less than 50 feet. If walls of structures facing such interior side lot lines contain windows, or other openings, side yards of not less than 75 feet shall be provided.
- B. Loading space shall be provided in the rear yard in the ratio of at least ten square feet per front foot of building and shall be computed separately from the off-street parking requirements. Where an alley exists or is provided at the rear of the buildings, the rear setback and loading requirements may be computed from the center of said alley.
- C. A wall or fence shall be provided on those sides of the property abutting land zoned for residential use.
- D. The maximum percentage of coverage shall be determined by the use and the provisions of required off-street parking, loading and unloading and required yards.
- E. A minimum of five-foot wide greenbelt shall be provided adjacent to a residential district and no structures or off-street parking spaces shall be

located within the greenbelt. Grade changes to the greenbelt area shall not be permitted unless the Planning Commission finds that improved screening of the Highway Service District could be accomplished by changing the grade. The greenbelt area shall be maintained by one of, or a combination of, the following, depending, upon the characteristics of the area:

1. The greenbelt shall be left in its natural state if, in the judgment of the planning commission, it would provide the best protection for the residential district and preservation of the natural setting. The commission may require supplemental plantings, in accordance with the landscape design principles if it is necessary to provide adequate year-round screening.
2. If natural vegetation does not exist in the greenbelt area or if, in the opinion of the planning commission, it would not survive or is not suitable for saving, a minimum four-foot high landscaped earth berm shall be constructed in the greenbelt area. Landscaping shall be carried out in accordance with the landscape design principles adopted by the planning commission.
3. In determining the proper buffering technique, the planning commission shall consider the effectiveness of the buffer in protecting the surrounding area and shall also consider the overall natural and manmade characteristics of the site.
 - a) Parking shall be permitted in the front yard after recommended approval of the parking plan layout and points of access by the planning commission. The required front yard setback required by planning commission shall be measured from the nearest side of existing and or proposed right-of-way lines, whichever is greater.

(Ord. No. 440, § 6, 6-10-19)

Section 10.03. - General development standards.

Buildings and uses in the I-1, Light Industrial shall also be subject to all applicable standards and requirements set forth in this ordinance, including the following:

- A. Parking and off-loading and unloading are required in accordance with Article 18.
- B. Exterior lighting is required in accordance with Article 19.
- C. Landscaping is required in accordance with Article 20.
- D. Site plan review is required in accordance with the requirements of Article 21.
- E. Signs are permitted in accordance with the city's sign ordinance, Article 14.

(Ord. No. 440, § 6, 6-10-19)

Article 11. - CONDOMINIUM DEVELOPMENT STANDARDS

Footnotes:

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Editor's note— Ord. No. 440, § 10, adopted June 10, 2019, renumbered Art. 11 §§ 11.00—11.16 as Art. 7 §§ 7.00—7.16, and § 7 enacted a new Art. 11, as set out herein. See editor's note at Art. 7 pertaining to renumbering the former Art. 11.

Section 11.00. - Intent.

The intent of this article is to provide regulatory standards for condominiums and condominium subdivisions similar to those required for projects developed under other forms of ownership. This article is not intended to prohibit or treat a proposed or existing condominium project different than a project or development under another form of ownership. New condominium projects and conversion condominium projects shall conform to the requirements of this ordinance and all other applicable regulations of the city and the Condominium Act, P.A. 59 of 1978, as amended. Each condominium project shall be reviewed in a manner consistent with like projects within the underlying zoning district. A site condominium project shall be considered equivalent to a platted subdivision for the purposes of enforcing the zoning, site and building requirements of the city. It is the intent to regulate site condominium projects and other condominium projects in a manner consistent with a traditional subdivision plat, except that the review procedures within the following sections shall apply and more closely align with the site plan review procedural requirements of section 21.05, Site plan review process, of the Code of Ordinances.

(Ord. No. 440, § 7, 6-10-19)

Section 11.01. - Application and authority.

The following review process shall apply to all condominium projects within the City:

- A. Concurrently with notice required to be given to the city pursuant to Section 71 of P.A. 59 of 1978, as amended (MCL 559.171) a person, firm, corporation or other legal entity intending to develop a condominium project shall file with the city clerk the following information with respect to the projects:
 1. All names, address and telephone numbers of:
 - (a) The person, firm, corporation or other legal entity with an ownership interest in the land on which the project will be located together with a statement that the entity is an owner or land contract purchaser.

(b) All engineers, attorneys, architects, and licensed land surveyors involved in the condominium project.

(c) The developer or proprietor of the project.

2. The legal description of the land including tax identification numbers.
3. The total acreage.
4. The intended use.
5. The number of units to be developed.
6. A copy of the proposed master deed.

B. Condominium projects shall contain all information required by the Condominium Act.

C. The information shall be filed with the zoning administrator at the time the information is filed with the city clerk and shall be kept current.

D. In addition to the requirements of this article, any applicable requirements of Article 7, Planned Unit Development Standards, and Article 21, Site Plan Review, must be met.

(Ord. No. 440, § 7, 6-10-19)

Section 11.02. - Approval of plans.

All condominium plans must be approved by the planning commission following the same process identified for site plan review in the City of Swartz Creek Zoning Ordinance. In making determination, the planning commission shall consult with the zoning administrator, city planner, city attorney, and the city engineer regarding the adequacy of the master deed, deed restrictions, utility systems, streets, project design and layout and compliance with the Condominium Act.

(Ord. No. 440, § 7, 6-10-19)

Section 11.03. - Streets and necessary easements.

A. Condominium projects shall comply with all public and private street requirements found in the Swartz Creek Design Standards and Construction Specifications. Streets in condominium developments which connect to public streets shall dedicate the project street to the public.

B. The condominium plan shall include all necessary easements granted to the city for constructing, operating, inspecting, maintaining, repairing, altering, replacing and/or removing pipelines, mains, conduits and other installations of a similar character (hereinafter called public structures) for the purpose providing public utilities, including, but not limited to, conveyance of sewage, water and stormwater runoff across, through and under the property subject to such easement, and excavating and filling ditches and trenches necessary for the location of such structures.

(Ord. No. 440, § 7, 6-10-19)

Section 11.04. - Setbacks and boundaries.

A. The setback requirements for condominium buildings shall be in accordance with the site development requirements of the applicable zoning district, unless otherwise modified by the planning commission as part of planned unit development (PUD). Setbacks shall be measured from roadway easement lines. Distances between buildings shall be the required minimum yard setback for the total of both sides.

B. The relocation of boundaries as defined in Section 148 of the Condominium Act shall conform to all setback requirements of this chapter for the district in which the project is located, shall be submitted to the planning commission for review and approval and these requirements shall be made a part of the bylaws and recorded as part of the master deed.

(Ord. No. 440, § 7, 6-10-19)

Section 11.05. - Common elements.

After construction of a condominium unit, the undeveloped area of a unit site shall become a common element.

(Ord. No. 440, § 7, 6-10-19)

Section 11.06. - Encroachment.

A condominium project shall not be constructed in a manner that intentionally creates an encroachment.

(Ord. No. 440, § 7, 6-10-19)

Section 11.07. - Subdivision and amendment of unit sites.

The subdivision and amendment of condominium unit sites is permitted with planning commission approval, contingent upon the submission of an amended master deed to determine the effect of the subdivision on conditions of zoning or site plan approval. All such approved changes shall be made as part of the bylaws and recorded as part of the master deed.

(Ord. No. 440, § 7, 6-10-19)

Section 11.08. - Conformance with zoning ordinance and subdivision regulations.

All condominium project plans shall conform to the plan preparation requirements, design layout, and improvements standards as established in the City of Swartz Creek Zoning Ordinance and Subdivision Regulations.

(Ord. No. 440, § 7, 6-10-19)

Section 11.09. - Residential recreational area.

Any residential condominium comprising 20 or more lots or dwelling units, either as a single development or as a group of adjacent developments offered by a single proprietor, shall provide an active recreational area the equivalent of 1,000 square feet per unit. The city can consider acceptance of a financial contribution in lieu of providing said recreation area, with the funds to be used toward improvement of existing city recreation facilities in the area.

(Ord. No. 440, § 7, 6-10-19)

Section 11.10. - Water and wastewater.

The condominium project shall comply with and meet all federal, state and county standards for a domestic water system and wastewater disposal.

(Ord. No. 440, § 7, 6-10-19)

Section 11.11. - Expansion and conversion.

Any expansion or conversion of a condominium project involving additional land and new phases must be approved by the planning commission.

(Ord. No. 440, § 7, 6-10-19)

Section 11.12. - Master deed.

The project developer shall furnish the zoning administrator with one copy of the proposed consolidated master deed, one copy of bylaws and two copies of the proposed plans. The proposed plans shall be reviewed for compliance with this chapter and the City Code of Ordinances and to ensure that an assessment mechanism has been included to guarantee adequate maintenance of common elements. Master deeds submitted to the city for review shall not permit contraction of the condominium (whereby co-owners can withdraw from the condominium and responsibility for maintenance of common elements) without re-submittal of the master deed to the city for review and approval. Fees for these reviews shall be established, from time to time, by resolution of the city council.

(Ord. No. 440, § 7, 6-10-19)

Section 11.13. - As-built plan and occupancy.

Submission of an as-built plan of a condominium unit is required prior to occupancy. The zoning administrator may allow occupancy of the project before all improvements required are installed, provided that a bond is submitted to the city clerk, sufficient in amount and type to provide for the installation of improvements, before the expiration of the temporary occupancy permit without expense to the city. The amount of the bond shall be determined by the city engineer.

(Ord. No. 440, § 7, 6-10-19)

Section 11.14. - Final bylaws, consolidated master deed, and site plan.

Upon approval of the development, a copy of the bylaws and consolidated master deed shall be furnished to the city. The site plan shall be provided in digital format meeting the requirements of the Swartz Creek Design Standards and Construction Specifications.

(Ord. No. 440, § 7, 6-10-19)

Section 11.15. - Compliance with other statutes and ordinances.

All condominium projects shall comply with federal, state and city laws, statutes and ordinances.

(Ord. No. 440, § 7, 6-10-19)

Article 12. - NON-CONFORMING LOTS, USES, BUILDINGS AND STRUCTURES

Footnotes:

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Editor's note— Ord. No. 440, §§ 1, and 10, adopted June 10, 2019, repealed the former Art. 12, §§ 12.00—12.05, and renumbered Art. 19 §§ 19.00—19.08 as Art. 12 §§ 12.00—12.08, as set out herein. The former Art. 12 pertained to the NBD, Neighborhood Business District and derived from Ord. No. 395, adopted August 15, 2006.

Section 12.00. - Intent.

- A. Non-conformities are considered to be incompatible with the current or intended use of land, buildings or structures in the district in which they are located. This article is intended to meet the objectives stated below by establishing regulations that govern the completion, restoration, reconstruction, extension, and/or substitution of non-conformities, and specify the circumstances and conditions under which non-conformities shall be permitted to continue.
- B. The intent of this article is to eliminate, or bring into compliance, lots, buildings, structures and uses which legally existed at the date of adoption of this ordinance, but do not meet the current standards of this ordinance. This ordinance also has special provisions to permit certain non-conforming situations considered to be less harmful to continue under certain conditions, but to discourage their expansion, enlargement, or extension. The requirement and standards of this article are intended to accomplish the following:
1. Terminate and remove any use, building, accessory structure or any combination thereof that was established after the effective date of this ordinance and in violation of this ordinance. Such uses, buildings, or accessory structures are classified as violations of this ordinance and shall not receive any of the rights, privileges or protection conferred by this article for non-conforming situations.
 2. Discourage the continuation of non-conforming uses that are more intense than the uses permitted within the zoning district and are considered to be incompatible with permitted uses, or encourage their redevelopment into a more conforming use.
 3. Permit legal non-conforming buildings, structures or uses to remain until they are discontinued, removed or abandoned.
 4. Encourage a gradual upgrading to a more conforming status of site landscaping, parking, paving, signs and other features of a site required by the zoning ordinance and sign ordinance developed in compliance with the requirements at the time of their construction, but which do not meet the site requirements of such ordinance.
 5. Encourage the combination of contiguous non-conforming lots of record to create lots which conform or more closely conform to current requirements, for better compatibility with other lots in the zoning districts in which they are located, to promote the public health, safety and welfare and to eliminate problems associated with the overcrowding of land.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 12.01. - Applicability.

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance, upon which actual building construction has been diligently continued and there is a valid building permit. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding such work shall be deemed to be actual construction, provided that such work shall be diligently continued until completion of the building involved.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 12.02. - Non-conforming uses.

Where, at the effective date of adoption or amendment of this ordinance, a lawful use on open land, a lot(s), building(s) or accessory structure(s) exists that is made non-conforming by this ordinance or its amendments, such use may be continued, as it remains otherwise lawful, subject to the following provisions:

- A. *Expansions:* Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the effective date of this ordinance. Except for one-family dwellings as permitted below, a non-conforming use shall not be enlarged, expanded or extended to occupy a greater area of land, constructed, reconstructed or structurally altered except with approval by the zoning board of appeals (ZBA).
- B. *Accessory uses and structures:* No new accessory use, building or structure shall be established.
- C. *Relocation:* The non-conforming use shall not 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 this ordinance.
- D. *Change in use:* If no structural alterations are made, any non-conforming use of a building, or building and land in combination, may be changed to another non-conforming use if the ZBA finds the proposed use is more appropriate to the district than the existing non-conforming use. In permitting the change, the ZBA may require conditions and safeguards in accord with the purpose and intent of this ordinance. Where a non-conforming use of a structure, land, or structure and land in combination is hereafter changed to a more conforming use, it shall not thereafter be changed to a less conforming use.
- E. *Removal:* Where non-conforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.
- F. *Abandonment or discontinuance:* If the non-conforming use of land ceases for any reason for a period exceeding one year and the zoning administrator determines that the owner has established intent to abandon the non-conforming use, any subsequent use of such land shall conform

to the requirements specified by this ordinance for the zoning district in which it is located. A non-conforming use shall be determined to be abandoned if one or more of the following conditions exists, and shall be deemed to constitute an intent on the part of the property owner to abandon the non-conforming use:

1. Utilities, such as water, gas and electric to the property, have been disconnected.
2. The property, buildings, and grounds, have fallen into disrepair.
3. Signs or other indications of the existence of the non-conforming use have been removed.
4. Removal of equipment or fixtures which are necessary for the operation of the non-conforming use.
5. Other actions, which in the opinion of the zoning administrator constitute an intention of the part of the property owner or lessee to abandon the non-conforming use.

G. Special standards for one-family dwellings in a non-residential district:

1. An existing one-family residential dwelling in a zoning district which does not permit that use may be expanded to occupy the floor area necessary for living purposes required by the building code.
2. A one-family dwelling and its accessory structures, in a zoning district which does not permit that use may be continued, replaced, repaired or remodeled if damaged by flood, fire, or vandalism, if approved by the ZBA. Such approval requires a finding that the resulting building footprint and floor area will be the same size or smaller than that of the building before such change. Replacement of such non-conforming one-family building shall commence no sooner than receiving a valid building permit and no later than six months of the date of damage. Work shall be diligently pursued toward completion. The applicant may be required to provide the city with evidence, visual or otherwise, that demonstrates to the satisfaction of the city that work is being diligently pursued. Failure to complete replacement or to diligently work toward completion shall constitute abandonment and result in the loss of its non-conforming status unless good cause for the delay is accepted at a hearing before the ZBA.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 12.03. - Non-conforming buildings or structures.

Where a lawful building or structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance, that building or structure may be continued provided it remains otherwise lawful, subject to the following provisions. Except as noted below, no building or structure may be enlarged unless a variance is granted by the ZBA.

- A. *Damage by fire or other catastrophe:* Any non-conforming structure or building, or any structure or building that contains a non-conforming use that is damaged by fire, flood, or other means to a point where the cost of repairs will be in excess of the structure and/or building's pre-catastrophe market value (as described in paragraph (I) below) shall not be rebuilt, repaired, or reconstructed, except in complete conformity with the provisions of this ordinance.

In the event that the cost of repairing the damage is less than the structure or building's pre-catastrophe market value (as described in paragraph (I) below), the structure or building may be restored to its pre-catastrophe status. Such restoration shall take place only upon approval of the zoning administrator and all construction shall be in full compliance with applicable provisions of this ordinance and other applicable city codes. Any request for such rebuilding, repair, or restoration shall be made to the zoning administrator within 180 days following the incident. Any such rebuilding, repair, or restoration shall be completed within one year from the date of the catastrophe.
- B. *Replacement of a non-conforming one-family dwelling:* A non-conforming building used as a one-family residence, and its accessory structures, may be continued, replaced, repaired or remodeled if damaged by flood, fire, vandalism, accident or other natural disaster if approved by the ZBA. Such approval requires a finding that the resulting building footprint will be the same size or smaller than that of the building before such change or that the building will become more conforming. Replacement of such a non-conforming one-family building shall commence within one year of the date of damage and work shall be diligently pursued toward completion. Failure to complete replacement or to diligently work toward completion shall result in the loss of legal non-conforming status unless good cause for the delay is accepted at a hearing before the ZBA.
- C. *Relocation of a non-conforming building or structure:* Should any non-conforming building or structure be relocated or moved for any reason for any distance, it shall thereafter conform to the regulations for the district in which it is located after it is relocated or moved.
- D. *Safety related repairs, improvements, and modernization:* Repairs, improvements, or modernization of non-conforming buildings or structures deemed necessary by the zoning administrator to maintain a non-conforming building in a structurally safe and sound condition are permitted provided such repairs or improvements do not exceed the market value (as described in paragraph (I) below) of the building or structure during any period of 12 consecutive months. This cost/value calculation shall not include any costs associated with modernization of electrical, plumbing, heating or cooling systems to meet building code requirements. Any such repairs, improvements, and modernization shall not result in an enlargement of the non-conforming structure. However, if a non-conforming building or a structure containing a non-conforming use becomes physically unsafe, dangerous, and/or unlawful due to lack of maintenance and repairs and is formally declared as such by the zoning administrator, it shall not thereafter be restored, repaired, or rebuilt except in full conformity with the regulations in the district in which it is located.
- E. *Non-safety improvements and modernization:* Repairs, improvements, or modernization of non-conforming buildings or structures which are not deemed necessary by the building department to keep a non-conforming building structurally safe and sound shall be permitted provided such

repairs or improvements do not exceed 50 percent of the market value of the structure (as described in paragraph (I) below) during any period of 12 consecutive months. Any such repairs, improvements or modernization shall not result in an enlargement of the non-conforming structure or building.

- F. *Alterations that decrease non-conformity:* Any non-conforming structure or building or structure or building containing a non-conforming use, may be altered if such alteration serves to clearly decrease the non-conforming nature of the structure, building, and/or use. The zoning administrator shall determine if a proposed alteration decreases the degree of non-conformity.
- G. *Permitted expansions to one-family dwellings:* An expansion (footprint or floor area) of a non-conforming one-family building or structure shall be permitted when both of the following conditions exist:
1. Only one wall of the existing building or structure does not comply with the applicable setback requirement.
 2. The expansion is on a conforming wall of the existing building or structure and will comply with applicable setback and height requirements.
- H. *Elimination of non-conformity:* In the event a non-conforming situation is removed, the corresponding section of the building or structure shall thereafter conform.
- I. *Market value:* For the purpose of this article, market value shall be determined by an acceptable independent appraisal provided by the applicant. The city assessor and zoning administrator shall review the appraisal. The value of the repairs or improvements shall be based on a written estimate from a licensed contractor provided by the applicant. This estimate shall be reviewed by the zoning administrator.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 12.04. - Non-conforming lots.

The following regulations shall apply to any non-conforming lot of record or non-conforming lot described in a deed or land contract executed and delivered prior to the effective date of the zoning ordinance or amendment thereto:

- A. *Use of non-conforming lots:* Any non-conforming lot may be used only for a use permitted in the zoning district in which it is located.
- B. *Variance from area and bulk requirements:* In any district in which one-family dwellings are permitted, a one-family dwelling and customary accessory building(s) may be erected on a lot that does not meet the requirements for lot width, lot area, or both without obtaining a variance from the ZBA provided that all other applicable requirements are met. In all other circumstances, use of a non-conforming lot requires a variance from the lot width and/or lot area requirements as applicable.
- C. *Non-conforming contiguous lots under the same ownership:* To develop a non-conforming lot(s) under the provisions of paragraphs (A) and (B) of this section, the applicant is required to submit evidence that ownership of the lot is not under contiguous single ownership with other lots that could be combined into a conforming or more conforming lot. The following regulations shall apply to non-conforming contiguous lots under the same ownership.
1. If two or more lots or combination of lots with contiguous frontage are or have been under single ownership are of record at the time of adoption or amendment of this ordinance, and if all or part of the individual lots do not meet the requirements established for lot width and area, the lands shall be considered as a singular, individual parcel for the purposes of this ordinance. Any altering of lot lines or combination of lots shall result in lots that more closely conform to the requirements of this ordinance.
 2. No portion of the non-conforming parcel shall be used, occupied, or sold in a manner that diminishes compliance with lot width and area requirements established by this ordinance, nor shall any division of a parcel be made that creates a new lot having a width or area less than the requirements stated in this ordinance.
 3. These provisions shall not apply to contiguous lots in single ownership where each of the lots is occupied by an existing dwelling unit.
- D. *Combination of non-conforming lots:* The following regulations shall apply to the combination of non-conforming lots.
1. Any combination, in whole or in part, of non-conforming lots of record shall result in lots that more closely conform to the requirements of this ordinance to the maximum extent feasible.
 2. Once any combination that creates a conforming lot occurs, the resulting lot shall not retain non-conforming lot of record status and will hereafter be required to comply with the lot requirements of this ordinance.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 12.05. - Non-conforming sites.

The intent of this section is to permit improvements and minor modifications to an otherwise conforming use and building which does not meet all of the various site improvement related regulations of this ordinance. The purpose is to allow gradual compliance with the site-related requirements, for the entire site, for sites which predate the various ordinance standards for landscaping, paving, and other non-safety site-related items.

Improvements or expansions may be permitted by the planning commission during special land use or site plan review without a complete upgrade of all site elements under the following conditions. The city may require a performance guarantee to ensure that all improvements permitted under this section will be made in accordance with the approved plan.

- A. The applicant is proposing reasonable site improvements on the overall site in relation to the scale and construction cost of the building

improvements or expansion.

- B. The applicant has addressed safety related site issues on the overall site.
- C. The improvements or minor expansion will not increase non-compliance with site requirements.
- D. The applicant has upgraded the overall site landscaping consistent with Article 20.
- E. Driveways that do not conform to the access management requirements of this ordinance shall be eliminated, provided that the minimum reasonable access shall be maintained, as determined by the standards of Article 17.
- F. Signs must comply with the city's sign ordinance.
- G. A site plan shall be submitted in accordance with Article 21.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 12.06. - Change of tenancy or ownership, purchase, or condemnation.

- A. In the event there is a change in tenancy, ownership, or management, a non-conforming use, structure or building shall be allowed to continue provided there is no change in the nature or character of such non-conformity and the use, structure, or building is otherwise in compliance with this ordinance.
- B. The city council may acquire, by purchase, condemnation or otherwise private property or an interest in private property for the removal of non-conforming buildings, structures or uses. The cost and expense, or a portion thereof, of acquiring the private property may be paid from general funds or assessed to a special district in accordance with the applicable statutory provisions relating to the creation and operation of special assessment districts for public improvements in the city.
- C. The elimination of the non-conforming buildings, structures, or uses is declared to be for a public purpose and for a public use. The city council may institute and prosecute proceedings for condemnation of non-conforming buildings, structures or uses under the power of eminent domain in accordance with Act 149 of the Public Acts of 1911, as amended, being Sections 213.21 to 213.41 of the Michigan Compiled Laws or other applicable statute.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 12.07. - Acquisition of non-conforming buildings, structures, or uses.

The zoning administrator, from time to time, may recommend to the city council, the acquisition of private property for the purpose of removal of non-conformities. Where such acquisition is contemplated, the following procedures shall be followed:

- A. *Zoning administrator documentation and recommendation:* Prior to initiating acquisition, the zoning administrator shall prepare or cause to have prepared a report for the city council. The report shall include the following:
 1. A list of all requirements of this ordinance that are not met by the subject property.
 2. An estimate of the expense of such acquisition.
 3. An estimate of the cost of removing the non-conformities.
 4. An estimate of the probable resale price of the property after acquisition and removal of the non-conformities.
 5. Recommendations concerning the allocation of costs to be incurred by the city.
- B. *City council consideration:*
 1. *Public hearing:* After receiving and reviewing the report from the zoning administrator, the city council shall determine if acquisition of the non-conforming property should be pursued. If the city council decides to pursue acquisition, then it shall first set a public hearing. Not less than 15 calendar days prior to the public hearing, notice of the time, place, and purpose of the public hearing shall be published in the official newspaper of the city, and sent by mail to the owners of property for which acquisition is being considered. The notice shall be sent to the owner's address as stated in the most recent assessment roll.
 2. *Special assessment:* If any or all of the expense related to acquisition of the subject property is assessed to a special district, then the city assessor shall be directed to furnish the city council with a tentative special assessment district and tentative plan of assessment. The names and addresses of the owners of property located in the district (as stated in the latest assessment roll) shall be provided to the city council. Notice of the time, place, and purpose of the public hearing shall be sent by mail to the owners of property located in the tentative special assessment district.
 3. *City council determination:* If, following the public hearing, the city council finds that elimination of the non-conforming use, structure, or building would be for a legitimate public purpose, then it shall declare by resolution of the city council that the city shall proceed to acquire the non-conforming use, structure, or building in accordance with the laws of the State of Michigan and applicable city ordinances. The city clerk shall send by registered mail a certified copy of the resolution of the city council to the owners of property to be acquired and to owners of property in any special assessment district, at the addresses stated in the latest assessment roll.
- C. *Removal of non-conformity:* Upon passing of title of the property so acquired by the city, the city council shall cause the discontinuance or removal of the non-conforming use, or the removal or demolition or remodeling of the non-conforming building or structure.
- D. *Disposition of property:* The city council may thereafter elect to retain all or part of the property so acquired for municipal purposes. If acquisition

costs and expenses are to be assessed against a special assessment district, the amount to be assessed shall be reduced by the market value of any part of the property retained for municipal use, as determined by the city assessor. The city council shall thereafter order the sale of the portion of the property not retained for municipal purposes, but only for use in conformance with this ordinance. The city council shall confirm the expenses related to the project and report the assessable cost to the city assessor, who shall then prepare an assessment roll in the manner provided for law. Such an assessment may, at the discretion of the city council, be paid in one or more, but not to exceed ten annual installments.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 12.08. - Appeals.

An appeal by any party aggrieved by any order, determination, or decision of any officer, agency, board, commission, zoning board of appeals, or legislative body of the City of Swartz Creek made under this Article 12 shall be taken to the Genesee County Circuit Court.

(Ord. No. 401, § 2, 5-11-09, eff. 6-15-09; Ord. No. 440, §§ 1, 10, 6-10-19)

Article 13. - GENERAL PROVISIONS

Footnotes:

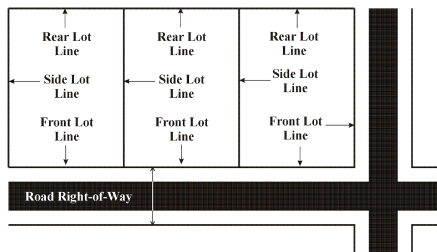
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Editor's note— Ord. No. 440, §§ 1, and 10, adopted June 10, 2019, repealed the former Art. 13, §§ 13.00—13.04, and renumbered Art. 20 §§ 20.00—20.12 as Art. 13 §§ 13.00—13.12, as set out herein. The former Art. 13 pertained to the CBD, Central Business District and derived from Ord. No. 395, adopted August 15, 2006; and Ord. No. 434, §§ 3—5, adopted Oct. 8, 2018.

Section 13.00. - Accessory buildings or structures.

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

- A. *Attached buildings or structures:* Where the accessory building is structurally attached to a main building, it shall be subject to, and must conform to, all yard regulations of this ordinance applicable to main buildings. To be considered attached, the accessory building must share a wall with the main building or be connected in such a way that the structures are integrally connected. An accessory building that is attached to the main building by an unenclosed structure, breezeway, trellis, fence or other uninhabitable space shall be considered detached for the purpose of the yard regulations of this ordinance.
- B. *Maximum area:* Accessory buildings may occupy not more than 30 percent of the rear yard.
- C. *Maximum number:* The number of detached accessory buildings is limited to a maximum of two for any lot in Zoning Districts R-2 & R-3. Lots in Zoning District R-1 may have a maximum of three such structures.
- D. *Building or structure appearance:* Building appearance for all new accessory structures shall be aesthetically compatible in design and appearance with residences or similarly situated accessory structures in the surrounding area. The roof shall have a minimum 4:12 pitch and with a drainage system that will collect and concentrate the discharge of storm water or snow away from the sides of the dwelling. The roof shall have wood shake, asphalt, or other acceptable shingles. A roof overhang of not less than six inches on all sides shall be provided.
- E. *Accessory buildings or structures in Nonresidential Districts:* Accessory buildings in Nonresidential Districts shall comply with the maximum building height of the district in which it is located.
- F. *Additional standards applicable to accessory buildings and structures in Residential Districts:*



An accessory building must be at least 30 feet from each front lot line on corner lots

1. A detached building or structure accessory to a residential building shall be located no closer than ten feet to any main building nor shall it be located closer than four feet to any side or rear lot line. In those instances where the rear lot line is co-terminus with an alley right-of-way, the accessory building shall be no closer than one foot to such rear lot line. In no instance shall an accessory structure be located within a dedicated easement right-of-way.
2. A building accessory to a residential building shall not exceed one story or 14 feet in height.
3. When a building accessory to a residential building is located on a corner lot, the side lot line of which is substantially a continuation of the front

lot line of the lot to its rear, said building shall not project beyond the front yard line required on the lot to the rear of such corner lot. An accessory building shall in no case be located nearer than 30 feet to a street right-of-way line.

G. Outdoor dining as accessory to otherwise allowed restaurants, subject to the following requirements:

- A. *Within public right-of-way or on easements for public use.* Outdoor dining is allowed by permit, between April 1 and October 31 subject to approval by the zoning administrator, when located outside of public rights-of-way or easements for public use and comply with the following:
1. Outdoor dining areas in the public right-of-way or on an easement for public use, must apply and receive an outdoor dining permit. Outdoor dining permits must be re-applied for annually.
 2. Pedestrian circulation and access to the building entrance shall not be impaired. A minimum sidewalk width of five feet along the curb and leading to the entrance to the establishment must be maintained free of tables, chairs, and other encumbrances. The seating in an outdoor dining area must be accessible to people with disabilities. Americans with Disabilities Act (ADA) accessibility requirements must be met within the outdoor dining area. Five percent, or at least one, of the seating spaces in the outdoor café area must be accessible to people with disabilities. An accessible route connecting the outdoor dining area, the business entrance, and the restrooms must be provided.
 3. The seating area on the public sidewalk shall only be limited to the area directly in front of the permitted restaurant use to which the seating area is accessory and shall not extend into adjoining sites. Seating may also be permitted within the front, side and rear yard area of the lot.
 4. The seating area shall be kept free of debris and litter. Written procedures for cleaning and trash containment and removal must be submitted.
 5. Tables, chairs, umbrellas, canopies, planters, waste receptacles, and other street furniture shall be compatible with the architectural character of the principal building.
 6. Outdoor dining, including any canopies or covers associated with such dining, shall be permitted within the required setback. Said canopies or covers may be affixed to the ground.
 7. Except as provided above, all fixtures and furnishings in the outdoor dining area including, but not limited to, tables, chairs, bar, server stations, and sources of heat shall be portable and not affixed to the ground, building, or other permanent structures. Permanent railings or fences may be permitted only where and to the extent that the building code requires an affixed fence for safety purposes. Permanent attachment of railings must be approved by the building department and permit emergency egress.
 8. The hours of operation of outdoor dining shall not extend past the normal operating hours of the main use, the restaurant.
 9. No sound or audio or video entertainment, including but not limited to television or radio playing of music and/or sports events, may be piped into, or played so as to be visible or audible from the outdoor dining area before 9:00 a.m. or after 11:00 p.m. on Fridays and Saturdays and before 9:00 a.m. or after 10:00 p.m. on Sundays through Thursdays.
 10. Outdoor amplification is not permitted.
 11. Outdoor dining areas shall not have permanent fixtures, tables or seating.
 12. Tables, seating, barriers, and other furniture may be required to be removed at the end of every business day, if identified as a condition of the outdoor dining permit.
 13. Heating is permitted in outdoor dining areas. Heaters must be portable and be removed at the end of every business day.
 14. Outdoor grills are not permitted in outdoor dining areas.
 15. Outdoor dining areas shall follow any other applicable zoning regulations, such as signs, etc.
 16. Outdoor cafes provide an alternative to sitting inside but are not intended to be permanent expansions of a restaurant's capacity.
 17. Additional signage may not be permitted.
 18. Lighting in the outdoor dining area must meet lighting standards as specified in [Article 19](#).
 19. Requests for outdoor dining shall include submission of a sketch plan to determine compliance with the above requirements. The request may be administratively approved by the zoning administrator and building department. At the time of approval, a performance guarantee is required that provides liability coverage in an amount determined by the city.
- B. *Outdoor dining on private property.*
1. Outdoor dining is allowed by permit subject to approval by the zoning administrator.
 2. Permanent fences or barriers may be installed where safety is a concern or where such permanence is required by building code. They shall be shown on all applications and permits.
 3. The hours of operation of outdoor dining shall not extend past the normal operating hours of the main use, the restaurant.
 4. Outdoor dining located in side or rear yards, abutting or across from a residential district, shall not operate before 9:00 a.m. or after 11:00 p.m.
 5. No sound or audio or video entertainment, including but not limited to television or radio playing of music and/or sports events, may be piped into, or played so as to be visible or audible from the outdoor dining area before 9:00 a.m. or after 11:00 p.m. on Fridays and Saturdays and before 9:00 a.m. or after 10:00 p.m. on Sundays through Thursdays.
 6. The seating in an outdoor dining area must be accessible to people with disabilities. Americans with Disabilities Act (ADA) accessibility

requirements must be met within the outdoor dining area. Five percent, or at least one, of the seating spaces in the outdoor dining area must be accessible to people with disabilities. An accessible route connecting the outdoor dining area, the business entrance, and the restrooms must be provided.

Lighting in the outdoor dining area must meet lighting standards as specified in Article 27.

(Ord. No. 401, § 3, 5-11-09, eff. 6-15-09; Ord. No. 434, § 10, 10-8-18; Ord. No. 440, §§ 1, 10, 6-10-19)

Section 13.01. - Temporary structures and uses.

A. *Temporary structures used for residential purposes:* A building or structure may be approved for temporary residential use only while damage to the principal dwelling due to fire, flood, ice, wind, or other natural disaster is being repaired. Any such temporary building shall not be used as a residence without prior review and approval by the zoning administrator.

Also, a manufactured dwelling unit or other approved living quarters may be occupied as a residence on a temporary basis on sites for which a building permit has been issued for construction, major repair, or remodeling of a new dwelling unit, subject to the following:

1. An occupancy permit is issued by the zoning administrator for the temporary residence.
 2. Such permits may be issued by the zoning administrator for up to six months in duration and may be renewed for periods of up to six months, provided that work is proceeding in an expeditious manner.
 3. Temporary structures shall comply with the setback standards for the district in which they are located.
 4. The zoning administrator shall approve electrical and utility connections to any temporary structure.
 5. An approved temporary structure may be moved onto a site 14 days prior to commencement of construction and shall be removed within 14 days following issuance of a certificate of occupancy for the permanent dwelling.
- B. *Performance guarantee:* The applicant shall furnish the city with a performance guarantee to assure removal of the temporary structure.
- C. *Temporary structures used for non-residential purposes:* Temporary buildings for non-residential use, including semi-trucks/trailers and concrete batch plants, shall be permitted only when the intended use is by a contractor or builder in conjunction with a construction project, and only after review and approval by the zoning administrator. Such temporary structures shall be removed immediately upon completion of the construction project and prior to a request for a certificate of occupancy for the project.
- D. *Permits:* Permits for the utilization of temporary structures shall be issued by the zoning administrator. The permit shall specify a date for the removal of the temporary structure, and the zoning administrator may require posting of a bond to ensure removal. A certificate of occupancy shall be required for such structures.
- E. *Use as an accessory structure:* A temporary building or structure shall not be used as an accessory building or structure, except as permitted herein.
- F. *Special events and other temporary uses:* The zoning administrator may grant temporary use of land and structures for special events and other temporary uses, subject to the following general conditions:
1. Adequate off-street parking shall be provided.
 2. The applicant shall specify the exact duration of the temporary use.
 3. Electrical and utility connections shall be approved by the zoning administrator.
 4. A performance bond may be required to assure proper clean-up.
 5. Review by police and fire administrators.
 6. Approval of other applicable government agencies to ensure compliance with applicable health and safety regulations and standards.
- G. *Specific temporary use conditions:* The following conditions apply to specific temporary uses:
1. *Carnival, circus, or festival:*
 - a) *Maximum duration:* Ten days.
 - b) *Operator, sponsor or beneficiary:* Charitable entity.
 - c) City council approval required.
 2. *Sidewalk display and sales:*
 - a) *Maximum duration:* 90 days.
 - b) *Location:* In commercial districts only.
 - c) *Sidewalk coverage:* Shall not cover more than 50 percent of the width of the sidewalk.
 - d) Zoning administrator approval required.
 3. *Christmas tree sales:*
 - a) *Maximum duration:* 45 days.
 - b) *Clean-up:* Stumps, branches, and other debris shall be completely removed from site.
 - c) Zoning administrator approval required.

4. *Roadside stands*: See section 22.09(A)(40).

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 13.02. - Regulations applicable to manufactured dwellings outside of manufactured home communities.

Any manufactured home, constructed and erected on a lot outside a manufactured home community, shall be permitted only if it complies with all of the following requirements:

- A. *Manufactured homes*: If the dwelling unit is a manufactured home, it must either be:
 1. New and certified by the manufacturer and/or appropriate inspection agency as meeting the Manufactured Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development, as amended, the International Building Code, and any similar successor or replacement standards which may be promulgated.
 2. Used and certified by the manufacturer and/or appropriate inspection agency as meeting the standards referenced in subsection (1) above, and found, on inspection by the zoning administrator or his designee, to be in excellent condition and safe and fit for residential occupancy.
- B. *Manufactured home installation*: If the dwelling unit is a manufactured home, it shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the building site by an anchoring system or device complying with the rules and regulations, as amended, of the Michigan Manufactured Home Commission, or any similar or successor agency having regulatory responsibility for manufactured home parks or manufactured housing communities. The wheels and tongue shall be removed.
- C. *Garage*. A manufactured home must be provided with a detached or attached garage.
- D. *Compliance with other codes*: The dwelling unit shall comply with all applicable building, electrical, plumbing, fire, energy, and other similar codes adopted by the city, provided, that where a dwelling unit 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 more strict than those imposed by city codes, then and such federal or state standards or regulations shall apply. Appropriate evidence of compliance with such standards or regulations shall be provided to the zoning administrator.
- E. *Compliance with bulk and area requirements*: The dwelling unit and lot on which it is located shall comply with all restrictions and requirements of this ordinance, including, without limitation, the minimum lot area, minimum lot width, minimum residential floor area, yard requirements, and maximum building height requirements of the zoning district in which it is located.
- F. *Dwelling size and design*: The dwelling unit shall meet the following standards:
 - (1) Minimum width of 24 feet.
 - (2) A shingled pitched roof with a minimum slope of 3:1.
 - (3) Exterior materials and overhangs to eaves relationship similar to other homes in the vicinity.
- G. *Anchoring*: The dwelling unit shall be firmly attached to a permanent continuous foundation constructed on the building site. Such foundation must have a wall of the same perimeter dimensions as the dwelling unit and be constructed of such materials and type as required by the building code for on-site constructed one-family dwellings. The dwelling unit foundation and skirting shall fully enclose the chassis, and undercarriage.
- H. *Storage*: A storage area not less than 120 square feet in area shall be provided within a building. This storage area may consist of a basement, attic, or attached garage in a principal building, or in a detached accessory building which is in compliance with all other applicable provisions of this ordinance pertaining to accessory buildings.
- I. *Steps and porches*: Permanently attached steps or porch areas at least three feet in width shall be provided where there is an elevation difference greater than eight inches between the first floor entry of the dwelling unit and the adjacent grade. Railings shall be provided in accordance with the city building code.
- J. *Exterior finish*: The exterior finish of the dwelling unit shall not cause glare or reflection that is greater than that from siding coated with clean, white, gloss exterior enamel.
- K. *Additions*: The dwelling unit shall not contain any additions of rooms or other areas which are not constructed with similar quality workmanship and materials as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
- L. *Modification*: The above standards may be modified by the zoning administrator upon determination that the proposed design is consistent with the predominant standard in the surrounding area.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 13.03. - Regulations for infill housing for existing neighborhoods.

- A. *Intent*: The development regulations contained herein are intended to regulate the character of new infill housing development in certain areas of the city which contain traditional and historic exterior design elements. The purpose of these regulations is to promote harmony in neighborhoods between new housing units and the existing buildings by assuring that new construction is of suitable character in terms of site layout, building dimensions, architectural design, and building materials.
- B. *Procedure*:

1. All building permit applications for new one-family and two-family housing development must be submitted to the zoning administrator for approval.
 2. The zoning administrator shall have final approval on any applicable infill housing development. However, the zoning administrator may refer applications to the planning commission for final approval.
- C. *Site design and architectural standards for single- and two-family dwellings:*
1. *Lot coverage:* The lot coverage of any proposed dwelling unit shall be no less than 90 percent and no more than 135 percent of the lot coverage of other one-family or two-family dwelling units within 300 feet of the subject lot, including dwelling units on both sides of the street of the same block. To avoid a skewed average, the zoning administrator has the discretion to eliminate from the average calculation a lot coverage figure that is more than 200 percent of the lot coverage requirement for the district.
 2. *Front yard setbacks:* The front and side yard setbacks of any proposed one-family or two-family dwelling unit shall be no less than 90 percent and no more than 135 percent of the average established front setback of other one-family or two-family dwelling units on the same side of the street, within 300 feet of the side lot lines of the subject lot, but in no case shall the setback be less than the minimum setback by the district. To avoid a skewed average, the zoning administrator has the discretion to eliminate from the average calculation a front yard setback figure that is more than 200 percent of the lot coverage requirement for the district.
 3. *Building appearance:* Building appearance for new one-family and two-family dwelling units shall reflect a continuity of design with surrounding buildings by maintaining the architectural styles, details, building materials, and design themes of dwelling units on both sides of the street within 300 feet of the subject lot. Similarity and compatibility with surrounding dwelling units in terms of the following features may be necessary in order to meet this requirement:
 - a) Roof and overhang style (e.g., gable, mansard, hip, A-frame, flat).
 - b) Façade appearance (door and window openings).
 - c) Building massing and height.
 - d) Exterior building materials.
 - e) Porches.
 - f) Detached garage style and design.
 4. *Basements.* That the structure shall be firmly attached to a permanent basement foundation constructed on the site in accordance with the City Building Code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such material and type as required in the applicable building code for single-family and two-family dwellings. In the event that the dwelling is a mobile home, modular home, or pre-constructed home, then such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission and shall have a perimeter wall as required above.

(Ord. No. 440, §§ 1, 10, 6-10-19; Ord. No. 454, §§ 1, 2, 9-13-21)

Section 13.04. - Performance standards.

No use or activity in a non-residential zoning district shall be permitted to create noxious odors, noises, particulates, radiation or vibrations in such quantities or intensities so as to constitute a nuisance, unreasonable annoyance or hazard outside of the subject property.

- A. *Smoke:* It shall be unlawful for any person, firm or corporation, to permit the emission of any smoke from any source whatever that constitutes a nuisance.
- B. *Dust, dirt and fly ash:* No person, firm or corporation shall operate or cause to be operated, maintained or cause to be maintained, any process for any purpose, or furnace or combustion device for the burning of coal or other natural or synthetic fuels, which creates a nuisance, unreasonable annoyance or hazard.
- C. *Open storage:* Open storage shall be screened from public view, from a public street and from adjoining properties by an enclosure consisting of a wall not less than the height of the materials or equipment to be stored. Whenever such open storage is adjacent to, or across the street from, a residential zone, there shall be provided an obscuring masonry wall or wood fence as provided by Article 20. Such masonry wall or wood fence shall be repaired, maintained and kept in good condition by the owners.
- D. *Glare and radioactive materials:*
 1. *Glare:* Glare, whether direct or reflected, such as from floodlights or high temperature processes, and as differentiated from general illumination, shall not be visible at any property line.
 2. *Nuclear radiation:* Research operations shall cause no dangerous radiation at any property line as specified by the regulations of the United States Atomic Energy Commission.
 3. *Electrical emissions:* Any electrical emissions shall not adversely affect at any point any operations or any equipment, including not only professional research equipment but also equipment reserved for personal uses such as reception or public radio transmissions, use of cellular phones, etc., except equipment belonging to the creator of the radiation.
 4. *Lighting:* Exterior lighting, except for overhead street lighting and warning, emergency or traffic signals, shall be installed in such a manner that

the light source will be sufficiently obscured to prevent glare on public streets and walkways or into any residential area.

- E. *Fire and explosive hazards*: The storage and handling of flammable liquids, liquefied petroleum, gases, and explosives shall comply with the state rules and regulations as established by the Michigan Zoning Enabling Act (Public Act 110 of 2006).
- F. *Noise*: The emission of noises in such intensities that constitute a nuisance shall be prohibited.
- G. *Odors*: Creation of nuisance odors shall be prohibited.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 13.05. - Use restrictions.

No portion of a lot or parcel once used in complying with the provisions of this ordinance for yards, lot area per family, density as for a development in the Multiple-Family District, or percentage of lot occupancy, in connection with an existing or proposed building or structure, shall again be used as part of the lot or parcel required in connection with any other building or structure existing or intended to exist at the same time.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 13.06. - Similar use determination.

This ordinance acknowledges that all potential uses of land cannot be specifically identified in the zoning districts. A land use which is not cited by name in a zoning district may be permitted upon determination by the planning commission that the use is clearly similar in nature and compatible with the principal uses permitted, special land use, or as a permitted accessory use listed in that district. This determination shall be made at a public hearing, with required notice given. The public hearing shall not replace the requirement for a separate public hearing to consider special land use approval, following the procedures and requirements of [Article 22](#), if the use is determined to be a special land use. The applicant shall be required to submit pertinent information on the physical and operational characteristics of the proposed use and any additional information that may be requested by the planning commission. In making a determination of similarity and compatibility with the listed uses in that district, the planning commission shall consider the following:

- A. *Determination of compatibility*: In making the determination of compatibility, the planning commission shall consider specific characteristics of the use in question and compare such characteristics with those of the uses which are expressly permitted by right or special land use in the district. Such characteristics shall include, but are not limited to, traffic generation, generation of nuisances, parking, types of service offered, types of goods produced, methods of operation, and building characteristics.
- B. *Method by which use may be permitted*: If the planning commission determines that the proposed use is compatible with permitted uses in the district, the planning commission shall decide whether the proposed use is most similar to those permitted by right, as a special land use, or as a permitted accessory use. The proposed use shall be subject to the review and approval requirements for the district in which it is located. The planning commission shall have the authority to establish additional standards and conditions under which a use may be permitted in a district.
- C. *Use provided for in other district*: No use shall be permitted in a district under the terms of this section if that use is specifically listed as a use permitted by right or as a special land use in any other district.
- D. *Prohibited uses*: Certain uses may not be appropriate within the city given the existing development pattern, environmental conditions, and overall character in the community. All uses not permitted are prohibited. In finding that there is no appropriate location for the use within the city, the planning commission shall consider the following:
 1. The land area required by the proposed use.
 2. Existing environmental conditions and potential environmental hazards.
 3. The potential impact on surrounding properties in terms of traffic, noise, lighting, property valuation, and views.
 4. Demand and capacity of utilities and municipal services to support the proposed use.
 5. The applicant cannot demonstrate to the satisfaction of the planning commission that there is not an alternative land use that will provide the property owner with a reasonable rate of return on investment.
- E. In the event that an applicant for a similar use determination is not satisfied with the ruling of the planning commission, he/she may appeal the planning commission's ruling to the zoning board of appeals.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 13.07. - Home occupations.

- A. *Intent*: It is the intent of this section to allow for and regulate the establishment of home occupations that are compatible with the neighborhood in which they are located and which will preserve the peace, quiet, and domestic tranquility within all residential districts in the city.
- B. *Conditions*: Home occupations may be permitted subject to the following conditions:
 1. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes, and not more than 20 percent of the habitable floor area of the dwelling unit may be used for the purposes of the home occupation.

A home occupation, including storage of materials and goods, shall be entirely conducted within the confines of the dwelling unit.

2. There shall be no change in the outside appearance of the structure or premises, or other visible evidence of conduct of the home occupation, and there shall be no external or internal alterations that are not customary in residential areas.
 3. Unless specifically otherwise provided herein, no article shall be sold or offered for sale on the premises except as prepared within the dwelling or accessory building or is provided as incidental to the service or profession conducted therein. A retail showroom, sales area, outlet, or similar facility is prohibited.
 4. Traffic generated by such operation shall not be greater than that for normal residential purposes.
 5. No equipment or process shall be used in the home occupation that creates noise, vibration, glare, fumes, odor, or electrical interference that are nuisances to persons off the lot. Any electrical equipment or process which creates visual or audible interference with any radio or television receivers off the premises or which cause fluctuations in line voltages off the premises shall be prohibited.
 6. No outdoor display and/or storage of materials, goods, supplies, or equipment used in the home occupation shall be permitted on the premises with the exception of one commercial vehicle or trailer and/or trailer combination.
 7. Any necessary parking spaces for vehicles generated by the conduct of the home occupation shall be provided off the road.
 8. A permit and fee is required once every two years.
 9. No employees other than occupants of the premises shall be engaged in such occupation. The operator of a home occupation shall reside within the same dwelling unit in which the activity is conducted.
 10. In no way shall the appearance of the structure be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, or the emission of sounds, noises, or vibrations.
 11. The home occupation shall not exceed 20 percent of the habitable floor area of the dwelling unit. Habitable floor area of a dwelling unit shall include the floor area of all heated and ventilated (habitable) rooms and areas within the dwelling unit including basements and habitable attic space. Further, the use shall not exceed 400 square feet and at least 850 square feet of the dwelling unit must remain in residential use.
 12. There shall be no outside or visible storage of any kind related to the home occupation.
 13. No equipment or process shall be used in a home occupation which creates noise, vibration, glare, fumes, heat, dust, odors, or electrical interference detectable to the normal senses off the lot. The production, storage or dumping of combustible, hazardous materials, or toxic substances on the property is prohibited.
 14. No use shall require internal or external alterations or involve construction features or the use of electrical or mechanical equipment that would change the fire rating of the structure or the fire district in which the structure is located.
 15. In order to preserve the residential appearance and character of a neighborhood, signs and window or yard displays of merchandise for sale or trade shall not be permitted.
 16. The home occupation may increase vehicular traffic and parking only such that no more than two additional vehicles other than those owned and operated by the resident family, are parked on the subject parcel at any time. The use shall not necessitate, or result in, on-street parking of vehicles. Parking shall not be permitted in the front yard.
 17. The pickup and delivery of goods in connection with the home occupation shall not exceed one pickup and one delivery each day (between the hours of 6:00 a.m. and 8:00 p.m.) and shall be restricted to the use of a vehicle having a gross vehicle weight of 14,000 pounds or less.
 18. No home occupation shall cause an increase in the use of any one or more utilities (water, sewer, electricity, trash removal, etc.) such that the combined total use for the dwelling unit and home occupation exceeds by more than ten percent the average for the residence itself, measured over the previous 12-month period.
- C. *Procedure:* A person may request a home occupation permit by:
1. Submitting to the zoning administrator an application for a home occupation permit on forms to be provided by the zoning administrator.
 2. If the zoning administrator finds the application to be complete, and all conditions are met, a home occupation permit shall be issued by the zoning administrator.
 3. The home occupation permit shall be renewed every two years, subject to review and approval by the zoning administrator.
- D. *Prohibited home occupations:* The following uses are not permitted as home occupations:
1. Stables or kennels.
 2. Automobile body repair, machine shop or any similar business.
 3. Animal hospitals.
 4. Welding service.
 5. Funeral parlors or undertaking establishments.
 6. Antique shops.
 7. Rooming houses and tourist homes.
 8. Dancing schools.

- 9. Contractors, such as building construction, electrical, plumbing landscaping, lawn mowing, masonry, snow plowing, excavating, and similar businesses.
 - 10. Trailer rental.
 - 11. Private clubs.
 - 12. Restaurants and tea rooms.
 - 13. Repair shops of any kind that may create nuisance factors.
 - 14. Repair, maintenance, painting service, and storage of automobiles, machinery, tools, trucks, boats, recreational vehicles and similar items.
 - 15. Utility and public service buildings.
 - 16. Any proposed home occupation neither specifically permitted above, nor specifically prohibited above, shall be reviewed as a special land use. The city council may establish appropriate standards for the operation of such special land use to meet the standards of the ordinance. The council may determine, after public hearing, that a use not specifically mentioned above that has similar negative impacts as one or more of the uses above is also not permitted.
- E. *Required application information:* A site plan and a home occupation information sheet shall accompany a permit application for a home occupation. Issuance of home occupation permit shall be based on the site plan. For purposes of this section, the site plan shall illustrate at a minimum, the following:
- 1. Dimensions of a subject parcel.
 - 2. Dimensions of the building in which the home occupation is proposed.
 - 3. Dimensions of the exact area which is to be utilized for the home occupation.
 - 4. Location of exterior doors.
 - 5. The proposed location and dimensions of the parking area.
- F. *Voiding of permit:* Home occupations may be monitored and reviewed to ensure that they are operated in compliance with the requirements herein or any conditions stipulated in their approval. Non-compliance with the requirements herein and/or the conditions of approval relating to the permit for a home occupation shall constitute grounds for the zoning administrator to terminate said permit.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 13.08. - Adult and child care facilities.

A. Adult and child care facilities, as defined in Article 2, are allowed only as provided for in the following table. Applicable conditions are listed as notes to the table.

Adult and Child Care Facilities Regulations				
Type of Facility	Zoning District			
	R-1, R-2 & R-3	R-4	RM-1	NBD, BD, CBD, O-1, I-1
Adult Day Care Facilities	SLUs accessory	SLU accessory	SLU	NA
Adult Foster Care Family Home (6 or fewer adults 24 hours per day) (1, 2, 3, 4, 5)	P	P	P	NA
Adult Foster Care Small Group Home (12 or fewer adults 24 hours per day) (1, 2, 3, 4, 5, 9)	SLU	SLU	SLU	NA
Adult Foster Care Large Group Home (13 to 20 adults 24 hours per day) (1, 2, 3, 4, 5, 9)	NA	NA	SLU	NA
Adult Foster Care Congregate Facility (more than 20 adults 24 hours per day) (1, 2, 3, 4, 5, 9)	NA	NA	SLU	NA
Foster Family Home (4 or fewer children 24 hours per day)	P	P	P	NA

Foster Family Group Home (5 to 6 children 24 hours per day) (1, 2, 3, 4, 5)	P	P	NA	NA
Family Day Care Home (6 or fewer children less than 24 hrs. per day) (1, 2, 3, 4, 5, 6, 7, 8, 10)	P	P	NA	NA
Group Day Care Home (7 to 12 children less than 24 hours per day) (1, 2, 3, 4, 5, 6, 7, 8, 9, 10)	SLU	SLU	NA	NA
Child Day Care Center (more than 6 children less than 24 hours per day) (1, 2, 3, 4, 5, 6, 7, 8, 9)	SLU as accessory	SLU as accessory	SLU	SLU

P: Permitted use.

SLU: May be allowed upon review and approval of a special land use, in accordance with the general standards in Article 30.

SLU as accessory: May be allowed as an accessory to an approved use, such as a church, school, office, or other place of employment, upon review and approval of a special land use.

NA: Not allowed in zoning district.

Notes:

1. The use shall be registered with the city clerk's office and shall continually have on file with the city documentation of a valid license as required by the state.
 2. Since the state law preempts in this area, the facility shall be brought into compliance with all state building and fire codes pursuant to State Licensing Rules R400.1831—R400.1835. Documentation of such compliance with State requirements shall be provided.
 3. The site shall comply with the sign provisions of the city's sign ordinance.
 4. Off-street parking shall be provided for the maximum number of employees on-site at any one time.
 5. The building shall have an appearance which is non-intrusive and consistent in color, materials, roof-line, and architecture with the one-family or Multiple-Family Residential District in which it is located, as determined by the planning commission.
 6. Documentation of sufficient indoor classroom, crib, or play area meeting state requirements shall be provided. Documentation of approved areas, as licensed by the state, shall be provided.
 7. There shall be sufficient outdoor play area to meet state regulations. All required outdoor play areas shall be fenced with a four-foot tall fence, provided that no fenced outdoor play area shall be located in a front yard.
 8. There shall be sufficient drop-off parking spaces to allow maneuvers without creating a hazard to traffic flow.
 9. The lot shall be at least 1,500 feet from another group day care home or similar facility. This may be reduced by the planning commission upon a finding by the planning commission that the proposed facility will not contribute to an excessive concentration of state licensed residential care facilities in the area.
 10. The facility shall operate not more than 16 hours per day.
- B. A state-licensed residential adult or child care facility existing prior to the effective date of this ordinance that has been operating under a valid state license and is registered with the city no later than 60 days following the effective date of this ordinance, shall be considered an approved special land use, provided such use conforms with the conditions of this section. Any change in class of the use to a larger care facility shall require approval in accordance with the requirements of this ordinance.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 13.09. - Swimming pools.

- A. *Requirement for fence:* Every person owning land on which there is located a pool shall erect and maintain thereon a fence or enclosure approved by the building official in conformance with the City Building Code.
- B. *Restriction from front yard:* Swimming pools, spas, hot tubs and similar devices shall not be located in any front yard.
- C. *Spacing:* There shall be a minimum distance of not less than ten feet between the adjoining property line and the outside of the pool wall. The required side yard setbacks of the zoning district shall apply to side yards if greater than ten feet. There shall be a minimum distance of not less than four feet

between the outside edge of the pool wall and any building located on the same lot.

- D. *Surrounding walk*: All public swimming pools shall be surrounded by a slip resistant walk at least four feet wide.
- E. *Permits*: Construction shall be in accordance with the city building code. Permits shall be applied for and issued from the zoning administrator prior to excavation or construction of any swimming pool, spa, hot tub or similar device requiring a fence as noted above. The application shall be accompanied by a complete set of plans and specifications. A final inspection and approval from the zoning administrator must be obtained prior to use of the swimming pool.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 13.10. - Fences and hedges.

- (A) A fence is defined as any partition, structure or gate that is erected as a dividing marker, barrier or enclosure (excluding hedges as defined below).
- (B) A hedge is defined as any bush, shrub or any living green screen of any nature that serves as a dividing marker, barrier or enclosure.
- (C) Regulations applicable to R-1, R-2, R-3, R-4, RM-1, PMSHDD, PUD, O-1, CBD, NBD, and GBD.
1. A fence shall not exceed six feet in height in the rear or side lot of any parcel.
 2. Front yard fences or hedges must be less than 50 percent solid, impervious, or of an obscuring nature above a height of 30 inches above the curb or centerline of the street, and not exceed four feet in total height. Front yard fences may not be constructed of chain link fence unless such fence is coated or sealed to prevent rusting, such as vinyl coated fencing.
 3. Fences and hedges in front yards that function as exterior side yards must follow front yard height restrictions unless the fence or hedge is installed or planted in the following manner:
 - (a) The fence is at least 25 feet back from the intersection of the front yard and side yard right-of-way lines, and
 - (b) The fence is at least 20 feet back from the intersection of any driveway or alley with that of a street, and
 - (c) The fence is at least ten feet back from the intersection of any driveway or alley with that of a sidewalk.
 4. No fence or hedge shall extend across property lines.
 5. The finished side of any fence shall face away from the property on which the fence is located.
 6. No portion of any fence shall be constructed with or contain barbed wire, electric current or charge of electricity, glass, spikes or other sharp protruding objects.
 7. Fences must be maintained so as not to endanger life or property. Any fence which, through lack of maintenance or type of construction which will obstruct vision so to create a hazard to vehicular traffic or pedestrians upon the public streets and/or sidewalks shall be deemed a nuisance.
 8. Fences shall not be constructed, in whole or in part, with any of the following materials:
 - (a) Junk or other debris;
 - (b) Scrap building materials or metals;
 - (c) Organic materials known to be poisonous or hazardous to human or animal life;
 - (d) Materials which may be deemed unsafe to person or property by the zoning administrator or building official.
 9. No hedge shall be constructed with noxious weeds or grasses, as defined by PA 359 of 1941, being MCL 247.62.
- (D) Regulations applicable to industrial districts.
1. Fences, walls and screens are permitted in the required front, side and rear lots provided they do not exceed six feet in the front yard and eight feet in the side and rear lots. To preserve open space and aesthetic character in the front yard, fences higher than four feet must be setback two feet for each additional foot above four feet and all front yard fences must be black vinyl chain link or decorative in nature.
 2. In the I-2 zoning district, barbed wire strands are permitted on fences six feet or higher on industrial parcels with the barbed wire tilted in toward the fenced parcel.
 3. On any corner lot, no fence, wall or screen, whether structural or botanical, shall be more than 30 inches above the curb or the centerline of the street pavement within 25 feet of the intersection of the two right-of-way lines, so as to interfere with motorists' vision across the corner.
- (E) The zoning administrator or building official may require removal, reconstruction, or repair of any fence or wall which, in their judgment is dilapidated, unsafe, or a threat to the health, safety and welfare of the residents of the City of Swartz Creek.
- (F) A permit shall be required for new fence construction, with a fee to be prescribed by resolution of the council.

(Ord. No. 401, § 4, 5-11-09, eff. 6-15-09; Ord. No. 422, § 1, 10-12-15; Ord. No. 440, §§ 1, 10, 6-10-19)

Section 13.11. - Flagpoles.

- (A) The maximum height of flagpoles shall not exceed 40 feet measured from the average surrounding grade.
- (B) A maximum of three flagpoles per site shall be permitted.
- (C) Flagpoles shall be set back a minimum of ten feet from any public right-of-way, private road, access easement, access drive, or property line.

(D) A maximum of two flags per flagpole shall be permitted provided that only one non-governmental or institutional flag per flagpole is allowed.

(Ord. No. 401, § 5, 5-11-09, eff. 6-15-09; Ord. No. 440, §§ 1, 10, 6-10-19)

Section 13.12. - Mechanical equipment and utilities.

- (A) Ground mounted mechanical equipment, such as blowers, ventilating fans, and air conditioning units, are permitted only in non-required side yards and in any rear yard, as determined by the building official/zoning administrator.
- (B) Mechanical equipment shall be placed no closer than three feet to any lot line in the CBD.
- (C) Any ground, building, or roof mounted mechanical equipment or utilities, including water and gas meters or related devices, utility boxes, transformers, elevator housings, stairways, tanks, heating, ventilation and air condition equipment (HVAC), and other similar equipment, shall comply with the following standards.
 1. All such equipment shall be screened by a solid wall, fence, landscaping, and/or architectural features that are compatible in appearances with the principal building.
 2. Roof mounted equipment shall not exceed a height of ten feet above the surrounding roof surface, and shall occupy no more than 15 percent of the total roof area. All roof mounted mechanical units must be screened so they are not visible from ground level.

(Ord. No. 401, § 5, 5-11-09, eff. 6-15-09; Ord. No. 440, §§ 1, 10, 6-10-19)

Section 13.13. - Ponds.

(A) *Definition.*

Pond, Accessory Use: A facility (natural or excavated) capable of holding 24 inches or more of water, with an area larger than 100 square feet. Such basins are intended to be an accessory use to improved property and have aesthetic or intrinsic value as a water resource. Such basins are not intended for storm water management and may or may not have an outlet.

(B) *Application and review procedures.*

1. Application shall be made to the city zoning administrator. Applications shall contain the following information:
 - a. Name and address of the applicant.
 - b. Legal description of the property upon which the pond will be established.
 - c. Site plan submitted in accordance with article XXI, Site Plan Review.
2. Evidence shall also be presented at the time of application that the Genesee County Drain Commission and Michigan Department of Environmental Quality have granted the necessary permits and/or approvals to the applicant for the construction of the pond or have released the applicant from any obligation thereto.
3. The applicant shall also, at the discretion of the building official or zoning administrator at the time of application, provide evidence from a licensed excavator, civil engineer, or similar allied professional that water can be continuously maintained in the pond once it is constructed, that the drainage pattern of the site will preclude drainage of water onto adjacent property or toward buildings, and that the natural or manmade drainage pattern of the area will remain unaffected.
4. The zoning administrator may require full site plan review by the planning commission at his or her discretion.

(C) *Requirements.*

1. Ponds shall be an accessory use.
2. The minimum lot size for any pond shall be 1.5 acres.
3. The minimum setback distance for the pond shall be a minimum of 50 feet from any property line or right-of-way line. A pond may cross a property line only when all properties are owned by the applicant or upon submittal of an easement allowing such occupation.
4. There shall be a horizontal distance of not less than 25 feet from any overhead transmission lines.
5. The pond shall not have a slope steeper than one to three (1:3) for the first ten feet around the perimeter of the pond.
6. All areas disturbed during construction shall be seeded with grasses and maintained in good condition to prevent erosion.
7. The zoning administrator or planning commission may, at its discretion, require the installation of a fence not less than four feet in height to protect the health, safety, and welfare of the property owners and/or tenants, neighboring uses, and residents.
8. No pond is to be located closer than 25 feet to a building, septic fields, or property easements.
9. All materials removed as a result of the pond excavation must be retained on-site and distributed about the property so as to not disturb or redirect the natural flow of water and drainage of the property. The Building Official may require a plan submitted for a pond include drawings showing adequate methods to prevent overflow of water onto adjacent properties or rights-of-way.

(D) *Fees required.*

1. Fees shall correspond to the standard Zoning Permit fee for administrative reviews and the applicable Site Plan Review fee for full site plan review by the planning commission, as set by the City Council.

2. The zoning administrator, building official, or planning commission may require posting of a performance bond or other surety to cover the estimated cost of completion or removal of the pond facility.

(Ord. No. 456, § 1, 11-8-21)

Article 14. - SIGN REGULATIONS

Footnotes:

-- (11) --

Editor's note— Ord. No. 440, §§ 1, and 10, adopted June 10, 2019, repealed the former Art. 14, §§ 14.00—14.04, and renumbered Art. 21 §§ 21.00—21.14 as Art. 14 §§ 14.00—14.14, as set out herein. The former Art. 14 pertained to the GBD, General Business District and derived from Ord. No. 395, adopted August 15, 2006; Ord. No. 407, § 2, adopted May 24, 2011; Ord. No. 431, § 2, adopted Dec. 12, 2016; and Ord. No. 434, § 6, adopted Oct. 8, 2018.

Section 14.00. - Signs intent and applicability.

The intent of this article is to regulate signs and to minimize outdoor advertising within the city so as to protect public safety, health, and welfare; minimize abundance, intensity (as it relates to the use of light, movement, reflection, and color), and size of signs to reduce visual clutter, motorist distraction, and loss of sight distances; promote public convenience; preserve property values; support and complement land use objectives as set forth in the City of Swartz Creek Master Plan and this ordinance; and enhance the aesthetic appearance and quality of life within the city. The standards contained herein are intended to be content neutral.

These objectives are accomplished by establishing the minimum amount of regulations necessary concerning the size, placement, construction, illumination, and other aspects of signs in the city so as to:

- A. Recognize that the proliferation of signs is unduly distracting to motorists and nonmotorized travelers, reduces the effectiveness of signs directing and informing the public, creates confusion, reduces optimum uniform traffic flow, and creates potential for traffic incidents.
- B. Prevent signs that are potentially dangerous to the public due to structural deficiencies or disrepair.
- C. Reduce physical and visual obstructions due to a proliferation of signs which would diminish the city's character, property values, and quality of life.
- D. Serve the public interest of and satisfy the principal intent of commercial signs which is to identify establishments on the premises, and not advertise special events, branding, or off-premises activity.
- E. Enable the public to locate goods, services, and facilities without excessive difficulty and confusion by regulating the number and placement of signs.
- F. Regulate placement of signs so as not to obstruct or conceal signs of adjacent uses or important visual objects, such as public safety signals or hazards.
- G. Protect the public right to receive messages, especially non-commercial messages such as religious, political, economic, social, and other types of information protected by the First Amendment of the U.S. Constitution.
- H. Maintain and improve the character or image of the city and its neighborhoods by encouraging signs of consistent size and composition which are compatible with and complementary to related structures and uses, and harmonious with their surroundings.
- I. Prohibit portable commercial signs in recognition of their significant negative impact on traffic safety and aesthetics.
- J. Enhance the character of the City's Downtown Commercial and Residential Districts (CBD & R-3)
- K. Recognize the collective public benefit of individuals' need to erect temporary on-premises signs to sell real estate, hold garage sales, and express political or other speech while balancing this need with the public good by regulating the number, manner, and duration of such placement to promote less collective clutter and visual obstruction.
- L. Recognize that the City of Swartz Creek and or its affiliates are in the unique position to hold, sponsor, or sanction educational, public, or community events that require identification, notice, or posting of temporary signs. Such events include but are not limited to public hearings, public notices, workshops, or promotional community events.

(Ord. No. 401, § 6, 5-11-09, eff. 6-15-09; Ord. No. 440, §§ 1, 10, 6-10-19)

Section 14.01. - Definitions.

For the purpose of this article, the following definitions shall apply in addition to the definitions set forth in Article 2 of this ordinance:

- A. *Abandoned sign*: See "obsolete sign."
- B. *Awning or canopy*: A retractable, foldable, collapsible or fixed shelter constructed of non-rigid or rigid materials on a supporting framework that projects from the exterior wall of a building.
- C. *Awning or canopy sign*: A sign attached directly to, or painted or otherwise inscribed upon an awning or canopy.
- D. *Banner sign*: A fabric, plastic, or other temporary sign made of non-rigid material without an enclosing structural framework.



Business Center Sign

- E. *Billboard*: See off-premises sign. A structure for the permanent display of off-premises advertising. Off-premises advertising is any commercial message referring or relating to an enterprise or business that is not conducted on the premises where the sign is located.
- F. *Business center*: Any group of three or more commercial establishments which: a) are under one common ownership or management; or b) have a common arrangement for the maintenance of the grounds and are connected by party walls, partitions, covered canopies or other structural members to form one continuous structure; or c) share a common parking area; or d) otherwise present the appearance of one continuous commercial area.
- G. *Community special event sign*: Signs and banners, including decorations and displays celebrating a traditionally-accepted patriotic or religious holiday, or informing the public of community events, municipal, or school activities.
- H. *Construction sign*: A temporary sign which identifies the owners, financiers, contractors, architects, and engineers of a project under construction.



Construction Sign

- I. *Corner parcel*: See "lot, corner" in [Article 2](#), Definitions.
- J. *Day*: For the purpose of this ordinance, a calendar day rather than a business day.
- K. *Directional sign*: A sign which gives directions, instructions, or facility information for the use on the lot on which the sign is located, such as parking or exit and entrance signs.
- L. *Flashing sign*: Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such is in use. Any moving, illuminated sign shall be considered a "flashing sign."
- M. *Freestanding/pole/pylon sign*: A sign which is erected upon or supported by the ground on one or more poles, uprights or braces which do not have the appearance of a solid base.
- N. *Ground or monument sign*: A three-dimensional, self-supporting, base-mounted freestanding 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.
- O. *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 bathrooms, and signs providing information on business affiliations.
- P. *Institutional sign*: A sign, which by symbol or name identifies an institutional use permitted within a Residential Zoning District and may also provide the announcement of services or activities to be held therein.
- Q. *Major thoroughfare*: An arterial street which is intended to serve as a large volume traffic way for both the immediate municipal area and the region beyond.
- R. *Marquee*: A permanent structure constructed of rigid materials that project from the exterior wall of a building.
- S. *Marquee sign*: A sign attached directly to, or painted or otherwise inscribed upon a marquee.
- T. *Mural*: A design or representation painted or drawn on a wall which does not advertise an establishment, product, service, or activity.
- U. *Nameplate*: A non-electric on-premises identification sign giving only the name, address, and/or occupation of an occupant or group of occupants.

- V. *Obsolete sign*: A sign that advertises a product that is no longer made or that advertises a business that has closed.
- W. *Off-premises sign*: A sign which identifies a use or advertises products and services not available on the site or parcel on which the sign is located (e.g., billboards, garage sale signs, residential open house signs, business or institutional signs that are not located on the premises of the identified function).
- X. *Political sign*: A temporary sign used in connection with an expression of a political opinion or message or an official Swartz Creek, school district, county, state, or federal election or referendum sign.
- Y. *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, A-frame signs, signs mounted on vehicles for advertising purposes, hot-air and gas filled balloons, pennants, streamers, ribbons, pinwheels, non-governmental flags and searchlights.
- Z. *Poster panel signs*: A portable advertising or business ground sign constructed in such a manner as to form an "A" or a tent-like shape, hinged or not hinged at the top; each angular face held at an appropriate distance by a supporting member.
- AA. *Reader board, message board or changeable message sign*: The portion of a sign on which copy is changed manually or electronically. Electronic reader boards (ERB) are defined as a changeable message sign and further include dynamic message signs (DMS), electronic billboards (EBB), light emitting diode (LED) displays, and other similar signs.
- BB. *Real estate sign*: A temporary sign advertising the real estate upon which the sign is located as being for sale, rent, or lease.
- CC. *Roof line*: The top edge of a roof or parapet wall, whichever is higher, but excluding any cupolas, chimneys, or other minor projections.
- DD. *Roof sign*: A sign erected above the roof line of a building.
- EE. *Sign*: A device, structure, fixture, display or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying an establishment, product, service, or activity.
- FF. *Special event sign*: Temporary and portable signs containing public messages concerning special events sponsored by governmental agencies or nonprofit organizations.
- GG. *Temporary sign*: A non-commercial sign constructed of cloth, canvas, fabric, wood, plastic or other light temporary material, with or without a structural frame that is intended for short-term use; not including decorative display for holidays or public demonstration. Such signs include but are not limited to on-site real estate signs used for the purpose of advertising the premises for sale, rent or lease; on-site garage sale signs; political signs; seasonal signs; non-commercial signs which contain non-commercial information or directional messages; and construction signs.
- HH. *Wall sign*: A sign painted or attached directly to and parallel to the exterior wall of a building
- II. *Window sign*: A temporary sign installed on or inside a window and intended to be viewed from the outside.

(Ord. No. 401, § 6, 5-11-09, eff. 6-15-09; Ord. No. 440, §§ 1, 10, 6-10-19)

Section 14.02. - Exempt signs.

Subject to the conditions and requirements set forth in this section, the following signs shall be exempt from approval and permit requirements:

- A. Address numbers with a numeral height no greater than six inches for residences and 18 inches for businesses. A limit of one address sign per lot shall be permitted per residence or business. In the case of a corner lot, a maximum of two address signs may be permitted per residence or business. Address numbers on mailboxes are excluded from these requirements.
- B. Nameplates identifying the occupants of the building, not to exceed two square feet. A limit of one nameplate sign per lot shall be permitted per residence or business. In the case of a corner lot, a maximum of two nameplate signs may be permitted per residence or business.
- C. Memorial signs or tablets, names of buildings and date of erection, monumental citations, commemorative tablets carved into stone, concrete or similar material or made of bronze, aluminum or other non-combustible material and made an integral part of the structure and not exceeding 25 square feet.
- D. Signs on a bus, truck, trailer, or other vehicle while operated and used for transport in the normal course of a business.
- E. Regulatory, directional and street signs erected by a public agency in compliance with Michigan Manual of Uniform Traffic Control Devices, and the Uniform Federal Accessibility Standards and Michigan Barrier-Free Manual.
- F. Flags bearing the official design of a nation, state, municipality, educational institution, or non-profit organization.
- G. Plaques or signs designating a building as a historic structure.
- H. Incidental signs, provided that total of all such signs shall not exceed two square feet per business.
- I. Private traffic control signs which conform to the requirements of the Michigan Manual of Uniform Traffic Control Devices.
- J. Permanent signs on vending machines, gas pumps, or ice containers indicating only the contents of such devices, provided that the sign area shall not exceed six square feet per device.
- K. Menu and order boards for drive-through facilities provided such signs shall be located on the interior of the lot and not legible from adjacent properties. The placement, size, content, manner of illumination and sound level of such signs shall not constitute a traffic or pedestrian hazard and shall not be located in a front yard.

- L. Stadium signs and athletic scoreboards up to 200 square feet in total.
- M. Portable real estate "open house" signs with an area no greater than four square feet.
- N. "Help wanted" signs soliciting employees for the place of business, where posted, provided that the maximum area for all such signs shall be six square feet.
- O. Any sign which is located completely within an enclosed building and not visible from outside the building.
- P. Placards, not to exceed two square feet in area, located on top of gas station pumps.
- Q. Placards, not to exceed two square feet in area which provide notices of a public nature such as "No Trespassing," "No Hunting," "Beware of Dog" and "No Dumping" signs. Such signs shall be posted a minimum of 30 feet apart, as measured across the property line, and not include any additional further identification, advertisement, or unrelated content.
- R. Any sign that the city erects in the public right-of-way or on public property for a public purpose.

(Ord. No. 401, § 6, 5-11-09, eff. 6-15-09; Ord. No. 440, §§ 1, 10, 6-10-19)

Section 14.03. - Prohibited signs.

The following signs are prohibited in all districts:

- A. Any sign not expressly permitted.
- B. Abandoned or obsolete signs.
- C. Signs which incorporate flashing or moving lights.
- D. Banners, balloons, pennants, festoons, inflatable figures, spinners, and streamers, unless specifically permitted in this article.
- E. String lights used for commercial purposes, other than holiday decorations. Such holiday decorations are admissible only 45 days per calendar year per holiday.
- F. Moving signs, including any sign which has visible moving parts, visible revolving parts, visible mechanical movement, or other visible movement achieved by electrical, electronic, or mechanical means, including intermittent electric pulsations or movement caused by normal wind current.
- G. Any sign or sign structure which:
 - 1) Is structurally unsafe;
 - 2) Constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, or abandonment;
 - 3) Constitutes a hazard to safety or health by reason of blocking views;
 - 4) Is capable of causing electric shock to a person making contact with it;
 - 5) Is unlawfully installed, erected, or maintained;
 - 6) Is located in public street or utility right-of-way, except where expressly permitted herein; or
 - 7) Is not kept in good repair, such that it has broken parts, missing letters, or non-operational lights.
- H. Any sign erected on a tree or utility pole, except government or utility signs of a government or utility.
- I. Any sign erected within ten feet of a fire hydrant.
- J. Portable signs, except where expressly permitted in this article.
- K. Signs affixed to a parked vehicle or truck trailer which is being used principally for advertising purposes, rather than for transportation purposes, and parked in a location that is selected for that purpose (e.g., a vehicle parked close to a street in a large commercial parking lot).
- L. Any sign which obstructs vision or free access to or egress from a required door, window, fire escape, or other required exit from a building or structure.
- M. Any sign which makes use of the words "Stop," "Look," or "Danger," or any other words, phrases, symbols, or characters, in such a manner as to interfere with, mislead, or confuse traffic.
- N. Any sign which contains obscene, indecent, or immoral matter.
- O. Roof signs.
- P. Signs on canopies at gas stations, banks or other drive-through establishments except for "enter" and "exit" signs.
- Q. Signs on street furniture, such as benches and trash receptacles, except for plaques of recognition.
- R. Temporary signs no longer valid due to the sale, rental, or lease of the property; termination of identified event; or disrepair.
- S. Business logos on directional signs.
- T. Billboards.
- U. Off-premises signs.
- V. Signs placed or erected without the permission of the property owner.

(Ord. No. 401, § 6, 5-11-09, eff. 6-15-09; Ord. No. 440, §§ 1, 10, 6-10-19)

Section 14.04. - General regulations.

- A. *Sign location.* No sign, except those established by the City of Swartz Creek, Genesee County, or state or federal governments shall be located in, project or overhang into any public right-of-way or dedicated easement unless explicitly permitted herein.
- B. *Sign area.*



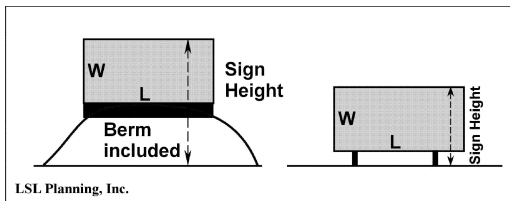
Sign Area = length x width

1. 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.
2. 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 or rectangle.
3. The area of a double-faced freestanding sign shall be computed using only one face of the sign provided that: 1) the outline and dimensions of both faces are identical, and 2) the faces are back to back so that only one face is visible at any given time.

C. *Design and construction.***Landscaped Ground Sign**

1. Signs shall be designed to be compatible with the building materials and landscaping used on the property to promote an overall unified and aesthetic effect in accordance with the standards set forth herein.
2. Signs shall not be constructed from materials that are remnants or manufactured for a different purpose.
3. Signs shall not have light reflecting backgrounds but may use light reflecting lettering.
4. All ground signs must be planted with a combination of low shrubbery and perennial/annual plantings.
5. The maximum distance between parallel sign faces on a double-faced sign shall be 20 inches.
6. The background of a multiple-tenant commercial or shopping center signs, including individual sign panels within the sign, shall be one color. However, individual businesses may have different colored lettering or advertising.
7. Every sign shall be constructed and maintained in a manner consistent with the applicable building code provisions and maintained in good structural condition at all times. All signs shall be kept neatly painted, stained, sealed or preserved including all metal, wood, plastic, and other parts and supports.
8. All signs erected, constructed, reconstructed, altered or moved shall be constructed in such a manner and of such materials so that they meet applicable building code provisions.
9. All portable signs shall be constructed and maintained by the owner in such a manner and of such materials so that they withstand environmental conditions.

D. *Sign height.*



1. The permitted height of all signs supported by the ground shall be measured from the level of the ground adjacent to the sign if the finished grade is level.
2. If the ground adjacent to the sign is not level, the height of the sign shall be measured from the average elevation of the ground in the general area surrounding the sign.
3. 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 this article (e.g., The height of signs erected on a berm shall be measured from the finished grade adjacent to the berm).

E. *Illumination.*



Front Lit Sign - Gooseneck

1. Signs shall be illuminated only by steady, stationary, shielded light sources directed solely at the sign or internal to it.
2. Use of glaring undiffused lights or bulbs shall be prohibited.
3. Lights shall be shaded so as not to project onto adjoining properties or thoroughfares.
4. Underground wiring shall be required for all illuminated signs not attached to a building.

(Ord. No. 401, § 6, 5-11-09, eff. 6-15-09; Ord. No. 440, §§ 1, 10, 6-10-19)

Section 14.05. - Specific sign type requirements.

Many of the following regulations are summarized in Table 2.

A. *Wall signs.*

1. Number of signs. One wall sign shall be permitted per street or highway frontage on each parcel. Buildings adjacent to I-69 shall be permitted one wall sign facing I-69. In the case of a multi-tenant building or shopping center, one wall sign shall be permitted for each tenant having an individual means of public access into the building. Tenants occupying a corner space in a multi-tenant structure shall be permitted to have one sign on each side of the building. Where several tenants share a common entrance in a multi-tenant structure, only one wall sign shall be permitted, but the total sign area should be allocated among the tenants.
2. Wall signs shall extend no greater than 12 inches from the exterior face of the wall to which it is attached.
3. Wall signs must be a minimum of eight feet above the ground level or the sidewalk, whichever is greater.
4. The height of wall signs shall not exceed the maximum building height specified for the district it is located in.
5. The height of wall signs shall not be higher than the building on which the sign is located.

B. *Window signs.*

1. Window signs are not to cover more than 25 percent of a window.
2. One window sign is permitted per window.
3. The area of the window sign counts towards permitted wall sign area.
4. Window signs are not to be illuminated by a direct light source.

C. *Awning and canopy signs.*

1. Awnings or canopies may project a maximum of six feet into the public right-of-way or up to three feet from any street curb line on properties zoned CBD, Central Business District. In other districts, the awning or canopy may project a maximum of four feet from the wall of the building.
2. A minimum clearance of eight feet shall be maintained from ground level.

3. Any lettering or logos on the awning or canopy shall be included within the calculation of total permitted wall sign area.
 4. Awnings and canopies may be front lit only on the sides of the building which contain a public entryway or those having a pedestrian sidewalk immediately adjacent to the building.
- D. *Directional signs.* Directional signs used to direct vehicular or pedestrian traffic to driveways, parking areas, loading areas, or to certain buildings or locations on the site, shall not exceed four square feet in area, and four feet in height. Directional signs may be located in the front setback area, provided they are setback at least 15 feet from the existing or planned right-of-way line and do not include a logo.
- E. *Reader boards and changeable message signs.*
1. Reader boards and changeable message signs are permitted only on ground signs in nonresidential zoned areas.
 2. Reader boards and changeable message signs shall not exceed more than 50 percent of the total sign area.
 3. No message occurrence shall be less than ten seconds in duration.
 4. Such signs shall not be programmed with any animated, scrolling, or flashing messages, symbols, logos, or other graphics. Only static text and static logos are permissible.
 5. Gasoline price signs may be permitted as part of a ground sign, but the price signs shall not exceed 20 square feet in area.
 6. Changeable marquee signs may be permitted for theaters but are not to exceed 100 square feet in area.
 7. Colors of reader boards and changeable message signs shall be limited to a single background color and a single text color.
 8. Reader boards and changeable message signs shall be maintained in good repair at all times. If any part of the message display is not functioning properly, the use of the reader board sign will be discontinued until sufficient repairs are made.
 9. Electronic reader boards shall have a minimum separation distance of 200 feet from any other reader board.
 10. Electronic reader boards must comply within the following thresholds for luminance: Day 600—1,000 cd/m²; Night 100—350/m². The day/night transition shall occur within one-half hour of the official sunrise/sunset.
 11. Electronic reader boards may only operate during normal business hours or from 6 a.m. to 11 p.m., whichever is greater.
- F. *Poster panel signs (i.e., sandwich signs).* Poster panel signs including sandwich signs and "A" frame signs shall be permitted in CBD, Central Business District, subject to the following:
1. The area of the sign shall not exceed 12 square feet per side.
 2. One such sign shall be permitted per customer entrance.
 3. The sign shall be no greater than four feet in height and three feet in width.
 4. The sign shall not be illuminated in any manner.
 5. The sign shall be located a minimum of four feet from the edge of the sidewalk and not be located in a manner as to interfere with vehicular or pedestrian traffic flow or visibility.
 6. The sign is permitted only during operating business hours and must be stored inside when the establishment is not open to the general public.
 7. The sign must be constructed of weather-proof, durable material and kept in good repair.
- G. *Temporary signs.*
1. Temporary signs shall be in accordance with Table 1.
 2. Each temporary sign shall be removed within 45 days of placement. No sign may be erected on a single parcel for more than 45 calendar days out of every 90 calendar days.
 3. Temporary signs shall not be placed within a public right-of-way or easement or within 20 feet of the edge of any traveled portion of a roadway.
 4. Temporary signs shall not be erected, situated, or constructed so as to create a hazard of any kind or so as to interfere with, obstruct, confuse, or mislead traffic.
- H. *Institutional signs (public services, churches, schools, etc.).*
- Institutional signs in a Nonresidential District are subject to the same standards as other signs in the district in which the institution is located.
- Institutions in Residential Districts may erect signs for the purpose of identifying a church, school, public building, church affiliated school, parsonage, or other facility; advertising the time or subject of programming; or presenting other related information. Such signs shall be subject to the following standards:
1. There shall be no more than one sign per parcel, except on a corner parcel, where two signs shall be permitted, with one facing each street. One additional sign shall be permitted for each school, parsonage, or other related facility.
 2. The maximum size of each sign shall be 32 square feet.
 3. Signs shall comply with the setback requirements for the district in which they are located.
 4. The maximum height of church signs shall be six feet.
- I. *Entranceway signs.*
1. One permanent entranceway sign, identifying the name of the subdivision or development, may be located at each entrance to the subdivision or

development.

2. The maximum size of the sign shall be 12 square feet.
3. The sign shall cover no more than 50 percent of the entranceway structure it is attached to.
4. The sign shall only be illuminated by stationary, shielded light sources directed solely at the sign, or internal to it.

J. *Pole or pylon signs.*

1. Pole or Pylon signs are to be permitted only on properties that abut I-69 and are zoned and used for commercial purposes.
2. The sign must be located on the same lot as the commercial use that it advertises. Additional businesses on properties within 2,500 feet of the I-69 right-of-way may also be included on the sign.
3. The sign must not include any changeable messaging.
4. The height of the sign shall not be more than 35 feet higher than the elevation of I-69 directly opposite the lot on which the sign is located.
5. The sign shall not be less than 500 feet from any existing pole or pylon sign.
6. Except for the sign cabinet and sign face, the sign shall be constructed of brick or other masonry materials that match or are compatible with the building on the lot.
7. The sign shall have a maximum area of 100 square feet. In the case of a two-sided sign, each side may have an area of 100 square feet.

(Ord. No. 401, § 6, 5-11-09, eff. 6-15-09; Ord. No. 440, §§ 1, 10, 6-10-19)

Section 14.06. - Legal non-conforming signs.

- A. Any sign existing at the time of adoption of this article which does not comply with all provisions shall be considered a legal non-conforming sign and may be permitted to continue, subject to the limitations of section 14.08 of this article, if the sign is properly maintained and not detrimental to the health, safety and welfare of the community.
- B. If a non-conforming sign structure and frame are in good condition and can be reused by a new occupant in a leased or rented building, the building owner shall not be required to remove the sign structure and frame in the interim periods when the building is not occupied. If the building is unoccupied for less than 30 days the previous business' sign information may be retained. If the building is unoccupied for more than 30 days, the previous business' sign information must be removed. In such cases, the sign must be maintained in good condition and any openings must be covered with appropriate panels.
- C. Legal non-conforming signs which are removed, blown down, destroyed, relocated, damaged or altered such that 50 percent of their value is lost, shall be required to be replaced with signs that conform to this article.
- D. All portable signs, except those specifically permitted by this article, that exist on the effective date of this article, shall be removed immediately upon the enactment of this article.
- E. All illegal non-conforming signs that exist on the effective date of this article shall be removed immediately upon the enactment of this article and should be replaced by signs that conform to this ordinance.

(Ord. No. 401, § 6, 5-11-09, eff. 6-15-09; Ord. No. 440, §§ 1, 10, 6-10-19)

Section 14.07. - Reserved.

Editor's note— Ord. No. 410, § 1, adopted March 25, 2013, effective May 10, 2013, repealed § 21.07, which pertained to amortization of legal non-conforming signs. See also the Code Comparative Table.

Section 14.08. - Administration.

- A. *Review and approval.* No sign, permanent or temporary, shall be erected, structurally altered, or relocated, except as otherwise provided in this ordinance, without review and approval from the City of Swartz Creek Building Official.
- B. *Application.* The application, on a form provided by the City of Swartz Creek Building Department, shall contain the proposed location of the sign, the name and address of the sign owner and of the sign erector, the name and address of the owner of the business and of the property if different from that of the sign owner, drawings and/or sketches showing the design and location of the sign, the estimated cost of construction and any other information as the building official may require to ensure compliance with this ordinance and with other ordinances of the city.
- C. *Staking of sign's proposed location.* The location of a proposed sign shall be staked by the property owner. The building department will use the staked location to determine compliance with required setbacks set out in this article before issuing a sign permit.
- D. *Permit required.* Upon approval, a sign permit will be issued by the City of Swartz Creek Building Official. The building official shall issue a numbered permit for all approved signs. Such number shall be permanently displayed at a conspicuous place on the sign.
- E. *Fees.* All permit fees for signs shall be as established by resolution of the City of Swartz Creek City Council.
- F. *Nullification.* A sign permit shall become null and void if the work for which the permit was issued has not been completed within six months after the date of the permit.

G. *Exceptions.* The following shall not require a sign permit:

1. *Replacing copy.* The changing of the advertising copy or message on an approved painted or printed sign, on a theater marquee and on similar approved signs which are specifically designed for the use of replaceable copy; and
2. *Maintenance.* Painting, repainting, cleaning or other normal maintenance or repair of a sign or a sign structure, unless a structural change is made.

H. *Certificate of compliance.* All signs shall require a final inspection and the issuance of a certificate of compliance from the building department. The property owner shall notify the building department immediately upon erecting the sign to request the final inspection.

(Ord. No. 401, § 6, 5-11-09, eff. 6-15-09; Ord. No. 440, §§ 1, 10, 6-10-19)

Section 14.09. - Compliance with other laws.

All signs shall comply with the pertinent requirements of the city's adopted Building Code, as amended from time to time, except as modified in this article.

(Ord. No. 401, § 6, 5-11-09, eff. 6-15-09; Ord. No. 440, §§ 1, 10, 6-10-19)

Section 14.10. - Inspections, maintenance and removal.

A. *Inspections.* Signs for which a permit is required may be inspected periodically by the building official, or his or her designee, for compliance with this ordinance and with other 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 building official may order the removal of any permanent sign and its supporting structure erected or maintained in violation of this ordinance. The building official shall give 30 days' notice in writing, to the owner of such sign and its supporting structure to bring it into compliance. 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 department representative may remove the sign and its supporting structure. The building department representative 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. Any portable sign, except those expressly permitted in this article, shall be removed within six months from the effective date of this article. The building department may extend the date for removal of such portable signs up to an additional 12 months upon proving hardship.

D. *Obsolete signs.* 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 is no longer conducted on the premises. If the property owner or lessee fails to remove it within 60 days of the date that the business becomes inactive, the building official may remove the sign and its supporting structure and the cost of this work will be placed on the tax roll.

E. Where a successor to an inactive business agrees, within 30 days of the date of written notice by the building official, to maintain the sign as provided for in this article, this removal requirement shall not apply, provided that the existing sign and structure conforms to all current sign requirements.

(Ord. No. 401, § 6, 5-11-09, eff. 6-15-09; Ord. No. 440, §§ 1, 10, 6-10-19)

Section 14.11. - Criteria for variance from the sign regulations.

The zoning board of appeals may hear requests for variances from the regulations set forth in this article. The building official and zoning administrator may require the applicant to present photographs of similar signs, color renderings or to erect a temporary mock-up of the sign on the site prior to rendering a decision on a variance request. A non-use variance may be granted by the zoning board of appeals in cases involving practical difficulties and a use variance may be granted in cases involving undue hardship. Requests for variance shall be reviewed for compliance with the following:

A. Variances may be granted for any one of the following conditions:

1. The applicant has demonstrated a variance is needed due to a practical difficulty on the site, such as varied topography, horizontal or vertical road curvature, or presence of structures or desired trees that limit visibility of a sign on the premises compared to similar sites with conforming signs in the same zoning district; or
2. A variance is warranted due to the relatively large size of the site, frontage or building in comparison to other establishments in the same zoning district; or
3. A variance would significantly improve the conformity of an existing sign.

B. To grant a variance for one of the conditions specified above, all of the following standards must also be met:

1. The inability to conform with the requirements of this article is due to a hardship or practical difficulty that includes more than mere inconvenience or mere inability to attain a supposed higher financial return; and
2. That the alleged hardships or practical difficulties, or both, are exceptional and peculiar to the property of the person who requested the variance, and result from conditions which do not exist generally throughout the city; and

3. That allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this ordinance, the hardships that will be suffered by a failure of the zoning board of appeals to grant a variance, and the rights of others whose property would be affected by the allowance of the variance, and will not be contrary to the public purpose and general intent of this article; and
4. The variance granted is the minimum necessary to allow the applicant to enjoy the same rights as other establishments in the same zoning district, have a reasonable outlet for free speech and meet the intent of this article; and
5. The variance will not adversely affect the health, safety and welfare of the public.

(Ord. No. 401, § 6, 5-11-09, eff. 6-15-09; Ord. No. 440, §§ 1, 10, 6-10-19)

Section 14.12. - Costs of enforcement.

Any costs or expenses incurred by the city in enforcing this article shall be paid by the owner of the sign found to be in violation of this article; or upon default thereof, by the owner of the sign or the owner of the property to reimburse the city for costs and expenses incurred in such enforcement. The owner of the property shall be billed for such cost and expenses in the same manner as other taxes.

(Ord. No. 401, § 6, 5-11-09, eff. 6-15-09; Ord. No. 440, §§ 1, 10, 6-10-19)

Section 14.13. - Penalties.

Any violation of this article shall be a municipal civil infraction punishable as provided in section 1-21 et seq. of Article II of Chapter 1 of the Code of Ordinances of the City of Swartz Creek.

(Ord. No. 401, § 6, 5-11-09, eff. 6-15-09; Ord. No. 440, §§ 1, 10, 6-10-19)

Section 14.14. - Conflict with other laws.

In any case where a provision of this article is found to be in conflict with another provision of this ordinance, or any building, housing, fire, safety, or health ordinance of the City of Swartz Creek existing on the effective date of this article, the provisions which establish the higher standard for the promotion and protection of the health and safety of the people shall prevail. In any case where a provision of any other ordinance or Code of the City of Swartz Creek establishes a lower standard for the promotion of health and safety of the people, the provisions of this article shall prevail, and such other ordinances or Codes are hereby declared to be repealed.

Table 14.1: SCHEDULE OF SIGN REGULATIONS

Zoning Districts	Wall Signs ^{(a)(b)}	Ground Signs ^{(c)(d)(e)(f)(h)}			Temporary Signs ^{(k)(l)(m)}		
	Max. Sign Area (per linear ft. of building frontage)	Max. Area (per side)	Max. Height	Setback from ROW, private road easement or access drive/setback from property line ^(g)	Max. Size per sign	Total number of signs per parcel or per 100 linear ft. of frontage (whichever is greater)	Max. Height
R-1, R-2, R-3, R-4, RM-1 and PMSHDD Districts (for permitted nonresidential uses)	1 sq. ft. per linear ft. up to 90 sq. ft.	20 sq. ft.	6'	15'/15'	6 sq. ft. ⁽ⁱ⁾	2 ⁽ⁱ⁾	4 ft. ⁽ⁱ⁾
NBD, Neighborhood Business District	<u>1.2</u> sq. ft. per linear ft. up to 100 sq. ft.	24 sq. ft.	6'	15'/10'	24 sq. ft. ⁽ⁱ⁾	2 ⁽ⁱ⁾	6 ft. ⁽ⁱ⁾
CBD Central Business District	1.0 sq. ft. per linear ft. up to 90 sq. ft.	not permitted	not permitted	not permitted	24 sq. ft. ⁽ⁱ⁾	2 ⁽ⁱ⁾	6 ft. ⁽ⁱ⁾

GBD, General Business District	1.2 sq. ft. per linear ft. up to 200 sq. ft.	90 sq. ft.	6'	15'/10'	24 sq. ft. ⁽ⁱ⁾	2 ⁽ⁱ⁾	6 ft. ⁽ⁱ⁾
O-1, Office District	1.2 sq. ft. per linear ft. up to 90 sq. ft.	24 sq. ft.	6'	15'/10'	24 sq. ft. ⁽ⁱ⁾	2 ⁽ⁱ⁾	6 ft. ⁽ⁱ⁾
I-, Light Industrial and I-2, Heavy Industrial	1.5 sq. ft. per linear ft. up to 150 sq. ft.	90 sq. ft.	6'	15'/10'	24 sq. ft. ⁽ⁱ⁾	2 ⁽ⁱ⁾	6 ft. ⁽ⁱ⁾
PUD, Planned Unit Development District		In accordance with the underlying zoning district and PUD standards			24 sq. ft. ⁽ⁱ⁾	2 ⁽ⁱ⁾	6 ft. ⁽ⁱ⁾

Notes to Sign Schedule of Regulations:

- (a) A maximum of one wall or canopy sign per principal building is permitted. One sign per tenant for shopping centers and office buildings shall be allowed. In the case of a multi-tenant building or shopping center, one wall sign shall be permitted for each tenant having an individual means of public access into the building. Tenants occupying a corner space in a multi-tenant structure shall be permitted to have one sign on each side of the building. Where several tenants share a common entrance in a multi-tenant structure, only one wall sign shall be permitted, and the total sign area should be allocated among the tenants.
- (b) Maximum allowable sign areas may be increased as indicated in the table below up to a maximum of 250 square feet.

Distance of Sign from ROW Line	Allowable Increase in Sign Area
200—300 ft.	25%
301—400 ft.	30%
401—500 ft.	35%
501+ ft.	40%

- (c) One ground sign shall be permitted per parcel except as follows:
- (1) On corner lots, two ground signs, one on each street, shall be permitted. Signs shall be permitted along major public thoroughfares only.
 - (2) One ground sign per each 300 lineal feet of frontage along a major public thoroughfare shall be permitted.
- (d) For multiple-tenant commercial or shopping center signs, a main identification sign with the name of the center only may be permitted not to exceed 40 square feet per sign face (80 square feet total area) and ten feet in height.
- (e) Individual businesses within a business center, including multiple-tenant commercial or shopping centers and multiple-tenant office buildings, are not allowed to have individual freestanding signs, but individual businesses may have other signs permitted by this article.
- (f) For multiple-tenant office signs, the sign area shall not exceed 40 square feet per sign face.
- (g) Ground signs are not permitted in the Central Business District.
- (h) All nonresidential signs shall be set back at least 50 feet from any residential district.
- (i) The temporary sign shall be setback at least 15 feet from any public right-of-way line and 100 feet from any residential district property line.
- (j) The temporary sign may be located in the required setback area, but must be set back at least ten feet from the public right-of-way.
- (k) Community special event signs may include ground or wall signs, banners, pennants, or similar displays; the number, size and height of such signs shall be subject to building official or zoning administrator approval.
- (l) The total of all window signs, temporary and permanent, shall not exceed 25 percent of the total window area of each window. The area of permanent window signs shall also be counted in determining compliance with standards for total area of wall signs.

(m) Temporary window signs that are faded, yellowed, ripped or otherwise damaged shall be removed immediately.

(Ord. No. 401, § 6, 5-11-09, eff. 6-15-09; Ord. No. 440, §§ 1, 10, 6-10-19)

Article 15. - ZONING BOARD OF APPEALS

Footnotes:

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Editor's note— Ord. No. 440, §§ 1, and 10, adopted June 10, 2019, repealed the former Art. 15, §§ 15.00—15.04, and renumbered Art. 22 §§ 22.00—22.08 as Art. 15 §§ 15.00—15.08, as set out herein. The former Art. 15 pertained to the O-1 Office District and derived from Ord. No. 395, adopted August 15, 2006.

Section 15.00. - Creation and intent.

A Zoning board of appeals is hereby established in accordance with the Michigan Zoning Enabling Act (Public Act 110 of 2006). The purpose of this article is to establish the authority, procedures and requirements under which the zoning board of appeals shall function. It shall also ensure that the objectives of this ordinance are fully and equitably achieved, that a means be provided for competent interpretation of this ordinance, that flexibility be provided for the strict application of this ordinance, that the spirit of the ordinance be observed, public safety secured and substantial justice done.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 15.01. - Membership.

- A. *Base membership*: The board shall consist of not less than five members appointed by the city council: the chairman of the planning commission, a member of the city council appointed by the city council; and the remaining members appointed by the city council from the electors residing in the city.
- B. *Alternates*: The city council/township board may appoint not more than two alternate members for the same term as regular members to the zoning board of appeals. The alternate members may be called upon as specified herein to sit as regular members of the zoning board of appeals in the absence of a regular member if the regular member will be unable to attend one or more meetings. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate having been appointed shall serve in the case until a final decision has been made. While serving, the alternate member shall have the same voting rights as a regular member of the zoning board of appeals.
- C. *Terms of appointment*: Appointments shall be for a period of one, two, and three years, respectfully, so as nearly as may be to provide for appointment at an equal number each year, thereafter, each member to hold office for the full three-year term; provided, however, that the terms of members serving because of their membership on the planning commission or city council shall be limited to the time they are members of those bodies.
- D. *Reappointment*: Members may be reappointed.
- E. *Membership restrictions*: An elected officer of the city shall not serve as chairperson of the zoning board of appeals. An employee of the city may not serve as a member of the board.
- F. *Removal*: Members of the board of appeals shall be removable by the city council for nonfeasance, malfeasance, and misfeasance of office.
- G. *Conflict of interest*: A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure to do so shall constitute misconduct in office. A member of the zoning board of appeals who is also a member of the planning commission or the city council shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the planning commission or the city council. However, the member may consider and vote on other unrelated matters involving the same property.
- H. *Compensation*: The compensation of the appointed members of the zoning board of appeals may be fixed by the city council.

(Ord. No. 401, § 7, 5-11-09, eff. 6-15-09; Ord. No. 440, §§ 1, 10, 6-10-19)

Section 15.02. - Organization.

- A. *Rules of procedure*: The zoning board of appeals may adopt rules of procedure for the conduct of its meetings and the implementation of its duties. The board shall annually elect a chairperson, a vice-chairperson, and a secretary.
- B. *Meetings and quorum*: Meetings of the zoning board of appeals shall be held at the call of the chairperson and at such other times as the board in its rules of procedure may specify. The zoning board of appeals shall not conduct business unless a majority of the regular members of the zoning board of appeals are present.
- C. *Oaths and witnesses*: The chairperson shall have the power to subpoena, administer oaths, compel the attendance of witnesses, compel testimony and the production of books, papers, files and other evidence pertinent to the matters before it.
- D. *Records*: The minutes of all meetings shall contain the grounds for every determination made by the board and the final ruling on each case. The zoning board of appeals shall file its minutes in the office of the city clerk.
- E. *Fees*: The city council may from time to time prescribe and amend by resolution a reasonable schedule of fees to be charged to applicants for appeals to the zoning board of appeals. At the time the notice of appeal is filed said fee shall be paid over to the city treasurer to the credit of the general revenue

fund of the city.

(Ord. No. 401, § 8, 5-11-09, eff. 6-15-09; Ord. No. 440, §§ 1, 10, 6-10-19)

Section 15.03. - Jurisdiction and responsibilities.

The board shall have all jurisdiction and powers granted by the Michigan Zoning Enabling Act (Public Act 110 of 2006), and the following specific jurisdiction and powers:

- A. *Appeals*: To hear and decide appeals from and review any order, requirements, permit, decision or determination made by the zoning administrator or any other administrative official or body in enforcing the provisions of this ordinance. The board may reverse or affirm, wholly or in part, or may modify the order, requirement, permit, decision or determination as in the board's opinion ought to be made in the premises, and to that end shall have all the powers of the administrative official or body from whom the appeal is taken.
- B. *Interpretations*: To hear and decide matters referred to it or upon which it is required to pass under this ordinance adopted pursuant to the Michigan Zoning Enabling Act (Public Act 110 of 2006) of the state, or by other articles of this ordinance.
- C. *Variances*: Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the article applicable to the matter appealed from, the ZBA shall have power in passing upon appeals to vary or modify any of its rules, regulations or provisions relating to the construction, structural changes in, equipment, or alteration of buildings or structures or the uses of land, buildings or structures, so that the spirit of the particular article shall be preserved, public safety secured and substantial justice done.
- D. *Limits of authority*: The board shall not have the power to alter or change the zoning district classification of any property.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 15.04. - Appeals.

- A. *Filing an appeal*: Appeals shall be filed with the zoning administrator. The application shall describe the action taken and specify the grounds for the appeal. The zoning administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.
- B. *Appeal time limit*: An appeal shall be filed within such reasonable time as prescribed by the board by general rule. If no general rule has been adopted, an appeal shall be filed within 60 days of the order, requirements or determination of an administrative official or body.
- C. *Stay of proceedings*: An appeal stays all proceedings in furtherance of the action appealed. The only exception is if the zoning administrator certifies to the board that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In which case, proceedings shall not be stayed other than by a restraining order which may be granted by the board or by the circuit court for the county, on application, on notice to the zoning administrator and on due cause shown.
- D. *Public hearing*: The board shall fix a reasonable time for the hearing of the appeal, and shall be within 60 days of the receipt of the notice of appeal.

Written notice of the public hearing shall be made as follows:

- (a) The notice shall do all of the following:
 - (1) Describe the nature of the request.
 - (2) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used. Individual addresses of properties are not required to be listed for an amendment to the zoning ordinance, or the zoning map that affects 11 or more properties or an interpretation by the zoning board of appeals.
 - (3) State when and where the request will be considered.
 - (4) Indicate when and where written comments will be received concerning the request.
- (b) The notice shall be published and delivered not less than 15 days before the date of the public hearing as follows:
 - (1) Notice of the request shall be published in a newspaper of general circulation in the city. This shall be the only notice required for an amendment to the zoning ordinance, or the zoning map that affects 11 or more properties or an interpretation by the zoning board of appeals.
 - (2) Where approval is being sought under this ordinance for an individual property or a rezoning affecting ten or fewer properties, notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered.
 - (3) In addition to paragraph (2) above, notice shall be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 15.05. - Interpretation of ordinance.

The board of appeals shall hear and decide upon request to:

- A. *Interpret provisions:* Interpret the provisions of this ordinance when it is alleged that certain provisions are not clear or that they could have more than one meaning. In deciding upon such request the zoning board of appeals shall ensure that its interpretation is consistent with the intent and purpose of the ordinance and the article in which the language in question is contained.
- B. *Determine zoning district boundaries:* Determine the precise location of the boundary lines between zoning districts, overlay districts, and flood hazard area boundaries (see [Article 16](#)) when there is dissatisfaction with a decision made by the zoning administrator.

(Ord. No. [440](#), §§ 1, 10, 6-10-19)

Section 15.06. - Variances.

The board shall prescribe appropriate conditions and safeguards to carry out the requirements of this subsection and shall not grant any variance unless it shall have made a finding of fact based upon the evidence as presented to it in each specific case as specified below:

- A. *Area or dimensional variance:* The board may grant an area or dimensional variance only upon a finding that practical difficulties exist. An area or dimensional variance is a variance from any dimensional standard or requirement of this ordinance, such as, but not limited to, a deviation from lot width, lot size, density, building and sign height, building and sign bulk, building and sign setback, and other standards and requirements. A finding of practical difficulties shall require demonstration by the applicant of all of the following:
 1. Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other "non-use" matters that will unreasonably prevent the owner from using the property for a permitted purpose or will be unnecessarily burdensome. The variance will do substantial justice to the applicant, as well as to other property owners.
 2. A lesser variance than that requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.
 3. The need for the variance is due to unique circumstances or conditions peculiar to the property and not generally applicable in the area or to other properties in the same zoning district such as exceptional narrowness, shallowness, shape, topography or area.
 4. The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessor; this may or may not be considered depending upon whether the practical difficulty would have existed regardless of the action.
 5. The variance will not alter the essential character of the area. In determining whether the effect the variance will have on the character of the area, the established type and pattern of land uses in the area and the natural characteristics of the site and surrounding area will be considered.
 6. The granting of the variance will not materially impair the intent and purpose of this ordinance.
 7. Other specific variance criteria as set forth elsewhere in this ordinance including but not limited to [section 16.12](#), Flood hazard area zoning variances.
- B. *Use variance:* The zoning board of appeals may grant a use variance only upon a finding that an unnecessary hardship exists that prevents use of the property as currently zoned. A use variance is a variance that permits a use that is otherwise not provided for in a zoning district. A finding of an unnecessary hardship shall require demonstration by the applicant of all of the following:
 1. The applicant has demonstrated that the site cannot reasonably be used for any of the uses allowed within the current zoning district designation. The zoning board of appeals may require submission of documentation from real estate or market experts, or a certified appraiser, to substantiate this finding.
 2. The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district. The applicant must prove that there are certain features or conditions of the land that are not generally applicable throughout the zone and that these features make it impossible to earn a reasonable return. In those situations where the difficulty is shared by others, the zoning board of appeals may find that relief should be accomplished by an amendment to the zoning ordinance, not a variance.
 3. The problem and resulting need for the variance has not been self-created by any action of the applicant or the applicant's immediate predecessor.
 4. The capacity and operations of public roads, utilities, other facilities and services will not be significantly compromised.
 5. The use variance will not alter the essential character of the neighborhood nor be of detriment to adjacent properties.

(Ord. No. [440](#), §§ 1, 10, 6-10-19)

Section 15.07. - Decisions.

- A. Matters coming before the board of appeals shall be decided no later than 30 days after the hearing on such matter is closed.
- B. The decision of the board shall be final upon the earlier of:
 1. Issuance of a written decision signed by the chairperson of the board; or
 2. Approval of the minutes of the meeting at which the decision was made.
- C. In its decisions, the board shall state a finding of facts underlying its decisions.
- D. *Area or dimensional variance votes:* A concurring vote of a majority of the members of the board shall be required to reverse an order, requirements, decisions, 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 this ordinance.

- E. *Use variance votes:* 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 this ordinance.
- F. Decisions of the ZBA may be appealed to the appropriate court on the record and for that reason the board shall cause a record to be made of its proceedings.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 15.08. - Orders, validity, and limitations.

- A. No order of the zoning board of appeals permitting the erection or alteration of buildings shall be valid for a period longer than one year, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is commenced and proceeds to a completion in accordance with the terms of such permit.
- B. No order of the zoning board of appeals permitting a use of a building or premises shall be valid for a period longer than one year unless such use is established within such period; provided, however, that if the use of such permit is dependent upon the erection or alteration of a building, such order shall continue in full force and effect if a building permit for such use, erection or alteration is obtained within such period and such erection or alteration is commenced and proceeds to completion in accordance with the terms of such permit.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Article 16. - FLOOD HAZARD AREAS

Footnotes:

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Editor's note— Ord. No. 440, §§ 1, and 10, adopted June 10, 2019, repealed the former Art. 16, §§ 16.00—16.04, and renumbered Art. 23 §§ 23.00—23.12 as Art. 16 §§ 16.00—16.12, as set out herein. The former Art. 16 pertained to the I-1, Light Industrial District and derived from Ord. No. 395, adopted August 15, 2006.

Section 16.00. - Intent.

- A. It is the purpose of this article to significantly reduce hazards to person and damage to property as a result of flood conditions in the City of Swartz Creek, and to comply with the provisions and requirements of the National Flood Insurance Program, as constituted in accord with the National Flood Insurance Act of 1968, and subsequent enactments and rules and regulations promulgated in furtherance of this program by the United States Department of Housing and Urban Development, Federal Emergency Management Agency, as published in the Federal Register, Vol. 41, No. 207, Tuesday, October 26, 1976, as may be amended from time to time.
- B. Further, the objectives of this article include:
1. The protection of human life, health and property from the dangerous and damaging effects of flood conditions.
 2. The minimization of public expenditures for flood control projects, rescue and relief efforts in the aftermath of flooding, repair of flood damaged public facilities and utilities, and the redevelopment of flood damaged homes, neighborhoods, commercial and industrial areas.
 3. The prevention of private and public economic loss and social disruption as a result of flood conditions.
 4. The maintenance of stable development patterns not subject to the blighting influence of flood damage.
 5. To ensure that the public has access to information indicating the location of land areas subject to periodic flooding.
 6. To preserve the ability of floodplains to carry and discharge a base flood.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 16.01. - Delineation of the flood hazard overlay zone.

- A. *Hazard area boundary defined:* The flood hazard area zone shall overlay existing zoning districts designed as the "100-year floodplain" on the official City of Swartz Creek Zoning Map. The boundaries of the flood hazard area zone shall coincide with the boundaries of the areas indicated as within the limits of the 100-year floodplain in the report entitled The Flood Insurance Study City of Swartz Creek, dated May 1, 1979 with accompanying Flood Insurance Rate Maps and Flood Boundary and Floodway Maps available for inspection at the Swartz Creek City offices.
- B. *Regulatory floodway boundary defined:* Within the 100-year floodplain, a regulatory floodway shall be designated. The boundaries of the regulatory floodway shall coincide with the floodway boundaries indicated on the flood boundary and the floodway map. The study and accompanying maps are adopted herein by reference, and declared to be a part of this ordinance and copies which are available at the city offices. The term flood hazard area as used in this ordinance shall mean the flood hazard area zone and the term floodway shall mean the designated regulatory floodway.
- C. *Boundary disputes:* Where there are disputes as to the location of a flood hazard area zone boundary, the zoning board of appeals shall resolve the dispute in accordance with Article 15.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 16.02. - Development permit.

Development, including the erection of structures and placement of manufactured homes, within a flood hazard area shall not occur except upon issuance of the applicable permit in accord with applicable requirements and the following standards:

- A. In addition to other requirements of this ordinance applicable to development in the underlying zoning district, compliance with the requirements of this article shall be necessary for all development occurring within the flood hazard area zone.
- B. Conflicts between the requirements of this article and other requirements of this ordinance or any other ordinance shall be resolved in favor of this article, except where the conflicting requirement is more stringent and would further the objectives of this article. In such cases the more stringent requirement shall be applied.
- C. All necessary development permits shall have been issued by appropriate local, state and federal authorities, including a floodplain permit, approval, or letter of no authority from section 16.02(b) of the states floodplain regulatory authority found in Part 31, Water Resources Protection and Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 16.03. - General standards for development in the flood hazard area.

- A. All new construction and substantial improvements within a flood hazard area, including the placement of manufactured homes, shall:
 1. Be designated and anchored to prevent flotation, collapse, or lateral movement of the structure.
 2. Be constructed with materials and utility equipment resistant to flood damage.
 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 flood waters into the systems.
- C. All new sanitary sewage systems shall minimize infiltration of flood waters into the systems and discharges from systems into flood waters. On-site waste disposal systems shall be located to avoid impairment to the system or contamination from the system during flooding.
- D. All public utilities and facilities shall be designated, constructed and located to minimize or eliminate flood damage.
- E. Adequate drainage shall be provided to reduce exposure to flood hazards.
- F. The zoning administrator or his representative shall review development proposals to determine compliance with the standards in this section, and shall transmit his 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 article.
- H. The flood-carrying capacity of any altered or relocated watercourse not subject to state or federal regulations designed to ensure flood-carrying capacity shall be maintained.
- I. Available flood hazard data from federal, state or other sources shall be reasonably utilized in meeting the standards of this section. Data furnished by the Federal Emergency Management Agency shall take precedence over data from other sources.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 16.04. - Specific base flood elevation standards.

- A. On the basis of the most recent available base flood elevation data the following standards shall apply in the flood hazard area zone:
 1. As required by the Michigan Building Code and the Michigan Residential Building Code, all new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated at least one foot above the base flood level.
 2. All new construction and substantial improvements of non-residential structures shall have either:
 - a) The lowest floor, including basement, elevated at least one foot above the base flood level.
 - 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 registered professional engineer or architect shall certify that the standards of this subparagraph are satisfied, and that the flood-proofing methods employed are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood in the location of the structure. Such certification shall be submitted as provided in section 16.04 and shall indicate the elevation to which the structure is flood-proofed.
- B. The most recent base flood elevation data received from the Federal Emergency Management Agency shall take precedence over data from other sources.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 16.05. - Manufactured home standards.

- A. All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties in accord with the following specifications:

1. Over-the-top ties shall be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, except on manufactured homes less than 50 feet in length one tie per side shall be required.
 2. Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points, except that on manufactured homes less than 50 feet in length four ties per side shall be required.
 3. All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.
 4. All additions to a manufactured home shall be similarly anchored.
- B. An evacuation plan indicating alternate vehicular access and escape routes shall be filed with Genesee County Office of Civil Defense for manufactured housing communities.
- C. Manufactured homes within zones A1—30 on the Flood Insurance Rate Map (FIRM) shall be located in accordance with the following standards:
1. All manufactured homes shall be placed on stands or lots which are elevated on compacted fill or on pilings so that the lowest floor of the manufactured home will be at or above the base flood level.
 2. Adequate surface drainage away from all structures and access for a manufactured 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 manufactured home community which exists at the time this subsection is adopted, where repair, reconstruction or improvement of streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, the standards in subparagraphs A., B., and C. of this subsection shall be complied with.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 16.06. - Floodway protection standards.

- A. New construction, substantial improvements and all other development, including fill, shall be prohibited within zones numbered A1—30 on the FIRM, except where it is demonstrated to the zoning administrator that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not harmfully increase the water surface elevation of a base flood. In determining whether a harmful increase will occur, compliance with the National Flood Insurance Act of 1968, and subsequent enactments and rules and regulations promulgated in furtherance of this program by the United States Department of Housing and Urban Development, Federal Emergency Management Agency, as published in the Federal Register, Vol. 41, No. 207, Tuesday, October 26, 1976, as may be amended from time to time, shall be required, provided that the allowable increase shall not exceed one foot. The provisions of this section shall not apply within the regulatory floodway. The provisions of subsection B. shall be applied to land situated within the regulatory floodway.
- B. All development occurring within the regulatory floodway shall comply with the following standards:
1. Encroachments, including fill, new construction, substantial improvements and other development shall be prohibited. Exception of this prohibition shall only be made upon certification by a registered professional engineer and a permit from the MDEQ that the development proposed will not result in any increases in flood levels during a base flood discharge, and compliance with the National Flood Insurance Act of 1968.
 2. The placement of manufactured homes shall be prohibited except in manufactured home communities which exist at the time this article is adopted.
 3. Development which is permitted in the regulatory floodway shall meet the requirements of sections 16.03 to 16.05.
- 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 in this article.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 16.07. - Disclaimer of liability.

- A. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based upon engineering and scientific methods of study.
- B. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris.
- C. Approval of the use of land under this article shall not be considered a guarantee or warranty of safety from flood damage.
- D. This ordinance does not imply that areas outside the flood hazard area will be free from flood damage.
- E. This ordinance does not create liability on the part of the City of Swartz Creek or any officer or employees thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 16.08. - Supplemental definitions.

- A. *Area of shallow flooding* means a designated AO zone on a community's flood insurance rate map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and indeterminate, and where velocity flow may be evident.

- B. *Area of special flood hazard* is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.
- C. *Base flood* means the flood having a one percent chance of being equaled or exceeded in any given year.
- D. *Development* means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
- E. *Flood or flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:
 1. The overflow in inland or tidal waters.
 2. The unusual and rapid accumulation or runoff of surface waters from any source.
- F. *Flood hazard boundary map (FHBM)* means an official map of a community, issued by the Federal Insurance Administration, where the boundaries of the areas of special flood hazards have been designated as Zone A.
- G. *Flood insurance rate map (FIRM)* means an official map of a community, on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
- H. *Flood insurance study* is the official report provided by the Federal Insurance Administration. The report contains flood profiles, as well as the flood hazard boundary-floodway map and the water surface elevation of the base flood.
- I. *Flood hazard area* means land which on the basis of available floodplain information is subject to a one percent or greater chance of flooding in any given area.
- J. *Floodway* means the channel of a river or other watercourse and the adjacent land areas designated in the flood insurance study which must be reserved in order to discharge the base flood.
- K. *Harmful increase* means an unnaturally high stage on a river, stream or lake which causes, or may cause damage to property, threat to life, personal injury, or damage to land or water resources.
- L. *MDEQ* abbreviation for the Michigan Department of Environmental Quality.
- M. *New construction* means structures for which the "start of construction" commenced on or after the effective date of this ordinance.
- N. *Structure* means a walled and roofed building that is principally above ground, gas or liquid storage facility, as well as a manufactured home.
- O. *Substantial improvement* means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either, (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor [floor], or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 16.09. - Floodplain management administrative duties.

- A. With regard to the National Flood Insurance Program, and the regulation of the development within the flood hazard area zone as prescribed in Article 25 the duties of the zoning administrator shall include, but are not limited to:
 1. Notification to adjacent communities and the department of natural resources of the proposed alteration or relocation of any watercourse, and the submission of such notifications to the Federal Emergency Management Agency;
 2. Verification and recording of the actual elevation in relation to mean sea level 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;
 3. Recording of all certificates of flood-proofing, and written notification to all applicants to whom variances are granted in a flood hazard area zone indicating the terms of the variance, the increased danger to life and property, and that the cost of flood insurance will increase commensurate with the increased flood risk, and may reach amounts as high as \$25.00 for \$100.00 of insurance coverage. 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 this ordinance in the absence of data from the Federal Emergency Management Agency.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 16.10. - Flood hazard area application information.

- A. In addition to the information required with an application for a site plan approval, building permit, special land use permit or any other type of development permission required under this ordinance the following information shall be submitted as a part of an application for permission to

commence any type of development within a flood hazard area zone:

1. The elevation in relation to mean sea level of the floor, including basement, of all structures.
2. Where flood-proofing will be employed, the elevation in relation to mean sea level to which a structure will be flood-proofed.
3. Where flood-proofing will be employed, a certificate from a registered professional engineer or architect that the flood-proofing criteria of this ordinance will be met.
4. Where it can be determined that development is proposed within zones A1—30 on the FIRM or the regulatory floodway, a certification as required by this ordinance.
5. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
6. Proof of development permission from appropriate local, state and federal agencies as required by section 23003(1)c. including a floodplain permit approval, or letter of no authority from the Michigan DEQ under the authority of the state's floodplain regulatory authority found in Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.
7. Base flood elevation data where the proposed development is subject to Public Act 288 of 1967 (MCL 560.101 et seq.) or greater than five acres in size.
8. Additional information which may be reasonably necessary to determine compliance with the provisions of this ordinance.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 16.11. - Flood hazard area zone variances.

- A. Variances from the provisions of this article shall only be granted by the zoning board of appeals upon a determination of compliance with the general standards for variances contained in Article 15 and each of the following specific standards. The City of Swartz Creek Zoning Board of Appeals may attach conditions to the granting of a variance to ensure compliance with the standards contained in this ordinance.
 1. A variance shall not be granted within a regulatory floodway where the result would be any increase in flood levels during a base flood discharge, except upon certification by a registered professional engineer or the MDEQ that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not harmfully increase the water surface elevation of a base flood. In determining whether a harmful increase will occur, compliance with the National Flood Insurance Act of 1968 shall be required, provided that the allowable increase, including the increase used as the design standard for delineating the floodway, shall not exceed one foot.
 2. A variance shall be granted only upon:
 - a) A showing of good and sufficient cause.
 - b) A determination that failure to grant the variance would result in exceptional hardship to the applicant.
 - c) A determination that the granting of the variance will not result in flood heights in excess of those permitted by this ordinance; additional threats to public safety; extraordinary public expense; create nuisances; cause fraud on or victimization of the public; or conflict with existing laws or ordinances.
 3. The variance granted shall be the minimum necessary considering the flood hazard, to afford relief to the applicant.
- B. Variances may be granted for the reconstruction, rehabilitation or restoration of structures, rehabilitation or restoration of structures listed on the National Register of Historic Places or the Michigan Historic Markers listing of historic sites, or any other State Register of Historic Places without regard to the requirements of this section governing variances in flood hazard areas.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 16.12. - Mapping disputes.

- A. Where disputes arise as to the location of the flood hazard area boundary of the limits of the floodway, the zoning board of appeals shall resolve the dispute and establish the boundary location. In all cases, the decision of the zoning board of appeals shall be based upon the most current floodplain studies issued by the Federal Emergency Management Agency. Where Federal Emergency Management Agency information is not available, the best available floodplain information shall be utilized.
- B. Where a dispute involves an allegation that the boundary is incorrect as mapped and the Federal Emergency Management Agency floodplain studies are being questioned, the zoning board of appeals shall modify the boundary of the flood hazard area or the floodway only upon receipt of an official letter of map amendment issued by the Federal Emergency Management Agency.
- C. All parties to a map dispute may submit technical evidence to the zoning board of appeals.

(Ord. No. 440, §§ 1, 10, 6-10-19)

ARTICLE 17. - ACCESS MANAGEMENT AND DRIVEWAY STANDARDS

Editor's note— Ord. No. 440, §§ 1, and 10, adopted June 10, 2019, repealed the former Art. 17, §§ 17.00—17.04, and renumbered Art. 25 §§ 25.00—25.08 as Art. 17 §§ 17.00—17.08, as set out herein. The former Art. 17 pertained to the I-2, Heavy Industrial Districts and derived from Ord. No. 395, adopted August 15, 2006; Ord. No. 407, § 3, adopted May 24, 2011; Ord. No. 431, § 3, adopted Dec. 12, 2016.

Section 17.00. - Purpose.

The purpose of this article is to provide access standards which will facilitate through traffic operations, ensure public safety along roadways, and protect the public investment in the street system; while providing property owners with reasonable, though not always direct, access. The standards are specifically designed for streets whose primary function is the movement of through traffic, as opposed to local streets whose primary function is access to adjacent properties.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 17.01. - Application of standards.

- A. The standards of this article shall be applied to the following major traffic routes (arterials and collectors) identified in the City of Swartz Creek City Master Plan:
 1. Miller Road.
 2. Elms Road.
 3. Morrish Road.
 4. Bristol Road.
 5. Seymour Road.
- B. The access standards contained herein shall be required in addition to, and where permissible shall supersede, the requirements of the Michigan Department of Transportation (MDOT).
- C. The standards contained in this article shall apply to all uses, except permitted one-family and two-family dwelling units.
- D. For expansion and/or redevelopment of existing sites where the planning commission recommends that compliance with all the standards of this article is unreasonable, the standards shall be applied to the maximum extent possible. In such situations, suitable alternatives which substantially achieve the purpose of this article may be accepted by the planning commission, provided that the applicant demonstrates all of the following apply:
 1. Size of the parcel is insufficient to meet the dimensional standards.
 2. The spacing of existing, adjacent driveways or environmental constraints prohibit adherence to the access standards at a reasonable cost.
 3. The use will generate less than 500 total vehicle trips per day or less than 75 total vehicle trips in the peak hour of travel on the adjacent street, based on the most recent rates developed by the Institute of Transportation Engineers.
 4. There is no other reasonable means of access.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 17.02. - Number of driveways.

- A. Access to a parcel shall consist of either a single two-way driveway or a pair of one-way driveways wherein one driveway is designed and appropriately signed to accommodate ingress movements and the other egress movements.
- B. Where parcel frontage is insufficient to provide a driveway meeting the minimum driveway width and radii, a shared driveway or other means of access may be required.
- C. Where parcels have frontage along two streets on a parcel of at least two acres in area, access should be provided only along the street with the lower average daily traffic volume, unless the planning commission determines this would negatively affect traffic operations or surrounding land uses.
- D. Where the property has continuous frontage of over 300 feet and the applicant can demonstrate, using the Institute of Transportation Engineers Trip Generation Manual or other accepted reference, that a second access is warranted, the planning commission may allow an additional access point. Where possible, this additional access should be spaced accordingly to the standards contained herein, located on a side street, shared with an adjacent property, and/or be designed to restrict one or both left turn movements.
- E. Where the property has continuous frontage of over 600 feet, a maximum of three driveways may be allowed, with at least one such driveway being designed and signed for right-turns-in, right-turns-out only.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 17.03. - Joint driveways, frontage roads, parking lot connections, and rear service drives.

Shared use of access between two or more property owners should be encouraged through use of driveways constructed along property lines, connecting parking lots and construction on-site of frontage roads and rear service drives; particularly within one-quarter mile of major intersections, for sites having dual frontage, where frontage dimensions are less than 300 feet, at locations with sight distance problems, and/or along roadway segments experiencing congestion or accidents. In such cases, shared access of some type may be the only access design allowed.

- A. In cases where a site is adjacent to an existing frontage road, parking lot of a compatible use, or rear service drive, a connection to the adjacent facility is required by the planning commission.
- B. In cases where a site is adjacent to undeveloped property, the site should be designed to accommodate a future frontage road, parking lot connection or rear service drive.
- C. The applicant shall provide the city with letters of agreement or access easements from all affected property owners.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 17.04. - Adequate sight distance.

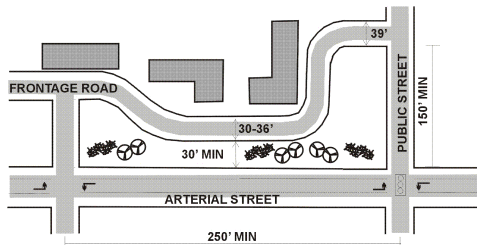
- A. Requirements for minimum intersection or corner sight distance for driveways shall be in accordance with the American Association of State Highway and Transportation Officials (AASHTO) guidelines defined in Chapter 9 of A Policy on Geometric Design of Highways and Streets, 1994.
- B. The planning commission may adjust a driveway location where there is a concern regarding adequate sight distance.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 17.05. - Driveway spacing from intersections.

- A. Driveway spacing from intersections shall be measured from the centerline of the driveway to the extended edge of the intersecting street's right-of-way line.
- B. In order to preserve intersection operations and safety, the minimum distance between a driveway and an intersecting street right-of-way shall be based on the following:
 1. For locations in the vicinity of intersections experiencing congestion (peak hour operations below level of service "C" for one or more movements) and/or a significant number of traffic accidents (five or more annually), the planning commission may require that access be constructed along the property line furthest from the intersection. Source: AASHTO's 2000 Highway Capacity Manual, Special Report 209.
 2. For locations within 200 feet of any signalized or four-way stop intersection, driveways shall be spaced a minimum of 150 feet from the intersection; where this spacing cannot be provided, driveways designed for "right-turn in, right-turn out only" movements may be allowed, with a minimum spacing of 75 feet from the intersecting street right-of-way.

Figure: Alignment of Driveways in Proximity to a Four-Way Stop or a Signalized Intersection.



- 3. For locations that are not a four-way stop or signalized, driveways shall be spaced a minimum of 100 feet from the intersection.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 17.06. - Driveway spacing from other driveways.

- A. Driveway spacing from other driveways shall be measured from the centerline of each driveway at the point where it crosses the street right-of-way line.
- B. Driveways shall be directly aligned with those across the street or, where offset, the minimum driveway spacing from driveways across the street shall be a minimum of 150 feet, as determined by the planning commission, excluding when one or both driveways are designed and signed for right-turn-in, right-turn-out only.
- C. Minimum driveway spacing from other driveways along the same side of the street shall be determined based on posted speed limits along the parcel for each particular frontage, as follows:

Posted Speed (mph)	Minimum Driveway Spacing
25 mph	100 feet
30 mph	125 feet
35 mph	150 feet
40 mph	185 feet

45 mph	230 feet
50 mph	275 feet
55 mph	350 feet

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 17.07. - Driveway design, channelized driveways, deceleration lanes and tapers, bypass lanes.

- A. Driveways shall be designed to the standards of the Genesee County Road Commission, except where stricter standards are included herein or by the city driveway construction standards.
- B. *Driveway width and radii:*
1. The typical driveway design shall include one ingress and one egress lane, with a combined maximum throat width of 30 feet, measured from face to face of curb.
 2. Wherever the planning commission determines that traffic volumes or conditions may cause significant delays for traffic exiting left, two exit lanes may be required.
 3. For one-way paired driveway systems, each driveway shall be 16 feet wide, measured perpendicularly.
 4. In areas with pedestrian traffic, the exit and enter lanes may be separated by a median with a maximum width of ten feet.
 5. Driveways shall be designed with a 25-foot radii; 30-foot radii where daily semi-truck traffic is expected.
- C. *Driveway vehicle stacking:* Generally, the minimum of 40 feet of driveway vehicle stacking shall be provided for less intense developments and a minimum of 120 feet of driveway storage shall be required for larger developments. The specific amount of vehicle stacking shall be determined by the city's traffic engineer based on traffic volumes and conditions. Driveway storage shall be measured from the right-of-way line.
- D. *Directional driveways, divided driveways and deceleration tapers:* Directional driveways, divided driveways, and deceleration tapers and/or bypass lanes may be required by the planning commission where they will reduce congestion and accident potential for vehicles accessing the proposed use or site. Right-turn tapers shall be a minimum of 75 feet in length and at least 11 feet wide.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 17.08. - Design of frontage roads, rear service drives and parking lot connections.

- A. *General:* Frontage roads, rear service drives and drives connecting two or more parking lots shall be constructed in accordance with the following standards:
1. Pavement width shall be a maximum of 30 feet, measured face of curb to face of curb; intersection approaches may be widened to 39 feet for a left turn lane.
 2. Frontage road access to public streets shall be spaced according to the standards of sections 17.05 and 17.06.
 3. Frontage roads shall have a minimum setback of 30 feet between the outer edge of pavement and the right-of-way line, with a minimum 60 feet of uninterrupted queuing (stacking) space at the intersections.
 4. Parking along or which backs into a frontage road shall be prohibited.
 5. For properties which are currently developed or are adjacent to developed uses, and the standards of subsections 1. through 4. above are determined by the planning commission to be too restrictive, frontage roads can be defined through parking lots by raised and/or painted islands, provided that at least every third end island is raised.
- B. *Service road along Miller Road:* Uses permitted in the GBD District located along Miller Road between I-69 and Dye Road may also be subject to the following conditions:
1. In those instances where the planning commission finds that an excessive number of access drives may occur with relation to a major thoroughfare and thereby diminish the carrying capacity of the thoroughfare, a service road may be required so that development of contiguous abutting properties will allow traffic circulation from one property to another without having to reenter the public thoroughfare.
 2. The service road shall be parallel to the front property line and shall be at least 22 feet wide. Said service road shall be an easement which will permit the use of the service road for traffic circulation from one property to another. Said easement shall be in a form acceptable to the city council and approved as to form by the city attorney prior to the issuance of a building permit. No permanent structures shall be permitted within the interior easement which would block the flow of traffic. Each property owner shall be responsible for maintenance of the easement so that it remains usable as a means of getting from one property to another. The easement shall be recorded with the county register of deeds prior to the issuance of an occupancy permit.

3. In reviewing the site plan, the planning commission may permit temporary parking in the easement area, provided that the layout is such that the parking removed at a later date when the service road is needed for access to adjacent properties without disrupting the layout of the parking area. Temporary parking spaces permitted within the service drive shall not be included in computing the minimum off-street parking requirements under Article 18.
4. The edge of the service road easement nearest the street shall be located 15 feet from the existing or future right-of-way line of the street. An eight-foot wide greenbelt shall separate the service road from the parking area of the site.
5. The entire 22-foot service road area shall be paved up to abutting properties. The site plan shall indicate the proposed elevation of the service road at the property line and the zoning administrator shall maintain a record of all service road elevations so that their grades can be coordinated. Proposed service road elevations shall be not more than one-foot above or below the elevation of adjoining, undeveloped property. Paving of the service road shall meet construction specifications established by the city council.
6. Temporary entrances and exits may be approved for individual sites provided performance guarantees in a form acceptable to the city council are placed to assure elimination of temporary entrances and exits.
7. In determining which entrances and exits will be permanent and which will be temporary, the planning commission shall generally be guided by a minimum distance of 600 feet between entrances and exits and by the location of existing or approved drives on the opposite side of the street.
8. The planning commission may determine the maximum number of lots to be served by a service drive.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Article 18. - OFF-STREET PARKING AND LOADING/UNLOADING REQUIREMENTS

Footnotes:

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Editor's note— Ord. No. 440, §§ 1, and 10, adopted June 10, 2019, repealed the former Art. 18, §§ 18.00—18.11, and renumbered Art. 26 §§ 26.00—26.06 as Art. 18 §§ 18.00—18.06, as set out herein. The former Art. 18 pertained to condominiums and derived from Ord. No. 395, adopted August 15, 2006.

Section 18.00. - Intent.

The purpose of this article is to ensure sufficient automobile off-street parking space with adequate access to all spaces at the time of erection, enlargement or change in use, of any principle building or structure. Off-street parking and loading areas are to be designed, maintained and operated in a manner that will ensure their efficient use, promote public safety, improve aesthetics and, where appropriate, protect surrounding uses from undesirable impacts. The number of off-street parking spaces, in conjunction with all land or building uses shall be provided, prior to the issuance of a certificate of occupancy, as hereinafter prescribed.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 18.01. - Scope.

Compliance with the off-street parking regulations shall be required as follows:

- A. *General applicability:* For all buildings and uses established after the effective date of this ordinance, off-street parking shall be provided as required in this section prior to issuance of a certificate of occupancy. However, this requirement is subject to the vested rights set out in section 1.02 of this ordinance.
- B. *Change in use or intensity:* If the use of a building or intensity of use of any building, structure, or lot is increased through the addition of dwelling units, increase in floor area, increase in seating capacity, or through other means, additional off-street parking shall be provided for such increase in intensity of use.
- C. *Existing parking facilities:*
 1. Off-street parking facilities in existence on the effective date of this ordinance shall not thereafter be reduced below, or if already less than, shall not be further reduced below the requirements for the use being served as set forth in this ordinance.
 2. An area designated as required off-street parking shall not be changed to any other use unless equal facilities are provided elsewhere in accordance with the provisions of this ordinance.
- D. *Review procedures:* Compliance with the requirements in this article shall be subject to site plan review and approval.

(Ord. No. 440, §§ 1, 10, 6-10-19)

Section 18.02. - General requirements.

In all zoning districts, off-street vehicle parking facilities shall be provided and maintained as herein prescribed:

A. *Location:*

1. *Proximity to building or use being served.* Off-street parking for multiple-family and non-residential uses shall be located on the same lot or parcel as the building or use being served or within 500 feet of the building it is intended to serve, measured from the nearest public building entrance

to the nearest parking space, except as otherwise permitted for collective use of off-street parking. Ownership shall be shown on all lots or parcels intended or used as parking by the applicant.

2. *Within yards.* Off-street parking in commercial, office, multiple-family, and industrial uses may only be located in a rear yard or non-required front or side yard, provided that all landscaping requirements in [Article 20](#) are complied with, and provided further that off-street parking shall not be permitted within 20 feet of a single-family residential district boundary, nor within ten feet of any road right-of-way line.
- B. *Perimeter landscaping:* Greenbelts along the street frontage and buffer zones along lot lines may also be required (see [Article 20](#)). When required off-street parking in a non-residential district abuts a residential district, there shall be located a landscaped buffer strip 15 feet wide and parallel to the mutual boundary. The buffer strip shall be composed of trees and/or foliage. In lieu of a buffer strip, the planning commission may permit or require a solid fence or wall between six and 12 feet in height and shall be located along a mutual boundary.
- C. *Internal landscaping:* Internal landscape islands may be required by the planning commission for all lots in excess of 25 spaces in accordance with the standards of [Article 20](#).
- D. *Parking standards, by use:*
1. *One-family and two-family.* Off-street parking spaces in one-family and two-family residential districts shall consist of a parking strip, driveway, garage, or combination thereof, and shall be located on the premises they are intended to serve. No parking shall be permitted on lawns or other unpaved areas on residential lots, with the exception of approved gravel parking driveways and areas. A minimum three feet wide lawn or landscape strip, where feasible, shall be required between the edge of pavement and all property lines.
 2. *Other uses.* Parking areas, other than for one-family detached homes or duplexes on individual lots, shall be approved as part of a site plan. Minor changes to the parking layout, as determined by the zoning administrator shall require submittal of a parking plan which indicates property lines, existing and proposed ground elevations at two-foot contour intervals, the number of spaces, calculations for meeting the minimum space requirements of this article, dimensions of aisles, driveways and typical parking stalls, location of curbs and curb blocks, location and size of signs, existing and proposed landscaping, existing and proposed lighting and drainage facilities.
- E. *Control of off-site parking:* It shall be unlawful to park or store any motor vehicle on private property without the expressed or implied consent of the owner, holder, occupant, lessee, agent, or trustee of said private property. Where required parking is permitted on land other than on the same lot as the building or use being served, the land on which the parking is located shall be under the same ownership or control as the lot occupied by said building or use.
- F. *Limits on storage and repair:* The use of required parking areas for material storage, refuse storage stations/dumpsters, storage or display of vehicles and/or merchandise, or for vehicle or machinery repair or maintenance is expressly prohibited. The use of semi-trailers for storage purposes on the premises for five or more consecutive days is prohibited. Emergency service required to start vehicles shall be permitted.
- G. *Duration:* Except when land is used as permitted storage space in direct connection with a legitimate business, a 24-hour time limit for parking in non-residential off-street parking areas shall prevail, provided that it shall be unlawful to permit the storage of wrecked, inoperable, or junked vehicles in any parking area in any district.
- H. *Access to parking:* Each off-street parking space shall open directly onto a clearly-defined aisle or driveway of sufficient width and design as to provide safe and efficient access to or from a public street or alley in a manner that will least interfere with the smooth flow of traffic. Access to off-street parking which serves a non-residential use shall not be permitted across land that is zoned or used for residential purposes.
- I. *Ingress and egress:* A suitable means of ingress and egress shall be provided and located to minimize traffic congestion and interference with pedestrian movement. The location of all entrances and exits and directional signs, shall be approved by the planning commission, and where required, by the Genesee County Road Commission, and the Michigan Department of Transportation.
- J. *Limits on excessive parking:* In order to minimize excessive areas of pavement which depreciate aesthetic standards and contribute to high rates of storm water runoff, exceeding the minimum parking space requirements by greater than 20 percent shall not be allowed, except as approved by the planning commission. In granting such additional space, the planning commission shall determine that such parking will be required, based on documented evidence, to accommodate the use on a typical day.
- K. *Collective use of off-street parking:* Off-street parking for separate buildings or uses may be provided collectively subject to the following:
1. The total number of spaces provided collectively shall not be less than the sum of spaces required for each separate use, unless the operating hours of the building or uses do not overlap, in which case the planning commission may reduce the total number of spaces to a number deemed reasonable based on the characteristics of the buildings or uses.
 2. Each use served by collective off-street parking shall have direct access to the parking without crossing streets.
 3. The collective off-street parking shall not be located farther than 500 feet from the building or use being served.
 4. Written easements which provide for continued use and maintenance of the parking shall be submitted to the city for approval.
- Note:* A 20 percent reduction may be permitted for collective off-street parking lots if a signed agreement is provided by the property owner, and the planning commission determines that the peak usage will occur at different periods of the day.
- L. *Limits on changes:* Any area once designated as required off-street parking shall not be changed to any other use unless and until equal facilities meeting the standards of this section are provided elsewhere, or the parking requirements of the site change. Off-street parking existing at the effective date of this ordinance, in connection with the operation of an existing building or use shall not be reduced to an amount less than

hereinafter required for a similar new building or new use.

- M. *Parking lot deferment:* Where the property owner can demonstrate or the planning commission finds that the required amount of parking is excessive, the planning commission may approve a smaller parking area, provided that the area of sufficient size to meet the parking space requirements of this article is retained as open space, and the owner agrees to construct the additional parking at the direction of the planning commission based on observed usage within six months of being informed of such request in writing by the planning commission. A written legal agreement, which has been approved by the city attorney, to construct the deferred parking shall be provided by the applicant. The planning commission may require posting of a performance bond to cover the estimated construction cost of the deferred parking with a refund in two years if the additional parking is not found to be necessary. The site plan shall note the area where parking is being deferred, including dimensions and dotted parking lot layout.
- N. *Parking structures:* Parking structures shall be permitted subject to the following standards:
1. Any parking structure shall comply with the required setbacks for the district in which it is located.
 2. Parking structures shall be designed as integral elements of the overall site plan, taking into account the relationship to the principal building and other structures on the site.
 3. The façade of the parking structure shall be compatible in design, color, and type of material to the principal building(s) on the site.
 4. Landscaping shall be placed around the parking structure in accordance with an approved landscape plan. Any such landscaping shall be compatible with the overall landscape plan for the entire site.
- O. *Snow removal:* All off-street parking and loading facilities required by this article shall be maintained free of accumulated snow, standing water, debris or other materials which prevent full use and occupancy of such facilities in accordance with the intent of this article, except for temporary periods of no more than five days in the event of heavy rainfall or snowfall.
- P. *Carports and garages:* Carports and garages for multiple-family dwellings shall be calculated as parking spaces on a one-to-one basis. Carports and garages in multiple-family dwelling developments shall have a maximum height of 14 feet, measured from the grade to the peak of the structure. Carports shall be screened on the sides or front end facing any public or internal street or drive. A minimum four-foot high wall or landscape hedge may be required in accordance with the provisions of [Article 20](#).
- Q. *Use of garages:* Accessory garages shall only be used to store vehicles or equipment associated with a permitted use unless a private leasing garage or storage area is approved by the planning commission.
- R. *Construction parking:* During construction, off-street parking shall be provided on-site for all construction vehicles and employees.
- S. *Recreational vehicle parking and storage:*
1. *Standards in residential districts.*
 - a) Except as otherwise permitted in this section, recreational vehicles and equipment greater than 104 inches in width or 37 feet in length shall not be parked or stored on any lot or parcel or on the road in any Residential District.
 - b) Recreational vehicles and equipment 104 inches in width or 37 feet in length or less shall be parked and stored in the side or rear yards, and may project a maximum of five feet into the front yard.
 - c) For the purposes of loading and unloading, recreational vehicles, and equipment may be parked anywhere in a driveway or parking area on a residential premises for a period not to exceed three days.
 - d) Such equipment shall not be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.
 - e) Recreational vehicles and equipment shall not be parked or stored on any public right-of-way or easement.
 - f) Recreational vehicles and equipment may not be stored or parked in residential districts for the purpose of making major repairs, refurbishing, or reconstruction of the recreational vehicle or equipment.
 - g) Recreational vehicles must have a current or prior year license plate and registered to an occupant of the dwelling unit on the parcel on which it is stored.
 2. *Non-residential districts.* The storage of recreational vehicles and equipment in non-residential districts when it is not associated with the business of the property, shall provide proper screening so that it is not visible from the road and abutting residential areas.
- T. *Repair of vehicles:* The parking, carrying out of repair, restoration and maintenance procedures or projects on vehicles in any residential district, when such work is not conducted entirely within the interior of the vehicle, shall be subject to the following limitations:
1. All vehicles parked or being worked on outside shall be on an improved driveway surface, licensed, and operable.
 2. Procedures exceeding 48 hours in duration or which require the vehicle to be inoperable in excess of 48 hours shall be conducted within an enclosed building.
 3. Inoperable vehicles and vehicle parts shall be stored inside an enclosed building.
- U. *Parking of commercial vehicles:*
1. Parking of commercial vehicles over two tons shall be prohibited in all residential districts; except this restriction shall not apply to essential public service vehicles.

2. It shall be unlawful for the owner, tenant, or lessee of any lot to permit the open storage or outdoor parking of semi-tractor (50-foot wheelbase or larger) and/or semi-trailers, bulldozers, earth carriers, cranes, or any other similar equipment or machinery, unless the storage or display of such vehicles is in use or unless the vehicles are temporarily parked while in use for approved construction on such lot.

(Ord. No. 434, § 7, 10-8-18; Ord. No. 440, §§ 1, 10, 6-10-19)

Section 18.03. - Minimum number of spaces required.

The following standards shall be used in determining the required number of parking spaces:

A. *Definition of floor area:*

1. For the purposes of determining required number of parking spaces, "floor area" shall mean the gross floor area (GFA), unless otherwise noted.
2. Where the floor area measurement is specified as gross leasable floor area, (GLA) or usable area, parking requirements shall apply to all internal building areas excluding the floor area used for storage, mechanical equipment rooms, heating/cooling systems and similar uses, and other areas not intended for use by the general public. Where these areas are yet undefined, leasable floor area shall be considered to be 80 percent of the gross floor area.

B. *Units of measure:*

1. *Fractional spaces.* When calculations for determining the required number of parking spaces results in a fractional space, any fraction of less than one-half may be disregarded, while a fraction of one-half or more shall be counted as one parking space.
2. *Employee parking.* Parking spaces required for employees shall be based on the maximum number of employees on the premises at any one time.
3. *Bench seating.* In calculating bench seating for places of assembly, each 24 inches of benches, pews or other such seating, shall be counted as one seat.
4. *Stacking spaces.* Each required drive-through waiting or stacking space shall be 20 feet long and ten feet wide.

C. *Uses not cited:* For those uses not specifically mentioned, the requirements for off-street parking for a similar use shall apply, subject to review by the planning commission and/or zoning administrator. A factor of one and one-half times the average rate listed in the Institute of Transportation Engineers Parking Generation Manual may be used.

D. *Parking during construction:* Temporary off-street parking shall be provided for workers during construction at a rate of one space per employee. Gravel surfacing may be permitted for such temporary parking.

E. *Accessible/barrier-free parking:* Each parking lot that serves a building, except one-family and two-family dwelling units, shall have a number of level parking spaces, reserved for persons with disabilities, according to the following provisions:

1. *Definitions.*

- a) *Accessible/barrier-free:* Describes a site, building, facility, or portion thereof that complies with the Uniform Federal Accessibility Standards (UFAS) and that can be approached, entered, and used by persons with disabilities.
- b) *Accessible route:* A continuous unobstructed path connecting all accessible spaces in a building or facility. Interior accessible routes may include corridors, floors, ramps, elevators, lifts, and clear floor space at fixtures. Exterior accessible routes may include parking access aisles, curb ramps, crosswalks at vehicular ways, walks, ramps, and lifts.
- c) *Access aisle:* An accessible pedestrian space between elements, such as parking spaces, seating, and desks, that provides clearances appropriate for use of the elements.

2. *Location.* Parking spaces for persons with disabilities and accessible passenger loading zones that serve a particular building shall be the spaces or zones located closest to the nearest accessible entrance on an accessible route. In separate parking structures or lots that do not serve a particular building, parking spaces for persons with disabilities shall be located on the shortest possible circulation route to an accessible pedestrian entrance of the parking facility.

3. *Barrier-free parking spaces.*

- a) Parking spaces for persons with disabilities shall be at least 96 inches wide and shall have an adjacent access aisle 60 inches wide minimum. Parking access aisles shall be part of an accessible route to the building or facility entrance and shall comply with the requirements in the Uniform Federal Accessibility Standards, the State Barrier-Free Manual, and the requirements of the Americans with Disabilities Act, as amended.
- b) Two accessible parking spaces may share a common access aisle. Parked vehicle overhangs shall not reduce the clear width of an accessible circulation route.
- c) Parking spaces and access aisle shall be level with surface slopes not exceeding 1:50 in all directions. One in every eight accessible spaces, but not less than one, shall be served by an access aisle 96 inches wide minimum and shall be designated "van accessible". All such spaces may be grouped on one level of a parking structure.

4. *Signage.* Accessible parking spaces shall be designated as reserved for persons with disabilities by a sign showing the International symbol of accessibility. Such signs shall not be obscured by a vehicle parked in the space.

- 5. *Passenger loading zones.* Passenger loading zones shall provide an access aisle at least 60 inches wide and 20 feet long adjacent and parallel to the vehicle space. If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp shall be provided. (Vehicle standing spaces and access aisles shall be level with surface slopes not exceeding 1:50 in all directions.)
- 6. *Vehicle clearance.* Provide minimum vehicle clearances of 114 inches at accessible passenger loading zones and along vehicle access routes to such areas from site entrances. If accessible van parking spaces are provided, then the minimum vertical clearance should be 114 inches.
- 7. *Compliance.* Accessibility shall be in compliance with the adopted City Building Code, the State of Michigan Barrier-Free Rules, Michigan Public Act No. 1 of 1966, as amended, and the American with Disabilities Act, as amended.
- F. *Use of loading space:* Required loading space shall not be counted or used for required parking.
- G. *Minimum number of spaces for each use:* The amount of required off-street parking space shall be determined in accordance with the schedule which follows. Where more than one standard is provided for a particular use, the standard that provides the most parking spaces shall be used. The planning commission may modify the numerical requirements for off-street parking, based on evidence that another standard would be more reasonable, because of the level of current or future employment and/or level of current or future customer traffic.
- H. *Central business district:* All uses within the central business district shall calculate parking (residential and commercial) to require four parking spaces per 1,000 square feet of gross floor area.

(Ord. No. 434, § 8, 10-8-18; Ord. No. 440, §§ 1, 10, 6-10-19)

Section 18.04. - Schedule of minimum off-street parking requirements.

RESIDENTIAL	
One-family and two-family dwellings Up to 3 bedrooms 4 or more bedrooms	2.0 spaces per dwelling unit 3.0 spaces per dwelling unit
Multiple-family dwellings	1.0 spaces per each efficiency or one bedroom dwelling unit, 1.5 spaces per each unit with two bedrooms 2.0 spaces for each unit with three or more bedrooms
Note: In addition, multiple-family and attached single-family developments shall be required to provide supplemental guest off-street parking equal to at least 20 percent of the spaces required by the above standards. If community buildings, swimming pools, or recreation buildings are provided in the development, one space for every five units in the development shall be provided, and shall be within reasonable walking distance of the facility.	
Manufactured homes in a manufactured housing park	3.0 spaces per each manufactured home unit
HOUSING FOR THE ELDERLY	
Senior apartments and elderly housing complexes	1.5 spaces per dwelling unit
Senior "interim care" and "intermediate care" units, retirement villages, etc.	1.0 space per each room or two beds, whichever is less, plus 1.0 space per each employee expected during the peak shift
Congregate care and dependent care (convalescent/nursing home units)	1.0 space per each three beds or two rooms, whichever is less, up to 120 beds, plus 3.0 spaces for each bed over 120; plus 1.0 space for each employee during peak shift
Note: Should units revert to general occupancy, the requirements for multiple-family housing shall be complied with.	
INSTITUTIONAL OR PUBLIC USES	
Churches, temples, and places of worship	1.0 space per each three seats or six linear feet of pews, plus land area shall be available for future development of additional spaces, equal to 50 percent of the specified parking requirements (to accommodate growth)

Municipal office buildings	4.0 spaces per 1,000 sq. ft. gross floor area
Community centers (incl. senior centers and teenage centers)	1.0 space per 100 sq. ft. gross floor area
Child care or day care centers	2.0 spaces plus 1.0 additional space for each eight children of licensed authorized capacity; a paved unobstructed pick-up space with adequate stacking (as determined by the planning commission) shall be provided
Fraternities, sororities, dormitories	1.0 for each five persons who may legally occupy the premises at one time, based on the occupancy load established by local codes, or one for each two beds, whichever is greater
Group day care homes, adult foster care group homes, adult congregate care facilities, and children's homes	1.0 space per four clients plus 1.0 space per each employee plus designated drop-off spaces
Hospitals	1.75 spaces per inpatient bed plus 1.0 spaces per each 175 gross square feet of hospital related office, research and administrative space. Other uses shall be computed separately
Mixed health care related uses in the Health Care District Medical Center	5.0 spaces per 1,000 sq. ft. gross floor area overall if parking facilities are shared, otherwise each use is computed separately
Primary schools (elementary and junior high schools)	1.0 space per each instructor, plus 1.0 space per each employee and administrator, plus drop-off areas for school buses, plus spaces required for any assembly hall, auditorium and/or outdoor arena
Secondary (high) schools, commercial schools, colleges	1.0 space per each instructor, plus 1.0 per each employee and administrator, plus 5.0 spaces per each classroom, plus drop-off areas for school buses, plus parking required for any assembly hall, auditorium or outdoor arena
Auditorium, assembly halls, theaters and outdoor arenas	1.0 space per each three seats or six feet of bleachers, whichever is greater, plus 1.0 for each employee
Public recreation centers	5.0 spaces per 1,000 sq. ft. of gross floor area
Dance halls, pool and billiard rooms, exhibition	1.0 parking space for each three persons permitted in such edifice as determined in the capacity limitations, thereof, by the fire marshal
Union halls, fraternal orders, civic clubs and similar uses	1.0 space per every three persons of capacity authorized by the fire marshal
Museum, library, cultural center, or similar facility	1.0 space per 300 sq. ft. of usable floor space, plus 1.0 space for every employee on the maximum shift
Post office	1.0 space per 200 sq. ft. of usable floor space, plus 1.0 space for every employee on the maximum shift
Public utility use	1.0 space per every employee on the maximum shift
OFFICE	
Medical/dental clinic/office	7.0 spaces per 1,000 sq. ft. gross floor area, plus 1.0 for each examining room, dental chair or similar use area.

Medical clinic: Outpatient center, 24-hour urgent care centers, etc.	2.0 spaces per exam or outpatient procedure/operating room, plus care areas, 1.0 space per laboratory or recovery room, plus 1.0 space for each two rooms for employee parking
General office building	1.0 space per 300 sq. ft. gross leasable floor area
Branch bank, credit union or savings and loan	1.0 space per 200 sq. ft. gross floor area, plus 2.0 spaces per each 24-hour teller, plus 4.0 stacking spaces per each drive-through window
COMMERCIAL/RETAIL/SERVICE	
Appliance store	1.0 space per 250 sq. ft. gross leasable floor area
Auto service (gasoline) station	2.0 spaces per each service bay (pump island), plus 1.0 space per employee, plus 1.0 space per each tow truck, plus 1.0 space for each 500 sq. ft. devoted to sales of automotive goods or convenience items. Plus requirements for auto service center if applicable.
Automobile service center or auto repair center	3.0 spaces for employees, but not less than 2.0 for each lubrication stall, rack, pit, or similar service area, plus 2.0 waiting spaces for each service bay.
Automobile or vehicle dealership	<u>2.5</u> spaces for each 1,000 square feet of interior sales space plus one and one-half spaces per 1,000 square feet of exterior display, plus three spaces per service bay.
Automobile wash	2.0 spaces, plus 1.0 designated space per each employee on peak shift, plus 12 stacking spaces per bay for a fully automatic car wash, 15 for a semi-automatic (motorist must leave auto) or 2.0 stacking spaces per bay for a self-serve car wash
Barber shop/beauty parlor	3.0 spaces per each of the first two barber or beautician chair/stations, plus 1.5 spaces for each additional chair.
Bookstores	1.0 spaces per 125 sq. ft. gross leasable area.
Conference rooms, exhibit halls and similar uses	1.0 space per every two persons of capacity authorized by the Uniform Building Code, or 1.0 space per 100 sq. ft. gross floor area, whichever is greater, plus 1.0 space per employee.
Convenience store, with or without gasoline service	1.0 space per 250 sq. ft. gross leasable floor area, plus spaces required for auto service station activities or gasoline sales
Dry cleaners	2.0 spaces per 1,000 sq. ft. gross leasable floor area
Funeral homes, mortuary establishments	1.0 space per 50 sq. ft. of service parlors, chapels and reception area, plus 1.0 space per each funeral vehicle stored on premises
Furniture/carpet store, appliance, household equipment, repair shops, showroom of a plumber, decorator, electrician, or similar trade or uses.	1.0 spaces per 1,000 sq. ft. gross leasable floor area, plus 1.0 space for each two persons employed in the processing area.
General retail business	1.0 space per 150 sq. ft. gross leasable floor area (GLA)

Shopping centers over 600,000 GLA	5.0 per 1,000 sq. ft. gross leasable floor area (GLA)
Shopping centers over 400,000—600,000 GLA	<u>4.5</u> per 1,000 sq. ft. gross leasable floor area (GLA)
Shopping centers over 25,000—400,000 GLA	4.0 per 1,000 sq. ft. gross leasable floor area (GLA)
Home improvement centers (over 40,000 sq. ft.)	<u>5.5</u> spaces per 1,000 sq. ft. gross leasable floor area (GLA)
Laundromat and coin-operated dry cleaners	1.0 space per each two washing machines
Mini- or self-storage warehouse	Minimum of 6.0 spaces
Motel/hotel with lounge, restaurant and conference or banquet rooms	1.0 space per guest room, plus 1.0 space per 100 sq. ft. of lounge, restaurant, conference or banquet rooms or exhibit space, plus 1.0 space per each two employees
Motel/hotel with restaurant/lounge	1.0 space per guest room, plus 12.0 spaces per 1,000 sq. ft. of restaurant/lounge space, plus 1.0 space per each two employees
Motel/hotel without restaurant/lounge; bed and breakfast inn	1.0 space per guest room, plus 1.0 space per each two employees.
Outdoor sales, display	1.0 space per 800 sq. ft. of such area
Recreational vehicle, boat, mobile home and similar sales	1.0 space per 800 sq. ft. gross leasable floor area, plus 2.0 spaces per each vehicle sales service bay
Restaurant—Sit-down type with liquor license	20.0 spaces per 1,000 sq. ft. gross leasable floor area, or 0.6 spaces per seat, whichever is greater
Bars, lounges, taverns, nightclubs (majority of sales consist of alcoholic beverages)	25.0 spaces for each 1,000 square feet usable floor area
Restaurant—Standard (a family-type restaurant without a bar or lounge area)	14.0 spaces per 1,000 sq. ft. gross leasable floor area or 0.5 space per seat, whichever is greater, plus any spaces required for any banquet or meeting rooms
Restaurant—Fast food with drive-through window	22.0 spaces per 1,000 sq. ft. of gross leasable floor area, plus 5.0 spaces between the pick-up window and the order station, plus 10.0 stacking spaces which do not conflict with access to required parking spaces per order pick-up station, plus spaces for employees of a peak shift plus at least 2.0 longer spaces designated for recreational vehicles and semi-trucks if site is within ½ mile of expressway
Restaurant—Carry-out or delicatessen with less than six tables and/or booths	6.0 spaces plus 1.0 space for each employee on peak shift
Supermarket	1.0 space per 175 sq. ft. gross leasable floor area
Video rental establishments	1.0 space per 100 sq. ft. leasable floor area, with a minimum of 8.0 spaces provided
Wholesale establishments	1.0 space per each 500 sq. ft. of gross floor area, plus 1.0 per each two employees

RECREATION/ENTERTAINMENT	
Batting cages	2.0 spaces per cage
Billiard parlors, pool halls, dance halls, roller or skating rinks, exhibition halls, and assembly halls without fixed seats	1.0 for each three persons allowed within the maximum occupancy load as established by local county or state fire, building, or health codes.
Bowling centers	5.0 spaces per lane plus 25 percent of the required parking for any lounge
Commercial outdoor recreation centers	1.0 space per 200 sq. ft. gross floor area
Golf course driving range	2.0 spaces per each three tees, plus 1.0 per employee
Golf course, miniature	2.0 spaces per each course hole, plus 1.0 per employee
Golf course, par three	3.0 spaces per each course hole, plus 1.0 per employee
Golf course/country club	6.0 spaces per each course hole, plus 1.0 per employee
Golf course banquet hall/lounge	0.5 space per seat, less spaces required for golf course
Health fitness centers without swimming pool	5.0 spaces per 1,000 sq. ft. gross leasable floor space
Ice/roller skating rink	6.0 spaces per 1,000 sq. ft. gross floor area
Private golf clubs, tennis clubs, or similar uses	1.0 space for each two member families or individuals
Stadium, sports arenas, or similar place of outdoor assembly	1.0 space for each three seats or six feet of benches
Swimming pool	1.0 space per each three persons of capacity authorized by the City Building Code
Theater, cinema, auditoriums	1.0 space per each four seats, plus 4.0 spaces per screen or stage, plus 1.0 per employee
Racquetball/tennis centers	1.0 space per 1,000 sq. ft. gross floor area or 6.0 spaces per court, whichever is greater
Video arcades	1.0 space per 50 sq. ft. leasable floor area, with a minimum of 6.0 spaces required
INDUSTRIAL	
Light industrial, manufacturing, testing labs, research and development centers	2.0 spaces per 1,000 sq. ft. gross floor area or 0.6 spaces per employee at peak shift, whichever is greater; plus 1.0 space for each corporate vehicle, plus parking required for any sales area or office
Warehousing	1.0 space per each 1,500 sq. ft. gross floor area or 1.0 space per employee at peak shift, whichever is greater, plus 1.0 space for each corporate vehicle (separate standard provided for mini-storage)
CENTRAL BUSINESS DISTRICT	

All uses (residential and commercial)	4 spaces per 1,000 square feet of floor area
Restaurant—Fast food with drive-through window	22.0 spaces per 1,000 sq. ft. of gross leasable floor area, plus 5.0 spaces between the pick-up window and the order station, plus 10.0 stacking spaces which do not conflict with access to required parking spaces per order pick-up station, plus spaces for employees of a peak shift plus at least 2.0 longer spaces designated for recreational vehicles and semi-trucks if site is within ½ mile of expressway
Restaurant—with pick-up window	22.0 spaces per 1,000 sq. ft. of gross leasable floor area, plus 3.0 stacking spaces which do not conflict with access to required parking spaces per order pick-up station, plus spaces for employees of a peak shift plus at least 2.0 longer spaces designated for recreational vehicles and semi-trucks if site is within ½ mile of expressway

(Ord. No. 434, § 9, 10-8-18; Ord. No. 440, §§ 1, 10, 6-10-19)

Section 18.05. - Design, layout, and construction.

Off-street parking facilities containing four or more spaces shall be designed, constructed, and maintained in accordance with the following requirements:

- A. *Review and approval requirements:* Plans for the construction of any parking lot in conjunction with a new development shall be submitted for review and approval according to the normal site plan review procedures. Plans for expansion of an existing parking lot that is not associated with other new development shall be submitted to the zoning administrator for review and approval prior to the start of construction. Upon completion of construction, the parking lot must be inspected and approved by the zoning administrator before a certificate of occupancy can be issued by the city for the parking lot and for the building or use the parking is intended to serve.

Two sets of plans shall be prepared at a scale of not less than 50 feet equal to one inch. Plans shall indicate existing and proposed grades, drainage, (sewers), surfacing and base materials, and the proposed parking lot layout. The plans shall conform to the construction and design standards established by the city and the requirements of this article.

In the event that the required parking cannot be completed because of cold or inclement weather, a temporary certificate of occupancy may be issued.

- B. *Dimensions:* Off-street parking shall be designed in conformance with the following standards and the requirements of section 18.04. Minimum number of spaces required:

OFF-STREET PARKING STANDARDS					
Parking Angle	Maneuvering Aisle Width	Parking Stall Width	Parking Space Length	Total Width of One Tier of Spaces and Maneuvering Lane	Total Width of Two Tiers of Spaces and Maneuvering Lane
0° (parallel)	12'-0" (one-way) 24'-0" (two-way)	8'-0" 8'-0"	24'-0" 24'-0"	20'-0"	40'-0"
30°	12'-0" (one-way)	9'-0"	18'-0"	30'-0"	48'-0"
45°	12'-0" (one-way)	9'-0"	19'-0"	31'-0"	50'-0"
60°	15'-0" (one-way)	10'-0"	18'-0"	33'-0"	51'-0"
90°	24'-0" (two-way)	9'-0"	18'-0"	42'-0"	60'-0"

- C. *Ingress and egress*: All spaces shall be provided with adequate access by means of clearly defined maneuvering lanes and driveways. Entrances and exits from off-street parking lots shall be located at least 25 feet from the nearest point of any property zoned for single-family residential use.
- D. *Surfacing and drainage*:
1. Grading, surfacing, and drainage plans shall be subject to review and approval by the building inspector and/or city engineer in accordance with the specifications approved by the city council. All off-street parking areas, access lanes, driveways and other vehicle maneuvering areas shall be hard-surfaced with concrete or plant-mixed bituminous material. However, the planning commission may permit a gravel surface, provided the applicant or property owner provides sufficient evidence that a paved surface is not necessary. This determination will be based upon the following criteria:
 - a) The types of uses to be conducted in the storage area;
 - b) The types and amounts of hazardous materials to be used at the site;
 - c) The extent of natural vegetation to filter dust generated by a gravel parking or loading area;
 - d) The existence of adjacent uses which may be impacted by dust generated by a gravel parking or loading area;
 - e) Existing hydraulic and ecologic features such as adjacent wetland complexes which may be better protected by the reduced runoff resulting from gravel parking or loading area;
 - f) Existing soil permeability sufficient to provide desired infiltration; and
 - g) The potential for, or ability to minimize, erosion and sedimentation from a gravel parking or loading area.
 2. Required parking lots shall be installed and completed within one year of receipt of a building permit and before issuance of an occupancy permit. The planning commission may grant a single extension for an additional six months in the event adverse weather conditions or unusual delays beyond the control of the property owner.
 3. Off-street parking areas, access lanes, and driveways shall be graded and drained so as to dispose of surface waters. Surface water shall not be permitted to drain onto adjoining property, unless in accordance with an approved drainage plan.
- E. *Curbs, parking block*: Installation of a curb of at least six inches in height may be required by the planning commission, to prevent motor vehicles from being driven or parked within two feet of abutting landscape areas, sidewalks, streets, buildings, or adjoining property. In lieu of a curb, parking blocks may be substituted to prevent vehicles from extending over grass areas, setback lines, or lot lines.
- F. *Lighting*: All parking areas, driveways, and walkways shall be illuminated to ensure the security of property and the safety of persons using areas, in accordance with the requirements in [Article 19](#). Parking lot entrances shall be illuminated. Lighting shall be shielded from adjacent residential properties.
- G. *Buildings*: No building or structure shall be permitted on an off-street parking lot, except for a maintenance building/attendant shelter, which shall not be more than 50 square feet in area and not more than 15 feet in height.
- H. *Signs*: Accessory directional signs shall be permitted in parking areas in accordance with the city's sign ordinance.
- I. *Screening and landscaping*:
1. All off-street parking areas, except those serving one-family and two-family dwellings, shall be screened and landscaped in accordance with the provisions set forth in [Article 20](#).
 2. When a front yard setback is required, all land between the parking area and the front property line or street right-of-way line shall be kept free from refuse and debris and shall be landscaped with deciduous shrubs, evergreen material and ornamental trees. The ground area shall be planted and kept in lawn. All such landscaping and planting shall be maintained in a healthy, growing condition, neat and orderly in appearance.
- J. *Walls and alleys*: In all cases where a wall extends to an alley which is a means of ingress or egress to an off-street parking area, it shall be permissible to end the wall not more than ten feet from such alley line in order to permit a wider means of access to the parking area.
- K. *Maintenance*: All parking areas shall be maintained free of dust, trash, and debris. Surfacing, curbing, lighting fixtures, signage, and related appearances shall be maintained in good condition. All required lawns, landscaping, and plantings shall be maintained in a healthy, growing condition, neat and orderly in appearance. Trees and shrubs shall be properly pruned of dead and damaged limbs. Dead and severely damaged trees and shrubs shall be removed and replaced according to the minimum planting standards as outlined in [Article 20](#).
- L. *Modifications*: The planning commission, upon application by the property owner of the off-street parking area, may modify the yard or wall requirements where, in unusual circumstances, no good purpose would be served by the compliance with the requirements of this section.

(Ord. No. [440](#), §§ 1, 10, 6-10-19)

Section 18.06. - Off-street loading and unloading areas.

- A. *Scope of loading space requirements*: Compliance with the loading space regulations set forth herein shall be required in order to avoid interference with the public use of streets, alleys, parking areas, driveways, sidewalks, and other public areas.
1. *General applicability*. On the same premises with every building, or part thereof, erected and occupied for manufacturing, storage, warehousing, display and sale of goods, including department stores, wholesale stores, markets, hotels, hospitals, mortuaries, laundries, dry cleaning

establishments, and other uses involving the receipt or distribution of materials, merchandise, or vehicles, there shall be provided and maintained adequate space for loading and unloading as required in this section.

2. *Change in use and intensity.* Whenever use of a building, structure, or lot is changed, loading space shall be provided as required by this ordinance for the new use, regardless of any variance which may have been in effect prior to change of use.
3. *Surfacing and drainage.* Loading areas shall be hard-surfaced with concrete or plant-mixed bituminous material, so as to provide a permanent, durable and dustless surface. Loading areas shall be graded and drained so as to dispose of surface waters. Surface water shall not be permitted to drain onto adjoining property, unless in accordance with an approved drainage plan. Grading, surfacing, and drainage plans shall be subject to review and approval by the building inspector and/or city engineer in accordance with the specifications approved by the city council.
4. *Storage and repair prohibited.* The storage of merchandise, sale of motor vehicles, storage of inoperable vehicles, or repair of vehicles is prohibited in required front yards, external side yards and loading space.
5. *Central loading.* Central loading facilities may be substituted for individual loading spaces serving businesses on separate lots provided that all of the following conditions are fulfilled:
 - a) Each business served shall have direct access to the central loading area without crossing streets or alleys.
 - b) Total loading space provided shall meet the minimum requirements specified herein, in consideration of total floor area of all businesses served by the central loading space.
 - c) No building served shall be more than 300 feet from the central loading area.
6. *Minimum loading space.* The amount of required loading space shall be determined in accordance with the schedule that follows. The planning commission may modify these requirements upon making the determination that another standard would be more appropriate because of the number or type of deliveries experienced by a particular business or use.

SCHEDULE OF LOADING SPACE REQUIREMENTS	
INSTITUTIONAL AND COMMERCIAL USES	
Up to 5,000 sq. ft. GFA	1.0 space. Establishments containing less than 5,000 square feet of gross floor area shall be provided with adequate off-street loading space that is accessible by motor vehicle, but which does not interfere with pedestrian or vehicular traffic. The size of any such loading space shall be based on the types of delivery vehicles typically utilized by the establishment, provided that in Industrial Districts sufficient land area must be available to provide a ten ft. by 50 ft. space (with a clearance of at least 14 ft. in height) space in the event that the use of the property changes.
5,001 to 60,000 sq. ft. GFA	1.0 space, plus 1.0 space per each additional 20,000 sq. ft. GFA.
60,001 sq. ft. GFA and over	2.0 spaces, plus 1.0 space per each additional 50,000 sq. ft. GFA.
OFFICE USES	
Up to 15,000 sq. ft. GFA	1.0 space
If over 30,000 sq. ft. GFA	2.0 spaces, plus 1.0 space for each additional 30,000 sq. ft. GFA
INDUSTRIAL USES	
Up to 1,400 sq. ft. GFA	0
1,401—20,000 sq. ft. GFA	1.0 space
20,001—100,000 sq. ft. GFA	1.0 space, plus 1.0 space per each additional 20,000 sq. ft. GFA in excess of 20,000 sq. ft.
100,001 sq. ft. GFA and over	5.0 spaces, plus 1.0 space for each additional 40,000 sq. ft. in excess of 100,000 sq. ft.

(Ord. No. 440, §§ 1, 10, 6-10-19)

ARTICLE 19. - LIGHTING STANDARDS

Footnotes:

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Editor's note— Ord. No. 440, § 10, adopted June 10, 2019, renumbered Art. 27 §§ 27.00—27.06 as Art. 19 §§ 19.00—19.06, as set out herein.

See editor's note at Art. 12 pertaining to renumbering the former Art. 19.

Section 19.00. - Purpose.

The purpose of this article is to protect the health, safety and welfare of the public by recognizing that buildings and sites need to be illuminated for safety, security and visibility for pedestrians and motorists. To do so, this article provides standards for various forms of lighting that will: minimize light pollution; maintain safe nighttime driver performance on public roadways; preserve the restful quality of nighttime by eliminating intrusive artificial light and lighting that unnecessarily contributes to "sky glow"; reduce light pollution and light trespass from light sources onto adjacent properties; conserve electrical energy; and curtail the degradation of the nighttime visual environment.

(Ord. No. 440, § 10, 6-10-19)

Section 19.01. - Applicability.

The standards in this article shall apply to any light source that is visible from any property line, or beyond, for the site from which the light is emanating. The building official/zoning administrator may review any building or site to determine compliance with the requirements under this article. Whenever a person is required to obtain a building permit, electrical permit for outdoor lighting or signage, a special land use approval, subdivision approval or site plan approval from the city, the applicant shall submit sufficient information to enable the building official/zoning administrator and/or planning commission to determine whether the proposed lighting complies with this article.

(Ord. No. 440, § 10, 6-10-19)

Section 19.02. - Lighting definitions.

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

- A. *Canopy structure* means any overhead protective structure which is constructed in such a manner as to allow pedestrians/vehicles to pass under.
- B. *Flood or spot light* means any light fixture or lamp that incorporates a reflector or refractor to concentrate the light output into a directed beam in a particular direction.
- C. *Glare* means a direct light emitted by a lamp, luminous tube lighting or other light source.
- D. *Lamp* means the component of the luminaire that produces the actual light including luminous tube lighting.
- E. *Light fixture* means the assembly that holds a lamp and may include an assembly housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and a refractor or lens. A light fixture also includes the assembly for luminous tube and fluorescent lighting
- F. *Light pollution* means an artificial light which causes a detrimental effect on the environment, enjoyment of the night sky or causes undesirable glare or unnecessary illumination of adjacent properties.
- G. *Light trespass* means the shining of light produced by a luminaire beyond the boundaries of the property on which it is located.
- H. *Luminaire* means the complete lighting system including the lamp and light fixture.
- I. *Luminous tube lighting* means gas filled tubing which, when subjected to high voltage, becomes luminescent in a color characteristic of the particular gas used, e.g., neon, argon, etc.
- J. *Outdoor light fixtures* means outdoor artificial illuminating devices, outdoor fixtures, lamps and other similar devices, permanently installed or portable, used for flood lighting, general illumination or advertisement.
- K. *Shielded fixture* means outdoor light fixtures shielded or constructed so that light rays emitted by the fixture are projected below the horizontal plane passing through the lowest point on the fixture from which light is emitted, e.g., "shoebox-type" fixtures. A luminaire mounted in a recessed fashion under a canopy or other structure such that the surrounding structure effectively shields the light in the same manner is also considered fully shielded for the purposes of this article.

(Ord. No. 440, § 10, 6-10-19)

Section 19.03. - Submittal requirements.

The following information must be included for all site plan submissions and where site plan approval is not required, some or all of the items may be required by the zoning administrator prior to lighting installation:

- A. Location of all freestanding, building-mounted and canopy light fixtures on the site plan and building elevations.
- B. Photometric grid overlaid on the proposed site plan indicating the overall light intensity throughout the site (in footcandles).
- C. Specifications and details for the type of fixture being proposed including the total lumen output, type of lamp and method of shielding.
- D. Purpose of the fixture proposed.
- E. Any other information deemed necessary by the zoning administrator to determine compliance with provisions of this article.

(Ord. No. 440, § 10, 6-10-19)

Section 19.04. - Lighting standards.

Unless exempted under section 19.05, Exemptions, all lighting must comply with the following standards:

A. *Freestanding pole lighting:*

1. Exterior lighting shall be fully shielded and directed downward to prevent off-site glare. The intensity of light within a site shall not exceed ten footcandles within any site or one footcandle at any property line, except where it abuts a residential district or use whereby a maximum of 0.5 footcandles is permitted. The only exception is with gas station canopy and automobile dealership lighting, where a maximum of 20 footcandles is permitted within the site but the above standards shall apply to intensity at the property line.
2. Metal halide fixtures shall be used in an effort to maintain a unified lighting standard throughout the city and minimize "sky glow."
3. The planning commission may approve decorative light fixtures as an alternative to shielded fixtures when it can be proven that there will be no off-site glare and the proposed fixtures are necessary to preserve the intended character of the site.
4. Lighting fixtures shall not exceed a height of 20 feet measured from the ground level to the centerline of the light source, except that fixtures as high as 30 feet shall be permitted in Industrial Districts. These light fixture height standards shall not apply to public lighting in a road right-of-way.
 - a) The planning commission may modify these height standards in Commercial and Industrial Districts, based on consideration of the following: the position and height of buildings, other structures, and trees on the site; the potential off-site impact of the lighting; the character of the proposed use; and, the character of surrounding land use.
 - b) In no case shall the lighting exceed the maximum building height in the district in which it is located.
5. Except where used for security purposes, all outdoor lighting fixtures, existing or hereafter installed and maintained upon private property within Commercial, Industrial and Office Zoning Districts shall be turned off between 11:00 p.m. and sunrise, except when used for commercial and industrial uses, such as in sales, assembly and repair areas, where such use continues after 11:00 p.m. but only for so long as such use continues.

B. *Building-mounted lighting:*

1. Building-mounted lighting shall be fully shielded and directed downward to prevent off-site glare. The intensity of light shall not exceed ten footcandles within any site or one footcandle at any property line, except where it abuts a residential district or use whereby a maximum of 0.5 footcandles is permitted at the property line.
2. Metal halide fixtures shall be used in an effort to maintain a unified lighting standard throughout the city and prevent "sky glow."
3. Luminous tube and exposed bulb fluorescent lighting is prohibited as an architectural detail on all buildings, e.g., along the roof line and eaves, around windows, etc. The planning commission may approve internally illuminated architectural bands when it can be shown that the treatment will enhance the appearance of the building or is necessary for security purposes.
4. The planning commission may approve decorative light fixtures as an alternative to shielded fixtures when it can be proven that there will be no off-site glare and the proposed fixtures will improve the appearance of the site.

C. *Window lighting:*

1. Any light fixtures visible through a window must be shielded to prevent glare at the property line.
2. Luminous tube and exposed bulb fluorescent lighting (visible from the property line) is prohibited unless it is part of a sign that meets the requirements of the city's sign ordinance.

D. *Other lighting:*

1. The internal illumination of canopies is prohibited.
2. Indirect illumination of signs, canopies and buildings is permitted provided a maximum 125-watt bulb is utilized and there is no glare.
3. The use of laser light source, search lights or any similar high intensity light for outdoor advertisement or entertainment is prohibited.
4. Lighting shall not be of a flashing, moving or intermittent type.

(Ord. No. 440, § 10, 6-10-19)

Section 19.05. - Exemptions.

The following are exempt from the lighting requirements of this article, except that the building official/zoning administrator may take steps to eliminate the impact of the below exempted items when deemed necessary to protect the health, safety and welfare of the public:

- A. Sports fields.
- B. Swimming pools.
- C. Holiday decorations.
- D. Window displays without glare.
- E. Shielded pedestrian walkway lighting.
- F. Residential lighting with no off-site glare.
- G. Street lights.

(Ord. No. 440, § 10, 6-10-19)

Section 19.06. - Lamp or fixture substitution.

Should any light fixture regulated under this article, or the type of light source therein, be changed after the permit has been issued, a change request must be submitted to the zoning administrator for his approval, together with adequate information to assure compliance with this ordinance, which must be received prior to substitution.

(Ord. No. 440, § 10, 6-10-19)

ARTICLE 20. - LANDSCAPING

Footnotes:

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Editor's note— Ord. No. 440, § 10, adopted June 10, 2019, renumbered Art. 28 §§ 28.00—28.08 as Art. 20 §§ 20.00—20.08, as set out herein.

See editor's note at Art. 13 pertaining to renumbering the former Art. 20.

Section 20.00. - Intent and scope of requirements.

- A. *Intent.* Landscaping enhances the visual image of the city, improves property values and alleviates the impact of noise, traffic, and visual distraction associated with certain land uses. Screening is important to protect less intensive uses from the noise, light, traffic, litter and other impacts of more intensive, non-residential uses. Accordingly, these provisions are intended to set minimum standards for the design and use of landscaping, greenbelts, and screening, and for the protection and enhancement of the city's environment. More specifically, the intent of these provisions is to:
 - 1. Improve the appearance of off-street parking areas, vehicular use areas, and property abutting public rights-of-way, and
 - 2. Protect and preserve the appearance, character, and value of the neighborhoods that abut non-residential areas, parking areas, and other intensive use areas, thereby protecting the public health, safety and welfare.
- B. *Scope of application.* No site plan shall be approved unless it contains landscaping that meets or exceeds the requirements of this article. No building permit shall be issued by the zoning administrator until the required landscape plan is submitted and approved, and no certificate of occupancy shall be granted unless provisions of this section have been met or a performance guarantee has been posted which may be in an amount equal to the value of outstanding landscaping improvements.
- C. *Minimum requirements.* The requirements in this article are minimum requirements. Under no circumstances shall they preclude the installation of more extensive landscaping. Applicants are encouraged to provide additional landscaping to improve the function, appearance and value of the property.
- D. *Design creativity.* Creativity in landscape design is encouraged. In several instances, the standards are intentionally flexible to encourage flexibility and creative design. Accordingly, required trees and shrubs may be planted at uniform distances, randomly, or in groupings, depending on the designer's desired visual effect and, equally important, the intent of the city to coordinate landscaping on adjoining properties.
- E. *Exceptions to landscaping requirements.* Notwithstanding the requirements of the article, planning commission may approve alternative landscaping standards when it is satisfied that the alternative standards will result in more creative or effective landscaping.

(Ord. No. 440, § 10, 6-10-19)

Section 20.01. - Definitions.

For the purpose of this section, the following definitions shall apply:

- A. *Berm.* A continuous, raised earthen mound with flattened top and sloped sides, capable of supporting live landscaping materials, and with a height, width, and slope which complies with the requirements of this ordinance.

- B. *Buffer zone.* A strip of land often required between certain zoning districts reserved for plant material, berms, walls or fencing to serve as a visual barrier.
- C. *Common open space.* Designated areas unoccupied and unobstructed from the ground upward except for living plant material, recreational facilities, sidewalks, bike paths and necessary drives within a PUD, PMSHDD, single-family cluster option projects, subdivision or condominium projects designed and intended for the use and enjoyment of the public or residents of the development and/or for the protection of natural features.
- D. *Grass.* Any family of plants with narrow leaves normally grown as permanent lawns in Southern Michigan.
- E. *Greenbelt.* A strip of land of definite width and location reserved for the planting of a combination of shrubs, trees and ground cover to serve as an obscuring screen or buffer for noise or visual enhancement, in accordance with the requirements of this ordinance. In some cases a wall or fence may be permitted as part of the greenbelt.
- F. *Ground cover.* Low-growing plants (including grass) that form a dense, extensive growth after one complete growing season, and tend to prevent weeds and soil erosion.
- G. *Shrub.* A woody plant of one to 13 feet in height with several erect, spreading stems and a general bushy appearance.
- H. *Tree.* A woody plant with an erect perennial trunk, which at maturity is 13 feet or more in height, which has a more or less definite crown of foliage. For purposes of this ordinance the following definitions of types of trees shall apply:
 1. *Deciduous tree:* A tree which has foliage that is shed at the end of the growing season.
 2. *Evergreen tree:* A tree which has foliage that persists and remains green throughout the year.
 3. *Ornamental tree:* A deciduous tree which is typically grown because of its shape, flowering characteristics, or other attractive features, and which grows to a mature height of 25 feet or less.
 4. *Canopy tree:* A deciduous tree which has a mature crown spread of greater than 15 feet and a mature height of 40 or more feet in southern Michigan, and which has a trunk with at least five feet of clear stem at maturity.

(Ord. No. 440, § 10, 6-10-19)

Section 20.02. - General landscaping requirements.

- A. *General site requirements.* All developed portions of the site shall conform to the following general landscaping standards, except where specific landscape elements, such as a greenbelt, berms, or screening are required:
 1. All unpaved portions of the site shall be planted with grass, ground cover, shrubbery, or other suitable live plant material, and shall extend to any abutting street pavement edge.
 2. A mixture of evergreen and deciduous trees shall be planted on the unpaved open portions of non-residential parcels where specific landscaping minimums are not required within this article. Based upon the overall appearance of the proposed site and the amount of landscaping provided elsewhere on the site, the total number of trees required shall be approved at the time of site plan review. Required trees may be planted at uniform distances, randomly, or in groupings.
- B. *Landscaping adjacent to roads and road rights-of-way.* Landscaping adjacent to roads and road rights-of-way shall comply with the following planting requirements:
 1. *Minimum requirements.*
 - a) The landscaping area adjacent to roads or road rights-of-way shall consist of a minimum depth of 15 feet, except in situations where the minimum building or parking lot setbacks are less than 15 feet. In such cases, the landscaping area adjacent to roads or road rights-of-way shall consist of a minimum depth of ten feet. This landscaped area shall exclude approved openings for vehicle and pedestrian access. Through lots or corner lots shall provide such landscaping along all adjacent road rights-of-way.
 - b) The planning commission may permit all or a portion of the landscaped area to be located within a road right-of-way or elsewhere within the front setback area, provided that the planning commission finds that all of the following conditions exist regarding the proposed relocation:
 - 1) The relocation is justified because of the physical characteristics of the site, the location of existing easements, sidewalks, or landscaping, the configuration of existing parking, the need to maintain emergency vehicle access, or because of other public health or safety concerns.
 - 2) The landscaped area will not result in less landscaped area than would be required if the landscaped area had been located on private property contiguous to the road right-of-way.
 - 3) The landscaped area is consistent with the intent of this section.
 - 4) The landscaped area will not jeopardize traffic safety or the general planning of the city.
 2. *Required plantings.*

Type	Requirements
Deciduous tree*	1 canopy tree per 40 lineal ft. (rounded upward) of road frontage
*The planning commission may approve substitution of evergreen trees for up to 50 percent of the required trees.	

For the purposes of computing length of road frontage, openings for driveways and sidewalks shall not be counted. Trees and shrubs may be planted at uniform distances, randomly, or in groupings.

3. *Location.*

a) Where planted, trees shall comply with the following minimum setbacks, as measured from the center of the tree:

Location	Minimum Required Setback
from edge of road	10 feet
from fire hydrant	5 feet
from vehicular drive or sidewalk	5 feet
from fence line or property line	4 feet

b) When planted, shrubs shall comply with the following minimum setbacks, as measured from the edge of the shrub:

Location	Minimum Required Setback
from edge of road	5 feet
from fire hydrant	5 feet
from fence line or property line	4 feet

C. *Berms.* Where required, berms shall conform to the following standards:

1. *Dimensions.* Unless otherwise indicated or appropriate, required berms shall be measured from the grade of the parking lot or first ground adjacent to the berm, and shall be constructed with slopes no steeper than one foot vertical for each three feet horizontal (33 percent slope), with at least a two-foot flat area on top. Berms may undulate in height, subject to review and approval of berm design as shown on the site plan. Unless otherwise indicated, the maximum height of required berms shall be three feet.
2. *Protection from erosion.* Any required berm shall be planted with sod, ground cover, or other suitable live plant material to protect it from erosion so that it retains its height and shape. The use of railroad ties, cement blocks, and other types of construction materials to retain the shape and height of a berm shall be prohibited unless specifically reviewed and approved as part of a site plan by the planning commission.
3. *Required plantings.*
 - a) Berms located in the front yard of non-residential parcels. Berms located in the front yard of non-residential parcels shall be landscaped in accordance with the requirements for landscaping adjacent to roads, [section 20.03](#), subsection B.
 - b) Berms used for screening other than in the front yard. Berms used for screening other than in the front yard shall be landscaped in accordance with the requirements for screening, [section 20.03](#), subsection D.
4. *Measurement of berm length.* For the purpose of calculating required plant material, berm length shall be measured along the exterior edge of the berm.

D. *Screening, obscuring walls and fences.*

1. *Obscuring walls and fences.* There shall be provided on those sides abutting or adjacent to a residential district a completely obscuring wall or fence. The height of such wall or fence shall be determined by the zoning administrator; provided, however, that he shall require only such height as shall be necessary to obscure the use within the fence from adjoining residential uses and in any event such wall or fence not exceed 12 feet from ground level.
 - a) Required walls or fences shall be located on the lot line except where underground utilities interfere and except in instances where this ordinance requires conformance with front yard setback lines in abutting residential districts. Required walls or fences may, upon approval of the zoning

board of appeals, be located on the opposite side of an alley right-of-way from non-residential district that abuts a residential district when mutually agreeable to affected property owners. The continuity of the required wall or fence on a given block will be a major consideration of the zoning board of appeals in reviewing such request.

b) Such walls and screening barrier shall have no openings for vehicular traffic or other purposes, except such openings as may be approved by the chief of police and the zoning administrator. All walls herein required shall be constructed of masonry materials approved by the zoning administrator. Walls shall be erected on a concrete foundation which shall have a minimum depth of 42 inches below a grade approved by the zoning administrator and shall be not less than four inches wider than the wall to be erected.

2. *General screening requirements.* Unless otherwise specified, wherever an evergreen or landscaped screen is required, screening shall consist of closely-spaced evergreen plantings (no farther than 15 feet apart) that can be reasonably expected to form a complete visual barrier that is at least six feet above ground level within three years of planting. Deciduous plant materials may be used provided that a complete visual barrier is maintained throughout the year.
3. *Screening of equipment.* Mechanical equipment, such as air compressors, pool pumps, transformers, sprinkler pumps, satellite dish antennae, and similar equipment shall be screened on at least three sides by evergreen trees or shrubs planted three feet on-center. As practical, said screening shall exceed the vertical height of the equipment being screened by at least six inches within two years of planting.

E. *Parking lot landscaping.* In addition to required screening, all off-street parking areas with more than 25 spaces shall also provide landscaping as follows:

1. *Dispersed landscaping.* Landscaping shall be dispersed throughout the parking lot in order to break up large expanses of pavement and assist with vehicular and pedestrian flow.
2. *Required parking lot trees.* At least one canopy tree shall be provided per eight parking spaces provided.
3. *Location of parking lot trees.* All of the required parking lot trees shall be placed within the parking lot envelope as described by the area including the parking lot surface and extending ten feet from the edge of the parking lot. A minimum of one-third of the required parking lots trees shall be placed within the interior of the parking area.
4. *Size of islands.* Parking lot islands shall be curbed and be at least 100 square feet in area. The length of the island shall be two feet shorter than an adjacent parking space.
5. *Other plantings in islands.* Only shrubs, grass or other living ground cover shall be used to supplement trees within parking lot islands.
6. *Pedestrian connections through parking lots.* The design and layout of the parking lots shall provide appropriate pedestrian circulation and connections to perimeter pedestrian connections.
7. *Other landscaping.* Required landscaping elsewhere on the parcel shall not be counted in meeting the parking lot landscaping requirements.

F. *Buffers.*

1. A buffer shall be provided between the subject site and all adjacent properties in accordance with the table below. The planning commission shall determine whether landscaping, a wall, a berm, or combination of these elements is needed to attain the intended screening. The use of canopy trees and associated understory are encouraged while walls and berms are discouraged.
2. At a minimum, the width of the buffer shall be equal to the required setback. However when a wall or berm are used, a larger buffer width may be required to accommodate both the required plant material and the wall or berm. All walls and berms shall be designed in accordance with the standards contained herein. (Note: Exceptions may be granted as outlined in [section 20.08](#))

Buffer Type	Required Plantings in Buffers (as noted in following Chart)
Type A buffer	Two canopy trees and four shrubs, or one canopy tree, one evergreen and four shrubs per 20 linear feet along the property line, rounded upward.
Type B Buffer	One canopy tree and four shrubs, or one evergreen tree and four shrubs per 20 linear feet along the property line, rounded upward.

Zoning or Proposed Use of Subject Site	Zoning or Use of Adjacent Site

	One- or Two-Family (R-1, R-2, R-3, R-4)	Multiple-Family (RM-1, RM-2)	Office (O-1)	Municipal or Institutional	Central Business District (CBD)	Other Commercial (NBD, GBD)	Industrial (I-1, I-2)	Outdoor Storage Areas in any District	Public Utility Buildings & Structures	Parking Lots
One- or Two-Family	none	Type B	Type B	Type A	Type A	Type A	Type A	Type A	Type A	Type A
Multiple-Family	Type B	none	Type B	Type A	Type A	Type A	Type	Type A	Type A	Type A
Office	Type B	Type B	none	Type B	Type B	Type B	Type B	Type B	Type A	Type B
Municipal or Institutional	Type A	Type A	Type B	none	Type B	Type B	Type A	Type B	Type A	Type B
Central Business District	Type A	Type A	Type B	Type B	none	Type B	Type A	Type A	Type A	Type B
Commercial	Type A	Type A	Type B	Type B	Type B	none	Type A	Type A	Type A	Type B
Industrial	Type A	Type A	Type B	Type A	Type A	Type A	none	Type B	Type B	Type B
Outdoor Storage Areas in any District	Type A	Type A	Type B	Type B	Type A	Type A	Type B	none	Type B	Type B
Public Utility Buildings & Structures	Type A	Type A	Type A	Type A	Type A	Type A	Type B	Type B	none	Type B
Parking Lots	Type A	Type A	Type B	Type B	Type B	Type B	Type B	Type B	Type B	none

G. *Landscaping of rights-of-way.*

- Public rights-of-way located adjacent to required landscaped areas and greenbelts shall be planted with grass or other suitable live ground cover, and shall be maintained by the owner or occupant of the adjacent property as if the rights-of-way were part of the required landscaped areas or greenbelts.
- Trees and shrubs shall not be planted in the road right-of-way without first obtaining approval from the agency that has jurisdiction over the road.
- Trees and shrubs shall be planted no closer to the edge of the road pavement than the distances specified in the following chart:

Road Setback Requirements for Plantings (from edge of road)	
Trees	10 feet (measured from center of tree)
Shrubs	5 feet (measured from perimeter of shrub)

H. *Maintenance of unobstructed visibility for drivers.* No landscaping shall be established or maintained on any parcel or in any parking lot that will obstruct the view of drivers. Accordingly, all landscaping shall comply with the provisions set forth in section [19.11, Corner clearance].

I. *Potential damage to utilities and public facilities.* Landscaping material shall not be planted in a manner that will interfere with or cause damage to

underground utility lines, public roads, or other public facilities. Species of trees whose roots are known to cause damage to public roadways, sewers, or other utilities shall not be planted closer than 15 feet from any such roadways, sewers, or utilities. Trees shall be setback from overhead utility lines as indicated in the following chart:

Utility Setback Requirements for Plantings	
Potential Tree Height	Minimum Distance from Center of Trunk to Nearest Utility Line
Up to 15 feet	10 ft.
15 to 25 feet	20 ft.
Over 25 feet	30 ft.

- J. *Landscaping of divider medians.* Where traffic on driveways, maneuvering lanes, private roads, or similar means of vehicular access is separated by a divider median, the median shall be curbed (six-inch non-mountable curb) and have a minimum width of ten feet. A minimum of one deciduous or evergreen tree shall be planted for each 30 lineal feet or portion thereof of median. Trees may be planted at uniform distances, randomly, or in groupings, but in no instance shall the center-to-center distance between trees exceed 60 feet.
- K. *Irrigation.* Each landscaped area shall have water access available. The site plan shall indicate the proposed method of providing water to landscaped areas. Although not required, installation of an in-ground irrigation or sprinkler system is encouraged, particularly in front yards.
- L. *Sight distance.* The landscape plan shall be approved by the planning commission in consideration of sight distance, size of planting area, location of sidewalks, maintenance of adequate overhead clearance, accessibility to fire hydrants, visibility to approved signs and compatibility with the visual character of the surrounding area. Plantings within 15 feet of a fire hydrant shall be no taller than six inches.

(Ord. No. 440, § 10, 6-10-19)

Section 20.03. - Specific landscaping requirements for zoning districts.

- A. *Requirements for Business, Office, and Industrial Districts.* All lots or parcels of land located in Office, Commercial, or Industrial Zoning Districts shall comply with the following landscaping requirements:
1. *General site landscaping.* Exclusive of parking lot requirements, at least six percent of the total area of the site shall be maintained as landscaped open area. All such open areas shall conform to the general site requirements in section 20.03, subsection A., except where specific landscape elements are required.
 2. *Landscaping adjacent to road or road right-of-way.* All business, office, and industrial developments shall comply with the requirements for landscaping adjacent to the road or road right-of-way in section 20.03, subsection B.
 3. *Berm requirements.* A berm may be used to screen off-street parking from view of the road, in which case the berm shall be a maximum of three feet in height, and shall be planted in accordance with section 20.03, subsection C. The berm shall be located entirely on private property, adjacent to the road right-of-way. Parking lot landscaping may be reduced if a berm is constructed to screen off-street parking, in accordance with section 20.03, subsection C.
 4. *Screening.* Landscaped screening or a wall shall be required wherever a non-residential use in a Business, Office, or Industrial District abuts land zoned for residential purposes. Landscaped screening shall comply with the requirements in section 20.03, subsection D.
 5. *Parking lot landscaping.* Off-street parking areas containing greater than 25 spaces shall comply with the requirements for parking lot landscaping in section 20.03, subsection E.
- B. *Requirements for Central Business District.* The purpose of this section is to promote development and redevelopment in the Central Business District in a manner that creates a safe and attractive environment for specified uses as well as cultivate an attractive gateway to the city.
1. *Pedestrian related design features.* Direct pedestrian access shall be provided from the principal entrance of the building to the sidewalk on Miller Road, Morrish Road or side street, if any. Pedestrian access shall be provided from rear parking facilities to the ground floor uses, either through rear or side building entrances, pedestrian ways along the perimeter of buildings, or by pedestrian throughways which connect the rear parking lots to the sidewalks along Miller and Morrish Roads. Pedestrian throughways may be located between buildings or may be incorporated in the interior design of a structure. Pedestrian throughways shall be a minimum of six feet wide (where practical), well lighted and visually accessible from either the interior of the building or street and parking areas. The intention is to provide a safe and aesthetically pleasing environment.
Parking, vehicular service areas, and all pedestrian areas shall be well lighted to provide both a secure and aesthetically pleasing environment. Lighting shall be directed away from adjacent residential properties and roadways.

Combined ground floor and second floor building frontage on all front yards shall contain a minimum of 20 percent transparent or translucent materials per gross area of frontage.

2. *Optional crime prevention through environmental design (CPTED) review requirements.* The planning commission may require a CPTED review for rezoning petitions, special land use petitions, and site development plans for all sites located in the Central Business District. The CPTED development plan review must be completed and signed by one law enforcement and one designated CPTED trained planning commission member or zoning administrator assigned to the petition prior to the petition being scheduled before the planning commission. The development plan presented to the planning commission and city council by the petitioner shall respond to all concerns noted by the CPTED reviewers.

It is the intent of the guidelines listed below to assist in the creation and maintenance of a built environment that decreases the opportunity for crime and increases the perception of safety. The CPTED review performed by the individuals listed above shall encompass but not be limited to the following principles:

a) *Provision of natural surveillance:*

- 1) The placement and design of physical features to maximize visibility. This will include building orientation, windows, entrances and exits, parking lots, walkways, guard gates, landscape trees and shrubs, fences or walls, signage and any other physical obstructions.
- 2) The placement of persons and/or activities to maximize surveillance possibilities.
- 3) Lighting that provides the nighttime illumination of parking lots, walkways, entrances and exits.

b) *Provision for natural access control:*

- 1) The use of sidewalks, pavement, lighting and landscaping to clearly guide the public to and from entrances and exits.
- 2) The use of fences, walls or landscaping to prevent and/or discourage public access to or from dark and/or unmonitored areas.

c) *Provision of territorial reinforcement:*

- 1) The use of pavement treatments, landscaping, art, signage, screening and fences to define and outline ownership of property.

d) *Maintenance:*

- 1) The use of low-maintenance landscaping and lighting treatment to facilitate the CPTED principles of natural surveillance, natural access control and territorial reinforcement.

C. *Requirements for Multiple-Family District.* All lots or parcels of land located in the Multiple-Family Zoning District shall comply with the following landscaping requirements:

1. *General site landscaping.* A minimum of two (rounded upward) deciduous or evergreen trees, PLUS, four shrubs shall be planted per dwelling unit. Unless otherwise specified, required landscaping elsewhere in the multiple-family development shall not be counted in meeting these requirements for trees.
2. *Landscaping adjacent to road or road right-of-way.* All multiple-family developments shall comply with the requirements for landscaping adjacent to the road or road right-of-way in [section 20.03](#), subsection B.
3. *Berm requirements.* A berm may be used to screen off-street parking from view of the roadway or other public property, in which case the berm shall be a maximum of three feet in height, and shall be planted in accordance with [section 20.03](#), subsection C. The berm shall be located totally on private property, adjacent to the road right-of-way. Parking lot landscaping may be reduced if a berm is constructed to screen off-street parking, in accordance with [section 20.03](#), subsection C.
4. *Screening.* Landscaped screening or a wall shall be required on all sides of a multiple-family development, except on sides facing a road. Landscaped screening shall comply with the requirements in [section 20.03](#), subsection D. A wall may be used instead of landscaping adjacent to non-residential districts.
5. *Parking lot landscaping.* Off-street parking areas containing greater than 15 spaces shall comply with the requirements for parking lot landscaping in [section 20.03](#), subsection E.
6. *Privacy screen.* Where multiple-family dwellings are designed so that open common areas or individual patio areas abut a public street, a landscaped privacy screen shall be provided. The screen may consist of a combination of trees, shrubs, and landscaped berms, subject to site plan review and approval by the planning commission.

D. *Requirements for non-residential uses in residential districts.* All non-residential uses developed in residential zoning districts shall comply with the following landscaping requirements:

1. *General site landscaping.* At least ten percent of the site shall be maintained as landscaped open area. All such open areas shall conform to the general site requirements in [section 20.03](#), subsection A., except where specific landscape elements are required.
2. *Landscaping adjacent to road or road right-of-way.* All non-residential developments located in residential districts shall comply with the requirements for landscaping adjacent to the road or road right-of-way in [section 20.03](#), subsection B.
3. *Berm requirements.* A berm may be used to screen off-street parking from view of the road, in which case the berm shall be a maximum of three feet in height, and shall be planted in accordance with [section 20.03](#), subsection C. The berm shall be located entirely on private property, adjacent to the road right-of-way. Parking lot landscaping may be reduced if a berm is constructed to screen off-street parking, in accordance with [section 20.03](#), subsection C.

4. *Screening.* Landscaped screening or a wall shall be required wherever a non-residential use abuts properties zoned for residential purposes obscuring view and landscaped screening shall comply with the requirements in [section 20.03](#), subsection D.
5. *Parking lot landscaping.* Off-street parking areas containing greater than 15 spaces shall comply with the requirements for parking lot landscaping in [section 20.03](#), subsection E.

(Ord. No. [440](#), § 10, 6-10-19)

Section 20.04. - Standards for landscape materials.

Unless otherwise specified, all landscape materials shall comply with the following standards:

- A. *Plant quality.* Plant materials shall be nursery grown, free of pests and diseases, hardy in Genesee County, in conformance with the standards of the American Association of Nurserymen, and shall have passed inspections required under state regulations.
- B. *Non-living plant material.* Plastic and any other non-living plant materials shall not be acceptable to meet the landscaping requirements of this ordinance. Upon approval of the planning commission through site plan review, water bodies, boulder groupings, landscape furniture, and manmade landscape ornaments, singly or in combination may account for a maximum of 30 percent of the ground area to be landscaped.
- C. *Recommended plant material.* Use of the following plant materials is recommended because of their resilience and adoption to environmental conditions of Southeast Michigan.

RECOMMENDED PLANT MATERIALS	
COMMON NAME	GENUS
Deciduous Canopy Trees	
1. Oaks	Quercus
2. Hard Maples (Except Japanese)	Acer
3. Hackberry	Celtis
4. Planetree (Sycamore)	Platanus
5. Birch	Betula
6. Beech	Fagus
7. Gingko (male)	Ginkgo
8. Honeylocust (Thornless Cultivars only)	Gleditsia
9. Sweetgum	Liquidambar
10. Hophornbeam (Ironwood)	Ostrya
11. Linden	Tilia
12. Hickory	Carya
13. Hornbeam (Blue Beech)	Carpinus
Please note: Although the use of ashes is suggested, due to recent disease and pest problems associated with ashes in the area, it is recommended that more disease resistant ash cultivars be used and that no one cultivar be planted as the dominant tree type.	
Deciduous Ornamental Trees	
1. Amelanchier	Amelanchier

2. Redbud	Cercis
3. Dogwood (Tree Form)	Cornus
4. Hawthorn	Crataegus
5. Flowering Crabapple (Disease Resistant Cultivars)	Malus
6. Flowering Plum (Tree Form)	Prunus
7. Flowering Pear	Pyrus
8. Magnolia	Magnolia
9. Hornbeam	Carpinus
10. Rose of Sharon	Hibiscus
Evergreen Trees	
1. Fir	Abies
2. Hemlock	Tsuga
3. Spruce	Picea
4. Pine	Pinus
5. Douglas Fir	Pseudotsuga
Please note: Dwarf, Globe, Pendulous species/Cultivars are not permitted.	
Narrow Evergreens	
1. Juniper	Juniperus
2. Arborvitae	Thuja
Please note: Dwarf, Globe, Spreading Species/Cultivars are not permitted.	
Large Shrubs	
1. Deciduous	
a. Dogwood (Shrub Form)	Cornus
b. Cotoneaster	Cotoneaster
c. Forsythia	Forsythia
d. Mock-Orange	Philadelphus
e. Sumac	Rhus
f. Lilac	Syringa

g. Viburnum	Viburnum
h. Witchhazel	Hamamelis
i. Euonymus	Euonymus
j. Privet	Ligustrum
k. Ninebark	Physocarpus
2. Evergreens	
a. Juniper (Hetz, Pfitzer, Savin)	Juniperus
b. Yew (Pyramidal Japanese)	Taxus
Small Shrubs	
1. Deciduous	
a. Barberry	Berberis
b. Boxwood	Buxus
c. Quince	Chaenomeles
d. Cotoneaster	Cotoneaster
e. Euonymus	Euonymus
f. Forsythia	Forsythia
g. Hydrangea	Hydrangea
h. Holly	Ilex
i. Privet	Ligustrum
j. Potentilla	Potentilla
k. Currant	Ribes
l. Lilac	Syringa
m. Viburnum	Viburnum
n. Weigela	Weigela
2. Evergreens	
a. Fir	Abies
b. False Cypress	Chamaecyparis
c. Juniper (Low Spreading)	Juniperus

d. Spruce	Picea
e. Pine	Pinus
f. Yew (Globe, Spreading, Upright)	Taxus
g. Arborvitae (Globe/Dwarf)	Thuja

D. *Prohibited plant material.* Use of the following plant materials (or their clones or cultivars) is prohibited because of susceptibility to storm damage, drainage conflicts, disease, and other undesirable characteristics.

1. Ash;
2. Box Elder;
3. Soft Maples (Silver);
4. Elms (American, Siberian, slippery, red, and Chinese);
5. Poplars;
6. Willows;
7. Horse Chestnut (nut bearing);
8. Tree of Heaven;
9. Catalpa;
10. Ginkgo (female);
11. Cottonwood;
12. Black Locust;
13. Mulberry;
14. Honey Locust (with Thorns).

The planning commission, however, may allow generally prohibited trees from the above list when associated with an appropriate ecosystem, such as a wetland area.

(Ord. No. 440, § 10, 6-10-19)

Section 20.05. - Installation and maintenance.

The following standards shall be observed where installation and maintenance of landscape materials are required:

- A. *Installation.* Landscaping shall be installed in a sound, workmanlike manner to ensure the continued growth of healthy plant material. Trees, shrubs, hedges, and vines shall be generously mulched at the time of planting.
 1. The required landscaping shall be planted with permanent living plant materials within six months from the date of occupancy and shall be continuously maintained in a sound, healthy, and vigorous growing condition.
 2. The selection, spacing, and size of plant material shall be such as to create, within a five-year period from the date of planting, a horizontal obscuring effect for the entire length of the required greenbelt area, and a vertical obscuring effect of such height as is determined adequate by the planning commission for proper screening between land uses.
 3. If the development is completed, at such time that the requirements of subsection A.1. above, cannot be complied with, the owner shall provide a performance guarantee to ensure installation of required landscaping in the next planting season, in accordance with section 20.03.

SUMMARY OF PLANT MATERIAL SPECIFICATIONS				
	Minimum Caliper	Minimum Height	Minimum Spread	Minimum Length
Deciduous Trees	2 in. [1]	4 ft. first branch [4]		
Ornamental Trees	1 in. [2]	4 ft. first branch		

Evergreen Trees		6 ft.	2 ft.	
Shrubs		2 ft.	2 ft.	
Hedges		4 ft. [5]		
Vines				30 inches [3]

Footnotes:

- [1] Measured 12 inches above grade.
 - [2] Measured six inches above grade. Clumped trees (i.e., Birch) shall have a minimum height of six feet above grade.
 - [3] After one season.
 - [4] Trees planted along pedestrian routes (i.e., sidewalks, plazas, etc.) shall not have branches (lower than eight feet). Trees planted within street lines and sidewalks and planted along bikeways shall maintain a vertical clearance to obstructions of a minimum of ten feet.
 - [5] Hedges shall be planted and maintained so as to form a continuous, unbroken, visual screen within two years after planting, barring unusual growing conditions, such as drought or disease.
 - [6] Ground cover used in lieu of turf grasses in whole or in part shall be planted in such a manner as to present a finished appearance and reasonably complete coverage after one complete growing season.
 - [7] Grass area shall be planted using species normally grown as permanent lawns in Genesee County. Grass, sod, and seed shall be clean and free of weeds, pests, and diseases. Grass may be sodded, plugged, sprigged or seeded. When grass is to be established by a method other than complete sodding or seeding, nurse grass seed shall be sown for immediate effect and protection until complete coverage is otherwise achieved. Straw or other mulch shall be used to protect newly seeded areas.
 - [8] Mulch used around trees, shrubs, and vines shall be a minimum of four inches deep, and installed in a manner as to present a finished appearance.
- B. *Spacing.* Planting in formal groupings to create a naturalistic appearance is desirable whenever possible, plant materials shall not be placed closer than four feet from the fence line or property line. Plant materials used together in informal groupings shall meet the on-center spacing requirements:

Plant Material Types	Evergreen	Narrow Evergreen Trees	Large Deciduous Trees	Small Deciduous Trees	Large Shrubs	Small Shrubs
Evergreen Trees	Min. 10' Max. 20'	Min. 12'	Min. 20'	Min. 12'	Min. 6'	Min. 5'
Narrow Evergreen Trees	Min. 12'	Min. 5' Max. 10'	Min. 15'	Min. 10'	Min. 5'	Min. 4'
Large Deciduous Trees	Min. 20'	Min. 15'	Min. 20' Max. 30'	Min. 15'	Min. 5'	Min. 3'
Small Deciduous Trees	Min. 12'	Min. 10'	Min. 15'	Min. 8' Max. 15'	Min. 6'	Min. 3'
Large Shrubs	Min. 6'	Min. 5'	Min. 5'	Min. 6'	Min. 4' Max. 6'	Min. 5'

Small Shrubs	Min. 5'	Min. 4'	Min. 3'	Min. 3'	Min. 5'	Min. 3' Max. 4'
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- C. *Mixing of species.* The overall landscape plan shall not contain more than 33 percent of any one plant species. The use of trees native to the area and Southeast Michigan, and mixture of trees from the same species associates, is encouraged. Botanical genera containing trees native to Southeast Michigan are identified with an asterisk (*) in the Table of Recommended Plant Materials.
- D. *Protection from vehicles.* All landscaped areas shall be protected from vehicles through use of curbs or wheel stops. All landscape areas shall be elevated above the pavement to a height adequate to protect the plants from snow removal, salt, and other hazards.
- E. *Off-season planting requirements.* If development is completed during the off-season when plants cannot be installed, the owner shall provide a performance guarantee to the city to ensure installation of required landscaping in the next planting season.
- F. *Maintenance.* Landscaping required by this ordinance or as approved by planning commission through site plan review shall be maintained in a healthy, neat, and orderly appearance, free from refuse and debris. All unhealthy and dead plant material shall be replaced immediately upon notice from the zoning administrator, unless the season is not appropriate for planting, in which case such plant material shall be replaced at the beginning of the next planting season.
- G. All landscaped areas shall be provided with a readily available and acceptable supply of water, with at least one spigot located within 300 feet of all plant material to be established and maintained. Trees, shrubs, and other plantings and lawn areas shall be watered regularly throughout the growing season.
- H. All constructed or manufactured landscape elements, such as but not limited to benches, retaining walls, edging, and so forth, shall be maintained in good condition and neat appearance. Rotted, deteriorated, or damaged landscape elements shall be repaired, replaced, or removed upon notice from the zoning administrator.

(Ord. No. 440, § 10, 6-10-19)

Section 20.06. - Treatment of existing plant material.

The following regulations shall apply to existing plant material:

- A. *Consideration of existing elements in the landscape design.* In instances where healthy plant material exists on a site prior to its development, the planning commission may permit substitution of existing plant material in lieu of part or all of the requirements in this section, provided that such substitution is in keeping with the spirit and intent of this article and the ordinance in general.

Existing hedges, berms, walls, or other landscape elements may be used to satisfy the requirements set forth previously, provided that such existing elements conform to the requirements of this section.
- B. *Preservation of existing plant material.* Site plans shall show all existing trees that are located in the portions of the site that will be built upon or otherwise altered, and are five inches or greater in caliper, measured 12 inches above grade.

Such trees shall be clearly labeled "To Be Removed" or "To Be Saved" on the site plan. For trees labeled "To Be Saved" on the site plan, protective measures must be implemented during construction, such as the placement of fencing or stakes at the dripline around each tree. No vehicle or other construction equipment shall be parked or stored within the dripline of any tree or other plant material intended to be saved nor shall the grade of the soil within the dripline be changed as a result of the construction.

In the event that existing healthy plant materials that are intended to meet the requirements of the ordinance are removed, damaged or destroyed during construction, the plant material shall be replaced with the same species as the damaged or removed tree, in accordance with the following schedule:

CALIPER MEASURED 12 INCHES ABOVE GRADE		
Damaged Tree	Replacement Tree	Replacement Ratio
Less than 6 inches	2½ to 3 inches	1 for 1
More than 6 inches	2½ to 3 inches	1 replacement tree for each 6 inches in caliper or fraction thereof of damaged tree

(Ord. No. 440, § 10, 6-10-19)

Section 20.07. - Modifications to landscape requirements.

In consideration of the overall design and impact of a specific landscape plan, and in consideration of the amount of existing plant material to be retained on the site, the planning commission may modify the requirements of this article, provided that any adjustment maintains the intent of this article and the ordinance in general. In granting a modification, the planning commission shall make a finding of the following:

- A. The public benefit intended by the landscape regulations will be better-achieved with a plan that varies from the strict requirements of the ordinance; and
 - 1. Topographic features or other unique features of the site create conditions such that strict application of the landscape regulations would result in a less effective screen than an alternative landscape design; or
 - 2. Parking, vehicular circulation, or land use are such that required landscaping would not enhance the site or result in the desired screening effect; and
- B. Need for security; and
- C. Abutting district or existing use; and
- D. That extending the existing natural vegetation provides the desired screening; and
- E. Building heights and views in relation to existing topography and vegetation as well as from adjacent uses.

(Ord. No. 440, § 10, 6-10-19)

Section 20.08. - Trash enclosure screening.

All trash enclosures shall be located to have easy access for removal and not to interfere with traffic patterns of the parking lot and adjoining streets. All trash enclosures shall be enclosed and screened by a combination of the following: fence or wall and/landscape material as approved by the planning commission. A solid screen of a minimum height equal to the height of the trash enclosure shall be erected around three sides of the trash enclosure excluding the side for access. Access to the dumpster shall be screened by a solid gate and shall remain closed and secured at all times excluding the loading and unloading of material within said enclosure. No trash enclosure shall be located in the front yard or right-of-way of any parcel.

(Ord. No. 440, § 10, 6-10-19)

Article 21. - SITE PLAN REVIEW

Footnotes:

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Editor's note— Ord. No. 440, § 10, adopted June 10, 2019, renumbered Art. 21 §§ 21.00—21.14 as Art. 14 §§ 14.00—14.14. Sections 1 and 8 of said ordinance repealed Art. 29, §§ 29.00—29.11, and enacted a new Art. 21 pertaining to similar subject matter, as set out herein. The former Art. 29 derived from Ord. No. 395, adopted August 15, 2006; Ord. No. 401, § 9, adopted May 11, 2009; and Ord. No. 410, § 2, adopted Mar. 25, 2013.

See editor's note at Art. 14 pertaining to renumbering the former Art. 21.

Section 21.00. - Intent and purpose.

The intent of this article is to establish the procedures and consistent standards for review and approval of site plans to ensure full compliance with the regulations in this ordinance and other applicable ordinances and state and federal regulations of development proposals. Site plan review standards are intended to encourage consultation and cooperation between the applicant and the city to balance the property owner's right to a reasonable rate of return on investment with the city's overall land use goals and desire to minimize adverse impacts on the investments of surrounding landowners. Therefore, these site plan review standards ensure a thorough evaluation of a development in relation to the goals of the City of Swartz Creek Master Plan and the potential impacts on the environment, drainage, utilities, traffic, aesthetics, property values and other public health, safety and welfare issues.

This section also contains special provisions to evaluate impacts of particular uses and to allow administrative approval in certain cases where there is a change in use, a minor change to an existing site or a minor change determined necessary in the field during construction.

(Ord. No. 440, § 8, 6-10-19)

Section 21.01. - Relationship to platting and land divisions or combinations.

The planning commission shall require the platting of parcels of property and/or the approval of land divisions or land combinations prior to the consideration of site plans where the planning commission determines a site plan is needed to ensure compliance with the standards of the zoning ordinance or other ordinances.

(Ord. No. 440, § 8, 6-10-19)

Section 21.02. - Uses requiring site plan review.

Except as specifically provided in section 21.02(D) the development of any new use, the construction of any new structures, any change of an existing use of land or site, and all other building or development activities in R-4, RM-1, NBD, GBD, CBD, PUD, PMSHDD, O-1, I-1 & I-2 Districts shall require site plan approval by the Planning Commission pursuant to the conditions of this article.

A building permit shall not be issued until a full site plan or sketch plan has been reviewed and approved in accordance with the procedures and standards set forth herein and all necessary review, inspection, and permit fees have been fully paid. The extent of site plan review for various types of projects is classified into three types in the Table of Eligible Uses and Required Review Process.

Uses Requiring Site Plan Review				
	Use or Activity	Requires Site Plan Review	Sketch Plan Review (Administrative Approval)	Exempt
A.	New construction of any non-residential or multiple-family development	✓		
B.	All special land uses in accordance with <u>Article 22</u> , Special Land Uses	✓		
C.	Site condominium developments	✓		
D.	Planned Unit Developments (PUDs) in accordance with <u>Article 7</u> , Planned Unit Development Overlay Standards	✓		
E.	Erection of a tower, antenna, or other communication facility; essential public service buildings and storage yards	✓		
F.	Co-location of a communication antenna upon an existing tower		✓	
G.	Adult and child residential care facilities including day-care centers, foster care homes, family day-care homes and group homes	In accordance with <u>section 13.08</u> Adult and child care facilities		
H.	Home occupations		✓	
I.	Temporary uses, buildings, structures, and seasonal events.		✓	
J.	An increase in floor area of uses subject to site plan review up to 2,500 square feet or 10% of existing floor area, whichever is less		✓	
K.	Change in use to one permitted in zoning district and requires no significant changes to building footprint, parking, landscaping, lighting, signs, bikepaths or sidewalks		✓	
L.	Improvements to outdoor recreational uses and parks		✓	
M.	Expansion, replacing or alteration of landscaping areas consistent with this Article		✓	
N.	Improvements or installation of walls, fences, or lighting		✓	

O.	Alterations to off-street parking layout or installation of pavement or curbing improvements provided total number of spaces does not change the number of parking spaces by more than five percent (5%) or to meet various Federal, State, or Americans with Disabilities Act requirements and the construction plans and lot construction are approved by the appropriate City staff		✓	
P.	Construction or relocation of a commercial waste receptacle or enclosure		✓	
Q.	Changes to facade, architectural features or wall signs (elevation plan showing changes and construction materials is required). Changes within the Downtown Development Authority (DDA) must adhere to the requirements set forth by the DDA		✓	
R.	Approved changes to utility systems		✓	
S.	Grading, excavation, filling, soil removal, creation of swimming pool, creation of ponds or tree clearing over 100 square feet		✓	
T.	Grading, excavation, filling, soil removal, creation of ponds, installation of a swimming pool or clearing of trees within an area of less than 100 square feet			✓
U.	Modifications to nonconforming uses, buildings or sites, including a change to a more conforming situation; modifications to nonconforming single-family dwelling units shall be in accordance with Article 12 Non-conforming uses, structures, and lots		✓	
V.	Modifications to upgrade a building to improve barrier free design, comply with Americans with Disabilities Act or other Federal, State or County regulations		✓	
W.	Construction or erection of permitted accessory buildings and structures accessory to a single- or two-family dwelling unit			✓
X.	Construction, reconstruction, erection and/or expansion of single-family or two-family dwelling on parcel zoned solely for residential purposes			✓
Y.	Development regulated by the Land Division Act of 1997 (P.A. 112) and the City of Swartz Creek Subdivision Control Ordinance			✓
Z.	Erection of essential public service local distribution lines			✓
AA.	Construction, erection or relocation of permitted accessory buildings and structures less than 100 square feet in area accessory to a multiple-family, commercial, office, essential service, municipal, or industrial use			✓
BB.	Keeping of animals as an accessory use without additional structures, except kennels			✓

CC.	Construction of accessory building or structure for the keeping of animals		✓	
DD.	Accessory outdoor display of general retail items as determined by the Building Official/Zoning Administrator		✓	
EE.	Internal construction or change in the floor plan for a conforming use that does not increase gross floor area, provided the construction cost over a 12-month period does not exceed 50% of the building SEV or affect parking requirements on a site			✓
FF.	Construction or erection of signs, antennas, cooling/heating or other mechanical equipment, telephone booth, newspaper boxes, or similar structures which conform to other City standards and where site plan review is not specifically required under other sections of this Article			✓
GG.	Any proposed building or use which does not qualify for sketch plan or exempt from any site plan review	✓		

(Ord. No. 440, § 8, 6-10-19)

Section 21.03. - Sketch plan review process.

- A. Intent: The intent of this section is to permit submittal of a limited site plan in certain specific instances where a complete site plan is not considered essential to ensure compliance with the intent and standards of this zoning ordinance.
- B. Procedure: The process for administrative approval shall involve submittal of a sketch plan and required application form and fee to the zoning administrator. The zoning administrator shall review the sketch plan to ensure compliance with standards of this ordinance and make a report to the planning commission.
- C. The zoning administrator retains the option to require 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 full site plan is required, the zoning administrator shall inform the applicant to submit a set of plans in accordance with section 21.06 of this ordinance within 14 days of receipt of the application.
- D. Requirements for a sketch plan: A sketch plan submittal shall include at least the following:
 1. Application form and review fee.
 2. Name, address and telephone number of the applicant and the person(s) responsible for preparing the plot plan.
 3. North arrow.
 4. Legal description of the property.
 5. The "sketch site plan" shall be drawn at an engineer's scale. Any building expansion over 500 square feet within a five-year period involving public safety issues, as determined by the zoning administrator shall require a professional seal of an architect, landscape architect, engineer or surveyor.
 6. Property lines and dimensions.
 7. Existing and proposed buildings and structures with dimensions, setbacks and details or elevations where appropriate.
 8. Existing and proposed parking including number of spaces provided are required according to Article 26. If changes are made to the parking area, a detail of pavement, storm water runoff calculations and description of detention methods shall be provided.
 9. Details on any new driveways or changes to existing driveways (radii, throat width, slope, boulevard design, etc.).
 10. Location of existing signs and details on any proposed changes or new signs.
 11. General illustrations of existing landscaping: location, size and species of any new landscaping.
 12. Layout of any proposed changes to utilities.
 13. Description of any proposed changes to drainage.
 14. Floor plan of any new building area and building elevations, if applicable.

E. Any other items requested by city staff or the planning commission.

(Ord. No. 440, § 8, 6-10-19)

Section 21.04. - Criteria for full site plan review.

The Planning Commission (and city council) shall review the site plan to ensure that it complies with all of the criteria below:

- A. The proposed use will not be injurious to the surrounding neighborhood. The location of buildings, outside storage receptacles, parking areas, fences or obscuring walls, and utility areas will minimize adverse effects of the proposed use for the occupants of that property and the tenants, owners, and occupants of surrounding properties.
- B. There is a proper relationship between major thoroughfares and proposed service drives, driveways, and parking areas to encourage the safety and convenience of pedestrian and vehicular traffic. The site plan includes the minimum number of driveways required to provide reasonable access. Driveways are spaced as far apart from intersections and other driveways as practical to reduce accident and congestion potential. Sharing with adjacent uses is encouraged. The planning commission may require a traffic impact study.
- C. The site plan provides for proper development of roads, easements, and public utilities and protects the general health, safety, and welfare of the city and its residents.
- D. Building architecture, materials, roof line, colors, windows and similar elements shall be consistent with the majority of other buildings in the city, as determined by the planning commission. Brick construction or brick trim, varying façade depths and peaked roofs, is encouraged. Stark white or bold colors and reflective glass are discouraged. The intent of this standard is to provide a harmonious, unified community to help create a sense of place and contribute to the image and quality of life in the city.
- E. The proposed site plan complies with all city codes and ordinances. Site plans for Mobile Home Park Districts shall comply with the preliminary plan requirements established in the Michigan Mobile Home Commission Acts.

(Ord. No. 440, § 8, 6-10-19)

Section 21.05. - Site plan review process.

- A. The city clerk shall refer the site plans to the city planning commission and after considering all information, the planning commission shall either approve, deny, or approve with conditions the site plan. Upon approval of the site plan by the planning commission, an application for a building permit shall be made by the petitioner in accordance with provisions of Article 21 of this ordinance.
- B. Upon approval of a site plan by the planning commission, construction consistent with said site plan shall be commenced within one year of the date said site plan was approved. In the event construction is not so commenced, said site plan approval shall become void and of no force and effect. Upon a site plan approval becoming void pursuant to the provisions, hereof no construction may commence upon said site unless and until the site plan approval process has been reinstated and completed. In such event all applicable fees shall be paid.
 1. The applicant shall submit the required number of copies of an application for site plan approval, site plans, and other information where applicable. The number of copies required will be determined by the zoning administrator. The applicant or the applicant's representative must be present at the scheduled reviews or the matter will be tabled.
 2. If the site plan is in order and contains the required information, the site plan shall be placed on the agenda of a regular or special planning commission meeting.
 3. The planning commission shall take final action on the site plan and special land uses.
 4. The planning commission, as a condition of its approval of a site plan, may require reasonable modifications relating to: the location, height, number of stories, and size of dwellings, buildings, and other structures; the area of the yards, courts, and other open spaces; and the sanitary, safety, and protective measures which shall be required for such dwellings, buildings, and structures; and any other changes to meet the standards and intent of this zoning ordinance and other ordinances, laws and regulations.
 5. For any approval with condition(s), the applicant shall submit a revised plan within 60 days illustrating compliance with all conditions for approval by the zoning administrator. No permits shall be issued until such revised plan is submitted and approved.
 6. The applicant shall be responsible for the cost of preparing all site plan submittal information and for the evaluation of the site plan and related documents by consultants selected by the city.

(Ord. No. 440, § 8, 6-10-19)

Section 21.06. - Application for full site plan review.

The detailed site plan presented for consideration shall contain all information required in this ordinance.

- A. *Application form.* An application form provided by the city and required fee established by resolution of the city council, shall include the following:
 1. Applicant's name, address and telephone/fax number(s).
 2. Name and address of property owner, if different from applicant.

3. Proof of property ownership.
 4. Common description of property and complete legal description including the tax identification number.
 5. Dimensions of land and total acreage.
 6. Existing zoning.
 7. Proposed use of land and name of proposed development, if applicable.
 8. Proposed buildings to be constructed, including square feet of gross floor area.
 9. Anticipated number of employees at peak shift.
 10. Names, addresses, and telephone/fax number(s) of engineers, attorneys, architects, and other professionals associated with the project.
- B. *Site plan drawings and illustrations (fully dimensioned).* Site plans shall contain all of the required data prior to approval of such plans by the city. Site plans shall consist of an overall plan for the entire development. Sheet size shall be at least 24-inch by 36-inch, with the plan view drawn to a scale of one inch equals 50 feet for property less than three acres or one inch equals 100 feet for property of three or more acres.
- C. *Descriptive and identification data.* The following descriptive and identification information shall be included on all site plans:
1. Applicant's name, address and telephone/fax number(s).
 2. Title block indicating the name of the development.
 3. Scale.
 4. Northpoint.
 5. Dates of submission and revisions (month, day, year).
 6. Location map drawn to scale with north point.
 7. Legal and common description of property.
 8. The dimensions of all lots and property lines, showing the relationship of the site to abutting properties. If the site is a part of a larger parcel, the plan should indicate the boundaries of total land holding.
 9. A schedule for completing the project, including the phasing or timing of all proposed developments.
 10. Identification and seal of architect, engineer, land surveyor, or landscape architect who prepared plan.
 11. Written description of proposed land use.
 12. Zoning classification of applicant's parcel and all abutting parcels.
 13. Proximity to driveways serving adjacent parcels.
 14. Proximity to section corner and major thoroughfares.
 15. Notation of any variances which have or must be secured.
 16. Net acreage (minus rights-of-way) and total acreage, to the nearest one-tenth acre.
- D. *Site data.*
1. Existing lot lines, building lines, structures, parking areas, and other improvements on the site and within 100 feet of the site.
 2. Front, side, and rear setback dimensions.
 3. Topography on the site and within 100 feet of the site at two-foot contour intervals, referenced to a U.S.G.S. benchmark.
 4. Proposed site plan features, including buildings, roadway widths and names, and parking areas.
 5. Dimensions and centerlines of existing and proposed roads and road rights-of-way.
 6. Acceleration, deceleration, and passing lanes, where required.
 7. The proposed location and design of driveways providing vehicular ingress to and egress from the site, in relation to the street giving access to the site.
 8. The traffic circulation features and location of automobile parking areas within the site. The site plan should demonstrate features or improvements that will assure:
 - a) Safety and convenience of both vehicular and pedestrian traffic both within the site and in relation to access streets.
 - b) Satisfactory and harmonious relationship between the development on the site and the existing and prospective development of contiguous land and adjacent neighborhoods.
 9. Typical cross-section of proposed roads and driveways.
 10. Location of existing drainage courses, floodplains, lakes and streams, with elevations.
 11. Location and dimensions of wetland areas. If deemed necessary because of site or soil conditions or because of the scope of the project, a detailed hydrology study may be required.
 12. Location of sidewalks within the site and within the right-of-way.
 13. Exterior lighting locations and method of shielding lights to prevent off-site glare.
 14. Trash receptacle locations and method of screening, if applicable.

15. Transformer pad location and method of screening, if applicable.
16. Parking spaces, typical dimensions of spaces, indication of total number of spaces, drives, and method of surfacing involving state and federal barrier-free requirements.
17. Information needed to calculate required parking in accordance with zoning ordinance standards.
18. The location of lawns and landscaped areas, including required landscaped greenbelts.
19. Landscape plan, including location, size, type and quantity of proposed shrubs, trees and other live plant material.
20. Location, sizes, and types of existing trees five inches or greater in diameter, measured at one foot off the ground, before and after proposed development.
21. Cross-section of proposed berms.
22. Location and description of all easements for public right-of-way, utilities, access, shared access, and drainage.
23. Designation of fire lanes.
24. Loading/unloading area.
25. The location of any outdoor storage of materials and the manner by which it will be screened.

E. *Building and structure details.*

1. Location, height, and outside dimensions of all proposed buildings or structures.
2. Indication of the number of stores and number of commercial or office units contained in the building.
3. Building floor plans.
4. Total floor area (gross floor area and usable floor area).
5. Location, size, height, and lighting of all proposed signs.
6. Proposed fences and walls, including typical cross-section and height above the ground on both sides.
7. Building façade elevations, drawn to a scale of one inch equals four feet, or another scale approved by the zoning administrator and adequate to determine compliance with the requirements of this ordinance. Elevations of proposed buildings shall indicate type of building materials, proposed colors, roof design, projections, canopies, awnings and overhangs, screen walls and accessory buildings, and any outdoor or roof-located mechanical equipment, such as air conditioning units, heating units, and transformers.
8. Samples of building materials and colors are required for review and approval by the Planning Commission.

(Ord. No. 440, § 8, 6-10-19)

Section 21.07. - Optional preliminary site plan review.

The site plan approval process includes a review, at the option of the applicant, of a preliminary site plan by the Planning Commission. This option is recommended for site plans affecting over five acres, plans affecting locations designated in the City of Swartz Creek Master Plan as having significant natural features, sites containing floodplains or within the flood hazard zone, sites containing or potentially containing MDEQ designated/regulated wetlands, special land uses, complex industrial developments, redevelopment projects, and complex commercial developments. The review of a preliminary site plan allows and encourages exhaustive review, comment, and recommendation towards the conceptual and final approval of such projects.

(Ord. No. 440, § 8, 6-10-19)

Section 21.08. - Aesthetic review.

In addition to the specific design requirements for residential and nonresidential reviews, the planning commission and city council shall review and approve the design, construction and overall aesthetics of all new structures, including alterations and/or additions, which are subject to site plan review. The planning commission is to ensure that any such structure, alteration and/or addition complies with the purposes and intentions of the respective zoning district and its overlay district, if any. The planning commission is empowered to restrict the use of unacceptable construction methods and materials of any such structure, alteration and/or addition and shall strive to fulfill the aesthetic intentions of assuring compatibility of structures located within the district.

(Ord. No. 440, § 8, 6-10-19)

Section 21.09. - As-built drawings.

- A. All projects within the city which go through site plan and/or construction plan review shall be required to submit record drawings. The drawings will need to be reviewed and approved by the city engineer or the city building official and zoning administrator prior to final acceptance of the project by the City of Swartz Creek.
- B. The initial submittals shall be of two sets of black line prints providing the applicable information shown on the checklist below. The minimum scale shall be one inch equals 40 feet and shall bear the seal of a registered professional engineer or surveyor licensed to practice within the State of Michigan. All record lengths and elevations must be labeled as record.

C. After the record drawings have been approved by the city engineer, the applicant shall submit two Mylar copies of the approved drawings. A CD shall also be provided which contains a .pdf or other acceptable version of each sheet of the plan set with the following attributes:

1. Locations shall be shown on the plans in state plane coordinates using the NAD83 Michigan South zone.
2. Individual pipe sizes and structure types should be on separate layers.
3. The scale shall be one inch equals 40 feet unless otherwise approved by the city engineer or the city building official and zoning administrator.
4. Annotation should be snapped to the mid-point of lines. Lines should be snapped to the center of structures.

(Ord. No. 440, § 8, 6-10-19)

Section 21.10. - Nonresidential design requirements.

The following design requirements for nonresidential buildings shall be applied during site plan review:

A. *Exterior building design.*

1. Buildings shall possess architectural variety, but enhance the overall cohesive community character. All buildings shall provide architectural features, details, and ornaments such as archways, colonnades, cornices, recesses, projections, wall insets, arcades, window display areas, peaked roof lines, or towers.
2. Building walls and roofs over 50 feet in length shall be broken up with varying building lines, windows, gables, and/or architectural accents such as pilasters, columns, dormers, or awnings.
3. Window area or spandrel glass shall make up at least 20 percent or more of the exterior wall area facing the principal street(s).
4. In addition, a portion of the on-site landscaping shall abut the walls so that the vegetation combined with the architectural features significantly reduce the visual impact of the building mass as viewed from the street. Additional landscaping requirements of this ordinance must also be satisfied.
5. Overhead doors shall not face a public street or residential district. The planning commission can modify this requirement upon a determination that there is no reasonable alternative and the visual impact will be moderated through use of building materials, architectural features and landscaping beyond that required in Article 28 (Landscaping).
6. Additions to existing buildings must complement the current building design with regard to height, proportions, scale, materials, and spacing of openings.

B. *Building materials.*

1. Durable building materials which provide an attractive, quality appearance must be utilized.
2. New structure exteriors shall be predominantly (75 percent or more) constructed from quality materials such as earth-toned brick, native stone, and/or glass products. The planning commission may choose to allow distribution of coverage across all elevations evenly or to concentrate such coverage on more visible elevations, provided no elevation shall have less than 50 percent of its exterior constructed of such materials. Tinted/textured concrete masonry units may be used as accent materials on all sides and as a primary material on side and rear elevations.
3. Other materials such as smooth-faced concrete block, EIFS panels or pre-fabricated steel panels should only be used as accents and not dominate the building exterior of the structure.
4. Painted concrete block shall not be used as an exterior material on new buildings and only on additions to match the existing primary building.
5. Metal roofs may be allowed if deemed by the planning commission to be compatible with the overall architectural design of the building.

C. *Building colors.*

1. Exterior colors shall be of low reflectance, subtle, neutral, or earth tone colors. The use of high intensity colors such as neon, metallic, or fluorescent for the façade and/or roof of the building are prohibited except as approved by the planning commission for building trim.
2. The use of trademark colors not meeting this requirement must be approved by the planning commission.
3. Mechanical and service features such as gutters, ductwork, service doors, etc., that cannot be screened must be of a color that blends in with the color of the building.

D. *Roof design.*

1. Roofs should be designed to reduce the apparent exterior mass of a building, add visual interest, and be appropriate to the architectural style of the building.
2. Roofs shall have no less than two of the following features:
 - a) Parapets concealing flat roofs and rooftop equipment, such as HVAC units from public view. The average height of such parapets shall not exceed 15 percent of the height of the supporting wall and such parapets shall not at any point exceed one-third of the height of the supporting wall. Such parapets shall feature three-dimensional cornice treatment;
 - b) Overhanging eaves, extending no less than one foot past the support walls;
 - c) Sloping roofs that do not exceed the average height of the supporting walls, with an average slope greater than or equal to one foot of vertical rise for every three feet of horizontal run and less than or equal to one foot of vertical rise for every one foot of horizontal run;

- d) Three or more roof slope planes.
- e) A specific architectural element proposed by the applicant's architect that is acceptable to the city planner and planning commission.

E. *Customer entrances.*

1. Each large retail establishment (15,000 square feet or more) on a site shall have clearly defined, highly visible customer entrances featuring no less than five of the following:
 - a) Canopies or porticos.
 - b) Overhangs.
 - c) Recesses/projections.
 - d) Arcades.
 - e) Raised corniced parapets over the door.
 - f) Peaked roof forms.
 - g) Arches.
 - h) Outdoor patios.
 - i) Display windows.
 - j) Architectural details such as tile work and moldings which are integrated into the building structure and design.
 - k) Integral planters or wing walls that incorporate landscaped areas and/or places for sitting.
2. A specific architectural element proposed by the applicant's architect that is acceptable to the city planner and planning commission.
3. Where additional stores will be located in the large retail establishment, each such store may have at least one exterior customer entrance, which shall conform to the above requirements.

F. *Community amenities.* Community amenities such as patio/seating areas, water features, artwork or sculpture, clock towers, pedestrian plazas with park benches, or other features located adjacent to the primary entrance to the building(s) are highly encouraged and may be calculated as part of the landscaping requirement.

G. *Signs.* Signs shall be in accordance with the city's sign ordinance. All sign bases shall be constructed of materials compatible with the architecture of the building(s) located on the premises.

H. *Natural features.* Buildings shall be sited to protect existing natural areas such as steep natural grades, trees, significant groupings of healthy vegetation (shrubs and trees), and rock outcroppings. To the extent practical, these areas shall be incorporated into the overall site plan.

I. *Building location and orientation.* New buildings in the CBD District shall have at least one principal building entrance oriented toward the front lot line.

J. *Sidewalks.* All development shall include a provision for sidewalks, per City Code, within the site and within the right-of-way to provide connectivity between adjacent sites, the public realm, parking areas, and any other on-site amenities.

K. *Outdoor retail display.* A sketch plan indicating the location and dimensions of any outdoor display must be submitted and approved by the zoning administrator prior to establishment of any such display. This will help ensure that said outdoor display will not interfere with approved access and circulation through the site nor create an unsightly situation. Palletized materials such as mulch, salt pellets, hunting bait, etc., shall only be allowed for display at the front of the building extending outward no more than ten feet and shall not obstruct barrier-free access to the building. Under no circumstances shall said outdoor display block or interfere with vehicular driving lanes through the site. All sketch plans for outdoor display must be renewed annually with the city and does not include outdoor storage, which is a special land use under section 22.09 A.16., Special land use specific requirements, of the ordinance.

(Ord. No. 440, § 8, 6-10-19)

Section 21.11. - Single-family dwelling design standards.

A. *Intent.* This section is intended to establish regulations for the construction of new single-family dwellings zoned R-1, R-2, & R-3 including in-fill housing. The standards herein are intended to:

1. Prevent grossly dissimilar dwellings which would adversely affect the value of dwellings in the surrounding area.
2. Prevent adverse effects on the desirability of an area to existing or prospective homeowners.
3. Ensure the stability of the environment.
4. Promote the most appropriate use of real estate.
5. Increase the opportunity to realize the development pattern envisioned in the Swartz Creek Community Master Plan.

These regulations are based on the finding that the cohesiveness and character of the city's neighborhoods are significant factors in the city's quality of life, contribute to the distinct character in the various neighborhoods and help retain property values. These regulations further ensure new housing units are harmonious with the general character of the adjacent houses and the city overall and ensure a stable housing stock. While some level of diversity is desirable,

these regulations are intended to ensure the design variation of new homes is similar to the level of variation in existing homes in the immediate area, or surrounding neighborhoods with similar densities for new residential projects. The standards 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.

- B. *Applicability.* The regulations of this section shall apply to all new single-family home construction zoned R-1, R-2, & R-3. Major home expansions where the homeowner is expanding the footprint of the home by 40 percent or more shall comply with subsections 21.11.D.9, 21.11.D.10, and 21.11.D.11, in addition to required building codes, to ensure the resulting home continues to maintain the character of the neighborhood. The standards shall not apply to minor home expansions, interior remodeling, or to residences outside of the Single-Family Zoning Districts.
- C. *Approval.* Compliance with these regulations shall be determined by the building and zoning administrator at the time the building permit is reviewed and shall be based on the standards of subsection D. below.
- D. *Standards.*
1. Each such dwelling unit shall comply with all pertinent building and fire codes. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements. Where there are conflicting applicable regulations, the more stringent shall apply.
 2. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the City Building Code and other building regulations.
 3. Each such dwelling unit shall comply with the minimum standards listed throughout Appendix A for the zoning district in which it is located, including minimum lot area, minimum lot width, minimum floor area, required setbacks and maximum building height.
 4. Each dwelling unit shall be firmly attached to a permanent basement or crawl space foundation constructed on the site in accordance with the City Building Code.
 5. The dwelling shall have an attached structure of equal workmanship as the dwelling unit, designed for the parking and storage of vehicles. Said structure shall be functionally and aesthetically compatible in design and appearance with other residences in the surrounding area as defined in subsection 12. below. When attached to a mobile home, modular home, pre-fabricated home or pre-constructed home, said structure shall comply with all requirements of the Michigan Building Code relative to grade separation and fire restrictive requirements.
 6. Each such dwelling unit shall contain a storage area equal to ten percent of the square footage of the dwelling or 100 square feet, whichever shall be less. This storage area shall consist of a basement, attic or in a separate detached accessory structure that complies with the standards of this section regarding accessory buildings and structures. The intent of these standards is to limit the extent of outdoor storage.
 7. The roof shall have a minimum 4:12 pitch and with a drainage system that will collect and concentrate the discharge of storm water or snow away from the sides of the dwelling. The roof shall have wood shake, asphalt, or other acceptable shingles. A roof overhang of not less than six inches on all sides shall be provided, or alternatively with window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling.
 8. A minimum of two exterior doors shall be provided with the second one being in either the rear or side of the dwelling. All dwelling units shall be oriented toward the public right-of-way such that the facade that faces the street contains a door, windows, and other architectural features customary to the front façade of a residence.
 9. The width across any front, side or rear elevation shall be a minimum of 24 feet and comply in all respects with the City Building Code.
 10. In-fill housing or development on vacant lots in an existing platted subdivision shall consider the gross floor area and lot coverage of surrounding homes to ensure compatibility. The gross floor area and lot coverage of the proposed dwelling shall be at least 90 percent and no more than 135 percent of the average square footage of constructed single-family dwellings within 500 feet, up to the boundary of the existing neighborhood, of the subject dwelling unit, with measurements made from the edge of the street.
 11. In-fill housing or development on vacant lots in an existing platted subdivision shall maintain a consistent front building line along the street. The front yard setback of the proposed dwelling shall be no less than 90 percent and no more than 135 percent of the average established front yard setback of other single-family dwelling unit within 500 feet, up to the boundary of the existing neighborhood, of the subject dwelling unit, with measurements made from the edge of the street.
 12. Building appearance for all new single-family dwelling unit construction shall be aesthetically compatible in design and appearance with other residences in the surrounding area.
 - a) Definitions for what constitutes the surrounding area are as follows:
 - i. For new single-family neighborhood development (in the form of a new subdivision plat or new site condominium project), the surrounding area is defined as the nearest existing neighborhoods with similar densities.
 - ii. For in-fill housing development where there are one or a few isolated sites being developed within the existing neighborhood (in the form of an existing lot of record or recent land division), surrounding area shall be defined as within 500 feet, up to the boundary of the existing neighborhood, of the subject dwelling unit; with measurements made from the edge of the lot in each direction, including the opposite side of the street.
 - b) The determination shall be made by the building and zoning administrator and in considering similarity and compatibility with the surrounding area the following features must be considered in order to meet this requirement:
 - i. Exterior building material used on the proposed dwelling.

- ii. Roof style.
 - iii. The design and position of windows.
 - iv. Front entry design (presence of porches, front door location, etc.).
 - v. Garage style and design.
- c) If the building and zoning administrator cannot reach a determination on architectural compatibility, the application shall be forwarded to the planning commission for review and final action.
13. Appeal: An applicant may appeal the decision of either the building and zoning administrator or the planning commission to the zoning board of appeals. The city shall provide written notification of denial at the last address of record. A written application for an appeal hearing before the zoning board of appeals shall be filed with the office of the building and zoning administrator within 15 calendar days of the receipt of the notice of denial.
14. 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 ordinance and pertaining to such parks.

(Ord. No. 440, § 8, 6-10-19)

ARTICLE 22. - SPECIAL LAND USES

Footnotes:

-- (19) --

Editor's note— Ord. No. 440, § 10, adopted June 10, 2019, renumbered Art. 30 §§ 30.00—30.09 as Art. 22 §§ 22.00—22.09, as set out herein. The historical notation has been retained with the amended provisions.

See editor's note at Art. 15 pertaining to renumbering the former Art. 22.

Section 22.00. - Intent.

This article is intended to regulate uses which may be compatible with uses in some, but not all, locations within a particular zoning district. The purpose of the special land use standards of this article are to accomplish the following:

- A. Provide a mechanism for public input on decisions involving more intense land uses.
- B. Establish criteria for both new development and infill/redevelopment consistent with the city's land use goals and objectives as stated in the City of Swartz Creek Master Plan.
- C. Regulate the use of land on the basis of impact to the city overall and adjacent properties in particular.
- D. Promote a planned and orderly development pattern which can be served by public facilities and service in a cost-effective manner.
- E. Ensure uses can be accommodated by the environmental capability of specific sites.
- F. Provide site design standards to diminish negative impacts of potentially conflicting land uses.
- G. Provide greater flexibility to integrate land uses within the city.

This article provides both general standards for all special land uses (section 22.02) and specific location, site or operational standards for particular special land uses (section 22.09). The process for a special land use involves a public hearing with the planning commission with final review on the use and site plan by the city council.

(Ord. No. 440, § 10, 6-10-19)

Section 22.01. - Application, review and approval procedures.

The procedure for special land use review shall be as follows:

- A. *Application.* An applicant for a special land use shall submit an application for review and pay the required fee. The application presented for consideration shall contain the following:
 - 1. Name of proposed development.
 - 2. Common description of the property and complete legal description (also address, if available).
 - 3. Dimensions of land: width, length, acreage, and frontage.
 - 4. Existing zoning classification and zoning of all adjacent properties.
 - 5. Proposed use of the land.
 - 6. Name, address, city and phone number of:
 - a) Firm or individual who prepared the application.
 - b) Legal owner of the property.
 - c) Applicant (including basis of representation).

7. Signature of the legal owner and the applicant.
8. A full site plan, prepared in accordance with Article 21 of this ordinance.

B. *Planning commission public hearing.*

1. If the building official finds all of the information required above is in order, the planning commission shall schedule a public hearing to review the request.
2. The planning commission shall direct the city clerk to give notice of the public hearing.

Written notice of the public hearing shall be made as follows:

(a) The notice shall do all of the following:

- (1) Describe the nature of the request.
- (2) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used. Individual addresses of properties are not required to be listed for an amendment to the zoning ordinance, or the zoning map that affects 11 or more properties or an interpretation by the zoning board of appeals.
- (3) State when and where the request will be considered.
- (4) Indicate when and where written comments will be received concerning the request.

(b) The notice shall be published and delivered not less than 15 days before the date of the public hearing as follows:

- (1) Notice of the request shall be published in a newspaper of general circulation in the city. This shall be the only notice required for an amendment to the zoning ordinance, or the zoning map that affects 11 or more properties or an interpretation by the zoning board of appeals.
- (2) Where approval is being sought under this ordinance for an individual property or a rezoning affecting ten or fewer properties, notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered.
- (3) In addition to paragraph (2) above, notice shall be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.

C. The planning commission shall conduct the required public hearing.

D. The planning commission shall review the application in terms of the requirements of the special land use general standards listed in section 22.02 below and any specific standards of section 22.09.

E. The planning commission shall recommend that the city council either approve, approve with conditions (as described below in section 22.03) or deny the special land use and the accompanying site plan.

F. The special land use request and other pertinent information, together with the recommendation of the planning commission, shall be placed on the agenda of a city council meeting. The city council shall either approve or reject the request within 60 days, unless an extension has been agreed upon in writing by both the city council and the applicant.

(Ord. No. 440, § 10, 6-10-19)

Section 22.02. - General review standards for all special land uses.

Prior to approving a special land use application, the planning commission and city council shall require the following general standards be satisfied for the use at the proposed location. In addition to specific standards for individual special land uses listed in section 22.09, the planning commission and city council shall require stipulation to ensure that the following are met:

- A. The special land use will be consistent with the goals, objectives and future land use plan described in the City of Swartz Creek Master Plan.
- B. The special land use will be consistent with the stated intent of the zoning district.
- C. The special land use will be designed, constructed, operated and maintained to be compatible with, and not significantly alter, the existing or intended character of the general vicinity in consideration of environmental impacts, views, aesthetics, noise, vibration, glare, air quality, drainage, traffic, property values, and similar impacts.
- D. The special land use will not significantly impact the natural environment.
- E. The special land use can be served adequately by public facilities and services such as police and fire protection, drainage structures, water and sewage facilities, refuse disposal and schools.
- F. The proposed use shall be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration the following:
 1. Vehicular turning movements;
 2. Proximity and relationship to intersections;

3. Adequacy of sight distances;
4. Location and access of off-street parking;
5. Provisions for pedestrian traffic.

G. The proposed use shall be such that the location and height of buildings or structures, and the location, nature and height of walls, fences, and landscaping will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.

H. The proposed use shall be designed, located, planned, and operated to protect the public health, safety, and welfare.

(Ord. No. 440, § 10, 6-10-19)

Section 22.03. - Conditions of approval.

- A. The city council may impose conditions of approval, which will help ensure the special land use meets the standards of this ordinance provided that the conditions:
1. Protect the health, safety, and welfare of those affected;
 2. Are related to the valid exercise of the police power of the city;
 3. Are necessary to meet the intent and purpose of this ordinance;
 4. Are related to the standards established in this ordinance for the land use or activity under consideration and are necessary to ensure compliance with those standards;
 5. Provide adequate protection to existing land uses so the proposed land use will not be detrimental or injurious to the surrounding neighborhood.
- B. Approval of a special land use, including conditions made part of the approval, is attached to the property described in the application and not to the owner of such property. A record of conditions imposed shall be made a part of the city council minutes and maintained by the building official. The conditions shall remain unchanged unless an amendment to the special land use is approved by the city council.
- C. *Appeals*. There is no appeal to the zoning board of appeals of any decision by the zoning administrator, the planning commission or the city council in connection with a special land use. Such an appeal shall be to the Genesee County Circuit Court.

(Ord. No. 401, § 10, 5-11-09, eff. 6-15-09; Ord. No. 440, § 10, 6-10-19)

Section 22.04. - Validity of approval.

- A. *Building permit*. The building official may issue a building permit in conformity with the particular special land use so approved. In all cases where a particular special land use has been granted as provided herein, application for a building permit must be made and received by the city no later than 120 days thereafter, or such approval shall automatically be revoked unless an extension is granted. The city council may grant an extension of the first approval for good causes shown under such terms and conditions for such a period of time not to exceed six months.
- B. *Performance guarantee*. The city council shall require a performance guarantee to ensure completion of the improvements (excluding the building). The performance guarantee may take the form of a cash deposit, surety bond, certified check, or an irrevocable bank letter of credit in an amount sufficient to ensure full completion of physical improvements. Site improvements that shall be covered by the performance guarantee include, but are not necessarily limited to: landscaping, open space improvements, roads, lighting, and sidewalks.
- C. *Extensions*. Where actual physical construction of a substantial nature of structures authorized by a special land use approval has not commenced within one year of issuance, and a written application for extension of the approval has not been filed as provided below, the permit shall become null and void and all rights thereunder shall terminate. (Note: It is the responsibility of the applicant to request such an extension.)
1. Upon written application filed prior to the termination of the one-year period as provided above, the city council may authorize a single extension of the time limit for a further period of not more than one year. Such extension shall be granted only based on evidence from the applicant that the development has a reasonable likelihood of commencing construction during the one-year extension period.
 2. Any approved special land use shall be deemed a use permitted in the district in which it is located and is not to be considered a non-conforming use.
- D. If a use regulated as a special land use which has not previously received a special land use approval ceases operations for more than one year, the special land use approval shall become null and void, and a new special land use approval shall be required to reopen the use.
- E. The building official shall make periodic investigations of development authorized by special land use approval to determine continued compliance with all requirements imposed by the planning commission and this ordinance. Non-compliance with the requirements and conditions approved for the special land use shall constitute grounds to terminate said approval following a public hearing.

(Ord. No. 440, § 10, 6-10-19)

Section 22.05. - Inspections.

The building official shall make periodic investigations of developments authorized by a special land use approval to determine continued compliance with all requirements imposed by the planning commission and this ordinance. Non-compliance with the requirements and conditions approved for the special land use shall constitute grounds to terminate said approval following a public hearing.

(Ord. No. 440, § 10, 6-10-19)

Section 22.06. - Revocation.

The revocation of a special land use may occur if its recipient fails to continuously abide by its terms and conditions. The revocation procedure is as follows:

- A. The city council, through its designated administrators, shall notify the recipient, in writing, of any violations of city codes or provisions of the special land use.
- B. The recipient shall have 30 days to correct all deficiencies to the satisfaction of the city council.
- C. If after 30 days any deficiencies remain, the city council may then revoke the special land use approval, or if the conditions warrant, allow additional time.
- D. A repeat violation may cause immediate revocation of the special land use approval.

(Ord. No. 440, § 10, 6-10-19)

Section 22.07. - Amendments to special land use approvals.

Any person or agency who has been granted a special land use approval shall notify the building official of any proposed amendment to the approved site plan of the special land use approval. The building official shall determine whether the proposed amendment constitutes a minor or major amendment based on the determination standards for all site plans in accordance with Article 21. A major amendment to a special land use approval shall comply with the application and review procedures contained in this article.

- A. *Expansions.* The expansion, change in activity, reuse or redevelopment of any use requiring a special land use approval shall require resubmittal in manner described in this article. A separate special land use approval shall be required for each use requiring special land use review on a lot, or for any expansions of a special land use which has not previously received a special land use approval.
- B. *Change in use.* Change to another special land use shall require submittal of a new application for special land use and follow the review procedures contained in this article.
- C. *Increase in building.* Changes increase the buildings usable floor area by more than 25 percent since the originally approved building.
- D. *Increase in parking.* Parking lots are expanded by more than 25 percent since the originally approved lot.
- E. *Existing special land uses:* Any expansion of a special land use that predates the special land use requirements of this ordinance and has not previously received a special land use permit shall be required to obtain a new special land use.
- F. *Minor amendment.* Minor amendment to an approved special land use does not require submittal of a new application for a special land use.
- G. *Required site plan.* Any changes, whether it is deemed minor and major, shall require submittal of a site plan in accordance with Article 21.
- H. *Multiple uses.* For a use or building which involves more than one activity classified as a special land use, a separate special land use permit shall be required for each use requiring special land use review on a lot.

(Ord. No. 440, § 10, 6-10-19)

Section 22.08. - Restrictions on resubmittal of a special land use request.

No application for a special land use approval which has been denied wholly or in part shall be resubmitted for a period of one year from the date of denial, except on the grounds of new evidence or proof of changed conditions relating to the reasons noted for the denial found to be valid by the planning commission or city council. A resubmitted application shall be considered a new application.

(Ord. No. 440, § 10, 6-10-19)

Section 22.09. - Special land use specific requirements.

The following sections identify specific requirements which shall be complied with by individual special land uses, as determined by the planning commission and city council, in addition to the general standards of section 22.02. Some or all of the specific requirements may be waived by city council upon a determination that the requirement(s) is not necessary or relevant.

- A. *Listing:* Special land uses with specific site and/or use standards are described on the following pages:
 1. Accessory apartment in a one-family dwelling.
 2. Accessory above ground fuel services and storage.
 3. Principal and/or accessory use, generation or storage of hazardous materials.
 4. Adult regulated uses and sexually oriented businesses.
 5. Airports and related uses.
 6. Arcades and similar uses at public commercial mechanical amusement device centers.
 7. Auto race track (including midget auto and karting tracks), fairgrounds, horse tracks and dog tracks.

8. Automobile service centers and automobile repair (minor maintenance and repair). Automobile repair (major maintenance and repair).
9. Automobile service (gasoline) stations including those accessory to another use.
10. Automobile washes, automatic or self-service.
11. Banks, credit unions, savings and loan institutions with drive-through lanes.
12. Bed-and-breakfast inns.
13. Cellular towers, wireless communication facilities, attached wireless communication facilities and wireless communication support structures.
14. Cemeteries.
15. Churches, temples and similar places of worship.
16. Commercial outdoor sales or storage and open air businesses (as permitted or accessory use).
17. Commercial composting centers.
18. Conference centers/convention facilities.
19. Essential public service/utility buildings and storage yards.
20. Funeral homes or mortuary establishment.
21. Hospitals (general and specialty).
22. Gun clubs.
23. Kennels, commercial.
24. Mixed use buildings for residential and office/business purposes.
25. Motels and hotels including accessory convention/meeting facilities and restaurants.
26. Mushroom farms.
27. Nurseries, greenhouses, and lawn and garden centers.
28. Nursing and convalescent homes.
29. Oil, gas or brine wells.
30. Outdoor cafés, outdoor eating areas and open front restaurants.
31. Outdoor theaters.
32. Recreation: outdoor recreation establishments (except for golf-related uses).
33. Recreation: golf courses, country clubs, and par three golf courses as principal use.
34. Recreation: golf driving ranges, miniature golf courses.
35. Recreation: indoor recreation (bowling alleys, billiard halls, indoor golf, ice arenas, skating rinks, etc.).
36. Recreation: private recreation facilities and swimming pool clubs.
37. Recycling stations.
38. Restaurants and other establishments with drive-in or drive-through facilities.
39. Riding academies and stables.
40. Roadside stands.
41. Schools: public and non-public, elementary or secondary schools.
42. Shopping centers.
43. Slaughterhouses.
44. Theaters (indoor), cinemas, concert halls, play houses, assembly halls, or similar places of assembly when conducted completely within enclosed buildings.
45. Urgent medical care centers.
46. Veterinary offices and clinics.

B. *List of specific requirement by use:*

1. *Accessory apartment in a one-family dwelling.* These standards are intended to assist in accommodating the needs of the growing number of senior citizens in the city while providing reasonable control in recognition of the high percentage of owner occupied single-family homes in the city. The purpose of these standards is also to prevent the undesirable proliferation of permanent two-family units which would, over time, disrupt the character of one-family neighborhoods.
 - a) Accessory apartments shall be entirely within the existing structure and shall include no more than 25 percent of the total floor area of the home.
 - b) The exterior of the home shall remain unchanged, so it does not give the appearance of being divided into separate units. The addition of a separate exterior door is prohibited. The applicant shall demonstrate the home may be easily converted back to a one-family home when the accessory apartment dweller(s) leave the premises or the house is sold.

2. *Accessory above ground fuel services and storage.* Location of above ground accessory fuel services related to the marine, aviation, agriculture, mobile home parks, recreational uses, medical facilities, and industrial uses shall be permitted subject to the following:
 - a) Such uses are only allowed in the General Business District (GBD), Light Industrial (I-1) and Heavy Industrial (I-2) Zoning Districts.
 - b) Minimum lot size for above ground fuel service or storage shall be three acres.
 - c) Above ground storage tanks other than those holding water shall be located not less than 75 feet from any occupied building or any lot line and shall be mounted on a solid concrete slab to prevent overturn and spilling, according to EPA specifications.
 - d) A pollution incidence prevention plan (PIPP) shall be submitted by the applicant and approved as part of the special land use.
3. *Principal and/or accessory use, generation or storage of hazardous materials.* These standards, intended to protect groundwater and city wellheads, shall be designed to ensure the following:
 - a) Projects and related improvements shall be designed to protect the natural environment, including lakes, ponds, streams, wetlands, floodplains, groundwater, and steep slopes.
 - b) Storm water management and drainage facilities shall be designed to retain the natural retention and storage capacity of any wetland, water body, or watercourse, and shall not increase flooding or the potential for pollution of surface or groundwater, on-site or off-site.
 - c) General purpose floor drains shall be connected to a public sewer system or an on-site holding tank in accordance with state, county, and city requirements, unless a groundwater discharge permit has been obtained from the Michigan Department of Environmental Quality (MDEQ).
 - d) Sites at which hazardous substances and polluting material are stored, used, or generated shall be designed to prevent spills and discharges of polluting materials to the air, surface of the ground, groundwater, lakes, streams, rivers or wetlands.
 - e) State and federal agency requirements for storage, spill prevention, recordkeeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without appropriate state and county permits and approvals. The applicant shall provide documentation for the following, with appropriate correspondence from the Michigan Department of Environmental Quality (MDEQ), Michigan State Police Fire Marshal, the EPA, local fire department, and other applicable local codes and ordinances:
 - (1) Description of any discharge of any type of wastewater to a storm sewer, drain, lake, stream, wetland, other surface water body or into the groundwater.
 - (2) Description of storage of any salt, oil or other potentially hazardous materials including common name, name of chemical components, location, maximum quantity expected on hand at any time, type of storage containers or base material, and anticipated procedure for use and handling.
 - (3) Description of any transportation, on-site treatment, storage or disposal of hazardous waste generated in quantities of 25 gallons or 220 pounds per month.
 - (4) Description of any secondary containment measures proposed including design, construction materials and specifications, volume and security measures.
 - (5) Name and phone number(s) of person(s) responsible for materials and available 24 hours, in case of detected spill.
 - (6) Location of existing and proposed service facilities and structures, above and below ground, including:
 - (a) Public and private groundwater supply wells on-site.
 - (b) City wells located within a 1,000-foot radius of the site.
 - (c) Septic systems and other wastewater treatment systems (the location of the drainfield and the septic tank should be clearly distinguished).
 - (d) Areas to be used for the storage, use, loading/unloading, recycling, or disposal of hazardous substances and polluting materials, including interior and exterior areas.
 - (e) Underground storage tank(s) locations.
 - (f) Location of exterior drains, dry wells, catch basins, retention/detention areas, sumps and other facilities designed to collect, store, or transport storm water or wastewater. The point of discharge for all drains and pipes should be specified on the site plan.
 - (7) Location of existing wetlands and watercourses, including lakes, ponds, rivers, and streams.
 - (8) Soil characteristics of the parcel, at least to the detail provided by the U.S. Soil Conservation Service.
 - (9) Existing topography, with a maximum contour interval of two feet indicated.
 - (10) Delineation of areas on the site which are known or suspected to be contaminated, together with a report on the status of site cleanup.
 - (11) Completion of the form title "Groundwater Protection Information for Site Plan Review".
 - (12) In addition, the city may require businesses, facilities, and uses which generate, use or store hazardous materials to submit an environmental impact assessment.
4. *Adult regulated uses and sexually-oriented businesses.*
 - a) *Purpose and intent:*

- (1) Adult regulated uses and sexually-oriented businesses are established as a special land use in order to establish areas of the city where the protected right of free expression is permitted subject to reasonable conditions to protect the community from adverse effects of such uses.
 - (2) Because adult regulated uses and sexually-oriented businesses have been documented to produce adverse effects to surrounding properties and the community as a whole, including residential and commercial disinvestment in the vicinity, decreases in property values, and increases in crime, these uses are permitted only at locations where these adverse effects are minimal and will not contribute to deterioration of the surrounding neighborhood.
 - (3) Because concentrations of two or more adult regulated uses and sexually-oriented businesses in close proximity have been documented to create inordinate increases in crime and decreases in property values in the vicinity, a requirement of separation between adult regulated uses and sexually-oriented businesses has been established.
 - (4) Because certain uses are particularly susceptible to the adverse effects created by adult regulated uses and sexually-oriented businesses, provisions are established that require sufficient spacing of adult regulated uses and sexually-oriented businesses from those uses considered most susceptible to adverse effects.
- b) *Uses regulated:* The following uses are regulated by this subsection.
- (1) Adult book store.
 - (2) Sexual paraphernalia store.
 - (3) Adult model studio.
 - (4) Adult motion picture arcade.
 - (5) Adult motion picture theater or adult live stage performing theater.
 - (6) Adult outdoor motion picture theater.
 - (7) Adult personal service establishment.
 - (8) Adult cabaret.
 - (9) Adult video store.
- c) *Required spacing:* The establishment of the types of adult regulated uses and sexually-oriented businesses listed in "b" above shall meet all of the following space requirements; with the distance between uses measured horizontally between the nearest point of each property line:
- (1) At least 500 feet from any other adult regulated use or sexually-oriented business.
 - (2) At least 500 feet from all churches, convents, temples and similar religious institutions.
 - (3) At least 500 feet from all child care centers, public or nonpublic nursery school, elementary, intermediate, or secondary schools, public parks and hospitals.
 - (4) At least 500 feet from any use defined as a "care organization".
 - (5) At least 500 feet from any One-Family or Multiple-Family Residential District or use.
 - (6) At least 500 feet from any pool or billiard hall, coin-operated amusement center, indoor and outdoor recreation such as miniature golf; dance club catering primarily to teenagers, movie theaters, ice or roller skating rinks and similar uses frequented by children and teenagers.
- d) *Special site design standards:*
- (1) Maximum size of the building shall be 5,000 square feet.
 - (2) Adult regulated uses shall be located within a freestanding building. A shared or common wall structure or shopping center is not considered to be a freestanding building.
 - (3) A six-foot high brick or masonry wall shall be constructed to screen the parking lot. The planning commission may permit use of landscaping in place of the wall.
 - (4) All activities shall be conducted within an enclosed building and not visible through windows or doors to adjacent properties or the public right-of-way, including public sidewalks.
 - (5) No sound shall be produced by the activities conducted within the building that are discernable at or beyond the boundaries of the adult regulated use or sexually-oriented business.
 - (6) Signage shall conform to the city's sign ordinance and in addition shall include no graphic displays and shall not include wording that depicts, describes, or relates to "specified sexual activities" or "specified anatomical areas" (as defined in this ordinance) and cannot be observed by pedestrians or motorists on a public right-of-way or from an adjacent land use.
 - (7) No direct vehicular access shall be taken from a street other than an arterial roadway, unless it is determined that the access will not create problems of through traffic and on-street parking for a residential neighborhood.
- e) *Waivers:* Upon denial of any application for a regulated use under the above, the applicant may appeal for a waiver of the location provisions above to the zoning board of appeals consistent with the standards set forth below. The zoning board of appeals may waive the location provisions set forth above, after all of the following findings are made:

- (1) *Compliance with regulations:* The proposed use will not be contrary to any other provision of these zoning regulations, or injurious to nearby
 - (2) *Not enlarge district:* The proposed use will not enlarge or encourage the development of a "skid row" or "strip."
 - (3) *Consistent with law:* All applicable city, state or federal laws and regulations will be observed.
 - (4) *Procedure for waiver:* Prior to granting a waiver of the location restrictions set forth above, and not less than five, nor more than 15 days before the request for waivers is considered or a public hearing held pursuant to this section, the city council shall publish, in a newspaper of general circulation in the city, one notice indicating that a request for waivers to establish a regulated use has been received, and shall send by mail or personal delivery a copy of that notice to the owners of the property for which waivers are being considered, and to all waivers are being considered, and to all persons to whom any real property is assessed within 300 feet of the boundary of the premises in question, and to the occupants of all structures within 300 feet. If the name of the occupant is not known, the term "occupant" may be used in making notification.

The notice of application shall further indicate that a public hearing on the proposed regulated use may be requested by a property owner or occupant, no less than 18 years of age, of a structure located within 300 feet of the boundary of the property being considered for the regulated use. The applicant, city council, or zoning board of appeals may request a public hearing.
 - (5) *Conditions of approval:* Prior to the granting of approval for the establishment of any regulated use, the planning commission may impose any conditions or limitations upon the establishment, location, construction, maintenance, or operation of the regulated use as in its judgment may be necessary for the protection of the public interest. Any evidence, bond, or other performance and guarantee may be required as proof that the conditions stipulated in connection therewith will be fulfilled.
 - (6) *Minors not permitted:* No person operating an adult entertainment business shall permit any person under the age of 18 to be on the premises of said business.
5. *Airports and related uses (including landing fields and platforms, hangers, mast and other facilities for the operation of aircraft).*
 - a) The plans for such facility shall be given approval by the Federal Aviation Agency prior to submittal to the planning commission and city council for their review and action.
 - b) The standards for determining obstruction to air navigation as announced in the FAA Technical Order N-18, April 26, 1950 (as amended July 30, 1952) and any other amendments thereto shall be complied with. This standard shall be applied by the class of airport as determined by FAA.
 - c) The area of the "clear zone" (see FAA definition) shall be provided for within the land area under airport ownership and in no instance shall the "clear zone" be above property zoned R-1, R-2, R-3, R-4, PUD, RM-1 or PMSHDD.
 6. *Arcades and similar devices at public commercial mechanical amusement device centers.*
 - a) Any part of the lot occupied by such use shall not be located within 300 feet of any residential district or within 500 feet of the property line of any public, parochial or other private school offering courses in general education.
 - b) Access to the site shall be directly from a regional arterial or arterial street.
 - c) All activities, except for off-street parking or loading, shall be conducted within completely enclosed buildings constructed in accordance with all other applicable codes and city ordinances.
 7. *Auto race tracks (including midget auto and karting tracks, fairgrounds, horse track, and dog tracks).*
 - a) Any facility shall be located on a major thoroughfare and shall be located on a parcel of land which is completely surrounded by land zoned for industrial use.
 - b) All parking shall be provided as off-street parking within the boundaries of the development and shall meet the requirements of [Article 18](#).
 - c) All access to the parking areas shall be provided from a major thoroughfare.
 - d) All sides of the development not abutting a major thoroughfare shall be provided with a 20-foot wide greenbelt planting, and a minimum six-foot high fence or wall, so as to obscure from view all activities within the development. The greenbelt shall meet or exceed the standards set forth in [Article 20](#).
 - e) The applicant must provide an operations plan that sets out details regarding the use, including hours of operation and any details that will potentially affect the compatibility of the use with surrounding properties and uses.
 8. *Automobile service centers and automobile repair (minor maintenance and repair). Automobile repair (major maintenance and repair).*
All principal and accessory structures shall be set back a minimum of 500 feet from a One-Family Residential District.
 - a) If the automobile service center has auto repair, there shall be a minimum lot frontage on a paved road of 200 feet.
 - b) Overhead doors shall not face a public street or residential district. The city council can modify this requirement upon determining there is no reasonable alternative and the poor visual impact will be diminished through use of landscaping beyond that required in [Article 20](#).
 - c) Only one driveway shall be permitted from any street unless the city council determines additional driveways are necessary and will not increase potential for accidents or congestion.
 - d) All sides of the development not abutting a major thoroughfare shall be provided with a 20-foot wide greenbelt planting, and/or a minimum

six-foot high fence or wall, so as to obscure from view all activities within the development. The greenbelt shall meet or exceed the standards set forth in [Article 20](#). Where adjoining a residential district, a wall or evergreen hedge six feet in height shall be erected along any common lot line. Such fence or wall shall be continuously maintained in good condition.

- e) All repair work shall be conducted completely within an enclosed building.
 - f) There shall be no outdoor storage or display of vehicle components and parts, supplies or equipment, except within an area defined on the site plan approved by the city council and which extends no more than ten feet beyond the building.
 - g) The applicant shall submit a pollution incidence protection plan (PIPP). The PIPP shall describe measures to prevent groundwater contamination caused by accidental gasoline spills or leakage, such as: special check valves, drain back catch basins and automatic shut off valves, as approved by the fire department.
 - h) The access management standards of [Article 17](#) are to be met, where feasible.
9. *Automobile service (gasoline) stations (including those accessory to another use).*
- a) The minimum lot area for automobile service stations shall be 15,000 square feet for stations having no more than two service bays and/or no more than two pump islands. There shall be added 3,000 square feet for additional service bay and 1,500 square feet for each additional pump island. At least one street lot line shall be at least 150 feet in length along one major thoroughfare. The lot shall be so shaped and the station so arranged as to provide ample space for vehicles which are required to wait.
 - b) Pump islands shall be a minimum of 40 feet from any public right-of-way or lot line. Tanks, propane, and petroleum products shall be set back at least 15 feet from any lot line. Pump islands shall be a minimum of 25 feet from any designated parking space so that on-site traffic circulation is preserved.
 - c) Overhead canopies shall be setback at least 20 feet from the right-of-way with materials consistent with the principal building. The proposed clearance of any canopy shall be noted on the site plan.
 - d) Access driveways shall be along an arterial street. Only one driveway shall be permitted from any street unless the city council determines additional driveways are necessary and will not increase accident or congestion potential.
 - e) All sides of the development not abutting a major thoroughfare shall be provided with a 20-foot wide greenbelt planting, and/or a minimum six-foot high fence or wall, so as to obscure from view all activities within the development. The greenbelt shall meet or exceed the standards set forth in [Article 20](#). Where adjoining a residential district, a wall or evergreen hedge six feet in height shall be erected along any common lot line. Such fence or wall shall be continuously maintained in good condition.
 - f) All repair work shall be conducted completely within an enclosed building.
 - g) There shall be no outdoor storage or display of vehicle components and parts, supplies or equipment, except within an area defined on the site plan approved by the city council and which extends no more than ten feet beyond the building.
 - h) Storage of wrecked, partially dismantled, or other derelict vehicles is prohibited.
 - i) The applicant shall submit a pollution incidence protection plan (PIPP).
 - j) The access management standards of [Article 17](#) are to be met, where feasible.
 - k) In the event that an automobile service station use has been abandoned or terminated for a period of more than one year, all underground gasoline storage tanks shall be removed from the premises, as per state requirements.
 - l) When a fast food or carry-out restaurant is proposed as an accessory use, the parking requirements for a carry-out restaurant shall be met for the area designated for this use. Under no circumstances is a drive-through window permitted.
10. *Automobile washes, automatic or self-service.*
- a) Only one ingress/egress driveway shall be permitted on any single street.
 - b) All sides of the development not abutting a major thoroughfare shall be provided with a 20-foot wide greenbelt planting, and/or a minimum six-foot high fence or wall, so as to obscure from view all activities within the development. The greenbelt shall meet or exceed the standards set forth in [Article 20](#). Where adjoining a residential district, a wall or evergreen hedge six feet in height shall be erected along any common lot line. Such fence or wall shall be continuously maintained in good condition.
 - c) All washing facilities shall be within a completely enclosed building.
 - d) Vacuuming and drying may be located outside the building, but shall not be in the required front yard and shall be set back at least 50 feet from any residential district.
 - e) All cars required to wait for access to the facilities shall be provided stacking spaces fully off the street right-of-way which does not conflict with vehicle maneuvering areas to access gasoline pumps or vacuums, and off-street parking as required in [Article 18](#).
 - f) The access management standards of [Article 17](#) are to be met, where feasible.
 - g) A truck wash must be at least 100 feet from all property lines and entirely screened using landscaping from residential.
11. *Banks, credit unions, savings and loan institutions with drive-through lanes.*
- a) Only one ingress/egress driveway or one pair of one-way driveways or one stand-alone ready teller structure, shall be permitted along any street.

- b) Exit and required stacking lanes shall not face directly at a one-family residence zoned for residential use unless the alignment is designed or lan prevent headlight glare.
- c) The access management standards of Article 17 are to be met, where feasible.
12. *Bed-and-breakfast inns.*
- a) No bed-and-breakfast inn shall be located closer than 300 feet to another bed-and-breakfast inn.
- b) Meals or other services provided on the premises shall only be available to residents, employees and overnight guests of the inn.
- c) The dwelling unit in which the bed and breakfast establishment is located shall be the principal residence of the operator, and said operator shall live on the premises while the establishment is active.
- d) There shall be a maximum of six rooms for lodging.
- e) Sufficient landscaping shall be used to screen adjacent dwellings from parking areas or any outdoor eating area.
- f) A sketch plan showing the floor plan shall be submitted for approval.
- g) Maximum sign size shall be 20 square feet with a maximum height of five feet. Sign materials are to be compatible with the architecture of the building.
13. *Cellular towers, wireless communication facilities, attached wireless communication facilities, and wireless communication support structures.*
- a) A wireless communication support structure must be established within a right-of-way having an existing width of more than 204 feet.
- b) A wireless communication support structure must be established on municipally-owned property.
- c) *Purpose and intent:* It is the general purpose and intent of the City of Swartz Creek to carry out the will of the United States Congress by authorizing communication facilities needed to operate wireless communication systems. However, it is the further purpose and intent of the city to provide for such authorization in a manner which will retain the integrity of neighborhoods and the character, property values and aesthetic quality of the community at large. In fashioning and administering the provisions of this section, attempts have been made to balance these potentially competing interests.
- Recognizing the number of providers authorized to establish and operate wireless communication services and coverage, it is the further the purpose and intent of this section to:
- (1) Facilitate adequate and efficient provision of sites for wireless communication facilities.
- (2) Establish in predetermined districts the number, shape, and location, considered best for the establishment of wireless communication facilities, subject to applicable standards and conditions.
- (3) Recognize that operation of a wireless communication system may require the establishment of facilities in locations not within the predetermined districts or zones. In such cases, it has been determined that it is likely that there will be greater adverse impact upon neighborhoods and areas within the community. Consequently, more stringent standards and conditions should apply to the review, approval and use of such facilities.
- (4) Ensure that wireless communication facilities are situated in appropriate municipally-owned locations and relationships to other land uses, structures and buildings.
- (5) Limit inappropriate physical and aesthetic overcrowding of land use activities and avoid adverse impact upon existing population, transportation systems, and other public services and facility needs.
- (6) Promote the public health, safety and welfare.
- (7) Provide for adequate information about plans for wireless communication facilities in order to permit the community to effectively plan for the location of such facilities.
- (8) Minimize the adverse impacts of technological obsolescence of such facilities, including a requirement to remove unused and/or unnecessary facilities in a timely manner.
- (9) Minimize the negative visual impact of wireless communication facilities on neighborhoods, community land marks, historic sites and buildings, natural beauty areas and public rights-of-way. This contemplates the establishment of as few structures as reasonably feasible, and the use of structures which are designed for compatibility, including the use of existing structures and the avoidance of lattice structures that are unnecessary, taking into consideration the purposes and intent of this section.
- (10) City council finds that the presence of numerous tower structures, particularly if located within residential areas, would decrease the attractiveness and destroy the character and integrity of the community. This, in turn, would have an adverse impact upon property values. Therefore, it is necessary to minimize the adverse impact from the presence of numerous relatively tall tower structures having low architectural and other aesthetic appeal to most persons, recognizing that the absence of regulation would result in a material impediment to the maintenance and promotion of property values, and further recognizing that this economic component is an important part of the public health, safety and welfare.
- d) *Authorization:*
- (1) Subject to the standards and conditions set forth in subparagraph (e) below, wireless communication facilities shall be permitted uses in the following circumstances:

- (a) An existing structure which will serve as an attached wireless communication facility within a non-residential zoning district, where the discretion of the zoning administrator, proposed to be either materially altered or materially changed appearance.
 - (b) A proposed co-location upon an attached wireless communication facility which had been pre-approved for such co-location as part of an earlier approval by the city.
 - (c) An existing structure which will serve as an attached wireless communication facility consisting of a utility pole located within a right-of-way, where the existing pole is not proposed to be modified in a manner which, in the discretion of the planning official, would materially alter the structure and/or result in an impairment of sight lines or other safety interests.
- e) *Standards and conditions applicable to all facilities:* All applications for wireless communication facilities shall be reviewed in accordance with the following standards and conditions, and, if approved, shall be constructed and maintained in accordance with such standards and conditions. In addition, if the facility is approved, it shall be constructed and maintained with any additional conditions imposed by the planning commission and city council in its discretion:
- (1) Facilities shall not be demonstrably injurious to neighborhoods or otherwise detrimental to the public safety and welfare.
 - (2) Facilities shall be located on municipality-owned property only and designed to be harmonious with the surrounding areas.
 - (3) Wireless communication facilities shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions.
 - (4) Applicants shall demonstrate a justification for the proposed height of the structures and an evaluation of alternative designs which might result in lower heights.
 - (5) The following additional standards shall be met:
 - (a) The maximum height of the new or modified support structure and antenna shall be the minimum height demonstrated to be necessary for reasonable communication by the applicant (and by other entities to co-locate on the structure). The accessory building contemplated to enclose such things as switching equipment shall be limited to the maximum height for accessory structures within the respective district.
 - (b) The setback of the support structure from any residential district shall be at least the height of the highest point of any structure on the premises. The setback of the support structure from any existing or proposed rights-of-way or other publicly traveled roads shall be no less than the height of the structure.
 - (c) Where the proposed new or modified support structure abuts a parcel of land zoned for a use other than residential, the minimum setback of the structure, and accessory structures, shall be in accordance with the required setbacks for main or principal buildings as provided in the schedule of regulations for the zoning district in which the support structure is located.
 - (d) There shall be unobstructed access to the support structure, for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement. This access shall have a width and location determined by such factors as: the location of adjacent thoroughfares and traffic and circulation within the site; utilities needed to service the tower and any attendant facilities; the location of buildings and parking facilities; proximity to residential districts and minimizing disturbance to the natural landscape; and the type of equipment which will need to access the site.
 - (e) The division of property for the purpose of locating a wireless communication facility is prohibited unless all zoning requirements and conditions are met.
 - (f) Where an attached wireless communication facility is proposed on the roof of a building if the equipment enclosure is proposed as a roof appliance or penthouse on the building, it shall be designed, constructed and maintained to be architecturally compatible with the principal building. The equipment enclosure may be located within the principal building or may be an accessory building. If proposed as an accessory building, it shall conform to all district requirements for principal buildings, including yard setbacks.
 - (g) The planning commission shall, with respect to the color of the support structure and all accessory buildings, review and approve so as to minimize distraction, reduce visibility, maximize aesthetic appearance, and ensure compatibility with surroundings. It shall be the responsibility of the applicant to maintain the wireless communication facility in a neat and orderly condition.
 - (h) The support system shall be constructed in accordance with all applicable building codes and shall include the submission of a soils report from a geotechnical engineer, licensed in the State of Michigan. This soils report shall include soil borings and statements confirming the suitability of soil conditions for the proposed use. The requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission shall be noted.
 - (i) A maintenance plan, and any applicable maintenance agreement, shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to ensure the long-term, continuous maintenance to a reasonably prudent standard.
 - (6) The applicant shall demonstrate the need for the proposed facility to be located as proposed based upon the presence of one or more of the following factors:
 - (a) Proximity to an interstate or major thoroughfare.
 - (b) Areas of population concentration.
 - (c) Concentration of commercial, industrial, and/or other business centers.

- (d) Areas where signal interference has occurred due to tall buildings, masses of trees, or other obstructions.
 - (e) Topography of the proposed facility location in relation to other facilities with which the proposed facility is to operate.
 - (f) Other specifically identified reason(s) creating the need for the facility.
- (7) The proposal shall be reviewed in conformity with the co-location requirements of this section.
- (8) If it is demonstrated to the satisfaction of the city council by an applicant that a wireless communications facility may not reasonably be established as a special land use is required to be established in an area other than municipally-owned property in order to operate a wireless communications service, then wireless communications facilities may be permitted elsewhere in the City of Swartz Creek by Special Land Use approval only subject to approval by the city council, the requirements of this section, and the following criteria and standards:
- (a) At the time of submittal, the applicant shall demonstrate that a location within an allowable district or area cannot reasonably meet the coverage and/or capacity needs of the applicant.
 - (b) Wireless communications facilities shall be of a design such as a steeple, bell tower, or other form which is compatible with the existing character of the proposed site, neighborhood, and general area, as approved by the planning commission.
 - (c) In the R-1, R-2, R-3, R-4, RM-1, and PMSHDD Districts, site locations shall be permitted on a priority basis on the following sites, subject to application of all other standards contained in this section:
 - (1) Municipally-owned sites.
 - (2) Other governmentally-owned sites.
 - (3) Religious or institutional sites.
 - (4) Public parks and other large permanent open space areas when compatible.
 - (5) Public or private school sites.
- f) *Application requirements:*
- (1) A site plan prepared in accordance with [Article 21](#) shall be submitted, showing the location, size, screening and design of all buildings and structures, including fences, and the location and size of outdoor equipment, and the location, number, and species of proposed landscaping.
 - (2) The site plan shall also include a detailed landscaping plan where the support structure is being placed at a location which is not otherwise developed, or where a developed area will be disturbed. The purpose of landscaping is to provide screening and aesthetic enhancement for the structure base, accessory buildings and enclosure. In all cases, there shall be shown on the plan fencing which is required for protection of the support structure and security from children and other persons who may otherwise access facilities.
 - (3) The application shall include a signed certification by a State of Michigan licensed professional engineer with regard to the manner in which the proposed structure will fall, which certification will be utilized, along with other criteria such as applicable regulations for the district in question, in determining the appropriate setback to be required for the structure and other facilities.
 - (4) The application shall include a description of security to be posted at the time of receiving a building permit for the facility to ensure removal of the facility when it has been abandoned or is no longer needed, as provided in paragraph (h) below. In this regard, the security shall be in the form of an agreement approved by the attorney for the community and recordable at the office of the register of deeds, establishing a promise of the applicant and owner of the property to remove the facility in a timely manner as required under this section of the ordinance, with the further provision that the applicant and owner shall be responsible for the payment of any costs and attorney's fees incurred by the community in securing removal.
 - (5) The application shall include a map showing existing and known proposed wireless communication facilities within the city and further showing existing and known proposed wireless communication facilities within areas surrounding the borders of the city in the location, and in the area, which are relevant in terms of potential co-location or in demonstrating the need for the proposed facility. If and to the extent the information in question is on file with the community, the applicant shall be required only to update as needed. Any such information which is trade secret and/or other confidential commercial information which, if released would result in commercial disadvantage to the applicant, may be submitted with a request for confidentiality in connection with the development of governmental policy, MCL 15.243(l)(g). This section shall serve as the promise to maintain confidentiality to the extent permitted by law. The request for confidentiality must be prominently stated in order to bring it to the attention of the community.
 - (6) The name, address and phone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated during all times the facility is on the premises.
- g) *Co-location:*
- (1) *Statement of policy:* It is the policy of the city to minimize the overall number of newly established locations for wireless communication facilities and wireless communication support structures within the community, and encourage the use of existing structures for attached wireless communication facility purposes, consistent with the statement of purpose and intent, set forth in paragraph (c) of this section above. Each licensed provider of a wireless communication facility must, by law, be permitted to locate sufficient facilities in order to achieve the objectives promulgated by the United States Congress. However, particularly in light of the dramatic increase in the number of

wireless communication facilities reasonably anticipated to occur as a result of the change of federal law and policy in and relating to the Federal Telecommunications Act of 1996, it is the policy of the city that all users should co-locate on attached wireless communication facility and wireless communication support structures in the interest of achieving the purposes and intent of this section, as stated above, and as stated in paragraph (c) of this section. If a provider fails or refuses to permit co-location on a facility-owned or otherwise controlled by it, where co-location is feasible, the result will be that a new and unnecessary additional structure will be compelled, in direct violation of and in direct contradiction to the basic policy, intent and purpose of the city. The provisions of this subsection are designed to carry out and encourage conformity with this policy.

- (2) *Feasibility of co-location:* Co-location shall be deemed to be "feasible" for purposes of this section where all of the following are met:
- (a) The wireless communication provider entity under consideration for co-location will undertake to pay market rent or other market compensation for co-location.
 - (b) The site on which co-location is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.
 - (c) The co-location being considered is technologically reasonable, e.g., the co-location will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the structure, antennas, and the like.
 - (d) The height of the structure necessary for co-location will not be increased beyond a point deemed to be permissible by the city, taking into consideration the several standards contained in parts (e) of this section, above.
- (3) *Requirements for co-location:*
- (a) A special land use permit for the construction and use of a new wireless communication facility shall not be granted unless and until the applicant demonstrates that a feasible co-location is not available for the coverage area and capacity needs.
 - (b) All new and modified wireless communication facilities shall be designed and constructed so as to accommodate co-location.
 - (c) The policy of the community is for co-location. Thus, if a party who owns or otherwise controls a wireless communication facility shall fail or refuse to alter a structure so as to accommodate a proposed and otherwise feasible co-location, such facility shall thereupon and thereafter be deemed to be a non-conforming structure and use, and shall not be altered, expanded or extended in any respect.
 - (d) If a party who owns or otherwise controls a wireless communication facility shall fail or refuse to permit a feasible co-location, and this requires the construction and/or use of a new facility, the party failing or refusing to permit a feasible co-location shall be deemed to be in direct violation and contradiction of the policy, intent and purpose of the city, and, consequently such party shall take responsibility for the violation, and shall be prohibited from receiving approval for a new wireless communication support structure within the city for a period of five years from the date of the failure or refusal to permit the co-location. Such a party may seek and obtain a variance from the zoning board of appeals if and to the limited extent the applicant demonstrates entitlement to variance relief which, in this context, shall mean a demonstration that enforcement of the five-year prohibition would unreasonably discriminate among providers of functionally equivalent wireless communication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication services.
- (4) *Incentive:* Review of an application for co-location, and review of an application for a permit for use of a facility permitted under paragraph (d)(l)(a), above, shall be expedited by the city.
- h) *Removal:*
- (1) A condition of every approval of a wireless communication facility shall be adequate provision for removal of all or part of the facility by users and owners upon the occurrence of one or more of the following events:
 - (a) When the facility has not been used for 180 days or more. For purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of nonuse.
 - (b) Six months after new technology is available at reasonable cost, as determined by the legislative body of the community, which permits the operation of the communication system without the requirement of the support structure.
 - (2) The situations in which removal of a facility is required, as set forth in paragraph (1) above, may be applied and limited to portions of a facility.
 - (3) Upon the occurrence of one or more of the events requiring removal, specified in paragraph (1) above, the property owner or persons who had used the facility shall immediately apply or secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the premises to an acceptable condition as reasonably determined by the zoning administrator.
 - (4) If the required removal of a facility or a portion thereof has not been lawfully completed within 60 days of the applicable deadline, and after at least 30 days' written notice, the city may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn or collected and/or enforced from or under the security posted at the time application was made for establishing the facility.

- a) Minimum property size shall be 20 acres.
 - b) All grave sites, buildings and structures shall be setback at least 100 feet from all property lines.
 - c) The city council shall determine that the cemetery will have a "park-like" setting.
 - d) Uses such as crematoriums, mausoleums, casket sales and monument sales shall be permitted as an accessory use to a cemetery. Setbacks and landscaping shall be compatible with adjacent uses.
15. *Churches, temples and similar places of worship.*
- a) Minimum lot area shall be three acres for any church with a sanctuary seating capacity of over 250 persons plus an additional 15,000 square feet for each additional 100 persons of sanctuary seating capacity.
 - b) Buildings of greater than the maximum height permitted in the zoning district may be allowed provided the front, side and rear yard setbacks are increased above the minimum required by one foot for each foot of building height that exceeds the maximum permitted. The building cannot exceed 35 feet.
 - c) All vehicular access to the site shall be onto a regional arterial, arterial or collector street, as classified in the City of Swartz Creek Master Plan. The planning commission may allow secondary access onto local (residential) streets if the uses fronting the street which would be most impacted by traffic flow are predominantly non-single-family homes.
 - d) All sides of the development not abutting a major thoroughfare shall be provided with a 20-foot wide greenbelt planting, and/or a minimum six-foot high fence or wall, so as to obscure from view all activities within the development. The greenbelt shall meet or exceed the standards set forth in [Article 20](#). Where adjoining a residential district, a wall or evergreen hedge six feet in height shall be erected along any common lot line. Such fence or wall shall be continuously maintained in good condition.
 - e) The city council may require a traffic impact study, particularly if the church is to have services or activities during peak times on the roadway, or if there are other religious institutions in the vicinity which could create traffic conflicts.
16. *Commercial outdoor sales and/or storage and open air businesses* (as a permitted or accessory use, including sales and/or storage of: Building/lumber supply, contractors yards, flea markets, auctions, garden/landscape supplies, nurseries, stone, farm implement, automobiles, trucks, recreational vehicles, mobile homes, boats, jet skis, mowing equipment, construction equipment and similar materials or equipment).
- a) Any stockpiles of soils, fertilizer or similar loosely packaged materials shall be sufficiently covered or contained to prevent dust or blowing of materials.
 - b) No outdoor storage shall be permitted in the front yard or in any required side yard or required rear yard of buildings for the district in which the commercial outdoor sales or storage use is located.
 - c) The site shall include a building of at least 500 feet of gross floor area for office use in conjunction with the approved use.
 - d) The display and storage area shall be paved with a permanent, durable and dustless surface and shall be graded and drained to dispose storm water without negatively impacting adjacent property.
 - f) All loading and truck maneuvering shall be accommodated on-site.
 - g) All sides of the development not abutting a major thoroughfare shall be provided with a 20-foot wide greenbelt planting, and/or a minimum six-foot high fence or wall, so as to obscure from view all activities within the development. The greenbelt shall meet or exceed the standards set forth in [Article 20](#). Where adjoining a residential district, a wall or evergreen hedge six feet in height shall be erected along any common lot line. Such fence or wall shall be continuously maintained in good condition.
17. *Commercial composting centers.*
- a) The applicant shall submit an impact assessment describing the expected odors, aesthetics, environmental impacts, vehicular and truck traffic impacts associated with the use, and any mitigation measures to be employed.
 - b) The site plan which shall clearly illustrate the layout of the composting operation, including: buildings, staging area, parking, on-site truck maneuvering (truck turning radii shall be illustrated), curbing area, landscaped buffers, sales area and fencing.
 - c) Commercial composting operations shall be at least 1,000 feet from any residential district.
 - d) All composting operations shall be at least 200 feet from the boundary of any lake, stream, drain, wetland or other surface water body. The applicant shall describe procedures for managing storm water runoff and preventing pollution of surface water bodies or groundwater. Groundwater quality monitoring devices shall be provided.
 - e) Documentation shall be provided indicating that the soils percolate and are not characterized by a high water table.
 - f) The applicant shall describe acceptable methods for control of odors.
 - g) All sides of the development not abutting a major thoroughfare shall be provided with a 20-foot wide greenbelt planting, and/or a minimum six-foot high fence or wall, so as to obscure from view all activities within the development. The greenbelt shall meet or exceed the standards set forth in [Article 20](#). Where adjoining a residential district, a wall or evergreen hedge six feet in height shall be erected along any common lot line. Such fence or wall shall be continuously maintained in good condition.
 - h) Access shall be provided solely on a regional arterial or arterial street.
 - i) All storage areas shall be enclosed in a building.

- j) Temporary signs shall be prohibited.
18. *Conference centers/convention facilities.*
- a) The site shall have direct access, via lot frontage or an improved road, to at least one paved arterial roadway.
 - b) The location, geometric design and throat depth of site access points, and overall internal site circulation, shall prevent unreasonable traffic congestion on public roadways. A traffic management plan shall be submitted as part of the application.
 - c) Building height shall not exceed 35 feet but may be three stories (i.e., a permitted exception from the maximum number of stories allowed for other buildings in the district).
 - d) Minimum floor area shall be 10,000 square feet of usable conference rooms, meeting rooms, banquet rooms and pre-function space.
 - e) Minimum building and outdoor use areas shall be setback at least 100 feet from any property line of residentially zoned and/or 75 feet from any other property line. Buffer zones shall be provided as required for in [Article 20](#). The city council may reduce the required setbacks by up to 50 percent where more extensive landscaping or existing features provide an extensive screen.
 - f) Parking setbacks shall be 40 feet in the front yard; 25 feet for side and rear yards adjacent to residential districts or uses, and ten feet elsewhere.
 - g) The proposed building(s) may provide atriums, lobbies, or other public gathering places.
 - h) The accessory uses, specialty shops, and activity centers shall be customarily incidental to the primary components of the conference center. A hotel is not considered to be an accessory use and is a principal use that may be developed in conjunction with the conference center or convention facility.
 - i) All uses, except for off-street parking or loading spaces and approved outdoor gathering places (such as courtyards, plazas, etc.) shall be conducted within a completely enclosed building. Sales, display, and outdoor storage of any commodities or storage containers, vehicles or other uses shall be expressly prohibited.
 - j) In addition to other requirements, the impact assessment shall describe intended and anticipated number, type and frequency of events that may be expected at the proposed site including hours of operation, outdoor receptions and the location where they may be held.
19. *Essential public service/utility buildings and storage yards.*
- a) Such uses may be permitted when operating requirements necessitate that the facility be located at the subject site to serve the immediate vicinity.
 - b) Electric or gas regulator equipment and apparatus shall be setback a minimum of 30 feet from all lot lines or equal to district setbacks, whichever is greater. They cannot be located in the front yard setback.
 - c) The buildings or structures shall be architecturally compatible with the surrounding buildings and shall be of brick construction, where practical.
 - d) Storage yards must be located on a minimum lot size of three acres.
 - e) A vinyl coated (black or brown/green or blue) chain link fence six feet in height shall be constructed on the boundary property lines.
 - f) All sides of the development not abutting a major thoroughfare shall be provided with a 20-foot wide greenbelt planting, and/or a minimum six-foot high fence or wall, so as to obscure from view all activities within the development. The greenbelt shall meet or exceed the standards set forth in [Article 20](#). Where adjoining a residential district, a wall or evergreen hedge six feet in height shall be erected along any common lot line. Such fence or wall shall be continuously maintained in good condition.
20. *Funeral home or mortuary establishment.*
- a) Adequate assembly (car stacking) area is provided off-street for vehicles to be used in a funeral procession, provided further that such assembly area shall be provided in addition to any required off-street parking area. A caretaker's residence may be provided within the main building of mortuary establishments.
 - b) A funeral home or mortuary establishment does not include a crematorium.
21. *Hospitals, general and specialty.*
- a) All such hospitals shall be developed only on sites consisting of at least ten acres in area.
 - b) The minimum distance of any main or accessory building from bounding lot lines or streets shall be at least 100 feet for front, rear and side yards for all two-story structures. For every story above two, the minimum yard distance shall be increased by at least 20 feet.
22. *Gun clubs.* Gun clubs, whether operated for profit or not, shall be permitted only after review by the planning commission and approval of a temporary permit by the city council provided the following conditions are met:
- a) All federal, state, county and city codes and ordinances in regard to firearms shall be strictly adhered to.
 - b) In no instance shall a firearm be discharged closer than 1,000 feet to an existing residence.
 - c) In no instance shall a firearm be discharged on any range in any gun club without the presence of an employee of the gun club for supervision.
 - d) A site plan for the range, whether indoor or outdoor, shall be submitted to the planning commission for review and must clearly indicate all safety provisions to assure that any missile fired within the confines of a gun club shall not carry into or over any adjacent district or area.

- e) A minimum six-foot high fence shall be provided around the entire gun club site to assure that individuals will not unknowingly trespass on the property, particularly where firearms are being discharged.
 - f) Any other provision, which the city council deems necessary to assure the health, safety, and general welfare of the habitants of the City of Swartz Creek and adjacent communities.
23. *Kennels, commercial.*
- a) The minimum lot size for kennels housing dogs shall be two acres.
 - b) Dog runs, and/or exercise areas shall not be located nearer than 100 feet to property lines and shall not be located in any required front, rear or side yard setback area.
 - c) Such facilities shall be subject to other conditions and requirements necessary to prevent possible nuisances (i.e., fencing, sound-proofing, sanitary requirements).
 - d) An operations/management plan shall be submitted to the city for review and approval and a temporary permit must be obtained from the building official in accordance with the requirements of Article 13.
24. *Mixed use buildings for residential and office/business purposes.*
- a) The combined use of a building for residential and business use shall not provide more than one dwelling and not more than one business or two offices in any one building.
 - b) The combined use of a building for residential and office use shall not provide more than three units maximum within a building, and not more than one of which may be a dwelling.
 - c) The floor area for a dwelling unit in a building shall not be less than 400 square feet.
 - d) The architectural character of buildings shall be maintained. New construction for such mixed use structures shall be undertaken in character with existing structures.
25. *Motels and hotels including accessory convention/meeting facilities and restaurants.*
- a) Access shall be provided so as not to conflict with the adjacent business uses or adversely affect traffic flow on a major thoroughfare.
 - b) Each unit shall contain not less than 250 square feet of floor area.
 - c) No guest shall establish permanent residence for more than 30 days within any calendar year.
26. *Mushroom farms.* Because of the nature of the process for growing mushrooms, mushroom growing farms shall be allowed provided the following conditions are met:
- a) The plant structure shall be located no closer than 150 feet to any existing or proposed public right-of-way, or to any adjacent property line.
 - b) The area utilized for the dispensing of waste material shall be no closer than 300 feet to any existing or proposed public right-of-way, or to any adjacent property line.
 - c) No residential structure, either permanent or temporary, shall be placed closer than 500 feet to any mushroom growing farm (no closer than 500 feet to residential).
27. *Nurseries, greenhouses, and lawn and garden centers.*
- a) Storage and display areas shall meet all setback requirements.
 - b) The storage of any soil, fertilizer, lumber or other loose, unprotected material shall be in the side or rear of the site, covered, and contained to prevent runoff onto adjacent properties.
28. *Nursing and convalescent homes.*
- a) There shall be provided on the site, not less than 1,500 square feet of open space for each bed in the home. The 1,500 square feet of land area shall provide for landscape setting, off-street parking, service drives, loading space, yard requirement and accessory uses, but shall not include the area covered by main or accessory buildings.
 - b) All sites shall be located within adequate walking distance of food stores, shopping centers, restaurants and drug stores, as determined by the city council.
 - c) All dwelling units shall consist of at least 350 square feet per unit (not including kitchen and sanitary facilities).
 - d) Total area coverage of all buildings (including dwelling units and related service buildings) shall not exceed 25 percent of total site, exclusive of any dedicated public right-of-way.
 - e) The minimum lot size shall be not less than three acres.
 - f) The gross density of the dwelling units shall not exceed 20 units per acre, exclusive of any dedicated public right-of-way of either interior or bounding roads.
 - g) Except as provided herein, all buildings and sites shall be in compliance with RM-1 requirements in this ordinance.
 - h) No housing for the elderly shall be converted to any other use without complying with the provisions of the zoning ordinance in effect.
 - i) The city council may add any conditions it deems appropriate to ensure the compatibility of the development with the surrounding area.
 - j) All buildings permitted hereunder shall not exceed 40 feet in height.

- k) Principal buildings shall not be closer than 40 feet to any property line.
29. *Oil, gas or brine wells.* Oil, gas or brine wells, including the drilling operations for any underground natural resource, with the exception of water, may be permitted only in I Districts when authorized by the city council if it can be clearly shown that the use will not be injurious to the surrounding area, and after public hearing, subject to the following conditions:
- a) No buildings, or structures of a permanent nature shall be erected, except that when such building is a permitted use within the Industrial District.
 - b) No truck parking or storage shall be located within 300 feet of any residential district, or within 100 feet of any other district.
 - c) All the operation shall be screened with a wire screen or uniformly painted wood fence as provided by section [20.03], with evergreen screen planting on any side adjacent to residentially zoned property.
 - d) After the natural resources have been removed the property shall be restored by the replacement of top soil where feasible, and all excavations shall be sloped to a gradient with not more than a 30-degree slope, and the contour shall be caused to blend as nearly as possible with the natural surroundings.
 - e) All truck operations shall be directed away from residential streets whenever possible.
 - f) The city council may require any bond as deemed necessary to ensure that requirements are fulfilled and may revoke permission to operate at any time specified conditions are not maintained.
30. *Outdoor cafés, outdoor eating areas and open front restaurant (i.e., window service).*
- a) Any outdoor eating area shall not exceed 15 percent of the gross floor area of the principal building; and shall not be located in any required front, side or rear setback area; except in the GBD District when specifically approved by the city council.
 - b) Any outdoor eating area shall be located no closer than 15 feet from any street right-of-way or any vehicular parking or maneuvering areas. Such eating areas shall be separated from all vehicular parking and maneuvering areas by means of a greenbelt, wall, or architectural feature.
 - c) The outdoor eating area shall not be located within 50 feet of any properties used or zoned for residential purposes. The area shall be completely screened from view from all residential properties by an obscuring wall or greenbelt, in compliance with this ordinance.
 - d) The outdoor eating area shall be kept clean and void of litter at all times and waste receptacles must be provided. Fences or landscaping shall be provided to control blowing debris.
 - e) All vending machines and arcades shall be located within a completely enclosed building.
 - f) Outdoor sidewalk cafés in the GBD District shall be subject to the following standards:
 - (1) To allow for pedestrian circulation, a minimum of five feet of sidewalk along the curb and leading to the entrance to the establishment must be maintained free of tables and other encumbrances. If the sidewalk is not wide enough to allow for a five-foot wide clearance for circulation, the café should not be permitted. Planters, posts with ropes, or other removable enclosures should be encouraged and should be used to define the area occupied by the outdoor seating.
 - (2) Pedestrian circulation and access to store entrances should not be impaired. Thus, a boundary (maximum encroachment width and length) into the public sidewalk should be established, with an accessible aisle being maintained between this line and the curb, in accordance with the provisions of the national Americans with Disabilities Act (ADA) and Michigan barrier-free requirements.
 - (3) The operators of the outdoor café should be responsible for a clean, litter-free, and well-kept appearance within and immediately adjacent to the area of the tables and chairs. Outdoor trash receptacles are required. Written procedures for cleaning and trash containment and removal responsibilities of the café must be noted on the revised plan to the satisfaction of the city.
 - (4) Tables, chairs, planters, trash receptacles, and other elements of street furniture should be compatible with the architectural character of the adjacent buildings. If table umbrellas will be used, they should complement building colors.
 - (5) Additional signs should not be permitted, beyond what is permitted for the existing restaurant.
 - (6) The hours of operation for the outdoor seating area should be established and noted on the plan.
 - (7) Preparation of food and beverages should be prohibited in this outdoor area. The sale and consumption of alcohol are governed by the Michigan Liquor Control Act and local ordinance.
 - (8) Liability issues for use of the public sidewalk should be addressed and reviewed by the city attorney.
31. *Outdoor theaters.* Because outdoor theaters possess the unique characteristics of being used only after darkness and since they develop a concentration of vehicular traffic in terms of ingress and egress from their parking area, they are subject to the following conditions:
- a) Outdoor theaters shall abut, and have all access from, a regional arterial or arterial.
 - b) All vehicles, waiting or standing to enter the facility, shall be provided off-street waiting space. No vehicle shall be permitted to wait or stand within a dedicated right-of-way.
 - c) The area shall be designed as to prevent the movie screen from being viewed from residential areas or adjacent major roadways. All lighting used to illuminate the area shall be installed and confined within, and directed onto the premises of the outdoor theater site. Landscaping shall be provided to screen automobile headlights off-site.
 - d) A traffic impact study shall be provided.

32. *Recreation: Outdoor recreation establishments (excluding golf-related uses).*
- a) Such uses shall include, but are not limited to, the following: recreational fields, rinks or courts, including football, softball, soccer, tennis, basketball, ice skating, and similar activities, swimming pools open to the general public or operated by a private non-profit organization, archery and shooting ranges, commercial riding stables, animal racing, go-cart, automobile or motorcycle tracks, music concert pavilions and bandshells, amusement parks and uses accessory to the above uses, such as refreshment stands, retail shops selling items related to the above uses, maintenance buildings, office for management functions, spectator seating and service areas, including locker rooms and rest rooms.
 - b) The site shall be adequate to accommodate the intended use(s), parking and adequate buffer areas without significant impact on nearby properties in terms of noise, traffic, lighting glare, views, odors, trespassing, dust or blowing debris, as determined by the city council. The applicant shall provide documentation that the site area is adequate using national facility standards.
 - c) The site shall be located on a paved street which is classified as a regional arterial or arterial road.
 - d) No building or spectator seating facility shall be located within 100 feet of a property line.
 - e) The site shall be kept clear of debris.
33. *Recreation: Golf courses, country clubs, par three golf courses as principal use.*
- a) The site shall have access directly onto a regional arterial or arterial road.
 - b) The site plan shall be designed to achieve a relationship between the arterial and any proposed service roads, entrances, driveways and parking areas which will contribute pedestrian and vehicular traffic safety.
 - c) Development features including the principal buildings, accessory structures and fairways, shall be designed and arranged to minimize any adverse effects upon adjacent property. All principal or accessory buildings shall be not less than 200 feet from any public street right-of-way or property line abutting residentially zoned lands; provided the city council may modify this requirement where topographic conditions, existing vegetation or new landscaping will screen views. In no case shall the setback be less than 75 feet.
 - d) Operational hours for maintenance vehicles, course maintenance and/or irrigation may be restricted by the city council to protect nearby residential districts. Maintenance sheds shall not be visible from any adjacent single-family residential areas.
 - e) Any swimming pool shall meet the standards below (see "swimming pools") and comply with all applicable building codes and city ordinances.
34. *Recreation: Golf driving ranges, miniature golf courses.*
- a) All traffic ingress and egress shall be from a regional arterial or arterial road.
 - b) Parking lots shall be set back at least 30 feet from the street right-of-way and 100 feet from any property line abutting a residential district.
 - c) Any lot line abutting a residential district shall provide a 50-foot wide, landscaped buffer strip with landscaping meeting the standards of [Article 21.00](#).
 - d) No building shall be constructed or located closer than 200 feet from the property line of any abutting residential lot.
 - e) The site plan shall illustrate expected trajectory or ball dispersion patterns along fairways and for driving ranges where adjacent to residential uses, buildings, parking lots or public streets.
 - f) Site size shall be sufficient to retain errant balls within the site by means of landscaping, berms or a six-foot high fence. Netting shall be prohibited unless the city council determines the netting would be compatible with surrounding uses.
 - g) The city council may restrict lighting and hours of operation for a driving range in consideration of surrounding land uses and zoning.
 - h) Tee areas for a driving range shall be clearly distinguished by elevating the stations six inches to one and one-half feet above the ground, or through use of short walls or alternate distinction to separate tee stations.
35. *Recreation: Indoor recreation such as bowling alleys, indoor golf, ice arenas, skating rinks, etc.*
- a) The principal and accessory buildings and structures shall not be located within 100 feet of any residential district or use.
 - b) All uses shall be conducted completely within a fully enclosed building.
 - c) The buildings shall be sound-proofed.
 - d) A minimum three-foot high, 20-foot wide berm landscaped with evergreen trees to create a totally obscuring screen shall be provided.
36. *Recreation: Private recreation facilities and swimming pool clubs.*
- a) The proposed site shall have at least one property line abutting a regional arterial or arterial roadway as classified in the city master plan, and the site shall be so planned as to provide all ingress and egress directly onto or from said road.
 - b) Front, side and rear yards shall be at least 80 feet wide, and shall be landscaped in trees, shrubs, and grass. All such landscaping shall be maintained in a healthy condition. There shall be no parking or structures permitted in these yards, except required entrance drives and those walls used to obscure the use from abutting residential districts.
 - c) Off-street parking shall be provided so as to accommodate not less than one-half of the member families and/or individual members. The city council may modify the off-street parking requirements in those instances wherein it is determined that the users will be pedestrian and originate from the immediately adjacent areas. Prior to the issuance of a building permit or zoning compliance permit, bylaws of the

organization shall be provided in order to establish the membership involved for computing the off-street parking requirements. In those cases wherein the proposed use or organization does not have bylaws or formal membership, the off-street parking requirements shall be determined by the city council on the basis of usage.

- d) Swimming pools shall meet all applicable building and health codes.
37. *Recycling stations.*
- a) Recycling stations shall be only for the collection of recyclable materials for hauling to another site for processing. A one- or two-yard dumpster may be provided for non-recyclable waste, such as twine, lids, etc.
 - b) Paved loading and stacking spaces shall be provided for at least three automobiles.
 - c) All storage of recycled materials shall be within appropriate containers, with access through doors on the sides of the container.
 - d) The city council may require a totally obscuring fence or wall around the perimeter of the recycling center.
 - e) The hours of operation and materials accepted may be regulated by the planning commission and shall be clearly posted.
 - f) Front, side and rear yards shall be at least 80 feet wide, and shall be landscaped in trees, shrubs, and grass. All such landscaping shall be maintained in a healthy condition. There shall be no parking or structures permitted in these yards, except required entrance drives and those walls used to obscure the use from abutting residential districts.
38. *Restaurants with drive-in or drive-through facilities.*
- a) Principal and accessory buildings shall be setback at least 75 feet from any adjacent public right-of-way line or property line. Location shall be along a regional arterial or arterial, as classified in the city master plan.
 - b) Only one access shall be provided onto any regional arterial or arterial. Access driveways shall be located no less than 100 feet from the centerline of the intersection of any street or 75 feet from the centerline of any other driveway.
 - c) Such restaurants constructed adjacent to other commercial developments shall have a direct vehicular access connection where possible.
 - d) A six-foot high wall which creates a completely obscuring effect shall be provided when abutting or adjacent districts are zoned residential, business or office districts.
 - e) A minimum ten-foot wide bypass lane shall be provided around the stocking spaces.
 - f) Applicant shall provide a traffic impact assessment including projected traffic generation.
 - g) In addition to parking space requirements, at least three parking spaces shall be provided in close proximity to the exit of the drive-through portion of the operation to allow for customers waiting for delivery of orders.
 - h) Overhead canopies shall be setback at least 20 feet from the right-of-way and constructed of materials consistent with the principal building. The proposed clearance of any canopy shall be noted on the site plan. The canopy shall be no higher than the principal building.
 - i) Outdoor speakers for the drive-through facility shall be located in a way that minimizes sound transmission toward neighboring property and uses.
39. *Riding academies and stables.* Facilities for horseback riding, accessory trails and stables shall be allowed by the city council after planning commission review on parcels of five acres or more provided that animal housing facilities or enclosures are located at least 250 feet from any residential structure.
40. *Roadside stands.* Because roadside stands are seasonal in character and utilized on a temporary basis, roadside stands shall be allowed in Business Districts by the city council for periods not to exceed six months provided a temporary permit is obtained from the city council and provided the following provisions are met:
- a) The sale of farm products in a roadside stand shall not take place within the dedicated right-of-way of any thoroughfare within the city, and assurances shall be made to the city that ample off-street parking has been provided, and adequate ingress and egress provided to the stand.
 - b) No permanent structure of any type shall be erected, and upon discontinuance of the temporary use, the temporary structures shall be removed from the roadside.
41. *Schools: Public and non-public, elementary, intermediate and/or secondary schools offering courses in general education.*
- a) All vehicular access to the site shall be onto a regional arterial, arterial or collector road, as classified in the city master plan. The city council may allow secondary access onto local (residential) streets if the uses fronting the street which would be most impacted by traffic flow are predominantly non-single-family homes.
 - b) Adequate outdoor recreation areas shall be provided.
42. *Shopping centers.*
- a) Shopping centers of 15,001 to 30,000 square feet of gross floor area in the NBD, Neighborhood Business District and over 30,001 square feet in the GBD General Business District shall meet the standards below. For purposes of calculation, the principal building and all outbuildings including those on outlots, shall be including in calculating the gross floor area threshold for this section.
 - b) A traffic impact study shall be submitted.
 - c) The principal building with front parking shall be setback 250 feet from any public right-of-way or property line.

- d) Such shopping centers shall have access to at least one arterial when in a Local Business District; access to at least one regional arterial when located in a General Commercial District.
 - e) The design of regional shopping centers shall ensure that vehicular circulation patterns are designed and regulated to reduce conflicts between vehicles and pedestrians on-site, and the impacts of traffic generated by the center on adjacent streets.
 - f) Internal circulation shall be designed such that no intersection includes more than four aisles or drives.
 - g) Site entrances shall be restricted to three-way movements, with unrestricted inbound movements.
 - h) Internal drives defined by the ends of aisles shall have raised curbed islands at appropriate locations to define circulation paths and control movements through the parking lot.
 - i) Loading facilities which serve the commercial establishment in the principal building shall be screened from public view.
 - j) Any building side facing a public street or residential district shall be constructed with brick, fluted block or similar decorative material.
 - k) Any outlots shall have circulation and parking designed to complement the entire site.
 - l) Parking lot landscaping shall be provided in accordance with section 21.03.
43. *Slaughterhouse.* Slaughterhouses shall be permitted in the I-1 District only, after review by the planning commission and city council approval provided the following requirements are met:
- a) All requirements of section 20.06, Performance standards, shall be strictly adhered to.
 - b) The physical plant structure, and pens, stockyard, or cages, shall in no instance be closer than 2,000 feet to any adjacent residential district.
 - c) A fence shall be provided around the entire site to assure that individuals will not unknowingly trespass on the property, particularly the stockyard area.
 - d) The site, shall have at least one continuous boundary 500 feet in length along a major thoroughfare of at least 120-foot right-of-way as indicated on the current Master Right-of-Way Plan of the Genesee County Road Commission.
44. *Theaters (indoor), cinemas, concert halls, play houses, assembly halls, or similar places of assembly when conducted completely within enclosed buildings.*
- a) Access shall be from a regional arterial or arterial road.
 - b) A traffic impact study shall be submitted.
 - c) Wrought iron fencing may be placed along the frontage to direct pedestrians to safe crossing points, if the city council determines the need.
 - d) The subject site shall be located with access to an existing traffic signal, or placed such that installing a traffic signal will not significantly impact through traffic flow.
 - e) The principal building and parking lot shall be setback at least 50 feet from any adjacent residential district. This setback shall be landscaped with at least the amount of plant materials specified in Article 20.
45. *Urgent medical care centers.*
- a) Access shall be from a regional arterial or arterial.
 - b) Building entrances shall not be visible to residences or schools.
46. *Veterinary clinics.*
- a) The use shall be operated by a licensed or registered veterinarian.
 - b) The principal and all accessory buildings or structures used for the treatment or holding of animals shall be setback at least 200 feet from abutting residential districts, churches or restaurants on the same side of the street; 50 feet from the front property line and 50 feet from all other property lines.
 - c) All principal use activities shall be conducted within a totally enclosed principal building; no outdoor pet enclosures or runs are permitted.
 - d) Any indoor boarding shall be limited to that incidental to treatment or surgery.
 - e) Any veterinary clinic building or structure which is used for the treatment or holding of animals which is adjacent to a residential district shall have the following construction features:
 - (1) Walls are soundproofed to allow a maximum transmission of 65 dB measured at any point on the outside of the exterior wall,
 - (2) Doors must be solid core,
 - (3) Ventilation must be forced air.
 - f) Outdoor exercising is allowed when the pet is accompanied by an employee provided no animals shall be permitted outside of the buildings between 8:00 p.m. and 7:00 a.m.
 - g) A caretakers quarters may be permitted.
 - h) Additional landscaping and fencing requirements may be required by the planning commission.

(Ord. No. 407, §§ 4, 5, 5-24-11; Ord. No. 431, § 4, 12-12-16; Ord. No. 440, § 10, 6-10-19)

Footnotes:

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Editor's note— Ord. No. 440, § 10, adopted June 10, 2019, renumbered Art. 23 §§ 23.00—23.12 as Art. 16 §§ 16.00—16.12, and § 9 enacted a new Art. 23, as set out herein.

See editor's note to Art. 16 pertaining to renumbering the former Art. 23.

Section 23.00. - Intent.

The intent of this article is to provide standards for conditional land uses, which are uses with specific conditions that if met, make the use permitted by right. These conditions are intended to minimize potential negative impacts to other surrounding land uses that could arise due to operations of the particular use. This article provides standards for the zoning administrator or planning commission, depending upon the site plan review requirements, to review and determine if the conditions have been met.

(Ord. No. 440, § 9, 6-10-19)

Section 23.01. - Standards for approval.

- A. Prior to approving a conditional land use, the zoning administrator shall require that the proposed use meets all requirements and standards. If all requirements and standards are met a conditional land use permit is granted.
- B. Properties for which application for conditional land use approval is made shall also be concurrent with, and subject to, site plan review in accordance with the requirements of Article 21, Site plan review. Failure to obtain site plan approval will constitute denial of the approved conditional land use.

(Ord. No. 440, § 9, 6-10-19)

Section 23.02. - Requirements and standards of approval.

- A. The requirements to permit the conditional use shall remain unchanged.
- B. The building official shall make periodic investigations of the conditional land use to ensure continued compliance with all requirements and standards imposed by this article. Noncompliance with the requirements for the conditional land use shall constitute grounds for the zoning administrator to terminate the approval.

(Ord. No. 440, § 9, 6-10-19)

Section 23.03. - Validity of conditional land use approval.

- A. In cases where actual physical construction of a substantial nature of the structures authorized by a conditional land use and site plan approval has not commenced within 18 months, and a written application for extension of the approval has not been filed as provided below, the approval shall automatically become null and void and all rights thereunder shall terminate.
- B. Upon written application filed prior to the termination of the 18 month period, the zoning administrator may authorize a single extension of the time limit for a further period of not more than 18 months. Such extension shall only be granted based on evidence from the applicant that the development has a reasonable likelihood of commencing construction within the 18 month extension.
- C. The granting of a conditional land use shall allow that particular use to be conforming in the zoning district, if the standards of this article are maintained.

(Ord. No. 440, § 9, 6-10-19)

Section 23.04. - Conditional land use specific requirements.

Conditional land uses, because of their unique character and potential impacts on adjacent properties and the city, require additional specific requirements. Such uses are listed below with specific standards and regulations that must be met. The following are conditional land uses with specific site and/or use standards which are described on the following pages:

A. *Land uses with conditional requirements.*

1. Accessory dwelling unit/granny flat (section 23.04.B)
2. Auto washes, automatic or self-service (section 23.04.C)
3. Automobile or vehicle dealerships (section 23.04.D)
4. Bars, taverns, lounges, microbreweries (accessory), and brewpubs (section 23.04.E)
5. Cemetery (section 23.04.F)
6. Equine and stables (section 23.04.G)
7. Expansion of apartment within an existing building (section 23.04.H)
8. Funeral homes and mortuary establishments (section 23.04.I)
9. Home occupation (section 23.04.J)

10. Kennels (section 23.04.K)
11. Mini- or self-storage warehouses (section 23.04.L)
12. Indoor commercial recreation (section 23.04.M)
13. Outdoor recreation (section 23.04.N)
14. Outdoor retail display and sales (section 23.04.O)
15. Private club, fraternal organization, lodge (section 23.04.P)
16. Pet boarding facilities (section 23.04.Q)
17. Places of assembly (section 23.04.R)
18. Restaurants with a pick-up (section 23.04.S)
19. Small inn/B&B (section 23.04.T)
20. Small manufacturing establishments (section 23.04.U)
21. Upper floor residential dwellings (section 23.04.V)
22. Veterinary hospitals (section 23.04.W)

B. *Accessory dwelling units.*

1. *Definition.* An accessory dwelling unit (ADU) is a smaller, secondary home on the same lot as a primary dwelling. ADUs are independently habitable and provide the basic requirements of shelter, heating, cooking, and sanitation. There are two types of ADUs:
 - a) Garden cottages are detached structures. Examples include converted garages or new construction.
 - b) Accessory suites are attached to or part of the primary dwelling. Examples include converted living space, attached garages, basements or attics; additions; or a combination thereof.
2. *Eligibility.* An ADU may be added to a house on any residentially zoned lot.
3. *Utilities.* Utilities for ADU must be connected to the house on the parcel and may not have a separate meter or be billed separately.
4. *Number.* One ADU is permitted per residentially zoned lot.
5. *Creation.* An ADU may be created through new construction, conversion of an existing structure, addition to an existing structure, or conversion of a qualifying existing house to a garden cottage while simultaneously constructing a new primary dwelling on the site.
6. *Density.* ADUs are exempt from the residential density standards of this Code.
7. *Approval.* Applications for ADUs must meet the following criteria.
 - a) The applicant must demonstrate that the ADU complies with all development and design standards of this section.
 - b) The applicant must demonstrate that the proposed modifications comply with applicable building and fire safety codes.
8. *Occupancy and use.* Occupancy and use standards for an ADU shall be the same as those applicable to a primary dwelling on the same site.
9. *Design.* Design standards for ADUs are stated in this section. If not addressed in this section, base zone development standards apply.
 - a) All ADUs (accessory suites and garden cottages) must meet the following requirements:
 - (1) *Size.* An ADU may be no more than 600 square feet or the size of the primary dwelling, whichever is less.
10. *Parking.* No additional parking is required for an ADU. Existing required parking for the primary dwelling must be maintained or replaced on-site.
11. *Exterior finish materials.* Exterior finish materials must visually match in type, size and placement, the exterior finish materials of the primary dwelling.
12. *Roof pitch.* The roof pitch must be the same as the predominant roof pitch of the primary dwelling.
13. *Windows.* If the street-facing façade of the ADU is visible from the street, its windows must match, in proportion and orientation, the windows of the primary dwelling.
14. *Eaves.* If the primary dwelling has eaves, the ADU must have eaves that project the same distance from the building. If the primary dwelling does not have eaves, no eaves are required for the ADU.
15. Accessory suites must meet the following additional requirements:
 - a) *Location of entrances.* Only one entrance may be located on the facade of the primary dwelling facing the street, unless the primary dwelling contained additional entrances before the accessory suite was created. An exception to this regulation is entrances that do not have access from the ground such as entrances from balconies or decks.
 - b) *Exterior stairs.* Fire escapes or exterior stairs for access to an upper level accessory suite shall not be located on the front of the primary dwelling.
 - c) Garden cottages must meet the following additional requirements:
 - (1) *Height.* The maximum height allowed for a garden cottage is the lesser of [20-25] feet or the height of the primary dwelling.
16. *Setbacks.* Garden cottages must be located at least six feet behind the primary dwelling, unless the garden cottage is in an existing detached structure that does not meet this standard.

17. *Building coverage.* The building coverage of a garden cottage may not be larger than the building coverage of the primary dwelling.
 18. *Yard setbacks.* No portion of an existing building that encroaches within a required yard setback may be converted to or used as a garden cottage unless the building complies with setback exemptions (i.e., for garages, properties abutting alleys ...) available elsewhere in the code.
 19. *Exemptions.* Garden cottages are eligible for either of the following exemptions:
 - a) Design compatibility. Exceptions may be granted for garden cottages that:
 - (1) Are under 500 square feet and under 18 feet average height, or
 - (2) Meet community design standards, defined elsewhere in the code.
 20. *Alteration.* If a garden cottage is proposed for an existing detached accessory structure that does not meet one or more of the above standards, the structure is exempt from the standard(s) it does not meet. Alterations that would move the structure out of conformance with standards it does meet are not allowed. If any floor area is added to a detached accessory structure, the entire structure must meet the standards of sections H. through U. above.
- C. *Automobile washes, automatic or self-service.*
1. Only one ingress/egress driveway shall be permitted on any single street.
 2. Where adjoining property zoned or used as residential, a decorative masonry wall six feet in height shall be erected along any common lot line. Such wall shall be continuously maintained in good condition. The city may approve a fence, landscaped berm, or landscaping as an alternative.
 3. All washing facilities shall be within a completely enclosed building. Self-service facilities may be within a partially enclosed building.
 4. Vacuuming and drying may be located outside the building but shall not be in the required front yard and shall be set back at least 50 feet from any residential district. Such areas shall be screened with obscuring landscaping as determined by the planning commission.
 5. Adequate stacking space shall be provided in accordance with the requirements of [Article 18](#), Off-street parking and loading standards. Stacking spaces shall not be permitted in the public right-of-way.
- D. *Automobile or vehicle dealerships.*
1. Outdoor storage of automobiles or vehicles for sale shall not be permitted in any required front or side yard.
 2. All parking, display and outdoor storage areas shall be paved with a permanent and durable surface. Curbing around all parking, display and storage areas shall be provided.
 3. Any use involving the maintenance, service, or repair of vehicles shall also meet the standards for automobile repair and/or service establishments.
 4. Exterior lighting shall be fully shielded and directed downward to prevent off-site glare. The intensity within a site shall not exceed 20 footcandles within the site or one footcandle at the property line, except where it abuts a residentially used or zoned site, whereby a maximum of ten footcandles and 0.5 footcandles is permitted for vehicle storage areas.
 5. Flags, banners, streamers, and inflatables of any kind shall not be permitted unless approved by the planning commission.
- E. *Bars, taverns, lounges, microbreweries (accessory), and brewpubs.*
1. The principal building shall be setback at least 100 feet from a residential district (does not apply in the CBD, Central Business District).
 2. Noise shall not be a nuisance outside of the building, in accordance with [section 20.04](#), Performance standards, and other city ordinances.
- F. *Cemetery.*
1. The principal access shall be on an arterial or collector street.
 2. Ingress and egress shall be designed to minimize traffic.
 3. In a residential district or abutting a residential district, appropriate landscaping and screening shall be installed and consistent with abutting residential uses.
- G. *Equine and stables.*
1. All buildings/accessory structures used in housing equine shall not be situated closer than 100 feet to any lot line of public right-of-way.
 2. Accessory structure may not exceed 1,500 square feet in gross floor area.
- H. *Expansion of apartment within an existing building.*
1. A single-family residence in a multiple-family or commercial district may be subdivided into no more than three apartments.
 2. One unit shall be occupied by the property owner.
 3. The single-family residence shall have a minimum gross floor area of 2,000 square feet.
 4. The total aggregate number of occupants in the residence may not exceed six.
 5. All parking shall be provided off-street.
 6. If additional entrances to house are created, the entrance shall not be located on a wall of the house that faces the street.
 7. All applicable building, fire, and safety codes must be met.
- I. *Funeral homes and mortuary establishments.*

1. Minimum lot area shall be one acre and minimum lot width shall be 150 feet.
2. An off-street vehicle assembly area shall be provided to be used in support of funeral processions and activities. This area shall be in addition to the required off-street parking and its related maneuvering area.

J. *Home occupation.*

1. All home occupations must comply, and remain in continuous compliance with, the following standards:
 - a) A home occupation permit must be obtained from the city and include a floor plan indicating the area(s) within the house where the home occupation will be conducted.
 - b) No person, other than members of the family residing in the dwelling, shall be engaged in the conduct of the home occupation.
 - c) The use of the dwelling for the home occupation shall be clearly accessory, incidental, and subordinate to its use for residential purposes, and not more than [25] percent of the gross floor area of the dwelling shall be used for the conduct of the home occupation.
 - d) There shall be no change in the outside appearance of the dwelling or any other visible evidence of the conduct of the home occupation.
 - e) There shall be no signs on any structure, in the windows or anywhere on the property.
 - f) Traffic generated by the home occupation shall not be greater than would normally be expected in a residential neighborhood, or no more than an average of ten vehicular trips per day.
 - g) The home occupation shall be conducted entirely within the confines of the dwelling and shall not take place in a garage or accessory structure.
 - h) There shall be no sale of products or service on the premises where the home occupation is located. A retail showroom, sales area, outlet, or similar facility is prohibited as is outdoor display of goods.
 - i) Any necessary parking spaces for vehicles generated by the conduct of the home occupation shall be provided on the site in a normal driveway, but not within any required yard.
 - j) No equipment or process shall be used in the home occupation which creates noise, vibration, glare, fumes, or odors detectable to the normal senses off the premises on which the home occupation is located. In addition, no equipment or process shall be used in the home occupation which causes visual or audible interference in any radio or television receivers off the premises or causes fluctuation in the line voltage off the premises.

K. *Kennels.*

1. For kennels housing dogs, the minimum lot size shall be two acres for the first three dogs and an additional one-third acre for each one additional dog.
2. Buildings wherein dogs are kept, dog runs, and/or exercise areas shall not be located closer than 150 feet to any lot line and 200 feet from any road right-of-way.
3. Such facilities shall be subject to other conditions and requirements necessary to ensure against the occurrence of any possible nuisance (i.e., fencing, soundproofing, sanitary requirements).
4. All enclosures for breeding, rearing, shelter, or other uses in connection with harboring of animals, shall be hard surfaces and provided with proper drain.
5. A kennel may be permitted as an accessory use to a veterinary office, clinic, or hospital. Such accessory use shall be subject only to the special land use standards of the veterinary use.

L. *Mini- or self-storage.*

1. Warehouses minimum lot size shall be three acres.
2. Minimum building and parking setbacks shall be 50 feet from any public street right-of-way line, 50 feet from any residential district and 25 feet from any nonresidential zoning district.
3. The front yard visible from a public right-of-way and any side or rear yards adjacent to residential districts shall include wrought iron or similar decorative fencing and landscaping as determined by the planning commission.
4. The storage units shall be screened from all abutting properties using landscaping and/or walls.
5. Building design and materials shall be compatible with the existing and intended character of the area. Building facades facing a right-of-way must consist of decorative split face block or brick, as approved by the planning commission. All roofs must be pitched.
6. No storage unit doors shall face a public right-of-way. Walls, fences, and landscaping as determined by the planning commission may be utilized to obscure views of doors from the public right-of-way.
7. All storage shall be completely within enclosed buildings or structures, unless a separate special land use approval is granted for commercial outdoor storage on the premises, in accordance with [Article 22](#), Special land uses.

M. *Indoor commercial recreation.*

1. Access shall be from an arterial or collector street.
2. All uses, activities, or operations shall be conducted entirely inside the building.

3. All doors and windows shall always remain closed. Ventilation shall be via an HVAC system.
4. When adjacent to a residential district:
5. Hours of operation shall be limited to 6:00 a.m. to 11:00 p.m.
6. Exterior lighting should be shut off during non-business hours, except for security lighting.

N. *Outdoor dining.*

1. Outdoor dining may be allowed only as conditionally approved accessory to otherwise allowed restaurants, subject to the following requirements:
 - a) Outside of public right-of-way or on easements for public use. Outdoor dining is allowed by permit, between April 1 and October 31 subject to approval by the zoning administrator, when located outside of public rights-of-way or easements for public use and comply with the following:
 - (1) Additional signage shall not be permitted.
 - (2) There shall be no outdoor preparation of food or beverages.
 - (3) Confirmation of appropriate liquor licenses shall be submitted to the City, if proposed. Outdoor dining areas in the public right-of-way or on an easement for public use, must apply and receive an outdoor dining permit. Outdoor dining permits must be re-applied for every six months.
 - (4) Pedestrian circulation and access to the building entrance shall not be impaired. A minimum sidewalk width of five feet along the curb and leading to the entrance to the establishment must be maintained free of tables, chairs, and other encumbrances. The seating in an outdoor dining area must be accessible to people with disabilities. Americans with Disabilities Act (ADA) accessibility requirements must be met within the outdoor dining area. Five percent, or at least one, of the seating spaces in the outdoor café area must be accessible to people with disabilities. An accessible route connecting the outdoor dining area, the business entrance, and the restrooms must be provided.
 - (5) The seating area on the public sidewalk shall only be limited to the area directly in front of the permitted restaurant use to which the seating area is accessory and shall not extend into adjoining sites. Seating may also be permitted within the front, side and rear yard area of the lot.
 - (6) The seating area shall be kept free of debris and litter. Written procedures for cleaning and trash containment and removal must be submitted.
 - (7) Tables, chairs, umbrellas, canopies, planters, waste receptacles, and other street furniture shall be compatible with the architectural character of the principal building.
 - (8) Outdoor dining, including any canopies or covers associated with such dining, shall be permitted within the required setback. Said canopies or covers may be affixed to the ground.
 - (9) Except as provided above, all fixtures and furnishings in the outdoor dining area including, but not limited to, tables, chairs, bar, server stations, and sources of heat shall be portable and not affixed to the ground, building, or other permanent structures. Permanent railings or fences may be permitted only where and to the extent that the building code requires an affixed fence for safety purposes. Permanent attachment of railings must be approved by the building department and permit emergency egress.
 - (10) The hours of operation of outdoor dining shall not extend past the normal operating hours of the main use, the restaurant.
 - (11) Outdoor dining located inside or rear yards, abutting or across from a residential district, shall not operate before 9 a.m. or after 11 p.m.
 - (12) No sound or audio or video entertainment, including but not limited to television or radio playing of music and/or sports events, may be piped into, or played so as to be visible or audible from the outdoor dining area before 9 a.m. or after 11 p.m. on Fridays and Saturdays and before 9 a.m. or after 10 p.m. on Sundays through Thursdays.
 - (13) Outdoor amplification is not permitted.
 - (14) Outdoor dining areas shall not have permanent fixtures, tables or seating.
 - (15) Tables, seating, barriers, and other furniture may be required to be removed at the end of every business day, if identified as a condition of the outdoor dining permit.
 - (16) Heating is permitted in outdoor dining areas. Heaters must be portable and be removed at the end of every business day.
 - (17) Outdoor grills are not permitted in outdoor dining areas.
 - (18) Outdoor dining areas shall follow any other applicable zoning regulations, such as signs, etc.
 - (19) Outdoor cafes provide an alternative to sitting inside but are not intended to be permanent expansions of a restaurant's capacity.
 - (20) Additional signage may not be permitted.
 - (21) Lighting in the outdoor dining area must meet lighting standards as specified in [Article 19](#).
 - (22) Requests for outdoor dining shall include submission of a sketch plan to determine compliance with the above requirements. The request may be administratively approved by the zoning administrator and building department. At the time of approval, a performance guarantee is required that provides liability coverage in an amount determined by the city.
 - (23) Outdoor dining on private property.
 - i. Outdoor dining is allowed by permit subject to approval by the zoning administrator.

- ii. Permanent fences or barriers may be installed where safety is a concern or where such permanence is required by building code. They shall be shown on all applications and permits.
- iii. The hours of operation of outdoor dining shall not extend past the normal operating hours of the main use, the restaurant.
- iv. Outdoor dining located inside or rear yards, abutting or across from a residential district, shall not operate before 9 a.m. or after 11 p.m.
- v. No sound or audio or video entertainment, including but not limited to television or radio playing of music and/or sports events, may be piped into, or played so as to be visible or audible from the outdoor dining area before 9 a.m. or after 11 p.m. on Fridays and Saturdays and before 9 a.m. or after 10 p.m. on Sundays through Thursdays.
- vi. The seating in an outdoor dining area must be accessible to people with disabilities. Americans with Disabilities Act (ADA) accessibility requirements must be met within the outdoor dining area. Five percent, or at least one, of the seating spaces in the outdoor dining area must be accessible to people with disabilities. An accessible route connecting the outdoor dining area, the business entrance, and the restrooms must be provided.
- vii. Lighting in the outdoor dining area must meet lighting standards as specified in Article 19.

O. *Outdoor recreation.*

1. A photometric plan and sports illumination plan shall be submitted for review including the following:
 - a) Light pole height (not to exceed 20 feet).
 - b) Lighting type with max lighting levels.
 - c) Light fixture details with either full cut off or directionally shielded lights.
 - d) Location of light poles on fields, court, and parking.
2. The applicant shall provide curfew hours for use of facilities and lighting.
3. Footcandles may not exceed one footcandle at the property line (measured three feet above grade).

P. *Outdoor retail display and sales.*

1. Unless accessory to an approved retail business, an enclosed building of at least 500 square feet of gross floor area for office and sales use is required.
2. Displays shall be placed against the front wall of the principal building and shall not extend more than 36 inches from the building facade; provided that where there is a pedestrian sidewalk in front of the display, it shall remain unobstructed for a continuous width of at least 48 inches.
3. Displays shall be no taller than five feet high and shall not be longer than 20 feet or the length of the store's façade, whichever is less.
4. Displays shall not interfere with fire lanes.
5. The merchandise displayed must be offered for sale on the premises in front of which it is displayed.
6. Palletized materials such as mulch, salt pellets, hunting bait, etc. shall not be displayed.
7. A sketch plan indicating the location and dimensions of the outdoor display must be submitted and approved by the city prior to any outdoor display. Any outdoor display shall always comply with the sketch plan or site plan approved by the city.

Q. *Private club, fraternal organization, lodge.*

1. Building shall be set back a minimum of 50 feet from any residential district.
2. All activities other than parking and loading/unloading shall be conducted within an enclosed building.

R. *Pet boarding facilities.*

1. Except for the outdoor play area, the facilities must be in a building with the pet boarding and any ancillary services being the only uses.
2. The lot shall be at least two acres in size.
3. Up to five percent of the floor area may be used for accessory retail sales.
4. Adequate traffic circulation must be provided on-site to accommodate the frequent pickup and drop-off of animals for the facility.
5. An outdoor play area is allowed with the following restrictions:
 - a) Any outdoor play area shall not be any closer than 150 feet from a residential zoning district.
 - b) Any outdoor play area shall be in the interior side yard or rear yard.
 - c) A maximum eight foot high fence enclosure is required around the play area and surface must be easy to maintain.
6. All animal waste shall be removed from the outdoor play area daily and disposed of in a sanitary manner.
7. Pets shall not be permitted to remain outdoors overnight.

S. *Restaurants with a pick-up window.*

1. All containers shall be made of recyclable materials; Styrofoam and similar petroleum-based material containers shall be prohibited.
2. Trash receptacles shall be provided and maintained on the property.

3. All signs placed on the building shall be mounted flat against the building; and interior signs visible to patrons through glass or an opening shall not exceed 10 percent of that area. Temporary signs indicating whether the establishment is "open" or "closed" for the season shall be permitted in accordance with Signs.
4. Outdoor seating may be provided when meeting the requirements of section [23.04(N)], outdoor seating for restaurants and cafes.
5. Months and hours of operation shall be provided as part of the conditional land use application.

T. *Small inn/B&B.*

1. Not more than two bedrooms may be devoted to the small inn/B&B use.
2. Inn/B&B must be owner occupied.
3. Food service is limited to breakfast for those purchasing lodging.
4. One additional parking space per guest room is required (in addition to standard two spaces per single family residence).
5. Accessory dwelling units (ADUs) may not be used as a small inn or B&B.
6. One building mounted wall sign, not exceeding five square feet is permitted. Free standing signs are prohibited.
7. All state, local fire, sanitation, food service provisions requirements must be met.

U. *Small manufacturing establishments.*

1. In the Central Business District Permitted by right, subject to the following:
 - a) Establishment occupies less than 1,500 square feet and has not more than ten employees.
 - b) May not include bulk storage of flammable materials.
 - c) Storage of materials/production must be completely within a closed building.
 - d) The emission of odor or noise must be mitigated.
 - e) Must have an accessory retail use or another component that provides direct interaction with the public.
 - f) Must have windows along street frontage that allow pedestrians to view manufacturing process.
 - g) Must have a public entrance directly from the street.
2. In the General Business District Permitted by right, subject to the following:
 - a) Establishment occupies less than 3,000 square feet and has not more than 20 employees.
 - b) May not include bulk storage of flammable materials.
 - c) Storage of materials/production must be completely within a closed building.
 - d) The emission of odor or noise must be mitigated.
 - e) Must have an accessory retail use or another component that provides direct interaction with the public.

V. *Upper floor residential dwellings.*

1. Parking for residential units shall be off street and within 500 feet.
2. Separate access shall be provided to each unit from the street.

W. *Veterinary hospitals.*

1. Such facilities shall be used only for domesticated animals. Treatment or boarding of non-domesticated, wild, exotic, or vicious animals shall not be permitted.
2. The principal buildings or structures shall be set back at least 75 feet from the front property line; and at least 200 feet from any property line abutting a residential district or use on the same side of the street, and at least 75 feet from all other property lines.
3. Parking lots shall be set back at least 50 feet from a residential district or use and shall be screened by a wall at least four feet high with landscaping on the exterior side of the wall. The planning commission may permit a landscaped berm or dense landscape buffer as an alternative to the wall.
4. All principal use activities shall be conducted within a totally enclosed principal building; no outdoor animal enclosures or runs are permitted unless a separate special land use has been approved for a kennel under section 23.04(K), Kennels, or pet boarding facility under section 23.04(R).
5. Any indoor boarding shall be limited to that incidental to treatment or surgery unless the use has also been approved as a kennel or pet boarding facility.
6. Such facilities shall be subject to other conditions and requirements necessary to ensure against the occurrence of any possible nuisance (i.e., fencing, soundproofing, sanitary requirements).

All waste disposal shall meet the requirements of the Health Department of the State of Michigan.

(Ord. No. 440, § 9, 6-10-19)

Footnotes:

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Editor's note— Ord. No. 440, § 10, adopted June 10, 2019, renumbered Art. 31 §§ 31.00—31.07 as Art. 24 §§ 24.00—24.07, as set out herein.

Section 24.00. - Initiation of amendments.

The city council may, from time to time, amend, modify, supplement, or revise the zoning district boundaries shown on the official zoning map or the provisions of this ordinance. Amendments to the provisions of this ordinance may be initiated by the city council, the planning commission, the zoning board of appeals, the zoning administrator or by petition of one or more residents or land owners. Amendments to the official zoning map may be initiated by the city council, the planning commission, or by the owner or owners of the subject site. All proposed amendments to the provisions of this ordinance or the official zoning map shall be referred to the planning commission for public hearing and recommendation to the city council prior to action by the city council.

(Ord. No. 440, § 10, 6-10-19)

Section 24.01. - Application procedure.

An amendment to this ordinance or the official zoning map, except those initiated by the city, shall be initiated by submission of a completed application form and fee. The following information shall accompany the application form:

- A. A legal description and street address of the subject property, together with a map identifying the subject property in relation to surrounding properties.
- B. The name and address of the owner of the subject site, and a statement of the applicant's interest in the subject site if not the owner in fee simple title.
- C. The existing and proposed zoning district designation of the subject property.
- D. The land use classification for the subject site as illustrated on the city's master plan.
- E. In the case of an amendment to this ordinance, other than an amendment to the official zoning map, a general description of the proposed amendment and rationale for the change shall accompany the application form.
- F. A written description of how the requested rezoning meets the amendment criteria of this article.

(Ord. No. 440, § 10, 6-10-19)

Section 24.02. - Amendment procedure; public hearing and notice.

- A. *Public hearing:* Upon initiation of an amendment, a work session and public hearing to consider the proposed amendment shall be scheduled before the planning commission. If an individual property or ten or fewer adjacent properties are proposed for rezoning, written notice of the public hearing shall be made as follows:
 - (a) The notice shall do all of the following:
 - (1) Describe the nature of the request.
 - (2) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used. Individual addresses of properties are not required to be listed for an amendment to the zoning ordinance, or the zoning map that affects 11 or more properties.
 - (3) State when and where the request will be considered.
 - (4) Indicate when and where written comments will be received concerning the request.
 - (b) The notice shall be published and delivered not less than 15 days before the date of the public hearing as follows:
 - (1) Notice of the request shall be published in a newspaper of general circulation in the city. This shall be the only notice required for an amendment to the zoning ordinance, or the zoning map that affects 11 or more properties or an interpretation by the zoning board of appeals.
 - (2) Where approval is being sought under this ordinance for an individual property or a rezoning affecting ten or fewer properties, notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered.
 - (3) In addition to paragraph (2) above, notice shall be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.
 - (c) If 11 or more properties are proposed for rezoning, or if an amendment is proposed to the text of the ordinance, the city shall give a notice of the proposed rezoning in the same manner as required under section 24.02 A., except for the individual property notices required by subsections (b)(2), and (b)(3) and except that no individual addresses of properties are required to be listed under section (a)(2).
- B. *Planning commission findings and recommendation:* Following the public hearing, the planning commission shall identify and evaluate all factors relevant to the petition and shall report its findings and recommendation to the city council. The planning commission shall consider the criteria listed in section

24.04 for a requested amendment to the official zoning map, and the criteria listed in section 24.05 for requested amendments to the standards and regulations in the text.

- C. *City council findings and action:* Following receipt of the findings and recommendation of the planning commission, the city council shall act on the proposed amendment. In the case of an amendment to the text of this ordinance, the city council may modify or revise the proposed amendment recommended by the planning commission prior to enactment. In the case of an amendment to the official zoning map, the city council shall approve or deny the amendment, based on its consideration of the criteria in section 24.04 or 24.05 as applicable.

(Ord. No. 440, § 10, 6-10-19)

Section 24.03. - Required amendments to comply with a court decree.

Any amendment for the purpose of complying with a decree of a court of competent jurisdiction shall be adopted by the city council and published, without necessity of a public hearing or referral hereof to any other board or agency.

(Ord. No. 440, § 10, 6-10-19)

Section 24.04. - Criteria for amendment of the official zoning map.

In considering any petition for an amendment to the official zoning 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 future land use map of the City of Swartz Creek Master Plan. If conditions upon which the master plan was developed (such as market factors, demographics, infrastructure, traffic and environmental issues) have changed significantly since the master plan was adopted, as determined by the city, the planning commission and council shall consider the consistency with recent development trends in the area.
- B. Compatibility of the site's physical, geological, hydrological, and other environmental features with the host of uses permitted in the proposed zoning district.
- C. Evidence the applicant cannot receive a reasonable return on investment through developing the property with at least one of the uses permitted under the current zoning.
- D. The 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 the city's infrastructure and services sufficient to accommodate the uses permitted in the requested district without compromising the "health, safety, and welfare."
- F. The apparent demand for the types of uses permitted in the requested zoning district in relation to the amount of land currently zoned and available to accommodate the demand.
- G. The request has not previously been submitted within the past one year, unless conditions have changed or new information has been provided.
- H. Other factors deemed appropriate by the planning commission and city council.

(Ord. No. 440, § 10, 6-10-19)

Section 24.05. - Criteria for amendment to the zoning ordinance text.

The planning commission and city council shall consider the following criteria to determine the appropriateness of amending the text, standards and regulations of the zoning ordinance:

- A. Documentation has been provided from city staff, or the zoning board of appeals indicating problems and conflicts in implementation of specific sections of the ordinance.
- B. Reference materials, planning and zoning publication, information gained at seminars or experiences of other communities that demonstrate improved techniques to deal with certain zoning issues, or that the city's standards are outdated.
- C. The city attorney recommends an amendment to respond to significant case law.
- D. The amendment would promote implementation of the goals and objectives of the city's master plan.
- E. Other factors deemed appropriate by the planning commission and city council.

(Ord. No. 440, § 10, 6-10-19)

Section 24.06. - Restrictions on resubmittal of a rezoning request.

An application for an amendment to the official zoning map (i.e., a rezoning request) that has been denied shall not be reconsidered for one year, unless the applicant demonstrates that conditions have changed.

(Ord. No. 440, § 10, 6-10-19)

Section 24.07. - Conditional rezoning.

An applicant for a rezoning may voluntarily offer a zoning agreement along with an application for rezoning. An election to file a rezoning with a zoning agreement shall be pursuant to the city and Village Zoning Act, as amended, and this article. The conditions set forth in the zoning agreement must be voluntary and equally or more restrictive than the regulations that would otherwise apply under the proposed zoning district. The zoning agreement shall be a written agreement that is approved and executed by the applicant and the city and recorded with the Genesee County Register of Deeds. When necessary, the zoning agreement shall also include and incorporate, by reference, a site plan. This plan shall not replace the requirement for a site plan as outlined in [Article 21](#). The zoning agreement must be voluntarily offered by the applicant and the city shall not have the authority to require a petitioner for rezoning to offer such agreement and shall not have the authority to require modification to a zoning agreement without the consent of the petitioner; provided, the city shall not enter into a zoning agreement that is not found acceptable to the city council.

- A. *Scope of agreement:* The zoning agreement may include limitations on the uses permitted on the property in question, specification of lower density or less intensity of development and use, or may impose more restrictive measures on the location, size, height, or other measure for buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture and other features. The zoning agreement may not authorize uses or developments of greater intensity, or density or which are not permitted in the proposed zoning district; nor may a zoning agreement permit variations from height, area, setback or similar dimensional requirements that are less restrictive than the proposed zoning district. The zoning agreement may include conditions related to the use and development of the property that are necessary to:
- a) Serve the intended use of the property such as extension of or improvements to roadways, utilities or other infrastructure serving the site;
 - b) Minimize the impact of the development on surrounding properties; and
 - c) Preserve natural features and open space.
- B. *Content of agreement:* In addition to any limitations on use or development of the site, preservation of site features or improvements described in subsection A. above, the zoning agreement shall also include the following:
- a) Acknowledgement that the zoning agreement was proposed voluntarily by the applicant and that the city relied upon the agreement and may not grant the rezoning but for the terms spelled out in the zoning agreement.
 - b) Acknowledgement that the zoning agreement and its terms and conditions are authorized by all applicable state and federal law and constitution, and that the zoning agreement is valid and was entered into on a voluntary basis.
 - c) Agreement and understanding that the property shall not be developed or used in any manner that is not consistent with the zoning agreement.
 - d) Agreement and understanding that the approval of the rezoning and the zoning agreement shall be binding upon and inure to the benefit of the property owner and the city, and also their respective heirs, successors, assigns, receivers or transferees.
 - e) Agreement and understanding that, if a rezoning with a zoning agreement becomes void in accordance with this section, that no further development shall take place and no permits shall be issued unless and until a new zoning district classification for the property has been established.
 - f) Agreement and understanding that no part of the zoning agreement shall permit any activity, use, or condition that would otherwise violate any requirement or standard that is otherwise applicable in the proposed zoning district.
 - g) Any other provisions as are agreed upon by the parties.
- C. *Future rezonings:* Nothing in the zoning agreement, nor any statement or other provision, shall prohibit the city from later rezoning all or any portion of the property that is the subject of the zoning agreement to another zoning classification. Any rezoning shall be conducted in compliance with this ordinance and the City and Village Zoning Act.
- D. *Compliance with agreement:* Provided that all development and use of the property in question is in compliance with the zoning agreement, a use or development authorized thereunder may continue indefinitely, provided that all terms of the zoning agreement continue to be adhered to. Failure to comply with the zoning agreement at any time after approval will constitute a breach of the agreement and also a violation of this ordinance, and further use of the property may be subject to legal remedies available to the city.

(Ord. No. [440](#), § 10, 6-10-19)

Article 25. - ADMINISTRATION AND ENFORCEMENT

Footnotes:

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Editor's note— Ord. No. [440](#), § 10, adopted June 10, 2019, renumbered Art. 32 §§ 32.00—32.16 as Art. 25 §§ 25.00—25.16, as set out herein.

See editor's note at Art. 17 pertaining to renumbering the former Art. 25.

Section 25.00. - Enforcement.

The provisions of this ordinance shall be administered and enforced by the zoning administrator or by such deputies of his department as the zoning administrator may delegate to enforce the provisions of this ordinance. The zoning administrator shall be appointed by the city council for such term and subject to such conditions and at such rate of compensation as said council shall determine. In the exercise of duties, the zoning administrator shall have the right to enter private premises, as provided by law.

(Ord. No. 440, § 10, 6-10-19)

Section 25.01. - Duties of zoning administrator and building official.

- A. *Zoning administrator duties:* The zoning administrator shall have the authority to enforce the terms of this ordinance, issue zoning compliance and other permits as stipulated herein, to ensure approved plans and permits are carried out in accordance with their approvals, and to make inspections of buildings or premises as necessary. The zoning administrator shall also document all non-conforming uses existing at the effective date of this ordinance for the purpose of carrying out the provisions of Article 19.
- B. *Building official duties:* The building official shall have the authority to issue building and construction permits and certificates of occupancy to applicants, assist the zoning administrator in enforcing requirements that relate to building code and construction elements, and to make inspections of buildings or premises as necessary.
- C. *General requirements:* The following general requirements apply to both positions:
 1. Issuance of a permit shall not be refused when an application is in compliance with the requirements of this ordinance or other applicable codes.
 2. The building official and zoning administrator do not have the authority to amend the requirements of this ordinance unless discretion is granted within the terms of a particular section.

(Ord. No. 440, § 10, 6-10-19)

Section 25.02. - Plot plan.

The building official may require that all applications for building permits be accompanied by plans and specifications including two copies of a plot plan, drawn to scale, showing the following:

- A. The actual shape, location, and dimensions of the lot.
- B. The shape size and location of all buildings or other structures to be erected, altered or moved and of any building or other structures already on the lot.
- C. The existing and intended use of the lot and of all such structures upon it including, in residential areas, the number of dwelling units the building is intended to accommodate.
- D. Such other information concerning the lot or adjoining lots as may be essential to determining whether the provisions of this ordinance are being observed.

(Ord. No. 440, § 10, 6-10-19)

Section 25.03. - Permits.

The following shall apply in the issuance of any building permit:

- A. *Permits not to be issued:* No building permit shall be issued for the erection, alteration, or use of any building or structure as part thereof, or for the use of any land, which is not in accordance with all provisions of this ordinance.
- B. *Permits for new use of land:* No vacant land shall be used and no existing use of land shall be changed to another type of use unless a certificate of zoning compliance is obtained for the new or different use.
- C. *Permits for new use of building:* No building or structure, or part thereof, shall be changed to or occupied by a different use unless a certificate of occupancy is first obtained for the new or different use.
- D. *Permits required:* No building or structure, or part thereof, shall be hereafter erected, altered, moved or repaired unless a building permit shall have been first issued for such work. The terms "altered" and "repaired" shall include any changes in structural parts, stairways, type of construction, type, class or kind of occupancy, light or ventilation, means of egress and ingress, or other changes affecting or regulated by the City Building Code, Housing Law of Michigan, or this ordinance, except for minor repairs or changes not involving any of the aforesaid features.
- E. *Inspection:* The building official shall be notified by the person, firm, or corporation obtaining the building permit when the foundations are completed and the building official shall inspect same within three days after notification. If in conformance with the provisions of this ordinance, the building official shall endorse each fact upon the building permit.

(Ord. No. 440, § 10, 6-10-19)

Section 25.04. - Certificate of occupancy.

No land, building or part thereof, shall be occupied by or for any use for which a building permit is required by this ordinance unless and until a certificate of occupancy shall have been issued for such new use by the building official. The following shall apply in the issuance of any certificate:

- A. *Certificates not to be issued:* No certificate of occupancy pursuant to the Building Code of the City of Swartz Creek shall be issued for any building, structure or part thereof or for the use of any land, which is not in accordance with all the provisions of this ordinance.
- B. *Certificates required:* No building or structure, or parts thereof, which is hereafter erected or altered, shall be occupied or used or the same caused to be done, unless and until a certificate of occupancy shall have been issued for such building or structure.
- C. *Certificates including zoning:* Certificates of occupancy as required by the building code for new buildings or structures, or parts thereof, or for alterations to or changes of use of existing buildings or structures, shall also constitute certificates of occupancy as required by this ordinance.
- D. *Certificates for existing buildings:* Certificates of occupancy may be issued for existing buildings, structures, or parts thereof, or existing uses of land if, after inspection, it is found that such buildings, structures, or parts thereof, or such use of land, are in conformity with the provisions of this ordinance. Certificates of occupancy may be issued for business buildings in NBD, GBD and CBD zones existing at the effective date of this ordinance which change occupancy and which do not provide sufficient parking as required in this ordinance, provided there is no decrease in the number of spaces existing at the effective date of this ordinance.
- E. *Temporary certificates:* Nothing in this ordinance shall prevent the issuance of a temporary certificate of occupancy for a portion of a building or structure in process of erection or alteration, provided that such temporary certificate shall not be effective for a period of time in excess of six months, and provided further that such portion of the building, structure, or premises is in conformity with the provisions of this ordinance.
- F. *Records of certificates:* A record of all certificates issued shall be kept on file in the office of the zoning administrator, and copies shall be furnished upon request to any person having proprietary or tenancy interest in the property involved.
- G. *Certificates for residential accessory buildings:* Buildings accessory to residential dwellings shall not require separate certificates of occupancy but may be included in the certificate of occupancy for the dwelling when shown on the plot plan and when completed at the same time as such dwellings.
- H. *Applications for certificates:* Application for certificates of occupancy shall be made in writing to the building official on forms furnished by the city and such certificates shall be issued within ten days after receipt of such application if it is found that the building or structure, or part thereof or the use of land is in accordance with the provisions of this ordinance.

If such certificate is refused for cause, the applicant therefore shall be notified of such refusal and cause thereof, within the aforesaid ten-day period.

(Ord. No. 440, § 10, 6-10-19)

Section 25.05. - Final inspection.

The holder of every building permit for the construction, erection, alteration, repair, or moving of any building, structure, or part thereof, shall notify the building official immediately upon the completion of the work authorized by such permit, for a final inspection.

(Ord. No. 440, § 10, 6-10-19)

Section 25.06. - Fees.

Applicants for permits required by this ordinance shall pay to the city, at the time of application for such permit, applicable fees. Fees are set by city council and contained in the city's fee schedule that is updated periodically by resolution of city council.

(Ord. No. 440, § 10, 6-10-19)

Section 25.07. - Interpretation, purpose, and conflict.

In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, morals and general welfare of the city. It is not intended by this ordinance to interfere with or abrogate or annul any ordinance, rules, regulations or permits previously adopted or issued, and not in conflict with any of the provisions of this ordinance, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises and likewise not in conflict with this ordinance; nor is it intended by this ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties, provided, however, that where this ordinance imposes a greater restriction upon the use of buildings or premises or upon heights of buildings or requires larger open spaces or larger lot areas than are imposed or required by such ordinance or agreements, the provisions of this ordinance shall control.

(Ord. No. 440, § 10, 6-10-19)

Section 25.08. - Violations.

- A. Any violation of any provision of this ordinance or any permit, license or exception granted hereunder, or any lawful order of the zoning administrator, planning commission, zoning board of appeals, or the city council issued in pursuance of this ordinance shall be a municipal civil infraction. A "violation" includes any act which is prohibited or made or declared to be unlawful or an offense by this ordinance and any omission or failure to act where the act is

required by this ordinance.

- B. The sanction for any violation of this ordinance which is a municipal civil infraction shall be a civil fine as provided in this article, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of Act 236 of the Public Acts of 1961, as amended, and other applicable laws.
- C. The zoning administrator, building official, and police officers of the city, are the city officials authorized to issue municipal civil infraction citations and municipal civil infraction notices for violations of this ordinance.

(Ord. No. 440, § 10, 6-10-19)

Section 25.09. - Schedule of fines.

A. *General:*

- 1. A person, corporation or firm who, as a result of violating any provision of this ordinance, is responsible for a municipal civil infraction shall pay a civil fine of not less than \$50.00 nor more than \$500.00, plus costs and other sanctions, for each infraction.
- 2. Repeat offenses shall be subject to increased fines set forth below. As used in this section, "repeat offenses" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this ordinance (1) committed by a person, corporation or firm within any 12-month period and (2) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this ordinance shall be as follows:
 - a. The fine for any offense which is a repeat offense shall be no less than \$150.00 plus costs and other sanctions.
 - b. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than \$250.00 plus costs and other sanctions.

B. *Fines for violation notices:*

- 1. A person, corporation or firm who, as a result of violating any provision of this ordinance, receives a municipal civil infraction violation notice, upon a determination of responsibility thereon, shall pay a civil fine at the City of Swartz Creek Municipal Ordinance Violations Bureau as follows:
 - a. \$50.00 for the first violation.
 - b. \$150.00 for the second violation within a 12-month period.
 - c. \$250.00 for a third violation within a 12-month period.
 - d. \$500.00 for any subsequent violation within a 12-month period.

(Ord. No. 440, § 10, 6-10-19)

Section 25.10. - Public nuisance per se.

In addition to all other remedies, including the penalties provided in this section of this ordinance, the city may commence and prosecute appropriate actions or proceedings in a court of competent jurisdiction, to retain or prevent any non-compliance with or violation of any of the provisions in this ordinance, or to correct, remedy or abate such non-compliance or violation. Buildings erected, altered, razed or converted, or uses carried on in violation of any provisions of this ordinance or in violation of any regulations made under the authority of the Michigan Zoning Enabling Act (Public Act 110 of 2006), are hereby declared to be a nuisance per se, and the court shall order such nuisance abated.

(Ord. No. 440, § 10, 6-10-19)

Section 25.11. - Rights and remedies are cumulative.

The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

(Ord. No. 440, § 10, 6-10-19)

Section 25.12. - Forbearance not condoned.

Forbearance in enforcement of this ordinance shall not be deemed to condone any violation thereof.

(Ord. No. 440, § 10, 6-10-19)

Section 25.13. - Fines, sanctions.

The owner of any building, structure or premises of part thereof, where any condition in violation of this ordinance shall exist or shall be created, and who has assisted knowingly in the commission of such violation shall be guilty of a separate offense and upon conviction thereof shall be liable for the fines and sanctions herein provided.

(Ord. No. 440, § 10, 6-10-19)

Section 25.14. - Each day a separate offense.

A separate offense shall be deemed committed upon each day during or when a violation occurs or continues.

(Ord. No. 440, § 10, 6-10-19)

Section 25.15. - Declaration of a zoning moratorium.

Notwithstanding any other provision of this zoning ordinance, the city council may, by resolution, declare a moratorium on the issuance of any permit under this ordinance, the processing of any permit application hereunder, the processing of any rezoning request, the processing of any site plan review, special land use request, or the processing of any other application made under this zoning ordinance.

Such a moratorium may be declared by the city council only under the following conditions:

- A. The city council finds, based on facts appearing in the public record before it, that such a moratorium is necessary to protect the public health, safety and welfare and that no other action short of imposing such a moratorium can adequately protect the public health, safety and welfare;
- B. The moratorium is for a limited period of time, not to exceed six months, but may be extended for no more than one additional six-month period upon a new and separate finding of the facts required by subsection A., above;
- C. The moratorium is limited in its scope and area of application so as to only affect those matters and that area necessary to protect the public health, safety and welfare;
- D. The resolution declaring the moratorium shall be published in a newspaper of general circulation within the city;
- E. The resolution declaring the moratorium shall specify the effective date of such moratorium which may be the date of publication or another date following such publication; and
- F. The resolution declaring the moratorium shall be adopted by a vote of no fewer than five members of the city council.

(Ord. No. 440, § 10, 6-10-19)

Section 25.16. - Registration for receipt of public hearing notices.

- A. *General:* Any neighborhood organization, public utility company, railroad or any other person may register with the zoning administrator to receive written notice of all applications for development approval or written notice of all applications for development approval within the Zoning District in which they are located. The zoning administrator shall be responsible for providing this notification. Fees may be assessed for the provision of this notice, as established by the city council.
- B. *Requirements:* The requesting party must provide the zoning administrator information on an official form to ensure notification can be made. All registered persons must re-register annually to continue to receive notification pursuant to this section.

(Ord. No. 401, § 11, 5-11-09, eff. 6-15-09; Ord. No. 440, § 10, 6-10-19)