

Chapter 36 - ZONING

Footnotes:

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State Law reference— Authority to regulate land use, MCL 125.581 et seq.; municipal planning, MCL 125.31 et seq.

ARTICLE I. - IN GENERAL

Sec. 36-1. - Interpretation and purpose.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comforts, morals, prosperity and general welfare. It is not intended by this chapter 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 chapter, 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 chapter; nor is it intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces or larger lot areas than are imposed or required by such title or agreements, the provisions of this chapter shall control.

(Code 1979, § 17.02.020)

Sec. 36-2. - Scope.

No building or structure, or part thereof, shall hereafter be erected, constructed or altered and maintained, by any person, firm, or corporation, and no new use or change shall be made or maintained of any building, structure or land, or part thereof, by any person, firm or corporation, except in conformity with the provisions of this chapter.

(Code 1979, § 17.02.030)

Sec. 36-3. - Conflict of regulations.

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

(Code 1979, § 17.02.040)

Sec. 36-4. - General regulation of buildings and uses.

All buildings and uses in any district shall be subject to the provisions of sections 36-2, 36-3 and 36-5, and articles IV through XI of this chapter.

(Code 1979, § 17.02.050)

Sec. 36-5. - Dwellings.

- (a) No person shall use, occupy, or permit the use or occupancy of a structure as a single-family dwelling or duplex which does not comply with dwelling standards of this section, or standards of the state, and the United States Department of Housing and Urban Development, whichever is applicable, within any district, except in a designated mobile home park and except as hereinafter provided. All single-family dwelling structures and duplexes shall comply with the following minimum standards:

- (1) No dwelling shall hereafter be erected which shall have less than 1,000 square feet of ground floor area, and shall be 22 feet or more wide.

- (2) Each dwelling shall comply in all respects with the single state construction code as promulgated by the Michigan State Construction Commission under provisions of Public Act No. 230 of 1972, as amended, being MCL 125.1501 et seq., including minimum heights habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction such standards or regulations for construction are different than those imposed by the single state construction code, then and in such federal or state standard or regulation shall apply.
 - a. Each dwelling shall be firmly attached to a permanent foundation constructed on site in accordance with the single state construction code and shall have the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the single state construction code for dwellings, or, in the case of mobile homes, that dwelling shall be installed pursuant to the manufacturer's set-up instructions and shall be secured to the foundation by an anchoring system or device complying with the rules and regulations of the state mobile home commission, or single state construction code, whichever is stricter, and with the wheels removed, and shall not have any exposed towing mechanism, undercarriage or chassis.
 - b. Framing, structural, insulation shall comply with the single state construction code, or in the case of mobile homes, shall comply with the Mobile Home Construction and Safety Standards as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, as amended, and which bears a HUD seal of certification by a certified inspector signifying inspection and compliance with same.
 - c. Each dwelling, as final finished, shall comply with the single state construction code.
- (3) Each dwelling shall be connected to a public sewer and water supply where available, or to such private facilities as approved by the Hillsdale County health department.
- (4) Each dwelling shall comply with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the Mobile Home Construction and Safety Standards as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, as amended. Additionally, all dwellings shall meet or exceed applicable roof snow load and strength requirements.
- (5) No dwelling shall contain any additions, or rooms, or other areas which are not constructed with similar quality workmanship as the original structure including permanent attachment to the principal structure as long as such attachment does not include a bearing load on a mobile home and construction of a foundation is required herein.
- (6) Each dwelling shall contain a storage area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to ten percent of the square footage of the dwelling, or 100 square feet, whichever shall be less.
- (7) Each dwelling shall be aesthetically compatible in design and appearance with other residences in the vicinity, with either roof overhang of not less than six inches on all sides, or alternatively with windowsills and roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; have not less than two exterior doors with one being on either the side or the rear of the dwelling; and containing permanently attached steps connected to the exterior door areas or to porches connected to the door areas where a difference in elevation requires the same.
- (8) If a dwelling is a mobile home, it shall contain skirting along the entire perimeter of the main frame between the ground and the bottom edge of the mobile home body. Said skirting shall be a minimum of 26 gauge metal, or other nonflammable materials having similar design and durability, and be aesthetically compatible in appearance with other residences in the vicinity. If brick or concrete block is used, it shall be securely attached and sealed to the mobile home body and shall contain a ratproof wall. Adequate screening vents shall be required in the skirting around the perimeter at intervals of not more than 20 feet, to provide adequate cross ventilation.
 - (b) 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 section pertaining to such parks.
 - (c) All construction required by this section is commenced only after a construction permit has been obtained in accordance with the current construction code provisions and requirements, as adopted by the city.

Sec. 36-6. - Definitions.

- (a) *General terms defined.* For the purposes of this chapter, certain terms or words used in this chapter shall be interpreted as follows: "Person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular; "shall" is mandatory, and the word "may" is permissive; "used" or "occupied" include the words "intended," "designed," or "arranged to be used or occupied"; "building" includes the word "structure," and the word "dwelling" includes the word "residence"; the word "lot" includes the words "plot" or "parcel."
- (b) *Terms not defined.* Terms not defined in this chapter shall have the meaning customarily assigned to them.
- (c) *Terms defined.* The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory use or building means a use or building on the same lot with, and of a nature customarily incident and subordinate to, the main use or building.

Alley means any dedicated public way affording a secondary means of access to abutting property, and not intended for general traffic circulation.

Alterations means any change, addition, or modification in construction or type of occupancy, any changes 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 in this chapter as "altered" or "reconstructed."

Apartments means the dwelling units in a multiple dwelling as defined in this section:

- (1) *Efficiency apartment* means a dwelling unit of not less than 300 square feet of floor area, and consisting of not more than one room in addition to kitchen and necessary sanitary facilities, and for the purposes of computing density shall be considered as a one-room unit.
- (2) *One-bedroom unit* means a dwelling unit containing a minimum floor area of at least 450 square feet per unit, consisting of not more than two rooms in addition to kitchen and necessary sanitary facilities, and for the purposes of computing density shall be considered a two-room unit.
- (3) *Two-bedroom unit* means a dwelling unit containing a minimum floor area of at least 600 square feet per unit, consisting of not more than three rooms in addition to kitchen and necessary sanitary facilities, and for the purposes of computing density shall be considered as a three-room unit.
- (4) *Three or more bedroom unit* means 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 600 square feet. For the purpose of computing density, the three-bedroom unit shall be considered a four-room unit and each increase in a bedroom over three shall be an increase in the room count by one over the four.

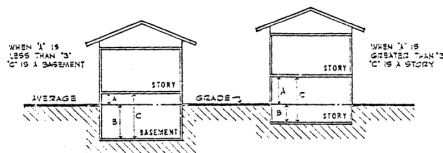
Area of special flood hazard means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

Auto repair station means a place where, along with the sale of engine fuels, 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.

Auto service station means a place where gasoline, or any other automobile engine fuel, kerosene, or motor oil and lubricants or grease, for operation of motor vehicles, are retailed directly to the public on the premises, including the sale of minor accessories and the servicing of and minor repair of automobiles.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Basement means 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.



Basement and Story

Bed and breakfast means a family home structure or small hotel, with no more than 15 sleeping rooms, offering accommodation for the night and breakfast the next morning for one inclusive fee.

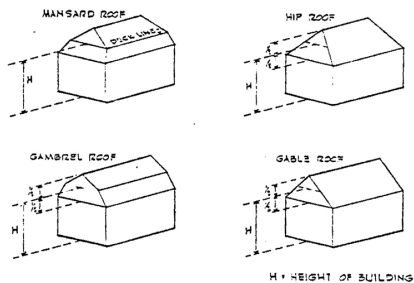
Bed and breakfast operation means a use subordinate the principal use of a dwelling unit as a single-family dwelling unit in which guests are provided a sleeping room and meals for periods not to exceed 14 consecutive days in return for payment and the dwelling unit functions as the principal residence for the owner during those times when bed and breakfast operations are being conducted.

Berm means a mound of earth constructed to achieve and comply with the buffering requirements of this chapter.

Block means the property abutting one side of a street and lying between the two nearest intersecting streets, or between the nearest such street and railroad right-of-way, unsubdivided acreage, river, or live stream; or between any of the foregoing and any other barrier to the continuity of development.

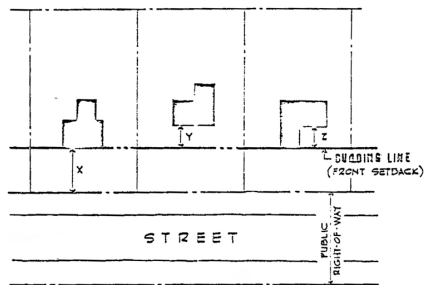
Building means any structure, either temporary or permanent, having a roof supported by columns or walls, and intended for the shelter or enclosure of persons, animals, chattels, or property of any kind.

Building height means the vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; 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 Height

Building line means a line formed by the face of the building; and for the purposes of this chapter, a "minimum building line" is the same as



a front setback line.

- NOTES
- BUILDING LINE IS MINIMUM SETBACK LINE
 - "X" - MINIMUM FRONT YARD REQUIRED
 - "Y" - FRONT YARD IN EXCESS OF MINIMUM FRONT YARD REQUIRED
 - "Z" - COURT YARD IN EXCESS OF MINIMUM FRONT YARD REQUIRED

BUILDING LINE

Campground means a use on a parcel or tract of land licensed by the state under the control of a person in which sites are offered for the use of the public or members of an organization either free of charge or for a fee, for the placement and use of three or more travel trailers, as defined in this chapter, or other similar temporary living quarters.

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

- (1) A Sunday school, a vacation Bible school, or a religious instructional class that is conducted by a religious organization where children are attending for not more than three hours per day for an indefinite period or for not more than eight hours per day for a period not to exceed four weeks during a 12-month period.
- (2) A facility operated by a religious organization where children are cared for not more than three hours while persons responsible for the children are attending religious services.
- (3) A facility or program for school-age children that is operated at a school by a public school or by a person or entity with whom a public school contracts for services, in accordance with section 1285a(2) of the revised school code, Public Act No. 451 of 1976 (MCL 380.1285a), if that facility or program has been granted an exemption under state law.

Church means a place of religious worship, an institution that people regularly attend to participate in or hold religious services, meetings and other activities.

Club means 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.

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

Craft means an activity requiring manual dexterity and skill in making things, such as, by way of example and not limitation, pottery making, carpentry and sewing.

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.

District means 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 chapter.

Dormitory means sleeping quarters intended as a means of temporary housing, such as are found and provided in a boarding school, camp or resort, where persons are cared for or housed for more than 24 consecutive hours at a time.

Drive-in means a business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle, regardless of whether self-service is involved, rather than within a building or structure.

Dwelling means a structure or suite of rooms forming one residence, mobile home, pre-manufactured, or pre-cut structure that is designed and used for the complete living accommodation of a permitted single related family or a permitted single multiple-tenant family, and complies with all other applicable provisions and standards contained in this chapter.

Dwelling, multiple-family, means a building containing three or more separate suites of rooms each of which forms one residence designed exclusively for residential occupancy by any combination of related families and multiple-tenant families, living independently of each other.

Dwelling, one-family, means a building containing one suite of rooms designed exclusively for residential occupancy by one related family.

Dwelling, two-family, means a building containing two separate suites of rooms each of which forms one residence designed exclusively for residential occupancy by any combination of related families and multiple-tenant families, living independently of each other.

Dwelling unit means a structure, or portion thereof, mobile home, pre-manufactured, or pre-cut structure that is designed and used for the complete living accommodation of a single family and which complies with all other applicable provisions and standards contained in this chapter.

Erected means built, constructed, altered, reconstructed or moved upon, or any physical operation on the premises which are required for construction. Excavation, fill, drainage and the like shall be considered a part of erection.

Essential services means the erection, construction, alteration or maintenance of public utilities or municipal departments of underground, surface or overhead gas, electrical, steam, fuel or water transmission or distribution systems; 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 accessories in connection therewith; 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.

Excavation means any breaking of ground, except common household gardening and ground care.

Family means:

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

Family day care home means a private home in which one but fewer than seven minor children are received for 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. Family day care home includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year.

Family, multiple-tenant, means two or more persons, not married to each other, who are continuously domiciled and residing together in a single dwelling unit as a single functional domestic household that is anticipated to be permanent or for a committed, limited duration of not less than 30 continuous calendar days. This definition does not include a group of individuals whose occupancy and residence together is through or in connection with membership or participation in any society, club, fraternity, sorority, association, lodge, combine, federation, coterie, or other organization that is not a recognized religious order, or to a group of individuals whose occupancy and residence together is or will be less than 30 continuous calendar days in duration.

Family, related, means any of the following, including their respective descendants and other relatives, whether by blood, marriage or adoption, those in their respective custody in loco parentis or under legal guardianship and not more than two unrelated individuals who are domiciled and living together in a single functional domestic household in a single dwelling unit:

- (1) An individual person;
- (2) A married couple;
- (3) Two or more individual persons who are related but not married to each other.

Farm means and consists of:

- (1) All of the adjoining land operated as a single unit on which the farming of crops is carried on directly by the owner-operator, manager or tenant farmer, by his own labor or with the assistance of members of his household or hired employees; provided, however, that land to be considered a farm under this subsection shall include a continuous parcel of land of five acres, or more, in area; provided further, that farm under this subsection may be considered as including establishments operating as greenhouses, nurseries and orchards; or
- (2) All of the adjoining land operated as a single unit on which the farming of crops is combined with the keeping of livestock or poultry or the operation of riding or boarding stables, commercial dog kennels, chicken hatcheries or apiaries; and the

operations are carried on directly by the owner-operator, manager or tenant farmer, by his own labor or with the assistance of members of his household or hired employees; provided, however, that land to be considered a farm under this subsection shall include a continuous parcel of land of 20 acres or more in area; provided further, that the keeping of livestock or poultry, or the operation of riding or boarding stables, commercial dog kennels, chicken hatcheries, or apiaries shall not be considered a farm under the provisions of this section unless combined at all times with a bona fide crop farming operation;

No farms under this section shall be operated as piggeries or feed lots, or for the raising or slaughtering of animals except such animals as have been raised or maintained on the premises for at least one year immediately prior to their slaughter and are for the use and consumption by persons actually residing on said premises.

Fence or wall, obscuring, means a structure of definite height and location to serve as an obscuring screen in carrying out the requirements of this chapter.

Filling means the depositing or dumping of any matter onto or into the ground, except common household gardening and ground care.

Fine art means products of human creativity and skill that are created primarily or solely to be appreciated for their imaginative, aesthetic or intellectual content, such as, by way of example and not limitation paintings, drawings, sculptures, literature, dance or music.

Flood and flooding mean a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters;
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

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.

Flood hazard boundary map (FHBM) means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazards have been designated as zone A.

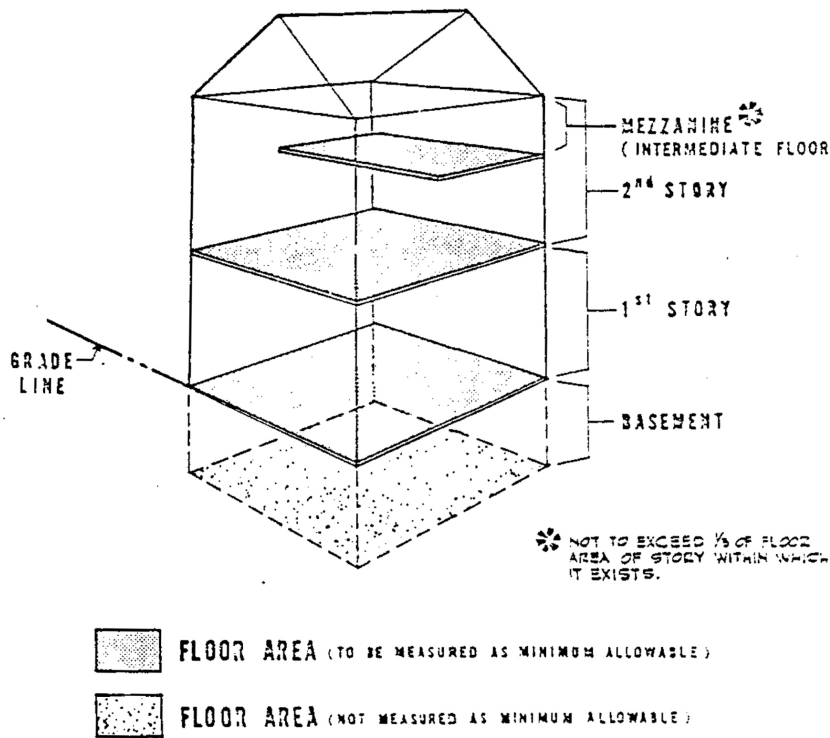
Flood insurance rate map (FIRM) means an official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk-premium zones applicable to the community.

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

Floodplain means any land area susceptible to being inundated by water from any source. (See definition of "Flood.")

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.

Floor area. For the purposes 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. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches.



BASIC STRUCTURAL TERMS

Fraternity means a social society for men who are students at a college or university, with a name consisting of individually pronounced Greek letters.

Game court means an outdoor area specifically designed and constructed for the purpose of playing games or outdoor activities (e.g., tennis courts, ball diamonds, skating rinks or ramps, putting greens, driving ranges, shooting ranges, soccer/football fields, etc.).

Garage sale means the sale or exchange or offer of sale or exchange of five or more items of household goods, wares, appliances, clothing, jewelry, tools or other personal property of whatever kind or nature, or any combination thereof from a garage or other building or portion thereof on any premises, whether or not attached to or a part of a residence.

Grade means the mean elevation of the street sidewalk along the front of the lot, as established by the city. The reference level, for any building within ten feet of the front lot line, is the official established sidewalk grade opposite the center of the front of such building. For any building more than ten feet from the front lot line, or where no sidewalk grade is established, the reference level is the average level of the finished grade of the ground across the front of such building. When the average finished grade about any portion of a building varies five feet or more from that at the front, such average may be taken as the reference level for such portion of such building.

Greenbelt means a strip of land of definite width and location reserved for and containing specified living and/or nonliving landscape elements, such as, by way of example but not limitation, shrubs, trees, vines, ground cover, crushed rock, and brick, whether used as a vertical element such as a fence or wall, or as a horizontal element such as a walk, to be used as an obscuring screen or buffer step between land uses so as to minimize conflicts between them and to otherwise carry out the requirements and purposes of this chapter.

Group day care home means a private home in which more than six but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year.

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.

Hotel means a building occupied as a more or less temporary abiding place for individuals who are lodged with or without meals, and rooms occupied singly for hire, in which provision is not made for cooking on any individual plan and in which there are more than five sleeping rooms, a public dining room for the accommodation of at least 40 guests and a general kitchen.

Junkyard means an open area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires and bottles. "Junkyard" includes automobile wrecking yards and includes any area of more than 100 square feet for storage, keeping, or abandonment of junk but does not include uses established entirely within enclosed buildings.

Kennel, commercial, means any lot or premises on which three or more dogs are either permanently or temporarily boarded or kept for sale or breeding.

Landscape elements means living plant material such as, but not limited to, grass, ground covers, shrubs, vines, hedges or trees, and nonliving durable material commonly used in landscape development such as, but not limited to, crushed rock, wood chips, cobblestones, brick, tile or decorative blocks, whether used as a vertical element such as a wall or fence, or as a horizontal element such as a bed, walk or path.

Loading space means 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 means a parcel of land occupied, or 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 open spaces as are required under the provisions of this chapter. "Lot" may or may not be specifically designated as such on public records.

Lot area means the total horizontal area within the lot lines of the lot.

Lot, corner, means 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 chapter, 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 or less than 135 degrees.

Lot coverage means that part or percent of the lot occupied by buildings including accessory buildings.

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

Lot, double frontage, means any interior lot having frontages on any 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 the lots adjacent to streets shall be considered frontage, and front yards shall be provided as required.

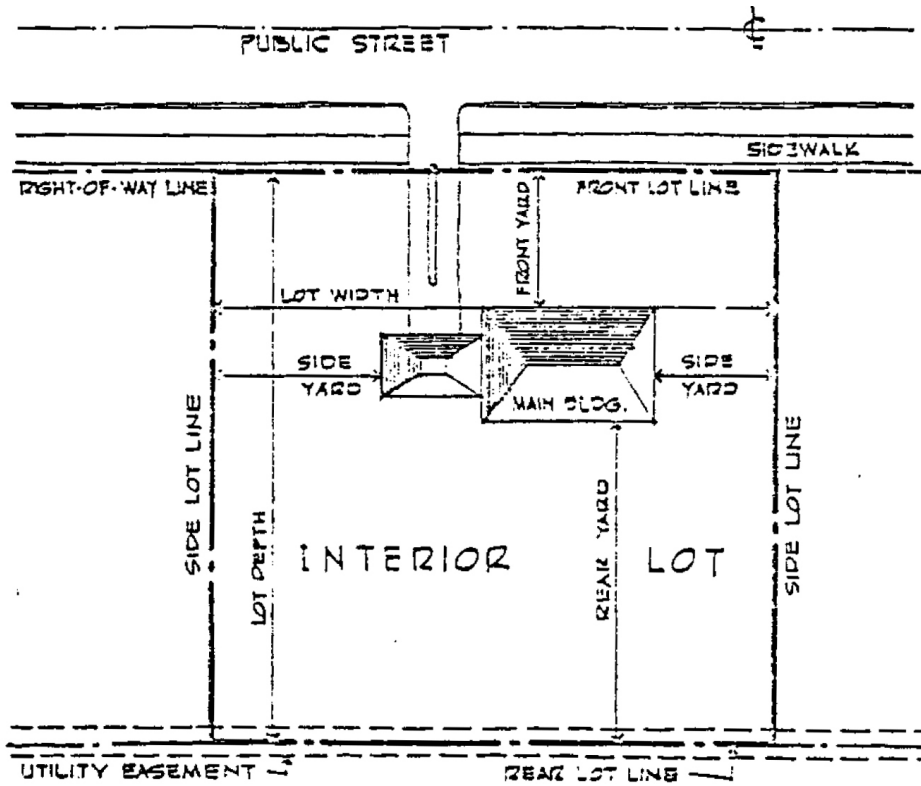
Lot, interior, means any lot other than a corner lot.

Lot lines means the lines bounding a lot, as defined in this section:

- (1) *Front lot line*, in the case of an interior lot, is that line separating the lot from the street; and, in the case of a corner lot or double frontage lot, is that line separating the lot from that street which is designated as the front street in the plat and in the application for a certificate of occupancy.
- (2) *Rear lot line* means 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.
- (3) *Side lot line* means any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

Lot of record means a parcel of land, the dimensions of which are shown on a recorded plat on file with the county register of deeds at the time of adoption of the ordinance codified in this chapter, or in common use by municipal 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.

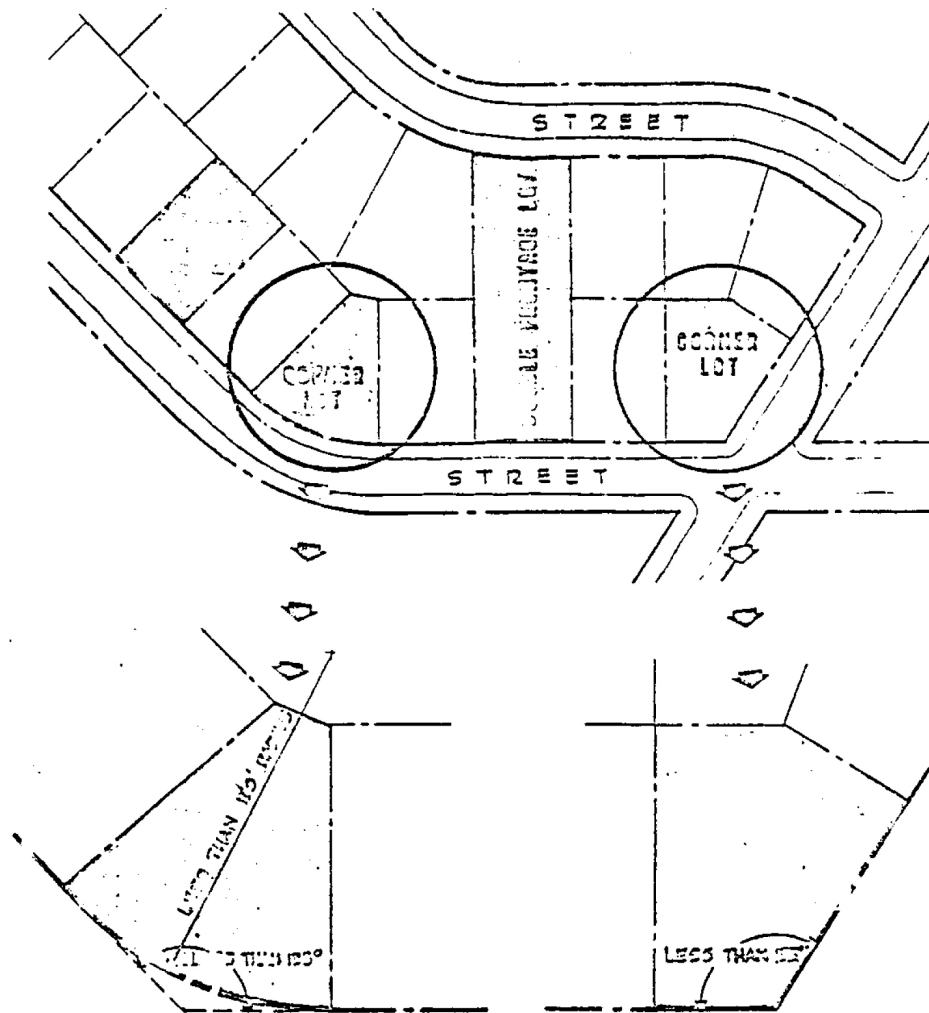
Lot width means the horizontal distance between the side lot lines, measured at the two points where the building line or setback intersects the side lot lines.



LOT AREA = TOTAL HORIZONTAL AREA

LOT COVERAGE = PERCENT OF LOT OCCUPIED BY BUILDING

LOTS & AREAS



DOUBLE FRONTAGE INTERIOR & CORNER LOTS

Main building means a building in which is conducted the principal use of the lot upon which it is situated.

Main use means the principal use to which the premises are devoted and the principal purpose for which the premises exist.

Major thoroughfare means an arterial street which is intended to serve as a large volume traffic way for both the immediate municipal area and the region beyond, and may be designated as a major thoroughfare, parkway, freeway, expressway, or equivalent term to identify those streets comprising the basic structure of the street plan. Any street with a width, existing or proposed, of 86 feet shall be considered a "major thoroughfare" for the purposes of this chapter.

Master plan means the comprehensive plan including graphic and written proposals indicating the general location for streets; parks, schools, public buildings and all physical development of the city; and includes any unit or part of such plan, and any amendment to such plan or parts thereof. Such plan may or may not be adopted by the planning commission and/or council.

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

Mobile home means a dwelling, transportable in one or more sections, which is built or installed on a permanent chassis, and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities and containing electrical, plumbing, heating and air conditioning systems, that is installed by a state-licensed mobile home dealer or state-licensed mobile home installer, as required by Public Act No. 96 of 1987 (MCL 125.2301 et seq.), and administrative rules promulgated thereunder.

Mobile home park means a use which is a parcel of land under the control of a person upon which three or more mobile homes are located for single-family residential purposes, and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, or use, as defined in the definition of "accessory use or building" set out in this section, incidental thereto.

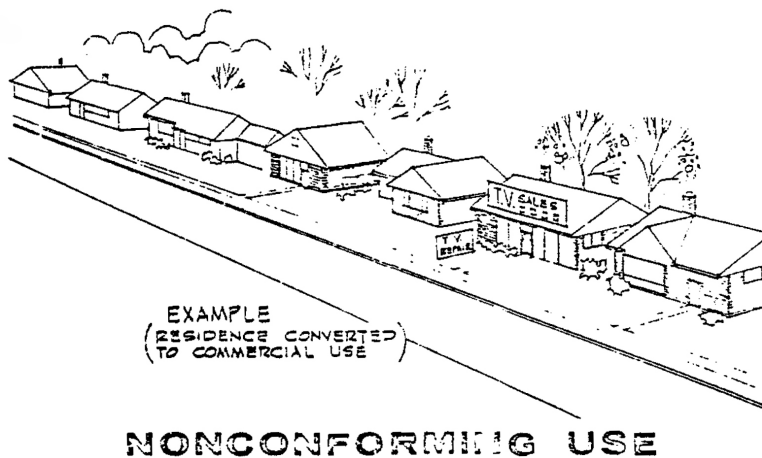
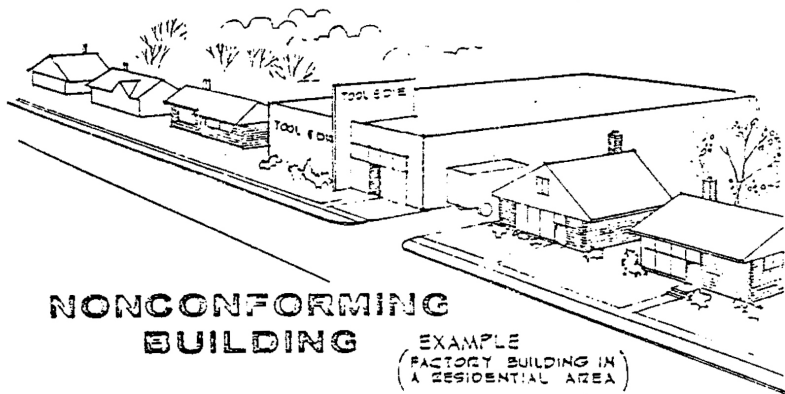
Motel means a series of attached, semi-detached or detached rental units containing bedroom, bathroom and closet space. Units shall provide for overnight lodging and are offered to the public for compensation, and shall cater primarily to the public traveling by motor vehicles.

Multiple-family or multiple-tenant family means and refers to more than three of any combination of one-family and multiple tenant family units living independently of each other in a multiple-family dwelling.

New construction means structures for which the start of construction commenced on or after the effective date of the ordinance codified in this section.

Nonconforming building means a building or portion thereof existing at the effective date of the ordinance codified in this chapter, or amendments thereto, and that does not conform to the provisions of this chapter in the district in which it is located.

Nonconforming use means a use which lawfully occupied a building or land at the effective date of the ordinance codified in this chapter, or amendments thereto, and that does not conform to the use regulations of the district in which it is located.



Nursing or convalescent home means a structure with sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire.

Occasional sale means the sale or exchange or offer of sale or exchange of five or more items of household goods, wares, appliances, clothing, jewelry or other personal property of whatever kind or nature or any combination thereof whether by garage sale, yard sale, auction or otherwise, not having a duration of more than a total of three days within any period of 90 consecutive days on or from the same premises.

Off-street parking lot means 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 two vehicles.

One-family means and refers to one related family, as that term is defined herein, domiciled and living together in a single functional domestic household in a single one-family dwelling.

Open front store means a business establishment, other than a drive-in bank, restaurant or gasoline service station, so developed that service to the patron may be extended beyond the walls of the structure, not requiring the patron to enter the structure.

Parking space means an area of definite length and width exclusive of drives, driveways, aisles or entrances giving access thereto, and fully accessible for the storage or parking of permitted vehicles.

Plant material nursery means 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 chapter does not include any space, building or structure used for the sale of fruits, vegetables, or Christmas trees.

Playground equipment means outdoor equipment specifically designed for the amusement of children (e.g., swing set, climbing apparatus, playhouses, see-saw, slide, etc.).

Private home means a private residence in which the licensee or registrant permanently resides as a member of the household, which residency is not contingent upon caring for children or employment by a licensed or approved child placing agency. Private home includes a full-time foster family home, a full-time foster family group home, a group day care home, or a family day care home.

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

Recreational vehicle means a vehicle primarily designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle.

Setback means the distance required to obtain front, side, or rear yard open space provisions of this chapter.

Short-term rental means the rental or subletting of any dwelling for a term of 27 days or less, but does not include the use of campgrounds, hotel rooms, transitional housing operated by a nonprofit entity, group homes such as nursing homes and adult foster care homes, hospitals, or housing provided by a substance abuse rehabilitation clinic, mental health facility, or other healthcare related clinic.

Shrubs means self supporting, deciduous and/or evergreen woody species, normally branched near the base, bushy and less than 15 feet in height at maturity.

Sign means a sign as defined in [section 26-2](#).

Sign, accessory, means a sign which is accessory to the principal use of the premises.

Sign, nonaccessory, means a sign which is not accessory to the principal use of the premises.

Sorority means a social society for women who are students at a college or university, with a name consisting of individually pronounced Greek letters.

Stable, private, means a stable for the keeping of horses for the noncommercial use of the residents of the principal use and shall not include the keeping of horses for others, or for commercial boarding.

Stable, public, means a stable other than a private stable, with a capacity for more than two horses, and carried on within an unplatted tract of land of not less than 40 acres.

Story means that part of a building, except a mezzanine as defined in this chapter, 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 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, means an uppermost story lying under a sloping roof, the usable floor area of which, at a height of four feet above the floor, does not exceed two-thirds of the floor area in the story directly below, and the height above at least 200 square feet of floor space is seven feet six inches.

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

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

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 (i) before the improvement or repair is started, or (ii) 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, 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 (i) 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 (ii) any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

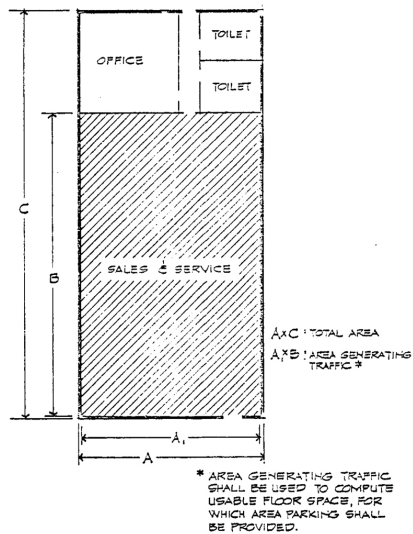
Temporary use or building means a use or building permitted by the board of appeals to exist during periods of construction of the main building or use, or for special events.

Trees means self-supporting, deciduous and/or evergreen, woody plants with a well-defined central stem which normally grow to a height of 15 feet or more at maturity.

Trellis or trellis works means a frame supporting an open latticework, used as an arch, arbor or in sections for training vines or other creeping plants, or for decorative or screening purposes.

Two-family means and refers to not more than two of any combination of one-family and multiple-tenant family units living independently of each other in a two-family dwelling.

Usable floor area means, for the purposes 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, or for utilities, shall be excluded from this computation of "usable floor area." Measurement of floor area shall be the sum of the gross horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.



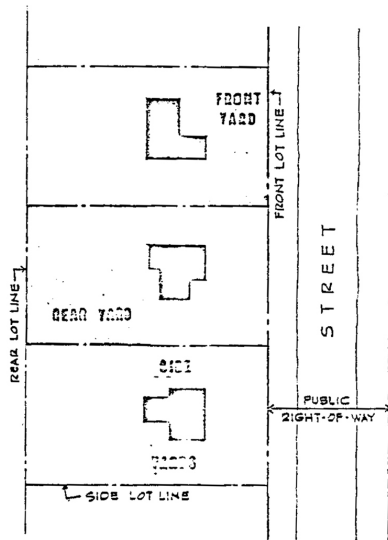
USABLE FLOOR AREA

Use means the purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

Yard sale means the sale or exchange of or offer of sale or exchange of five or more items of household goods, wares, appliances, clothing, jewelry, tools or other personal property of whatever kind or nature, or any combination thereof, from the front, side and/or back yard of any premises.

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

- (1) *Front yard* means an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between lot line and the nearest line of the main building.
- (2) *Rear yard* means 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 line of the main building.
- (3) *Side yard* means 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 of the side lot line to the nearest point of the main building.



YARDS

Zoning exceptions and zoning variance:

- (1) *Exception* means a use permitted only after review of an application by the board of appeals, or commission other than the administrative official (building inspector), such review being necessary because the provisions of this chapter covering conditions, precedent or subsequent, are not precise enough to all applications without interpretation, and such review is required by this chapter.
- (2) *Variance* means a modification of the literal provisions of this chapter granted when strict enforcement of this chapter would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted. The crucial points of "variance" are: undue hardship, unique circumstances, and applying to property. A "variance" is not justified unless all three elements are present in the case.
- (3) The exception differs from the variance in several respects. An exception does not require undue hardship in order to be allowable. The exceptions that are found in this chapter appear as special approval or review by planning commission, legislative body, or board of appeals. These land uses could not be conveniently allocated to one or another, or the effects of such uses could not be definitely foreseen as of a given time. The general characteristics of these uses include one or more of the following:
 - a. They require large areas;
 - b. They are infrequent;
 - c. They sometimes create an unusual amount of traffic;
 - d. They are sometimes obnoxious or hazardous;
 - e. They are required for public safety and convenience.

(Code 1979, §§ 17.04.010—17.04.750; Ord. No. 2005-1, §§ 17.04.277, 17.04.572, 2-21-2005; Ord. No. 2008-8, 9-2-2008; Ord. No. 2015-1, 3-16-2015; Ord. No. 2020-1, 3-16-2020)

Secs. 36-7—36-30. - Reserved.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

DIVISION 1. - GENERALLY

Sec. 36-31. - Delegation of duties.

The provisions of this chapter shall be administered and enforced by the building inspector, or by such other person delegated by the city council to enforce the provisions of this chapter.

(Code 1979, § 17.58.010)

Sec. 36-32. - Zoning administrator duties.

(a) The zoning administrator shall have the following powers and authority:

- (1) To make such inspections of buildings or premises as are necessary to carry out his or her duties in the enforcement of this section.
- (2) To approve plans, issue zoning compliance permits and certificates of occupancy that, in fact, conform to all applicable provisions of chapter 36 of Hillsdale's Code of Ordinances; provided, however, that no plans may be approved nor any zoning compliance permits or certificates of occupancy granted until the zoning administrator has inspected the plans in detail and, if necessary, the buildings, excavations, and premises to which the plans pertain and determined them in writing to conform to all applicable provisions of said chapter 36.
- (3) Notwithstanding anything contained herein to the contrary, the zoning administrator shall have no authority or discretion to amend, modify, vary, omit, or change any applicable provisions of chapter 36 of Hillsdale's Code of Ordinances in approving or rejecting any plan or in granting or denying the issuance of any zoning compliance permit or certificate of occupancy.
- (4) If the zoning administrator shall find that any of the provisions of chapter 36 of Hillsdale's Code of Ordinances are being violated, he or she shall notify, in writing, the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. The zoning administrator shall order discontinuance of illegal use of any lot or structures; removal of illegal structures, or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; and shall take any other action authorized by said chapter 36 to ensure compliance with or to prevent violation of its provisions.

(b) The zoning administrator shall submit monthly reports to the planning commission fully explaining the type and nature of uses permitted by right; the nature and extent of violations of chapter 36 of Hillsdale's Code of Ordinances; and the type and nature of nonconforming uses, buildings, and structures. The zoning administrator shall maintain a record of all applications for and decisions regarding approval or disapproval of proposed plans and the granting and/or denial of zoning compliance permits and certificates of occupancy.

(c) In the event the building inspector is absent and unavailable or the position of building inspector is vacant, the zoning administrator shall perform those duties the building inspector would otherwise perform that do not require a state license. Such duties shall be performed in accordance with Hillsdale's Code of Ordinances and the standards set forth in the State of Michigan Single State Construction Code.

(Ord. No. 2014-1, 7-21-2014)

Editor's note— Ord. No. 2014-1, § 1, adopted July 7, 2014, in effect repealed the former § 36-32, and enacted a new § 36-32 as set out herein. The former § 36-32 pertained to duties of building inspector and derived from the Code of 1979, § 17.58.020.

Sec. 36-33. - Floodplain management provisions of the state construction code.

(a) *Agency designated.* Pursuant to the provisions of the state construction code, in accordance with Section 8b (6) of Act 230, of the Public Acts of 1972, as amended, the building official of the County of Hillsdale is hereby designated as the enforcing agency to

discharge the responsibility of the City of Hillsdale under Act 230, of the Public Acts of 1972, as amended, State of Michigan; said County having agreed to assume and discharge the responsibility for the administration and enforcement of said Act throughout the City of Hillsdale's corporate limits.

- (b) *Code Appendix enforced.* Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the County of Hillsdale, as the enforcing agency, shall enforce Appendix G of the Michigan Building Code within the City of Hillsdale.
- (c) *Designation of regulated flood prone hazard areas.* The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) Entitled "Hillsdale County, Michigan (All Jurisdictions) and dated 2/19/2014 and the Flood Insurance Rate Map(s) (FIRMS) panel number(s) of 26059C; 0158D, 0159D, 0167D, 0178D 0186D, 0188D, and 0189D dated 2/19/2014 are adopted by reference for the purposes of administration of the Michigan Construction Code, and declared to be a part of Section 1612.3 of the Michigan Building Code, and to provide the content of the "Flood Hazards" section of Table R301.2(1) of the Michigan Residential Code.

(Ord. No. 2013-6, §§ 1—3, 12-16-2013)

Editor's note— Ord. No. 2013-6, §§ 1—3, adopted December 16, 2013, in effect repealed the former § 36-33, and enacted a new § 36-33 as set out herein. The former § 36-33 pertained to floodplain management administrative duties and derived from the Code of 1979, § 17.58.025.

Sec. 36-34. - Permit; accompanying material.

- (a) *Zoning compliance permits.*
- (1) *Requirements:* No building or structure, or part thereof, shall hereafter be located, erected, constructed, reconstructed, converted, enlarged or moved; nor shall any change be made in the use of any building, structure, or land without a zoning compliance permit having been obtained from the zoning administrator for such building, structure, or land.
 - (2) *Application for permit:* A zoning compliance application shall be filled out and submitted to the zoning administrator. The zoning administrator shall require that all applications for zoning compliance permits shall be accompanied by plans and information hereinafter required, as applicable.
 - (3) *Residential zoning compliance permit* (meaning a zoning compliance permit for any structure used for the purpose of single family residential housing or its accessory structure). The following are required:
 - a. Site plan or plot plan drawn to scale to include; and,
 - b. Legal survey, legal property description, deed restrictions, or parcel number; and,
 - c. The actual dimensions and shape of the lot to be built upon; and,
 - d. The exact size and location of existing structures on the lot, if any; and,
 - e. The location and dimensions of the proposed structure or alteration; and,
 - f. Two copies shall be submitted with the completed application.
 - (4) *Commercial zoning compliance permit* (meaning a zoning compliance permit for any structure used for the conducting of a commercial business, office, industrial use or a residential structure comprised of four or more dwelling units). The following are required:
 - a. Preliminary review: A preliminary review shall be scheduled and held a minimum of 30 days prior to the final review at the planning commission regular meeting with the owner, architect or engineer, zoning administrator, building inspector, and city department directors.
 - b. Final review: A final review shall be based on a review of the following, which shall be submitted not less than 15 days prior to the planning commission's regular meeting date at which the application is to be considered:
 1. Plans and specifications, signed and sealed by a professional engineer or architect.
 2. Site plan, drawn to scale, showing the information required on the commercial site plan application.
 3. Two full size copies plus ten half-size copies plus one electronic copy of plans and specifications shall be submitted with the completed application.
 - (5) *Application review:*
 - a. *Residential:* One copy of the plans shall be returned to the applicant by the zoning administrator after such copy has been

approved or disapproved, and attested to same by the zoning administrator's signature on such copy. The zoning administrator shall retain the original copy, similarly marked, for his files. Whenever the buildings, structures, and uses as set forth in the application are in conformity with the provisions of this section, the zoning administrator shall issue the applicant a zoning compliance permit within ten business days of receipt of a completed application. Where action of the board of appeals or the planning commission is required in any case, as set forth in this section, the zoning administrator shall issue such permit within ten business days following such action.

- b. *Commercial*: Upon receipt of the completed application with plans and specifications, the zoning administrator will conduct a preliminary review with the applicable city department directors. The zoning administrator will deliver his assessment of the project to the planning commission prior to the regular meeting date. Whenever the buildings, structures, and uses as set forth in the application are in conformity with the provisions of this section, the planning commission shall approve the applicant for a zoning compliance permit. Upon approval by the planning commission, the zoning administrator shall issue a permit within ten business days of the planning commission approval thereof. The zoning administrator shall return one copy of the approved plans to the applicant with the permit. The remaining set will be kept as record by the assessing department at city hall. Where action of the board of appeals or the planning commission is required in any case, as set forth in this section, the zoning administrator shall issue such permit within ten business days following such action.
- (6) *Appeal process*: If an application for zoning compliance permit is denied, the zoning administrator must notify the owner within ten business days. The written notice must list the reasons for denial of the permit application. The owner may appeal the decision to the zoning board of appeals (section 36-84).
- (7) *Voiding of zoning compliance permit*: Any zoning compliance permit granted under this section shall become null and void and fees forfeited unless construction and/or use completed within 365 days of the date of issuance. A zoning compliance permit shall be renewable upon reapplication and upon payment of the fee, subject however, to the provisions of all ordinances in effect at the time of renewal.
- (b) The building inspector shall require that all applications for building permits shall be accompanied by plans and specifications, including a plot plan, in triplicate, drawn to scale, showing the following.
- (1) The actual shape, location and dimensions of the lot drawn to scale;
 - (2) 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;
 - (3) 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;
 - (4) Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this chapter are being observed.

(Code 1979, § 17.58.030; Ord. No. 2014-2, 7-21-2014)

Sec. 36-35. - Supplementary permit application information.

In addition to the information required with an application for a zoning compliance permit, special use permit or any other type of development permission required under this chapter 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 floodproofing will be employed, the elevation in relation to mean sea level to which a structure will be floodproofed;
- (3) Where floodproofing will be employed, a certificate from a registered professional engineer or architect that the floodproofing criteria of this chapter will be met;
- (4) Where it can be determined that development is proposed within zone AE on the FIRM or the regulatory floodway, a certification as required by this chapter;
- (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 36-493(3), including a floodplain permit approval, or letter of authority from the state department of environmental quality under authority of part

31 of Public Act No. 451 of 1994 (MCL 324.3101 et seq.);

- (7) Base flood elevation data where the proposed development is subject to Public Act No. 288 of 1967 (MCL 560.101 et seq.), or greater than five acres in size; and
- (8) Additional information which may be reasonably necessary to determine compliance with the provisions of this chapter.

(Code 1979, § 17.58.035)

Sec. 36-36. - Permit issuance.

The following shall apply in the issuance of any permit:

- (1) *Permits not to be issued.* No building permit shall be issued for the erection, alteration, or use of any building, structure or part thereof, or for the use of any land which is not in accordance with all provisions of this chapter.
- (2) *Permits for new use of land.* No land heretofore vacant shall hereafter be used or an existing use of land be hereafter changed to a use of a different class or type unless a certificate of occupancy is first obtained for the new or different use.
- (3) *Permits for new use of building.* No building, structure or part thereof shall be hereafter, or be occupied by, a use of a different class or type unless a building permit is first obtained for the new or different use.
- (4) *Permits required.* No building, structure or part thereof shall be hereafter erected, altered, moved, or repaired unless a building permit shall have been first issued for such work. "Altered" and "repaired" 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 change affecting or regulated by the single state construction code, Housing Law of Michigan, or this chapter, except for minor repairs or changes not involving any of the aforesaid features.

(Code 1979, § 17.58.040)

Sec. 36-37. - Certificates.

- (a) No land, building, or part thereof shall be occupied by or for any use unless and until a certificate of occupancy shall have been issued for such new use. The following shall apply in the issuance of any certificate:
 - (1) *Certificates not to be issued.* No certificates of occupancy pursuant to the single state construction code shall be issued for any building, structure or part thereof or for the use of any land which is not in accordance with all the provisions of this chapter.
 - (2) *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.
 - (3) *Certificates including zoning.* Certificates of occupancy as required by the single state construction code for new buildings, 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 chapter.
 - (4) *Certificates for existing building.* Certificates of occupancy shall 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 chapter. Certificates of occupancy may be issued for business buildings in O-1, B-1, B-2 and B-3 zones existing at the effective date of the ordinance codified in this chapter.
 - (5) *Temporary certificates.* Nothing in this chapter 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 chapter.
 - (6) *Records of certificates.* A record of all certificates issued shall be kept on file in the office of the building inspector, and copies shall be furnished upon request to any person having proprietary or tenancy interest in the property involved.
 - (7) *Certificates for dwelling accessory buildings.* Buildings accessory to 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, when completed at the same time as such dwellings.
 - (8) *Applications for certificates.* Application for certificates of occupancy shall be made in writing to the building inspector 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, structure, or part thereof, or the use of land, is in accordance with the provisions of this chapter.

- (b) If such certificate is refused for cause, the applicant therefor shall be notified of such refusal and cause thereof within the ten-day period.

(Code 1979, § 17.58.050)

Sec. 36-38. - 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 inspector, immediately upon the completion of the work authorized by such permit, for a final inspection.

(Code 1979, § 17.58.060)

Sec. 36-39. - Fees.

Fees for inspection and the issuance of permits or certificates or copies thereof, required or issued under the provisions of this chapter, may be collected by the building inspector in advance of issuance. The amount of such fees shall be established by resolution of the city council and shall cover the cost of inspection and the supervision resulting from enforcement of this chapter.

(Code 1979, § 17.58.070)

Sec. 36-40. - Violations and penalties.

Unless otherwise provided, any person, or anyone acting in behalf of the person, violating any of the provisions of this chapter shall be guilty of a misdemeanor. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this chapter.

(Code 1979, § 17.60.010)

Sec. 36-41. - Public nuisance per se.

Any building or structure which is erected, altered or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of the ordinance codified in this chapter and in violation of any of the provisions thereof, is declared to be a public nuisance per se. The building inspector, the city council, and any person designated by the city council or any aggrieved person may institute a suit to have the nuisance abated.

(Code 1979, § 17.60.020)

Sec. 36-42. - Rights and remedies.

The rights and remedies provided in this chapter are cumulative and in addition to any other remedies provided by law.

(Code 1979, § 17.60.030)

Sec. 36-43. - Forbearance not condoned.

Forbearance in enforcement of this chapter shall not be deemed condonation of any violation thereof.

(Code 1979, § 17.60.040)

Secs. 36-44—36-60. - Reserved.

DIVISION 2. - SITE PLAN REVIEW

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State Law reference— *Site plans, MCL 125.584d.*

Sec. 36-61. - When required.

A site plan shall be submitted to the planning commission for approval of:

- (1) Any use of development for which the submission of a site plan is required by any provision of this chapter;
- (2) Any development, except one-family residential, for which off-street parking areas are provided as required in article VIII, division 2, of this chapter;
- (3) Any use in an RM-1, O-1, B-1, B-2, B-3, I-1, I-2 or P-1 district lying contiguous to, or across a street from, a single-family residential district;
- (4) All residentially related uses permitted in one-family districts such as but not limited to churches, schools and public facilities.

(Code 1979, § 17.50.010)

Sec. 36-62. - Contents, form and review.

Every site plan submitted to the planning commission shall contain such information and be in such form as the planning commission may prescribe in its rules. No site plan shall be approved until same has been reviewed by the chief of police, the city engineer, and/or city manager and the planner for compliance with the standards of the respective departments.

(Code 1979, § 17.50.020)

Sec. 36-63. - Considerations by planning commission.

In the process of reviewing the site plan, the planning commission shall consider:

- (1) One-family residential development on the basis of a subdivision;
- (2) The location and design of driveways providing vehicular ingress to and egress from the site, in relation to streets giving access to the site, and in relation to pedestrian traffic;
- (3) The traffic circulation features within the site and location of automobile parking areas;

and may make such requirements with respect to any matters as will assure safety and convenience of both vehicular and pedestrian traffic both within the site and in relation to access streets, and satisfactory and harmonious relations between the development on the site and the existing and prospective development of contiguous land and adjacent neighborhoods.

(Code 1979, § 17.50.030)

Sec. 36-64. - Additional landscaping, fences and walls.

The planning commission may further require landscaping, fences and walls in pursuance of these objectives, and same shall be provided and maintained as a condition of the establishment and the continued maintenance of any use to which they are appurtenant.

(Code 1979, § 17.50.040)

Sec. 36-65. - Marginal access drives.

In those instances wherein the planning commission finds that an excessive number of ingress and/or egress points may occur with relation to major or secondary thoroughfares, thereby diminishing the carrying capacity of the thoroughfare, they may require marginal access drives as follows:

- (1) In approving the site plan, the planning commission may recommend marginal access drives. For a narrow frontage which will require a single outlet, the planning commission may recommend that money in escrow be placed with the city so as to provide for a marginal service drive equal in length to the frontage of the property involved. Occupancy permits shall not be issued until the improvement is physically provided or moneys have been deposited with the city clerk.

- (2) The planning commission shall require marginal access drives for all subdivisions having residential lots facing onto major thoroughfares. Where practical, the planning commission shall require side lot or rear lot relationships to major thoroughfares.

(Code 1979, § 17.50.050)

Secs. 36-66—36-80. - Reserved.

DIVISION 3. - BOARD OF APPEALS

Footnotes:

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State Law reference— *Board of appeals, MCL 125.585 et seq.*

Sec. 36-81. - Membership generally.

There is established a zoning board of appeals which shall perform its duties and exercise its powers as provided in section 5 of Public Act No. 207 of 1921 (MCL 125.585), and in such a way that the objectives of this chapter shall be observed, public safety secured and substantial justice done. The zoning board of appeals shall consist of seven members, all appointed by the city council. Each member of the zoning board of appeals shall hold office for a three-year term. Two members of the zoning board of appeals shall be appointed, one each from the membership of the city council and the planning commission. The councilmember so appointed shall not be a member of the planning commission. Each member of the zoning board of appeals shall have been a resident of the city for at least one year prior to the date of his appointment and shall be a qualified and registered elector of the city on such date and throughout his term of office. Appointed members may be removed for cause by the city council only after consideration of written charges and a public hearing. Any appointive vacancies in the zoning board of appeals shall be filled by the city council for the remainder of the unexpired term. The zoning board of appeals shall annually elect its own chair, vice-chair and secretary. The compensation of the appointed members of the zoning board of appeals shall be fixed by the city council.

(Code 1979, § 17.56.010)

Sec. 36-82. - Meetings.

All meetings of the board of appeals shall be held at the call of the chair and at such times as such board may determine. All hearings conducted by the board of appeals shall be open to the public. The board of appeals shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent, or failing to vote, indicating such fact; and shall also keep records of its hearings and other official action. Four voting members of the board of appeals shall constitute a quorum for the conduct of its business. The board of appeals shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to the matters before it.

(Code 1979, § 17.56.020)

Sec. 36-83. - Powers and duties.

- (a) The board of appeals shall have the powers set forth in sections 36-85 through 36-87, and it shall be its duty:
- (1) To hear and decide on all matters referred to it upon which it is required to pass under this chapter;
 - (2) To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision, or determination made by the building inspector in the enforcement of this chapter.
- (b) Nothing contained in this chapter shall be construed to give or grant to the board of appeals the power or authority to alter or change this chapter or the zoning map, such power and authority being reserved to the city council in the manner hereinafter provided by law.

(Code 1979, § 17.56.030)

Sec. 36-84. - Appeal procedure.

- (a) An appeal may be taken to the board of appeals by any person, firm or corporation, or any officer, department, board or bureau affected by a decision of the building inspector. Such appeal shall be taken within such time as shall be prescribed by the board of appeals, by general rule, by filing with the building inspector and with the board of appeals a notice of appeal, specifying the grounds thereof. The building inspector shall forthwith transmit to the board of appeals all of the papers constituting the record upon which the action appealed from was taken.
- (b) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the building inspector certifies to the board of appeals after the notice of appeal has been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property; in which case the proceedings shall not be stayed, otherwise than by a restraining order, which may be granted by the board of appeals or by a court of record on application, on notice to the building inspector, and on due course shown.
- (c) The board shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the parties and shall render a decision on the appeal without unreasonable delay. Any person may appear and testify at the hearing, either in person or by duly authorized agent or attorney.
- (d) A fee as currently established or as hereafter adopted by resolution of the city council from time to time shall be paid to the secretary of the board of appeals at the time that notice of appeal is filed, which the secretary shall forthwith pay over to the city treasurer to the credit of the general fund of the city.

(Code 1979, § 17.56.040)

Sec. 36-85. - Authority for appeal regarding variance.

In hearing and deciding appeals, the board of appeals shall have the authority to grant such variance therefrom as may be in harmony with their general purpose and intent so that the function of this chapter is observed, public safety and welfare secured, and substantial justice done, including the following:

- (1) Interpret the provisions of this chapter in such a way as to carry out the intent and purpose of the plan, as shown upon the zoning map fixing the use districts, accompanying and made a part of the ordinance codified in this chapter, where street layout actually on the ground varies from the street layout as shown on the map;
- (2) Permit the reaction and use of a building or use of premises in any use district for the public utility purposes;
- (3) Permit the modification of the automobile parking space or loading space requirements where, in the particular instance, such modification will not be inconsistent with the purpose and intent of such requirements;
- (4) Permit such modification of the height and area regulations as may be necessary to secure an appropriate improvement of a lot which is of such shape, or so located with relation to surrounding development or physical characteristics that it cannot otherwise be appropriately improved without such modification;
- (5) Permit temporary buildings and uses for periods not to exceed two years in undeveloped sections of the city and for periods not to exceed six months in developed sections.

(Code 1979, § 17.56.050)

Sec. 36-86. - Special conditions regarding appeal for variance.

Where, owing to special conditions, a literal enforcement of the provisions of this chapter would involve practical difficulties or cause unnecessary hardships, within the meaning of this chapter, the board of appeals shall have power upon appeal in specific cases to authorize such variation or modification of the provisions of this chapter with such conditions and safeguards as it may determine, as may be in harmony with the spirit of this chapter and so that public safety and welfare is secured and substantial justice done. No such variance or modification of the provisions of this chapter shall be granted unless it appears beyond a reasonable doubt that all the following facts and conditions exist:

- (1) That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties or class of uses in the same district or zone;

- (2) That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in zone and vicinity;
- (3) That the granting of such variance or modification will not be materially detrimental to the public welfare, or materially injurious to the property or improvements in such zone or district in which the property is located;
- (4) That the granting of such variance will not adversely affect the purposes or objectives of the future land use plan of the city.

(Code 1979, § 17.56.060)

Sec. 36-87. - Restrictions regarding appeal for variance.

In consideration of all appeals and all proposed variations to this chapter, the board of appeals shall, before making any variations from this chapter in a specific case, first determine that the proposed variation will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the city. The concurring vote of four members of the board of appeals shall be necessary to reverse any order, requirements, decision, or determination of the building inspector, or to decide in favor of the applicant any matter upon which it is authorized by this chapter to render a decision, except that a concurring vote of five members of the board of appeals is necessary to grant a variance for uses of land permitted in this chapter.

(Code 1979, § 17.56.070)

Sec. 36-88. - Flood hazard area zone variances.

- (a) Variances from the provisions of article VI of this chapter, regarding floodplain controls, shall only be granted by the zoning board of appeals upon a determination of compliance with the general standards for variances contained in this section and each of the following specific standards.
 - (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 state department of environment quality that the cumulative effect of the proposed development will not harmfully increase the water surface elevation of a base flood. In determining whether a harmful increase will occur, compliance with part 31 of Public Act No. 451 of 1994 (MCL 324.3101 et seq.), 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; and
 - c. A determination that the granting of a variance will not result in flood heights in excess of those permitted by this chapter, additional threats to public safety, or extraordinary public expense, or 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) The zoning board of appeals may attach conditions to the granting of a variance to ensure compliance with the standards contained in this section.
- (c) Variances may be granted for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the Michigan Historic Marker 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.

(Code 1979, § 17.56.070)

Sec. 36-89. - Exercising powers.

In exercising the powers set forth in this chapter, the board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the building inspector from whom the appeal is taken.

(Code 1979, § 17.56.080)

Sec. 36-90. - Recommendation; hearing and notice.

The board of appeals shall make no recommendation except in a specific case and after a hearing conducted by the board. The board of appeals shall fix a reasonable time for the hearing of the appeal and give notice of the appeal to the persons to whom real property within 300 feet of the premises in question is assessed, and to the occupants of single-family and two-family dwellings within 300 feet. The notice shall be delivered personally or by mail addressed to the respective owners and tenants at the address given in the last assessment roll. If a tenant's name is not known, the term "occupant" may be used.

(Code 1979, § 17.56.090)

Sec. 36-91. - Orders; term of validity.

- (a) No order of the board of appeals permitting the erection or alteration of a building 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 started and proceeds to completion in accordance with the terms of such permit.
- (b) No orders of the board of appeals permitting a use of a building or premises shall be valid for a period longer than one year unless such use is established within such period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for the erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

(Code 1979, § 17.56.100)

Secs. 36-92—36-110. - Reserved.

DIVISION 4. - AMENDMENTS

Footnotes:

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State Law reference— *Zoning ordinance procedures, MCL 125.584.*

Sec. 36-111. - Zoning commission designated.

The planning commission is designated as the commission specified in section 4 of Public Act No. 207 of 1921 (MCL 125.584) and shall perform the duties of the commission as provided in the statute in connection with the amendment of this chapter.

(Code 1979, § 17.54.010)

Sec. 36-112. - Hearing; notice.

The city council may from time to time on their own action, or on recommendation from the planning commission or on petition, amend, supplement, or change the district boundaries or the regulations in this chapter; provided, however, that a public hearing shall be held before any such amendment shall be passed; and provided further, that not less than 15 days' notice of the time and place of such public hearing shall be given by publication in the official paper of the city, or a paper of general circulation in the city, and a hearing be granted to any person interested at the time and place specified. If an individual property or several adjacent properties are proposed for rezoning, notice of the proposed rezoning and hearing shall be given to the owners of the property in question at least 15 days before the hearing.

(Code 1979, § 17.54.020)

Sec. 36-113. - Petition fees.

Upon presentation of petition for amendment of this chapter by the owner of real estate to be affected, or by owners of real estate within 500 feet of any part of the premises to be affected, such petition shall be accompanied by a deposit of the sum as currently established or as hereafter adopted by resolution of the city council from time to time, which amount shall be placed in the general fund to defray the expense of publishing the required notices of public hearings, and the expenses of the public hearing.

(Code 1979, § 17.54.030)

Sec. 36-114. - Protest petitions.

- (a) Upon presentation of a protest petition meeting the requirements of this section, an amendment to this chapter which is the object of the petition shall be passed only by a two-thirds vote of the city council. The protest petition shall be presented to the city council before final legislative action on the amendment and shall be signed by one of the following:
- (1) The owners of at least 20 percent of the area of land included in the proposed change.
 - (2) The owners of at least 20 percent of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change.
- (b) For purposes of this section, publicly owned land shall be excluded in calculating the 20 percent land area requirement.

Sec. 36-115. - Notice of adoption.

- (a) *Publication and mailing of notice.* Following adoption of a zoning ordinance and subsequent amendments by the city council, one notice of adoption shall be published in a newspaper of general circulation in the city within 15 days after adoption. Promptly following adoption of a zoning ordinance or subsequent amendment by the city council, a copy of the notice of adoption shall also be mailed to the airport manager of an airport entitled to notice.
- (b) *Required information.* The notice of adoption under this section shall include the following information:
- (1) In the case of a newly adopted zoning ordinance, the following statement: "A zoning ordinance regulating the development and use of land has been adopted by the city council of the City of Hillsdale, Michigan."
 - (2) In the case of an amendment to an existing ordinance, either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.
 - (3) The effective date of the ordinance.
 - (4) The place and time where a copy of the ordinance may be purchased or inspected.

Secs. 36-116—36-140. - Reserved.

ARTICLE III. - DISTRICT REGULATIONS

DIVISION 1. - GENERALLY

Sec. 36-141. - Areas generally.

For the purpose of convenience, the city is divided into areas which are placed on maps as provided in this chapter.

(Code 1979, § 17.06.010)

Sec. 36-142. - Zoning districts.

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

| | |
|------|--|
| R-1 | One-Family Residential District |
| RD-1 | One-Family and Two-Family Residential District |
| RM-1 | Multiple-Family Residential District |
| B-1 | Local Business District |
| B-2 | Central Business District |
| B-3 | General Business District |
| I-1 | Industrial District |
| PRF | Park and Recreational Facilities District |
| C-1 | College District |
| PRD | Planned Redevelopment District |
| PUD | Planned Unit Development District |

(Code 1979, § 17.06.020; Ord. No. 2018-003, 7-16-2018)

Sec. 36-143. - Zoning maps.

The boundaries of the zoning districts established by the zoning ordinance are shown on a map or series of maps designated the "official zoning map." The official zoning map including all notations, references, data and other information shown therein, is adopted and made a part of this zoning ordinance as fully as if it were contained within the pages of this zoning ordinance.

- (1) *Location.* The official zoning map is filed in the planning department of the City of Hillsdale.
- (2) *Updates.* The Hillsdale City Planning Commission is responsible for updating the official zoning map to reflect amendments adopted by the Hillsdale City Council.
- (3) *Zoning district boundaries.* Where uncertainty exists with respect to the boundaries of the various districts, the following rules shall apply:
 - a. The district boundaries are public rights-of-way including either streets, places or alleys unless otherwise shown; where the districts designated on the official zoning map are approximately bounded by street, road, place or alley lines, the same shall be construed to be the boundary of the district.
 - b. Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines; where districts designated on the official zoning map are approximately bounded by lot lines, the same shall be construed to be the boundary of the districts, unless otherwise indicated on the official zoning map.
 - c. Where physical or natural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by rules a. and b. above, the zoning administrator shall interpret the boundaries.
 - d. Any dispute in the determination of the zoning district boundaries shall be heard by the zoning board of appeals.

(Code 1979, § 17.06.030; Ord. No. 2017-002, 11-6-2017; Ord. No. 2020-2, 7-6-2020)

Sec. 36-144. - District boundaries.

Where uncertainty exists with respect to the boundaries of any of the districts established in this chapter as shown on the zoning map, the following rules shall be applied:

- (1) Where district boundaries are indicated as approximately following the centerline of streets or highways, street lines or highway right-of-way lines, such centerlines, street lines, or highway right-of-way lines shall be construed to be the boundaries.
- (2) Where district boundaries are so indicated that they are approximately parallel to the centerline of streets, or the centerlines of right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distances therefrom as indicated on the zoning map. If no such distance is given, such dimension shall be determined by the use of the scale shown on the zoning map.
- (3) Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be boundaries.
- (4) Where the boundary of a district follows a railroad line, such boundaries shall be deemed to be located midway between the main tracks of the railroad line.
- (5) Where the boundary of a district follows a stream, lake or other body of water, the boundary line shall be deemed to be at the limit of the jurisdiction of the city unless otherwise indicated.
- (6) Where the boundary of a district follows a subdivision boundary line, such boundary line shall be construed to be the district boundary line.
- (7) Where unzoned property may exist, or where, due to the scale lack of detail or illegibility of the zoning map accompanying the ordinance codified in this chapter, 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 or, upon its own motion, by the board of appeals.

(Code 1979, § 17.06.040)

Sec. 36-145. - Flood hazard area mapping disputes.

- (a) Where disputes arise as to the location of the flood hazard area boundary or the limits of the floodway, the zoning board of appeals shall resolve the dispute and establish the boundary location. In all cases, the decision of the 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 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 map dispute may submit technical evidence to the zoning board of appeals.

(Code 1979, § 17.06.045)

Sec. 36-146. - Vacated areas.

Whenever any street, alley or other public way within the city shall be vacated, such street, alley, or other public way or portion thereof shall automatically be classified in the same zone district as the property to which it attaches.

(Code 1979, § 17.06.050)

Sec. 36-147. - Annexed areas.

Any area annexed to the city shall immediately upon such annexation be automatically classified as an R-3 district, until a zoning map for the area has been adopted by the council. The planning commission shall recommend appropriate zoning for such area within six months after the annexation has taken place.

(Code 1979, § 17.06.060)

Sec. 36-148. - Landscaping, greenbelt and screening.

Intent. The intent of sections 36-148 through 36-152 is to promote the public's health, safety, and general welfare by minimizing noise, air, and visual pollution; improving the appearance of off-street parking and other vehicular use areas; requiring buffering between incompatible land uses; regulating the appearance of property abutting public rights-of-way; protecting and preserving the appearance, character, and value of the community and its residential neighborhood areas; preventing soil erosion and soil depletion; and promoting soil water retention.

(Code 1979, § 17.06.070; Ord. No. 2016-003, 3-7-2016)

Sec. 36-149. - Requirements.

- (a) *Application.* This section shall apply as the minimum requirements for all uses, where site plan review is required. Where landscaping, greenbelt, and screening requirements are imposed elsewhere in this chapter, the strictest requirements shall apply. No site plan shall be approved unless the site plan shall show landscaping, greenbelt, and screening consistent with the requirements set forth in this section.
- (b) All areas shall be landscaped and shall meet the following standards:
- (1) No synthetic plant materials, such as artificial grass, shrubs, trees or flowers, shall be used to fulfill any landscaping requirements.
 - (2) Berms, whenever utilized, shall be designed and landscaped to minimize erosion. Berms adjacent to public rights-of-way shall have a slope of not greater than three to one, unless designed as part of a retaining wall.
 - (3) All landscaping materials shall consist of healthy specimens, compatible with local climate, soil characteristics, drainage and water supply. All plant material shall be reasonably resistant to drought and disease. Non-nursery derived stock shall not be used to satisfy the requirements of this subsection.
 - (4) Grass or other living plants shall be primary ground cover in required landscape areas. Both sod planting and seeding are acceptable.
 - (5) Ground covers other than grass shall be planted in required areas to provide complete coverage within two growing seasons. Vines shall not be used adjacent to pedestrian areas.
 - (6) Unless otherwise specified, materials such as river rock, cobble, boulders, paving stones, patterned concrete, bark and wood chips shall be limited to small areas and shall not exceed 25 percent of the required landscape area. All such ground covers shall be at least two inches deep. Loose gravel, less than three-inch minimum aggregate size, shall not be used in areas abutting public streets or sidewalks.
 - (7) Maintenance shall include all reasonable and regular irrigation, weeding, fertilizing and pruning. Plant materials which show signs of insects, pests, diseases and/or damage shall be appropriately treated. Dead plant materials shall be replaced immediately or as soon as practical under the seasonal conditions existing and according to the approved site plan. The developer and subsequent owner shall be responsible for maintaining all on-site landscaping.
 - (8) Plant materials and their minimum size requirements shall be installed in accordance with article X of this chapter.
 - (9) Landscaping plans may be submitted to the zoning officer for technical review and to the planning commission for approval within 90 days after final approval of the site plan. Plans may be submitted as an amendment to the site plan, thereby not requiring an additional review fee. On projects in excess of two acres, the developer may file a phased plan for completing the landscaping pursuant to the standards of this subsection.

(Ord. No. 2016-003, 3-7-2016)

Sec. 36-150. - Landscaping.

- (a) Upon any improvement for which a site plan is required, landscaping shall be required to meet the guidelines listed below:
- (1) For the RD-1 and the RM-1 districts, 25 percent of the site shall be in landscaped open space. The open space shall be landscaped with one evergreen tree or shrub for every 1,000 square feet, or portion thereof, plus one small or large deciduous tree for every 2,000 square feet, or portion thereof. Plant materials existing on the site prior to development may be included as

part of such requirement. Ground cover or lawn is required in all landscaped areas. (See article X, plant material of this chapter for appropriate uses of plant materials.)

- (2) For the R-1, R-2, and R-3 districts, 30 percent of the site under development shall be in landscaped open space. The open space shall be landscaped with one evergreen tree or shrub for every 1,000 square feet, or portion thereof, plus one small or large deciduous tree for every 1,500 square feet, or portion thereof. Plant materials existing on the site prior to development may be included as part of such requirement. Twenty-five percent of the required open space shall be between the roadway and the building. Buildings on corner lots shall have 40 percent of the required open space between the building and the street. Landscaping of an adjacent right-of-way may be included in such requirement if it is maintained by the adjacent property owner. (See article X, plant material of this chapter for appropriate uses of plant materials.)
- (3) For permitted and special approval uses in the O-1, B-1, B-3, I-1 and I-2 districts, 15 percent of the site shall be in landscaped open space with one evergreen tree or shrub for every 1,000 square feet, or portion thereof, plus one small or large deciduous tree for every 2,000 square feet, or portion thereof. Plant materials existing on the site prior to development may be included as part of such requirement. Thirty percent of the required open space shall be between the roadway and the building. Buildings on corner lots shall have 60 percent of the required open space between the building and the roadway. Whenever feasible, a portion of the landscaping shall be placed adjacent to the buildings. Landscaping of an adjacent right-of-way may be included in the requirement if it is maintained by the adjacent property owner. Parking lots in all office, business and industrial zones which are adjacent to a residentially zoned district shall be fully screened from that residential district through the use of decorative walls, fences, or landscaping. (See article X, plant material of this chapter for appropriate uses of plant materials.)
- (4) B-2 parcels in which the building occupies 90 percent or more of the lot shall be exempt from the landscape requirement. For all other B-2 parcels, ten percent of the site shall be in landscaped open space with one evergreen tree or shrub for every 1,000 square feet, or portion thereof, plus one small or large deciduous tree for every 2,000 square feet, or portion thereof. Plant materials existing on the site prior to development may be included as part of the fulfillment of these requirements.

(b) *Greenbelt between land uses.*

- (1) Upon any improvement for which a site plan is required, a greenbelt shall be constructed to create a visual screen along a boundary, alley, or street which is adjacent to residentially zoned or used property. In addition, greenbelt shall be constructed along any boundary between single-family unattached housing developments and single-family attached housing developments or multifamily housing developments, for which a site plan is required. In addition, within all districts, except R-1 (single-family), a greenbelt shall be constructed along a boundary, alley or street which is adjacent to a more restrictive zoning district;
- (2) The minimum width of the required greenbelt shall be ten feet, except in the office, business and industrial districts where the minimum width shall be 20 feet. However, wider greenbelt may be required, within any zoning district, at the discretion of the city.

(c) *Parking lot landscaping.*

- (1) Landscaped areas shall be required at the perimeter of parking lots of 16 spaces or greater. Parking lots in all office, business and industrial zones which are adjacent to a residentially zoned district shall be fully screened from that residential district through the use of decorative walls, fences, or landscaping;
- (2) Strips of ten or more continuous spaces may be allowed by planning commission approval, providing each end of the row has a minimum of 50 square feet of landscaped area, exclusive of concrete curbing. Variations may be determined by the planning commission for design and traffic flow. There shall be a minimum of one tree for every ten parking spaces;
- (3) Minimum three-foot wide landscape strips (unobstructed by vehicle overhangs) shall be provided between paved parking surfaces and buildings, fences, and property lines wherever possible. Trees and shrubs shall be planted clear of the vehicle overhang area;
- (4) All parking lot surfaces not needed for ingress, egress, parking or driveways shall be landscaped.

(d) *Front yard landscaping.* A greenbelt with a minimum width determined by the front yard setback of its zoning classification shall be located between the abutting right-of-way of a public street, freeway, or major thoroughfare, and shall be landscaped per the requirements in section 36-150 applicable to its zoning classification access ways from public rights-of-way through required greenbelts shall be permitted.

(e) *Site landscaping.* In addition to any landscape greenbelt and/or parking lot landscaping required by this section, ten percent of the

site area, excluding existing thoroughfare right-of-way, shall be landscaped. Areas used for storm drainage purposes, such as unfenced drainage courses or retention areas in front or side yards, may be included as a portion of the required landscaped area, but shall not exceed five percent of the site area.

(f) All plant materials shall follow the minimum standards set forth in article X of this chapter.

(Ord. No. 2016-003, 3-7-2016)

Sec. 36-151. - Commercial dumpsters.

- (a) Commercial dumpsters shall be screened on all sides with an opaque or solid fence or wall, and a gate at least as high as the container, but no less than six feet in height, and shall be constructed of material which is compatible with the architectural materials used in the site development.
- (b) Containers shall be consolidated to minimize the number of collection sites, and located so as to reasonably equalize the distance from the building they serve.
- (c) Containers and enclosures shall be located away from public view insofar as possible.
- (d) Containers and enclosures shall be situated so that they do not cause excessive nuisance or offense to occupants of nearby buildings.
- (e) Concrete pads of appropriate size and construction shall be provided for containers or groups of containers having a capacity of six 30-gallon cans or more. Aprons shall be provided for loading of bins with capacity of 1.5 cubic yards or more.
- (f) For storage of recyclable materials, the enclosure area and pad size shall be increased to amply accommodate the extra materials and their containers.
- (g) All commercial dumpsters shall be equipped with lids.
- (h) Screening and gates shall be of durable construction, and fences, walls, footings, slabs, and curbs shall meet single state construction code requirements. Gates shall be constructed of heavy gauge metal or of a heavy gauge metal frame or wood frame with covering of wood or other suitable material. Gates shall be secured with sturdy hinges or sliders, and latches. If the enclosure is situated directly adjacent to parking spaces or drives, it shall be protected at its base by concrete curb blocks or concrete filled pipe bumpers. See Illustration.

(Ord. No. 2016-003, 3-7-2016)

Sec. 36-152. - Bioretention/rain gardens.

(a) *Summary.*

| | |
|------------------------|---|
| Description: | Provides stormwater treatment, storage and uptake with or without a surface outlet; underdrained BMP may be allowed on small sites in lieu of extended detention. |
| Types: | Rain garden: Landscaped and manicured infiltration; underdrain at top of storage layer; underdrain at bottom of storage layer; lined. |
| Pretreatment Required: | Yes. |
| Maintenance Plan: | Yes. |
| Easement Required: | Yes. |
| Calculation Credits: | |

| | |
|-------------------|--|
| Volume Reduction: | Infiltration: Count volume stored and infiltrated. Underdrained: Count volume stored and volume infiltrated between bottom of BMP and invert of underdrain. |
| Rate Reduction: | Adjust time-of-concentration by dividing storage volume by 10-year peak flow rate; BMP routing using computer software. |
| Water Quality: | Count total volume stored and infiltrated/filtered. |

(b) *Sizing calculations.*

- (1) For underdrained BMP, follow criteria for "constructed filter."
- (2) Bioretention/rain gardens may be sized for channel protection or water quality treatment. Use the methods outlined in "calculating storage volumes and release rates" to calculate the required volumes.
 - a. Subtract the volume infiltrated by the BMP during the infiltration period to determine the required storage volume of the BMP. The infiltration volume is calculated as:

$$V_{inf} = \text{Design infiltration rate (inches per hour)} \times 6 \text{ hours} \times \text{infiltration area (square feet)} \times 1/12 \text{ unit conversion}$$
 - b. Use the design infiltration rate of the underlying soil from field permeability tests or Table 5.
 - c. The infiltration period is the time when the bed is receiving runoff and is capable of infiltrating at the design rate, which is conservatively estimated as six hours (SEMCOG, 2008).
- (3) Bioretention/rain gardens may be able to provide flood control for small drainage areas. Use one of the methods outlined in "calculating storage volumes and release rates, flood control, retention" to calculate the required storage volume.
- (4) Channel protection and water quality volumes may be included in the flood control volume.
- (5) Calculate the minimum infiltration area required to drain the required storage volume in the specified drawdown time using the design infiltration rate of the underlying soil from field permeability tests or Table 5.

$$A = [V_s / (i \times t_d)] \times 12$$

Where: A = minimum infiltration area (square feet) V_s = storage volume (cubic feet) i = design infiltration rate of soil (inches per hour) t_d = maximum allowable drawdown time (hours) 12 = factor to convert inches to feet.

- (6) Total drawdown time shall be no more than 72 hours. Depth of surface ponding shall be no more than 9 inches and drain within 24 hours.
- (7) Surface ponding depth may be increased up to 18 inches for bioretention areas.
- (8) The bottom area of the BMP shall be used as the infiltration area.
- (9) Calculate the storage volume of the BMP.

Average bed area (square feet) = [Area at design high water depth (square feet) + bottom area (square feet)] / 2

Surface storage volume (cubic feet) = Average bed area (square feet) x design high water depth (feet)

Subsurface storage volume (cubic feet) = Length (feet) x width (feet) x depth (feet) x void ratio of material

Total storage volume (cubic feet) = Surface storage volume (cubic feet) + subsurface storage volume (cubic feet)

(c) *Design requirements.*

- (1) *Siting.*
 - a. Soil borings are required as outlined in "soils investigation."
 1. A minimum of four feet is required between the bottom of bioretention/raingardens capable of infiltration and the

- highest known groundwater elevation.
2. A minimum of two feet is required between the bottom of lined or underdrained bioretention/rain gardens and the highest known groundwater elevation.
 3. An underdrain shall be provided for design infiltration rates of the underlying native soil less than 0.50 inches per hour, or if bioretention/rain garden will be lined.
 4. Void ratio for the amended soil material shall be based on the USDA soil textural class and effective water capacity in Table 5. A maximum design value of 0.30 shall be used for the void ratio of the amended soil material. A maximum design value of 0.40 shall be used for the void ratio of stone.
- b. Setbacks shall be as follows:
1. Adjacent property line: Ten feet.
 2. Building foundation: Ten feet.
 3. Private well: Fifty feet.
 4. Public well: Two hundred feet from Type I or Type IIa wells, 75 feet from Type IIb or Type III wells (Safe Drinking Water Act, Act 399, PA 1976).
 5. Septic system drainfield: Fifty feet.
- (2) *Sizing and configuration.*
- a. General.
1. The bottom shall be flat to encourage uniform ponding and infiltration.
 2. Minimum bottom width shall be three feet.
 3. Bioretention/rain gardens located in areas with steep slopes shall be terraced to minimize earth disturbance and maximize infiltration area.
 4. Care must be taken during the excavation and finishing process to make sure that soil compaction does not occur.
 5. Bioretention/rain gardens located in areas of existing soil contamination shall be lined to prevent infiltration.
 6. Underdrains shall have a four-inch minimum pipe diameter.
 7. All underground pipes shall have clean-outs accessible from the surface.
 8. Pipe slopes shall have a minimum slope of one percent.
 9. Side slopes shall not be steeper than 3:1 (H:V), unless landscape retaining walls are used.
 10. An observation well shall be provided for each bioretention/rain garden.
- b. *Rain gardens.*
1. A landscape plan shall be provided.
- (3) *Inlet design.*
- a. Inlet pipes shall require energy dissipation. Riprap protection or equivalent erosion control measures shall be used where the velocity exceeds four feet per second up to a maximum allowable design velocity of 10 feet per second.
 - b. Pretreatment is required for each inlet and for overland flow entering the bioretention/rain garden.
- (4) *Emergency overflow.*
- a. All bioretention/rain gardens must have a provision for overflow at the high water level.
- (5) *Materials.*
- a. Amended soil material shall consist of 18 to 48 inches of the following materials, evenly mixed: Compost: 30—50 percent; Sand: 20—40 percent; Topsoil: 20—30 percent (maximum clay content of topsoil shall be 20 percent).
 1. Alternative mix designs with ratios outside of the limits provided will be considered with justification.
 2. The soil mix shall have a pH between 5.5 and 7.5.
 - b. Stone shall consist of clean, uniformly graded course aggregate.
 - c. A nonwoven geotextile fabric shall be placed between the amended soil and the stone, when a stone layer is used.

- d. When used, impermeable liner shall have a maximum permeability of 1×10^{-7} centimeters per second certified by the manufa
- e. Plant selection shall consider exposure and tolerance to salt, sediment and pollutants, and the design depth of surface storage. Native species are encouraged.
 - 1. Bioretention: Plugs and seed.
 - 2. Rain gardens: Container stock.
- f. Mulch shall be applied after planting.
 - 1. Bioretention: Straw mulch or mulch blanket shall be uniformly applied and tacked.
 - 2. Rain gardens: Shredded hardwood mulch shall be uniformly applied to a depth of two to three inches.

(6) Access.

- a. Inspection and maintenance access to the bioretention/rain garden shall be provided.

(d) Design schematics.

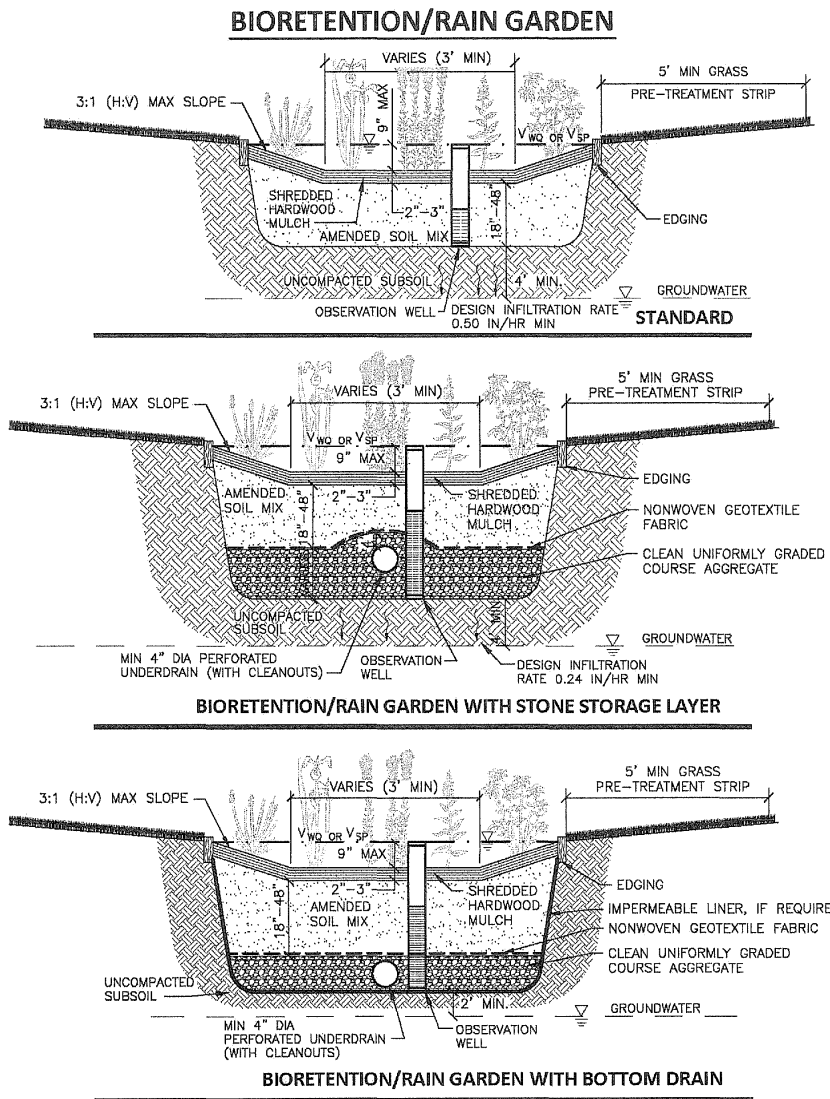


Table 5 — Design Infiltration Rates by USDA Soil Texture Class

| Soil Texture Class | Effective Water Capacity ¹ (inches per inch) | Design Infiltration Rate ² (inches per hour) | HSG1 |
|--------------------|--|--|------|
| Gravel | 0.40 | 3.60 | A |

| | | | |
|-------------------|------|------|---|
| Sand | 0.35 | 3.60 | A |
| Loamy Sand | 0.31 | 1.63 | A |
| Sandy Loam | 0.25 | 0.50 | A |
| (Medium) Loam | 0.19 | 0.24 | B |
| Silty Loam/(Silt) | 0.17 | 0.13 | B |
| Sandy Clay Loam | 0.14 | 0.11 | C |
| Clay Loam | 0.14 | 0.03 | D |
| Silty Clay Loam | 0.11 | 0.04 | D |
| Sandy Clay | 0.09 | 0.04 | D |
| Silty Clay | 0.09 | 0.07 | D |
| Clay | 0.08 | 0.07 | D |

¹ Source: Appendix D.13, Table D.13.1, Maryland Stormwater Design Manual, Maryland Department of Environment, 2000. (Rawls, Brakensiek and Saxton, 1982.)

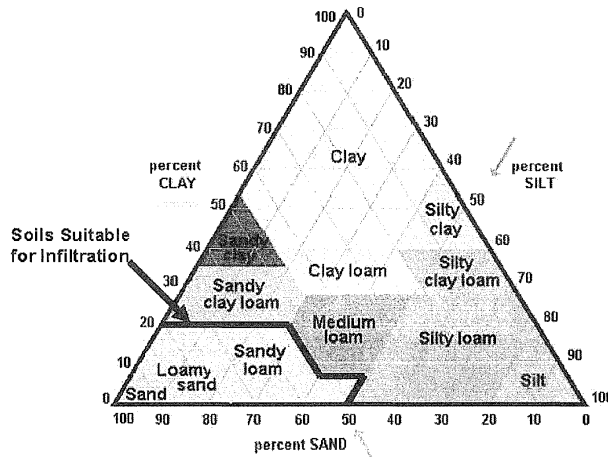
² Source: Table 2, Site Evaluation for Stormwater Infiltration (1002), Wisconsin Department of Natural Resources, Conservation Practice Standards, 2004. (Rawls, 1998.) Note: Values are reduced by approximately a factor of 2 from those given in Table D.13.1.

Minimum allowable infiltration rate.

Soil textures with design infiltration rates less than 0.50 inches per hour are deemed not suitable for infiltration BMPs.

Soils with design infiltration rates as low as 0.24 inches per hour (medium loam) may be used for LID and small site BMPs if suitable supplemental measures are included in the design. Supplemental measures may include subsoil amendment, or underdrain placed at the top of the storage bed layer.

Figure 1 — USDA Soil Textural Triangle



(Ord. No. 2016-003, 3-7-2016)

Secs. 36-153—36-170. - Reserved.

DIVISION 2. - R-1 ONE-FAMILY RESIDENTIAL DISTRICTS

Footnotes:

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Editor's note— Ord. No. 2018-002, adopted July 16, 2018, amended division 2 in its entirety to read as herein set out. Former division 2, §§ 36-171—36-174, pertained to R-1—R-3 one-family residential districts, and derived from the Code of 1979, §§ 17.08.010—17.08.040.

Sec. 36-171. - Generally.

The R-1 one-family residential districts are designed to be composed of low density residential home development. The regulations in this division are intended to stabilize, protect and encourage the residential character of the district and prohibit activities not compatible within such districts. Development in the R-1 one-family residential district is limited to single-family dwellings plus such other uses as schools, parks, churches and certain public facilities which serve residents of such districts.

(Ord. No. 2018-002, 7-16-2018)

Sec. 36-172. - Principal uses permitted.

In one-family residential districts, no building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this chapter:

- (1) One-family detached dwellings;
- (2) A state-licensed residential facility when required by section 36 of Public Act No. 207 of 1921 (MCL 125.583b);
- (3) Publicly owned and operated libraries, parks, parkways and recreational facilities;
- (4) Public, parochial and private schools offering courses in general education and not operated for profit;
- (5) Accessory buildings and uses customarily incidental to any of the above permitted uses.

(Ord. No. 2018-002, 7-16-2018)

Sec. 36-173. - Uses subject to special conditions.

The following uses shall be permitted in all one-family residential districts after review and approval of the site plan by the planning commission (or zoning administrator, whichever is indicated), subject to the conditions imposed in this section for each use:

- (1) Utility and public service buildings and uses, without storage yards, when operating requirements necessitate the locating of the facilities within the district in order to serve the immediate vicinity. Further, no building and/or structure shall be located in any required front or side yard.
- (2) Colleges, universities and other such institutions of higher learning, public and private, offering courses in general, technical, or religious education and not operated for profit, all subject to the following conditions:
 - a. The proposed site shall have frontage on an existing street having a right-of-way of at least 66 feet in width. All ingress and egress to and from the site shall be directly from and onto the 66-foot wide street.
 - b. No building other than a structure for residential purposes shall be closer than 30 feet to any property line.
- (3) Churches, cemeteries, public, private and parochial intermediate and/or secondary schools offering courses in general education, not operated for profit and other facilities normally incidental thereto, subject to the following conditions:
 - a. The proposed site shall have frontage on an existing street having a right-of-way of at least 66 feet in width. All ingress and egress to and from the site shall be directly from and onto the 66-foot wide street.
 - b. The principal buildings on the site shall be set back from abutting properties zoned for residential use not less than 30 feet.

- c. Buildings of greater than the maximum height allowed in division 16 of this article may be allowed provided front, side and rear increased above the minimum requirements by one foot for each foot of building that exceeds the maximum height allowed.
 - d. Wherever the off-street parking area is adjacent to land zoned for residential purposes, a continuous and obscuring wall four feet six inches in height shall be provided along the sides of the parking area adjacent to the residentially zoned land. The wall shall be further subject to the provisions of article IX of this chapter.
- (4) Institutional recreation centers, not operated for profit, and nonprofit swimming pool clubs, subject to the following conditions:
- a. As a condition to the original granting of such permit and the operation of such nonprofit swimming pool club as a part of the application, the applicant shall obtain from 100 percent of the freeholders residing or owning property within a 150-foot radius immediately adjoining any property line of the site herein proposed for development a written statement of waiver addressed to the city council recommending that such approval be granted. Also, approval from 51 percent of the homeowners within 1,000 feet shall be received in writing.
 - b. In those instances where the proposed site is not to be situated on a lot or lots of record, the proposed site shall have one property line abutting a major thoroughfare, and the site shall be so planned as to provide ingress and egress directly onto the thoroughfare.
 - c. Front, side and rear yards shall be at least 50 feet wide, except on those sides adjacent to nonresidential districts, and shall be landscaped in trees, shrubs, grass and terrace areas. All such landscaping shall be maintained in a healthy condition. There shall be no parking or structures permitted in these yards, except for required entrance drives and those walls or fences used to obscure the use from abutting residential districts.
 - d. Buildings of greater than the maximum height shall be allowed, provided front, side and rear yards are increased above the minimum requirements by one foot for each foot of building that exceeds the maximum height allowed.
 - e. Whenever a swimming pool is constructed under this chapter, the pool area shall be provided with a protective fence, six feet in height, and entry shall be provided by means of a controlled gate or turnstile.
 - f. Off-street parking shall be provided so as to accommodate at least one-fourth of the member families and/or individual members. Bylaws of the organization shall be provided to the planning commission in order to establish the membership involved in computing parking requirements.
 - g. All storm and sanitary sewer plans shall be provided, and shall be reviewed and approved by the city engineer prior to the issuance of a building permit.
 - h. The off-street parking and general site layout and its relationship to all adjacent lot lines shall be reviewed by the planning commission, who may impose any reasonable restrictions or requirements so as to ensure that contiguous residential areas will be adequately protected.
- (5) Private stable, for not more than one horse on a lot where the lot is not less than two acres in area; and provided further, that for each additional horse stabled thereon, one acre of land shall be provided. In no instance shall a horse be confined nearer than 75 feet to any adjacent property line, and all confinement areas or stables shall in all instances be located in the rear yard. No horse shall be allowed to run at large.
- (6) Accessory buildings and uses customarily incident to any of the above permitted uses.
- (7) Farms. The keeping of horses, donkeys, mules, ponies, cattle, sheep, poultry and other domestic animals or birds other than house pets, shall be permitted in connection with the farm use as an accessory use of a one-family and two-family residence established and existing on the premises where such animals, poultry, or birds are to be kept subject to the following conditions:
- a. A minimum area of two full acres, exclusive of required setback from lot lines, shall be provided for not more than one such animal kept on the premises; and provided further, that for each additional animal kept thereon, one additional adjoining acre of land shall be provided.
 - b. An accessory building to be used as a private stable, barn, chicken coop, or similar type building shall be no less than 75 feet from any lot line and no less than 85 feet from any dwelling located on an adjoining lot.
 - c. The animals, poultry or birds shall be confined in a suitable fenced area, paddock or suitable building, in such a manner that they may not approach any closer than 75 feet from any lot line and no closer than 85 feet from any dwelling, including

residences on abutting parcels or lots.

- d. Stables, barns and other similar accessory buildings shall be kept clean and manure shall be treated and handled in such a manner as to control odor and flies and shall be screened from view.
- e. All confinement areas, stables, barns and other similar accessory buildings shall, in all instances, be located in the rear yard.
- f. Premises having a greater density of animals per acre than permitted under this subsection (7) shall be considered nonconforming uses and shall be allowed to continue; provided, however, that such nonconforming use shall be subject to article XI of this chapter and the applicable sections of such article.

- (8) Child care facility, as defined in section 36-6, for the care of one or more minor children in other than a private home, subject to the following conditions and restrictions:

A designated outdoor play area shall be required which complies with state licensing rules. The outdoor play area must be located in the rear yard, as defined in section 36-6, and be enclosed by a fence at least four feet in height.

Signs, as defined in section 26-2, shall be allowed in accordance with the regulations applicable to the zoning district in which the property is located.

- (9) Bed and breakfast and short term rentals according to the requirements of sections 36-436 and 36-437.

(Ord. No. 2018-002, 7-16-2018)

Sec. 36-174. - Area and bulk requirements.

See division 16 of this article limiting the height and bulk of buildings, the minimum size of lot permitted by land use, and the maximum density permitted in one-family residential districts.

(Ord. No. 2018-002, 7-16-2018)

Secs. 36-175—36-190. - Reserved.

DIVISION 3. - RD-1 ONE-FAMILY AND TWO-FAMILY RESIDENTIAL DISTRICT

Sec. 36-191. - Generally.

The RD-1 one-family and two-family residential district is designed to be composed of certain medium density areas representing a compatible commingling of one-family and two-family dwellings and certain open areas where similar residential development appears likely to occur. The regulations in this division are intended to stabilize and protect the essential characteristics of the RD-1 one-family and two-family residential district and prohibit activities not compatible with a residential neighborhood. Development in the RD-1 one-family and two-family residential district is limited to single-family and two-family dwellings plus such other uses as schools, parks, churches and certain public facilities which serve residents of the district.

(Code 1979, § 17.09.010)

Sec. 36-192. - Principal uses permitted.

In a one-family and two-family residential district, no building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this chapter:

- (1) All principal uses permitted in the one-family residential district;
- (2) Two-family dwellings;
- (3) All uses subject to special conditions permitted in the one-family residential districts, after review and approval of the site plan by the planning commission and subject to the same conditions imposed thereon pursuant to section 36-173.

(Code 1979, § 17.09.020)

Sec. 36-193. - Uses subject to special conditions.

The following uses in a RD-1 one-family and two-family residential district shall be permitted after review and approval of the site plan by the planning commission, or zoning administrator, whichever is indicated, subject to the conditions imposed in this section for each use:

- (1) Family day care home, as defined in section 36-6, the in-home care of one to six or fewer minor children subject to the following conditions:
 - a. No dormitory facilities shall be provided or permitted.
 - b. There shall be no drop-off or pick-up of children between the hours of 12:30 a.m. and 4:30 a.m. in the RD-1 district.
 - c. A designated outdoor play area shall be required which complies with state licensing rules. The outdoor play area must be located in the rear yard, as defined section 36-6.
 - d. Absolutely no signs, as defined in section 26-2, shall be allowed except to the extent they are otherwise specifically allowed in this residential district.
 - e. No family day care home may commence operations until and unless the zoning administrator first approves of occupancy, which approval shall be subject to the applicant providing him or her proof of compliance with all of the following:
 1. Registration of said operation with the city as a family day care home;
 2. Licensure by the state for the operation of a family day care home;
 3. Submission to and compliance with other requirements and restrictions established in this division and other applicable inspections required under the property maintenance code adopted by the city;
 4. Compliance with all other requirements and restrictions established in this division and other applicable provisions of this chapter.
- (2) Group day care home, as defined in section 36-6, for the care of seven to 12 minor children subject to the following conditions and restrictions:
 - a. No dormitory facilities shall be provided or permitted.
 - b. The group day care may not operate between the hours of 8:00 p.m. and 5:00 a.m. in the RD-1 district.
 - c. A designated outdoor play area shall be required which complies with state licensing rules. The outdoor play area must be located in the rear yard, as defined in section 36-6, and be enclosed by a fence a minimum of three feet in height.
 - d. The outdoor play area must be located in the rear yard, as defined in section 36-6, and be enclosed by a fence that is a minimum of three feet in height.
 - e. The lot size of the property upon which a group day care home is to be established must be a minimum of 8,400 square feet.
 - f. On-site parking shall be provided for each employee of the group day care, in addition to any other required parking requirements.
 - g. Absolutely no signs, as defined in section 26-2, shall be allowed except to the extent they are otherwise specifically allowed in this residential district.
 - h. No group day care home may commence operations until and unless:
 1. The planning commission first reviews and approves the group day care site plan at a public hearing to be held after not less than 15 days' written prior notice of said hearing is provided to each property owner owning property within 400 feet of the subject property as measured from any of its boundary lines;
 2. The zoning administrator first approves of occupancy, which approval shall be subject to the applicant providing him or her proof of compliance with all of the following:
 - i. Registration of said operation with the city as a group day care home;
 - ii. Licensure by the state for the operation of a group day care home;
 - iii. Submission to and compliance with other requirements and restrictions established in this division and other applicable inspections required under the property maintenance code adopted by the city;
 - iv. Compliance with all other requirements and restrictions established in this division and other applicable provisions

of this chapter.

(Code 1979, § 17.09.030)

Secs. 36-194—36-210. - Reserved.

DIVISION 4. - RM-1 MULTIPLE-FAMILY RESIDENTIAL DISTRICT

Sec. 36-211. - Generally.

The RM-1 multiple-family residential district is designed to provide sites for multi-family and multiple-tenant dwelling structures, and related uses, which will generally serve as zones of transition between the nonresidential districts and the one-family and two-family residential districts. The multiple-family residential district is further provided to serve the limited needs for the apartment and multiple-tenant types of units in an otherwise low density, residential community, whether occupied permanently or on a transitory or seasonal basis, or for a limited duration, such as, by way of example, a school term, participation in or attendance at a seminar, or other similar determinable period.

(Code 1979, § 17.10.010; Ord. No. 2014-5, 7-21-2014)

Sec. 36-212. - Principal uses permitted.

In an RM-1 multiple-family residential district, no building or land shall be used and no buildings shall be erected except for one or more of the following specified uses, unless otherwise provided in this chapter:

- (1) All principal uses permitted in the one-family and two-family residential districts with the lot areas, yards, and floor area requirements equal to at least the requirements of the one-family and two-family residential district;
- (2) Multiple-family dwellings, where public sewer and water are available;
- (3) Accessory building and uses customarily incident to any of the above permitted uses.

(Code 1979, § 17.10.020; Ord. No. 2014-5, 7-21-2014)

Sec. 36-213. - Uses subject to special conditions.

The following uses shall be permitted in the RM-1 multiple-family residential districts after review and approval of the site plan by the planning commission or zoning administrator, whichever is indicated, subject to the conditions imposed in this section for each use:

- (1) Nursery schools, day nurseries and child care centers (not including dormitories); provided, that for each child so cared for, there is provided and maintained a minimum of 100 square feet of outdoor play area. Such play space shall have a total minimum area of at least 1,000 square feet, and shall be fenced or screened from any adjoining land with planting. Any use permitted herein shall not be permitted in the interior of any residential block.
- (2) General hospitals, except those for criminals and those solely for the treatment of persons who are mentally ill or have contagious diseases, when the following conditions are met:
 - a. The proposed site shall have at least one property line abutting a street having a right-of-way of at least 66 feet in width.
 - b. The minimum required distance of any main or accessory building from building lot lines or streets, whichever is closer, shall be at least 40 feet for front, the maximum height allowed at the 40-foot setback shall be 60 feet; the minimum required distance of any main or accessory building from building lot lines or streets, whichever is closer, may be reduced to 25 feet for front, rear and side yards but only if:
 1. Parking is not permitted in any front, rear or side yard;
 2. The front, rear and side yards shall remain as a greenbelt and be landscaped to create an appropriate buffer;
 3. Building façade elevations are submitted to and approved by the planning commission; and
 4. No main or accessory structure may exceed 50 feet in height.
 - c. Ambulance and delivery areas shall be obscured from all residential view with an obscuring wall or fence six feet in height.

- Ingress and egress to and from the site shall be from and to a street having a right-of-way of at least 66 feet in width.
- d. All ingress and egress to the off-street parking area for guests, employees and staff as well as any other users of the facilities shall be directly from and to a street having a right-of-way of at least 66 feet in width.
 - e. All off-street nonresidential parking shall comply with the provisions of section 36-148 and article VIII.
- (3) Convalescent homes not to exceed a height of two stories when the following conditions are met: The site shall be so developed as to create a land-to-building ratio on the lot or parcel whereby for each one bed in the convalescent home there shall be provided not less than 1,500 square feet of open space. The 1,500 square feet of land area per bed shall provide for landscape setting, off-street parking service drives, loading space, yard requirements, employee facilities, and any space required for accessory uses. The 1,500 square foot requirement is over and above the building coverage area.
- (4) Housing for the elderly, not to exceed a height of two stories, when the following conditions are met:
- a. A planned development consisting of at least five acres with cottage dwellings, and/or apartment-type dwelling units and common services containing but not limited to central dining rooms, recreational rooms, central lounge and workshop;
 - b. All dwellings shall consist of at least 350 square feet per unit;
 - c. The maximum extent of development shall not exceed 15 dwelling units per acre and total coverage shall not exceed 25 percent for all buildings, including dwelling units and related service buildings.
- (5) Offices for any of the following occupations: executive, administrative and professional occupations when the following conditions are met:
- a. The proposed site shall have at least one property line abutting a street having a right-of-way of at least 66 feet in width.
 - b. Off-street parking shall be provided for patients, clients, employees and staff in accordance with the requirements of section 36-600(d).
 - c. All ingress and egress to and from off-street parking areas required in this section as well as to the site for any other purpose shall be directly from and to a street having a right-of-way of at least 66 feet in width.
 - d. Front, side and rear setback requirements for new construction shall be in accordance with those requirements established there for RM-1, multiple-family residential districts in division 13 of this article.
- (6) Bed and breakfast operations, subject to the following conditions:
- a. The bed and breakfast operation shall be conducted entirely within the main dwelling unit on the premises, which dwelling unit shall contain a minimum of 3,000 square feet and be located on a lot of not less than 20,000 square feet in area. The dwelling unit shall not be altered so as to increase the space available for the bed and breakfast operation.
 - b. A bathroom shall be provided on each floor where bed and breakfast sleeping rooms are provided and there shall be one bathroom for every four bed and breakfast sleeping rooms.
 - c. There shall be provided a minimum of one parking space plus one for each bed and breakfast room.
 - d. There may be one unanimated, non-illuminated identification sign attached to the dwelling unit of not more than two square feet in size.
 - e. During such times as the bed and breakfast operation is being conducted, the premises shall not be used for any other permitted use or use subject to special conditions, other than as a single-family dwelling unit. The facilities provided on the premises shall be exclusively for the use of bed and breakfast guests and residents of the dwelling unit.
- (7) Accessory buildings and uses customarily incident to any of the above uses.
- (8) Family day care home, as defined in section 36-6, the in-home care of minor children subject to the following conditions:
- a. No dormitory facilities shall be provided or permitted.
 - b. A designated outdoor play area shall be required which complies with state licensing rules. The outdoor play area must be located in the rear yard, as defined in section 36-6.
 - c. Absolutely no signs, as defined in section 26-2, shall be allowed except to the extent they are otherwise specifically allowed in this residential district.
 - d. No family day care home may commence operations until and unless the zoning administrator first approves of occupancy, which approval shall be subject to the applicant providing him or her proof of compliance with all of the following:

1. Registration of said operation with the city as a family day care home;
 2. Licensure by the state for the operation of a family day care home;
 3. Submission to and compliance with other requirements and restrictions established in this division and other applicable inspections required under the property maintenance code adopted by the city;
 4. Compliance with all other requirements and restrictions established in this division and other applicable provisions of this chapter.
- (9) Group day care home, as defined in section 36-6, the in-home care of seven to 12 minor children subject to the following conditions and restrictions:
- a. No dormitory facilities shall be provided or permitted.
 - b. A designated outdoor play area shall be required which complies with state licensing rules. The outdoor play area must be located in the rear yard, as defined in section 36-6, and be enclosed by a fence a minimum of three feet in height.
 - c. Absolutely no signs, as defined in section 26-2, shall be allowed except to the extent they are otherwise specifically allowed in this residential district.
 - d. No group day care home may commence operations until and unless the zoning administrator first approves of occupancy, which approval shall be subject to the applicant providing him or her proof of compliance with all of the following:
 1. Registration of said operation with the city as a group day care home;
 2. Licensure by the state for the operation of a group day care home.

(Code 1979, § 17.10.030; Ord. No. 2008-14, 12-15-2008; Ord. No. 2014-5, 7-21-2014)

Sec. 36-214. - Area and bulk requirements.

See division 13 of this article limiting the height and bulk of buildings, the minimum size of lot permitted by land use, and the maximum density permitted in the RM-1 multiple-family residential district.

(Code 1979, § 17.10.040)

Secs. 36-215—36-230. - Reserved.

DIVISION 5. - O-1 OFFICE DISTRICT

Sec. 36-231. - Generally.

The O-1 office district is designed to accommodate uses such as offices, banks and funeral homes, which can serve as transitional areas between residential and commercial districts. The O-1 office district will provide greater protection to existing single-family homes located in areas that are becoming less desirable for single-family residential use. Multiple dwellings may be allowed in the O-1 office district under certain conditions and subject to the approval of the site plan by the planning commission.

(Code 1979, § 17.12.010; Ord. No. 2015-2, 3-16-2015)

Sec. 36-232. - Uses permitted.

In an O-1 office district, no building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this chapter:

- (1) Offices for any of the following occupations: Executive, administrative and professional including real estate and insurance.
- (2) Professional offices of doctors, dentists, chiropractors, osteopaths, and similar or allied professions.
- (3) Banks, not including drive-in facilities.
- (4) Libraries, post offices and governmental office buildings and public utility offices, but not including storage yards, transformer stations, exchanges, or substations.

- (5) Funeral homes (mortuaries).
- (6) Churches.
- (7) Clinics.
- (8) Private clubs and lodges.
- (9) Business schools.
- (10) Other uses similar to the above uses.
- (11) Accessory structures and uses customarily incidental to the above permitted uses.

(Code 1979, § 17.12.020; Ord. No. 2015-2, 3-16-2015)

Sec. 36-233. - Required conditions.

Required conditions in the O-1 office district shall be as follows:

- (1) No interior display shall be visible from the exterior of the building.
- (2) The outdoor storage of goods or materials shall be prohibited irrespective of whether or not they are for sale.
- (3) Warehousing or indoor storage of goods or material beyond that normally incidental to the above permitted uses shall be prohibited.

(Code 1979, § 17.12.030; Ord. No. 2015-2, 3-16-2015)

Sec. 36-234. - Uses permissible on special approval.

The following uses shall be permitted in the O-1 office district subject to the review and approval of the site plan by the planning commission or zoning administrator, whichever is indicated, and subject to the conditions imposed in this section for each use:

- (1) Multiple family dwellings and multiple-tenant dwellings subject to the following conditions:
 - a. Compliance with the requirements applicable to multiple-family and multiple-tenant dwellings in sections 36-211, 36-212, and 36-411 of Hillsdale's Code of Ordinances.
 - b. Provided, that any multiple family dwelling or multiple-tenant dwellings to be proposed within a single block between two existing office and/or commercial uses-obtains approval from the planning commission.
- (2) One-family, two-family and multiple-family residential dwelling units within an office building subject to the approval of the city council, after a recommendation is received from the planning commission or 30 days after a recommendation is requested by the council and subject to the following conditions:
 - a. Dwelling units shall not be located on the ground floor;
 - b. The council may impose any required setback and/or performance standards so as to ensure public health, safety and general welfare;
 - c. A minimum of one parking space shall be provided for each dwelling unit. Parking shall be provided on site, or within a 600-foot radius of the building it is intended to serve, measured from the nearest point of the building with the nearest point of the off-street parking lot.
 - d. A minimum rear yard setback of 30 feet shall be provided for new construction.
- (3) Family day care home, as defined in section 36-6, the in-home care of one to six or fewer minor children subject to the following conditions:
 - a. No dormitory facilities shall be provided or permitted.
 - b. A designated outdoor play area shall be required which complies with state licensing rules. The outdoor play area must be located in the rear yard, as defined in section 36-6, and be enclosed by a fence of at least four and one-half feet in height.
 - c. Signs, as defined in section 26-2, shall be allowed in accordance with the regulations applicable to zone district in which the property is located.
 - d. No family day care home may commence operations until and unless the zoning administrator first approves of occupancy, which approval shall be subject to the applicant providing him or her proof of compliance with all of the following:

1. Registration of said operation with the city as a family day care home;
 2. Licensure by the state for the operation of a family day care home;
 3. Submission to and compliance with other requirements and restrictions established in this division and other applicable inspections required under the property maintenance code adopted by the city;
 4. Compliance with all other requirements and restrictions established in this division and other applicable provisions of this chapter.
- (4) Group day care home, as defined in section 36-6, the in-home care of seven to 12 minor children subject to the following conditions and restrictions:
- a. No dormitory facilities shall be provided or permitted.
 - b. A designated outdoor play area shall be required which complies with state licensing rules. The outdoor play area must be located in the rear yard, as defined in section 36-6, and be enclosed by a fence at least four and one-half feet in height.
 - c. Signs, as defined in section 26-2, shall be allowed in accordance with the regulations applicable to the zone district in which the property is located.
 - d. No group day care home may commence operations until and unless the zoning administrator first approves of occupancy, which approval shall be subject to the applicant providing him or her proof of compliance with all of the following:
 1. Registration of said operation with the city as a group day care home;
 2. Licensure by the state for the operation of a group day care home;
 3. Submission to and compliance with other requirements and restrictions established in this division and other applicable inspections required under the property maintenance code adopted by the city;
 4. Compliance with all other requirements and restrictions established in this division and other applicable provisions of this chapter.
- (5) Child care facility, as defined in section 36-6, for the care of one or more minor children in other than a private home, subject to the following conditions and restrictions:
- a. All conditions and restrictions as are applicable to a group day care home pursuant to subsection (4) of this section.
 - b. A designated outdoor play area shall be required which complies with state licensing rules. The outdoor play area must be located in the rear yard, as defined in section 36-6, and be enclosed by a fence at least four and one-half feet in height.
 - c. Signs, as defined in section 26-2, shall be allowed in accordance with the regulations applicable to zone district in which the property is located.

(Code 1979, § 17.12.040; Ord. No. 2015-2, 3-16-2015)

Sec. 36-235. - Area and bulk requirements.

See division 13 of this article limiting height and bulk of buildings and the minimum size of lot by permitted land use in the O-1 office district.

(Code 1979, § 17.12.050; Ord. No. 2015-2, 3-16-2015)

Secs. 36-236—36-250. - Reserved.

DIVISION 6. - B-1 LOCAL BUSINESS DISTRICT

Sec. 36-251. - Generally.

The B-1 local business district is designed solely for the convenience shopping of persons residing in adjacent residential areas to permit only such uses as are necessary to satisfy those limited basic shopping and/or service needs which by their very nature are not related to the shopping pattern of the central business district.

(Code 1979, § 17.14.010; Ord. No. 2015-3, 3-16-2015)

Sec. 36-252. - Uses permitted.

In a B-1 local business district, no building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this chapter:

- (1) Any generally recognized retail business which supplies commodities on the premises for persons residing in adjacent residential areas, such as but not limited to groceries, meats, dairy products, baked goods or other foods, drugs, dry goods, clothing and notions, or hardware.
- (2) Any personal service establishment which performs services on the premises for persons residing in adjacent residential areas, such as but not limited to repair shops (watch, radio, television, shoe, etc.), tailor shops, beauty parlors, or barber shops.
- (3) Banks, post offices and other governmental office buildings.
- (4) Professional offices of doctors, dentists, chiropractors, osteopaths, and similar or allied professions.
- (5) Offices for any of the following occupations; executive, administrative and professional.
- (6) Other uses similar to the above uses.
- (7) Self-service laundry and/or dry cleaning establishment.
- (8) Accessory structures and uses customarily incidental to the above permitted uses.

(Code 1979, § 17.14.020; Ord. No. 2015-3, 3-16-2015)

Sec. 36-253. - Required conditions.

- (a) All business establishments in the B-1 local business district shall be retail or service establishments dealing directly with consumers. All goods produced on the premises in the B-1 local business district shall be sold at retail on premises where produced.
- (b) All business, servicing or processing, except for off-street parking or loading, in the B-1 local business district shall be conducted within a completely enclosed building.

(Code 1979, § 17.14.030; Ord. No. 2015-3, 3-16-2015)

Sec. 36-254. - Uses permissible on special approval.

The following uses shall be permitted in the B-1 local business district subject to the review and approval of the site plan by the planning commission or zoning administrator, whichever is indicated, and subject to the conditions imposed in this section for each use:

- (1) Gasoline service station for the sale of gasoline, oil and minor accessories only, and where no repair work is done other than incidental service, but not including steam cleaning or undercoating.
 - a. The curb cuts for ingress and egress to a service station shall not be permitted at such locations that will tend to create traffic hazards in the streets immediately adjacent thereto. Entrances shall be no less than 25 feet from a street intersection, measured from the road right-of-way, or from adjacent residential districts.
 - b. The minimum lot area shall be 10,000 square feet, and so arranged that ample space is available for motor vehicles which are required to wait.
- (2) Publicly owned buildings, public utility buildings, telephone exchange buildings, electric transformer stations and substations, gas regulator stations with service yards, but without storage yards.
- (3) Family day care home, as defined in section 36-6, the in-home care of one to six or fewer minor children subject to the following conditions:
 - a. No dormitory facilities shall be provided or permitted.
 - b. A designated outdoor play area shall be required which complies with state licensing rules. The outdoor play area must be located in the rear yard, as defined in section 36-6, and be enclosed by a fence of at least four and one-half feet in height.
 - c. Signs, as defined in section 26-2, shall be allowed in accordance with the regulations applicable to zone district in which the

property is located.

- d. No family day care home may commence operations until and unless the zoning administrator first approves of occupancy, which approval shall be subject to the applicant providing him or her proof of compliance with all of the following:
 1. Registration of said operation with the city as a family day care home;
 2. Licensure by the state for the operation of a family day care home;
 3. Submission to and compliance with other requirements and restrictions established in this division and other applicable inspections required under the property maintenance code adopted by the city;
 4. Compliance with all other requirements and restrictions established in this division and other applicable provisions of this chapter.
- (4) Group day care home, as defined in section 36-6, the in-home care of seven to 12 minor children subject to the following conditions and restrictions:
- a. No dormitory facilities shall be provided or permitted.
 - b. A designated outdoor play area shall be required which complies with state licensing rules. The outdoor play area must be located in the rear yard, as defined in section 36-6, and be enclosed by a fence at least four and one-half feet in height.
 - c. Signs, as defined in section 26-2, shall be allowed in accordance with the regulations applicable to the zone district in which the property is located.
 - d. No group day care home may commence operations until and unless the zoning administrator first approves of occupancy, which approval shall be subject to the applicant providing him or her proof of compliance with all of the following:
 1. Registration of said operation with the city as a group day care home;
 2. Licensure by the state for the operation of a group day care home;
 3. Submission to and compliance with other requirements and restrictions established in this division and other applicable inspections required under the property maintenance code adopted by the city;
 4. Compliance with all other requirements and restrictions established in this division and other applicable provisions of this chapter.
- (5) Child care facility, as defined in section 36-6, for the care of one or more minor children in other than a private home, subject to the following conditions and restrictions:
- a. All conditions and restrictions as are applicable to a group day care home pursuant to subsection (4) of this section.
 - b. A designated outdoor play area shall be required which complies with state licensing rules. The outdoor play area must be located in the rear yard, as defined in section 36-6, and be enclosed by a fence at least four and one-half feet in height.
 - c. Signs, as defined in section 26-2, shall be allowed in accordance with the regulations applicable to zone district in which the property is located.
- (6) Any combination of one or more one-family and multiple-tenant family units, subject to the following requirements:
- a. All dwelling units shall meet the defined requirements of section 36-6, apartments.
 - b. A minimum of one parking space shall be provided for each dwelling unit. Parking shall be provided on site, or within a 600-foot radius of the building it is intended to serve, measured from the nearest point of the building with the nearest point of the off-street parking lot.
 - c. Dwelling units and accessory buildings related to residential uses shall not be permitted on the ground floor.
 - d. Compliance with the requirements applicable to multiple-family residential districts contained in sections 36-211, 36-212, and 36-411 of Hillsdale's Code of Ordinances.

(Code 1979, § 17.14.040; Ord. No. 2015-3, 3-16-2015)

Sec. 36-255. - Area, bulk and yard setback requirements.

See division 13 of this article limiting height and bulk of buildings, and the minimum size of lot by permitted land use in the B-1 local business districts.

(Code 1979, § 17.14.050; Ord. No. 2015-3, 3-16-2015)

Secs. 36-256—36-270. - Reserved.

DIVISION 7. - DOWNTOWN FORM-BASED DISTRICT

Footnotes:

--- (6) ---

Editor's note— Ord. No. 2017-003, adopted November 6, 2017, amended division 7 in its entirety to read as herein set out. Former division 7, §§ 36-271—36-279, pertained to the B-2 central business district, and derived from the Code of 1979, §§ 17.16.010—17.16.040; Ord. No. 2007-5, adopted December 17, 2007; Ord. No. 2008-10, adopted October 20, 2008; Ord. No. 2013-5, Adopted November 4, 2013; Ord. No. 2014-7, adopted July 21, 2014; Ord. No. 2015-4, adopted March 16, 2015 and Ord. No. 2015-013, adopted September 8, 2015.

Sec. 36-271. - Purpose.

The Hillsdale Downtown Form-Based District is a departure from traditional zoning in that it focuses less on the use of a parcel and more on the preservation of the city's character as it is expressed in its built form. To do this, development standards are integrated with public realm standards and include form regulations which are intended to support the re-creation and expansion of the city's successful downtown built environment. Key elements include architectural standards, mixed uses by right, diversity among travel modes, residential accommodation in the downtown, and a parking strategy organized by district rather than by parcel.

| | Current Zoning | FBC Intent |
|----------|----------------------------|---|
| Downtown | Downtown Commercial Office | Preserve, replicate Integrate into commercial |

(Ord. No. 2017-003, 11-6-2017)

Sec. 36-272. - Regulated uses, general standards, special use permit standards, and splicing.

Sec. 36-272.01. - Text and diagrams.

The text and diagrams in the downtown form-based district address the location and extent of land uses, implement the vision articulated in the Hillsdale Placemaking process, and express community intentions regarding urban form and design. These expressions may differentiate neighborhoods, districts, and corridors, provide for a mixture of land uses and housing types within each, and provide specific measures for regulating relationships between buildings, and between buildings and outdoor public areas, including streets.

(Ord. No. 2017-003, 11-6-2017)

Sec. 36-272.02. - Regulated uses.

Regulated uses are identified for each zone either as a permitted use (P) or a use requiring a conditional use permit (CUP). All CUP uses must address the general standards listed below. If the CUP has additional standards over and above the general standards the special provision column references that specific section of the zoning ordinance.

All uses will require the submission of a site plan pursuant to division 2 of the City of Hillsdale Zoning Ordinance.

(Ord. No. 2017-003, 11-6-2017)

Sec. 36-272.03. - General standards.

The planning commission shall review each application for the purpose of determining that each proposed use meets the following standards, and in addition, shall find adequate evidence that each use on the proposed location will:

- (1) Be designed, constructed, operated, and maintained so as to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner.
- (2) Be designed to protect natural resources; the health, safety, welfare, and social and economic well-being of those who will use the development under consideration; residents and landowners immediately adjacent to the proposed land use or activity; and the community as a whole.
- (3) Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
- (4) Be necessary to meet the intent and purpose of the zoning ordinance; be related to the standards established in the ordinance for the land use or activity under consideration; and be necessary to insure compliance with those standards.
- (5) Meet the standards of other governmental agencies where applicable, and that the approval of these agencies has been obtained or is assured.
- (6) Meets the intent of the Hillsdale Placemaking Plan to provide harmonious streetscapes and consistent architecture.

(Ord. No. 2017-003, 11-6-2017)

Sec. 36-272.04. - Splicing.

The downtown form-based district focuses attention on the development and form of public and private properties and spaces within the area designated on the regulating plan referenced in [section 36-272.05](#). Requirements regarding site development standards such as parking, lighting, and encroachments included in this division will take precedence over the requirements in the City of Hillsdale Zoning Ordinance.

The downtown form-based district will replace the following sections of the City of Hillsdale Zoning Ordinance:

Division 7 — B-2 Central Business District.

All other provisions of the City of Hillsdale Zoning Ordinance remain intact and valid.

(Ord. No. 2017-003, 11-6-2017)

Sec. 36-272.05. - Properties currently developed and occupied.

The regulating plan encompasses properties that have been developed under the current City of Hillsdale Zoning Ordinance. These properties may not comply with the dimensional and form requirements of the downtown form-based District and will not be considered as nonconforming. If the property changes occupancy after the effective date of the ordinance from which this division is derived it will comply with the applicable section of this Ordinance except [section 36-274](#) "Lot and Building Placement." If the property is demolished, redeveloped, or vacant it will comply with all of the provisions of this division.

(Ord. No. 2017-003, 11-6-2017)

Sec. 36-273. - Regulating plan.

A regulating plan connects the regulations in the form-based code to the specific lots and rights-of-way they govern. This is similar to the zoning map of a use-based code. However, the primary purposes of a regulating plan are quite different from a conventional zoning map: Addressing the intensity of development rather than use, and prescribing a quality public realm rather than proscribing incompatible uses. Therefore, its function is quite distinct.

The intent of the Hillsdale Downtown Form-Based District to preserve the historic built form of the community core, and to establish a functional and aesthetic linkage between the traditional downtown and the campus of Hillsdale College. Because the locus of each of these goals is within the public realm, this code has been developed to maximize its impact there.

The public right-of-way is the organizing principle within each category. Therefore, the regulating category which applies to each lot or parcel is determined by the right-of-way adjacent to its front lot line. This method promotes a cohesive experience on both sides of the public space, the right-of-way.

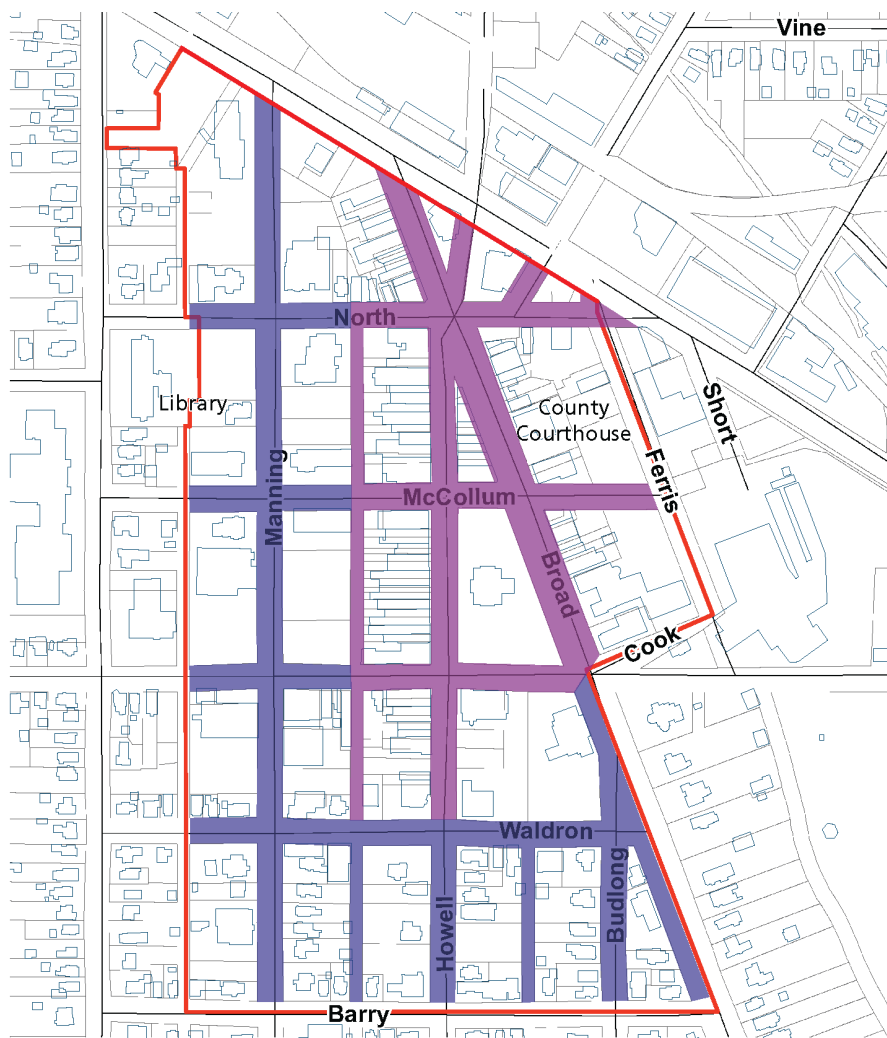
Regulating Plans have three purposes:

Administrative: The boundaries on the regulating plan identify where different rules for development apply—they create an "index" to the code that allows a user to identify the zone applicable to a specific property and refer to the code text for detailed regulations.

Regulatory: A Regulating Plan may be detailed enough to show specific regulations, such as measurement lines or thoroughfare types.

Planning: The boundaries invoke the standards which define the critical differences in the form and character of each zone in the public realm, and cumulatively of the public realm as a whole.

Adapted from "The Regulating Plan," Form-Based Codes: A Guide for Planners, Urban Designers, Municipalities, and Developers.

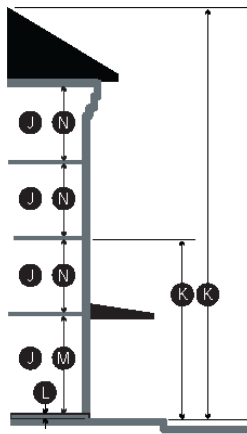
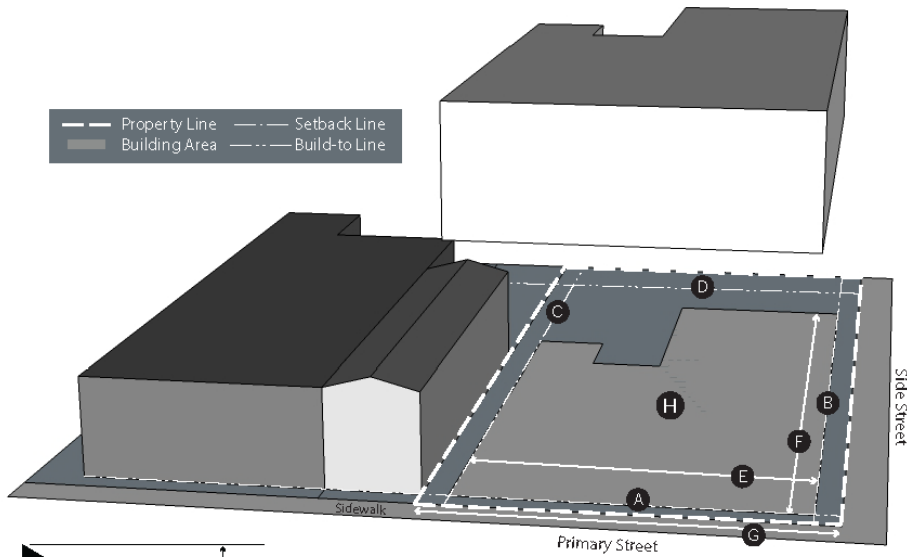


CITY OF HILLSDALE
Hillsdale Downtown Form-Based District

- Downtown
- Downtown Core
- Downtown Edge

Regulating plan

Sec. 36-274. - Lot and building placement.



NOTES

All buildings must have a primary ground-floor entrance which faces the primary street.

Rear-facing buildings, loading docks, overhead doors, and other service entries are prohibited on street-facing facades.

Air compressors, mechanical pumps, exterior water heaters, utility equipment, waste containers, storage tanks, and similar equipment shall not be stored or located within any area adjacent to a street right-of-way.

| LOT AND BUILDING TERMINOLOGY | |
|------------------------------|--|
| A | B BUILD-TO LINE |
| | A line parallel to the property line where the facade of the building is required to be located. |
| C | D SETBACK |
| | The distance by which a building must be separated by the property line or ROW, typically defined and regulated as a minimum |
| E | F PRIMARY STREET FRONTAGE BUILD-OUT |
| | The percent of the lot frontage which must be occupied by the building facade |
| F | G SIDE STREET, CORNER LOT FRONTAGE BUILD-OUT |
| | The percent of the side lot boundary which must be occupied by the building face |
| G | H MAXIMUM LOT WIDTH |
| | The largest allowed distance between lot corners along the front ROW |
| G | I MINIMUM LOT WIDTH |
| | The smallest allowed distance between lot corners along the front ROW |
| | J LOT DEPTH |
| | The minimum depth of a lot, expressed in feet |
| H | K LOT COVERAGE |
| | The percent of the lot covered by buildings and accessory structures |
| | L IMPERVIOUS COVERAGE |
| | The percent of the lot covered by impervious surfaces including roofs, patios, driveways, and other hard surfaces which result in water runoff |
| I | M GROUND FLOOR |
| | The bottom floor of a building, providing access to the outdoors |
| J | N UPPER FLOORS |
| | All floors above the ground floor of a building |
| K | O MINIMUM BUILDING HEIGHT |
| | The shortest allowed vertical distance between the sidewalk and the top point of reference for a building facade along the front ROW |
| K | P MAXIMUM BUILDING HEIGHTS |
| | The largest allowed vertical distance between the sidewalk and the top point of reference for a building |
| L | Q GROUND FLOOR FINISHED LEVEL HEIGHT |
| | The vertical distance allowed between the sidewalk and the top of the finished floor on the ground level, regulated as a minimum |
| M | R MINIMUM GROUND-FLOOR CEILING HEIGHT |
| | The smallest allowed vertical distance between the finished floor and ceiling on the ground floor of a building |

Sec. 36-275. - Regulating plan categories.

Sec. 36-275.01. - Downtown core (DC).



Purpose. The downtown core category is designed to foster a mix of commercial, institutional, and residential uses that are accessible by multiple modes to serve the community as a whole.

Distinguishing characteristics. Retail, workplace, and civic activities mixed with attached housing types such as apartments and live/work units.

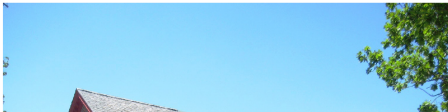
General character. Predominantly attached buildings, landscaping within the public right-of-way, substantial pedestrian activity.

| | |
|---|---|
| <i>Desired Form</i> | |
| Mixed Use | |
| <i>Lot Properties</i> | |
| Area | None |
| Width | None |
| Depth | None |
| <i>Building Placement</i> | |
| Small or no setbacks; buildings oriented to the street with placement and character defining a streetwall | |
| Front build-to line | 0' from sidewalk |
| Side street build-to line, corner lot | 0' from sidewalk |
| Side setback | 0' from property line |
| Rear setback | Loading space only |
| <i>Building Frontage</i> | |
| Frontage types | Shopfront, gallery, arcade |
| Building front facade as % of lot width (minimum) | 90% |
| Side street facade as % of lot width (minimum) | 60% |
| <i>Height</i> | |
| Building maximum (stories/height) | 4 stories/50' or Planning Commission approval |
| Building minimum (stories/height) | 2 stories/18' |
| Difference between adjacent buildings (stories, max) | 1 |
| First floor height | Minimum 10' Maximum 14' |

| | |
|--------------------------|--|
| Upper floor height | Minimum 8' Maximum 14' |
| <i>Coverage</i> | |
| Impervious surface (max) | 100% |
| Landscaped (min) | 0% |
| Parking | |
| Public | On-street, public lots |
| Private | Public lots; off-street spaces accessible via alleys |
| Transportation Modes | |
| Primary | Pedestrian |
| Secondary | Car, truck, bus, bicycle |
| Open Space Type | Plazas, squares, pocket parks, ROW landscaping amenities |

(Ord. No. 2017-003, 11-6-2017)

Sec. 36-275.02. - Downtown edge (DE).



Purpose. The downtown edge category provides a mix of commercial, office, and residential uses, integrated into the existing built form. It serves as a transition between the intensely developed downtown core and the residential neighborhoods.

Distinguishing characteristics. Retail and workplace activities mixed with detached and attached housing types such as townhomes and mansion apartments; limited off-street parking.

General character. Midsize detached buildings which may have more than one unit and/or more than one use; balance between landscape and buildings; presence of pedestrian amenities such as sidewalks and pedestrian scale lighting.

| | |
|--|--|
| <i>Desired Form</i> | |
| Variety of 1 story commercial buildings and 2 to 3 story residential and mixed use buildings | |
| <i>Lot Properties</i> | |
| Area | None |
| Width | None |
| Depth | None |
| <i>Building Placement</i> | |
| Close to right-of-way with or without a landscaped greenbelt | |
| Front build-to line | 25' |
| Side street build-to line, corner lot | 25' |
| Side setback | 0' from property line; If openings in building, 10' from property line |
| Rear setback | Loading space only |
| <i>Building Frontage</i> | |
| Frontage types | Shopfront, stoop, porch |
| Building front facade as % of lot width (minimum) | N/A |
| Side street facade as % of lot width (minimum) | N/A |
| <i>Height</i> | |
| Building maximum (stories/height) | 2.5 stories/35' |
| Building minimum (stories/height) | 1 story/12' |
| Difference between adjacent buildings (stories, max) | 1 |
| First floor height | Minimum 10' Maximum 12' |
| Upper floor height | Minimum 8' Maximum 12' |

| | |
|--|---|
| <i>Coverage</i> | |
| Impervious surface (max) | 85% |
| Landscaped (min) | 15% |
| <i>Parking</i> | |
| Public | On-street, public lots |
| Private | Public lots, limited off-street parking by parcel |
| <i>Transportation Modes</i> | |
| Primary | Pedestrian, bicycle, car |
| Secondary | Truck, bus |
| <i>Open Space Type</i> | |
| Plazas, squares, pocket parks, ROW landscaping amenities | |

(Ord. No. 2017-003, 11-6-2017)

Sec. 36-276. - Regulated uses.

Regulated uses are identified for each category either as a permitted use (P) or a use requiring a conditional use permit (CUP). If a use is blank with no designation or not listed, the use is not permitted in that zone. All uses requiring a CUP must address the standards in this code. If the CUP invokes additional standards, the special provision column references that specific section of the zoning ordinance.

| Use | Classification | |
|-------------------------------|--------------------------|----|
| | DC | DE |
| <i>Residential</i> | <i>Upper Floors Only</i> | |
| One-family detached dwellings | | P |
| One-family attached dwellings | | P |
| Duplexes | | P |
| Lofts | P | P |
| Live/work units | P | P |

| | | |
|---|----------------------------------|---|
| Multiple family — Small | P | P |
| Multiple family — Large | P | P |
| Home occupation | P | P |
| Home occupation — 2 or more persons | P | P |
| <i>Residential—Services</i> | <i>Upper Floors Only</i> | |
| Nursing homes | | P |
| Child care centers | P | P |
| <i>Public and Private Institutional</i> | | |
| Schools (public, parochial, private) | P | P |
| Civic uses | P | P |
| Assembly and meeting halls | P | P |
| Churches | P | P |
| Educational | P | P |
| Post office | P | P |
| Fine arts | P | P |
| Performing and screen arts | P | P |
| Recreational facilities | P | P |
| Municipal/public works | P | P |
| Mortuaries and funeral homes | | P |
| <i>Transportation/Utilities</i> | | |
| Parking (public or private) | P | P |
| Public transit stop or station | P | P |
| Power generation | P | P |

| | | |
|---|---|---|
| Public utilities | P | P |
| Warehousing | P | |
| Wireless Telecommunication Facilities | | |
| <i>Office</i> | | |
| Professional offices | P | P |
| Medical facilities, including urgent care | | P |
| Medical/clinical/general practitioner offices | P | P |
| Veterinary clinic | | P |
| <i>Commercial</i> | | |
| Mixed use with residential above 1st floor | P | P |
| Retail, except with the following features: | P | P |
| Alcoholic beverages | P | P |
| Drive-thru | | P |
| Floor area over 10,000 square feet | | P |
| On-site production of items | P | P |
| Operating hours between 10:00 p.m. and 7:00 a.m. | P | |
| Gasoline service station | | P |
| Convenience market less than 3,500 sq. ft. | P | P |
| Restaurant, cafe, coffee shop, bar, tavern, except with the following features: | P | P |
| Drive-thru | | P |
| Drive-in | | P |
| Outdoor service | P | P |
| Microbrewery, small distillery, small winery | P | P |
| Farmers Market | P | P |

| | | |
|--|---|---|
| Personal services | P | P |
| Health and fitness facilities | P | P |
| Clubs, dance halls, lodges | P | P |
| Banks and financial, except with the following features: | P | P |
| Drive-thru | | P |
| Automobile service | | |
| Gasoline stations | | P |
| <i>Lodging</i> | | |
| Hotel/motel | P | P |
| Bed and Breakfast | P | P |

(Ord. No. 2017-003, 11-6-2017)

Sec. 36-277. - Building frontages.

Sec. 36-277.01. - Facade components and materials.

- (a) *Customer entrances.* Each side of a building facing a public street shall include at least one customer entrance, except that no building shall be required to provide entrances on more than two sides of the structure that face public streets.

Buildings shall have clearly defined, highly visible customer entrances that include no less than three of the following design features:

- (1) Canopies/porticos above the entrance roof overhangs above the entrance entry recesses/projections arcades that are physically integrated with the entrance raised corniced parapets above the entrance display windows that are directly adjacent to the entrance.
- (2) Gabled roof forms or arches above the entrance outdoor plaza adjacent to the entrance having seating and a minimum depth of 20 feet architectural details such as tile work and moldings that are integrated into the building structure and design above and/or directly adjacent to the entrance.

- (b) *Windows and transparency.* A minimum of 75 percent of the ground floor story front facade between one foot and eight feet above the sidewalk shall be comprised of transparent, non-reflective windows into the nonresidential space.

A minimum of 30 percent of the upper story facade measured floor-to-floor shall have transparent, non-reflective, vertically oriented windows.

- (c) *Facade ornamentation.* All visible elevations shall include decorative features such as cornices, pilasters, and friezes.

- (d) *Facade massing.* Front facades 60-foot wide or wider shall incorporate wall offsets of at least two feet in depth (projections or recesses) a minimum of every 40 feet. Each required offset shall have a minimum width of 20 feet.

Any section along the build-to line which is not defined by a building must be defined by a three-foot, six-inch masonry screen wall which is set back five feet from the build-to line. In the case of an existing parking lot, the screening wall can be located adjacent to the sidewalk. The area between the build-to line and the setback should be landscaped as possible.

(e) *Roofs.* Flat roofs shall have three-dimensional cornice treatments.

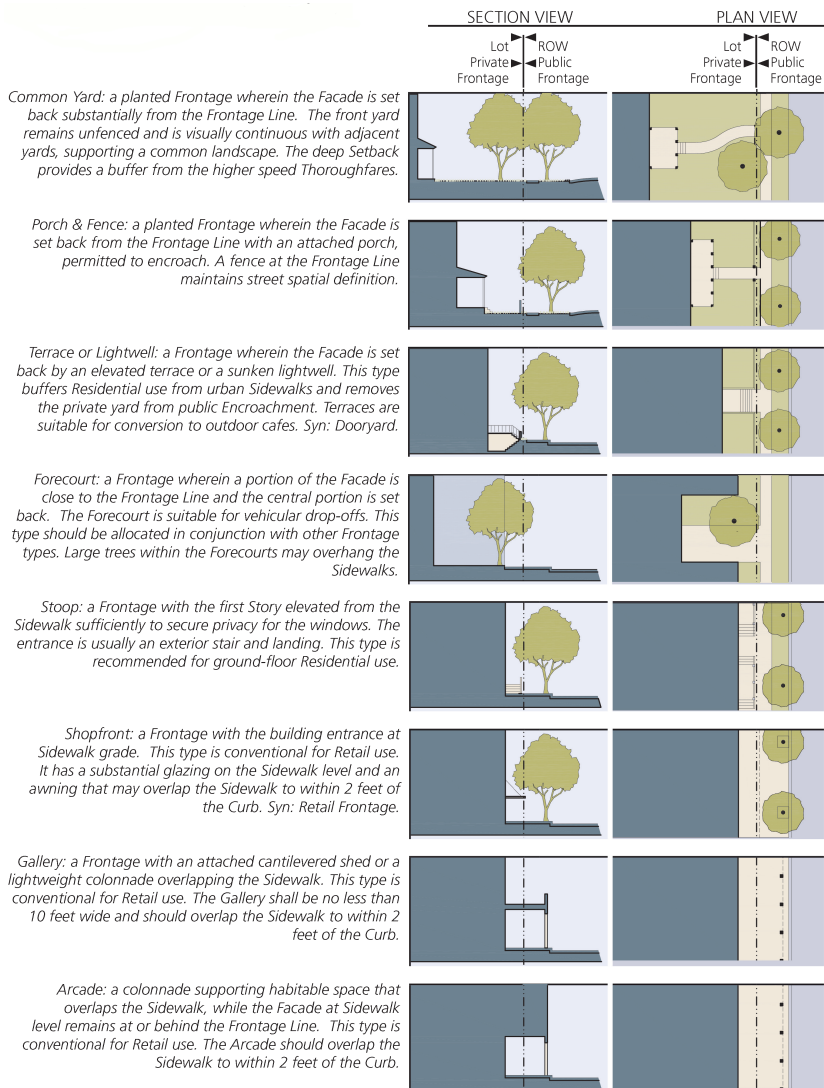
All roof-based mechanical equipment, as well as vents, pipes, antennas, satellite dishes, and other roof penetrations (with the exception of chimneys), shall be located on the rear elevations or screened with a parapet wall having a three-dimensional cornice treatment so as to minimize the visual impact.

(f) *Building materials.* Durable and traditional building materials shall be used, with an explicit preference for brick construction. Fluted concrete masonry units and scored concrete masonry unit block, although not considered traditional building materials, may be used but shall not exceed 25 percent of the surface square footage of any portion of the building exposed to a public right-of-way, or customer access or parking area.

Materials such as exterior insulation finish system (EIFS), concrete panels, and panel brick are not considered durable and traditional building materials, and shall not be used.

(Ord. No. 2017-003, 11-6-2017)

Sec. 36-277.02. - Private facades.



Source: SmartCode v9.2 Table 7

(Ord. No. 2017-003, 11-6-2017)

Sec. 36-278. - Special provisions.

Sec. 36-278.01. - Canopies and awnings.

Canopies and awnings may be required and may encroach over the build-to line.

| | |
|-------|----|
| Front | 8' |
| Side | 8' |
| Rear | 5' |

(Ord. No. 2017-003, 11-6-2017)

Sec. 36-278.02. - Sidewalk amenities.

In the downtown core district, privately owned and provided sidewalk amenities such as benches, tables, chairs, signs, and plants are permitted to add convenience, charm, and character to the district, pursuant to section 36-279 outlining standards for permitting and approval, and appeals.

(Ord. No. 2017-003, 11-6-2017)

Sec. 36-278.03. - Landscaping.

A portion of each site shall be landscaped open space with one evergreen tree or shrub for every 1,000 square feet or portion thereof, plus one small or large deciduous tree for every 2,000 square feet or portion thereof. Plant materials shall be in accordance with Chapter X of the Hillsdale Zoning Code. Bioretention/rain gardens pursuant to 36-152 may also be considered. Parking lot landscaping shall be installed pursuant to 36-150(c), and parking lot screening shall be provided pursuant to section 36-629. A four-foot, six-inch obscuring wall, fence, or vegetative buffer shall be provided on those sides of the property abutting residential zoning.

(Ord. No. 2017-003, 11-6-2017)

Sec. 36-278.04. - Lighting.

Streetlights shall be of a general type specified by the city.

Wall pack lighting shall be used only on the rear or side of the building to illuminate exits and loading facilities.

Parking lot lighting pole height, including luminaire, shall not exceed the height of the building or 20 feet, whichever is less, and shall be confined within the parking area.

Lighting shall be shielded from residential districts and driver visibility on thoroughfares.

(Ord. No. 2017-003, 11-6-2017)

Sec. 36-278.05. - Commercial dumpsters.

Commercial dumpsters shall be sited in accordance with section 36-151, commercial dumpsters.

(Ord. No. 2017-003, 11-6-2017)

Sec. 36-278.06. - Signs.

| | | |
|---------------------------|----|----|
| | DC | DN |
| <i>Total Signage Area</i> | | |

| | | |
|---|---|---|
| | 24 square feet | 28 square feet |
| <i>Monument and Freestanding Signs</i> | | |
| Number | 1 per lot or parcel | 1 per lot or parcel |
| Size | | |
| Location | > 8' outside ROW | > 8' outside ROW |
| Height | Monuments: 6' Freestanding: 21' | 6' |
| <i>Wall Signs</i> | | |
| Number | 1 per business + 1 facing parking area | 1 per street front |
| Size | | 5% of wall area |
| Location | Wall facing street, alley, parking area | Wall facing street |
| Height | NA | NA |
| <i>Marquee, Suspended, and Awning Signs</i> | | |
| Number | 1 per business | NA |
| Size | > 40% of marquee face | NA |
| Location | Face of awning; marquee; suspended | NA |
| Height | > 8' clearance; < 8' overhang into ROW | NA |
| <i>Temporary Signs</i> | | |
| Number | 2 per lot or parcel | 2 per lot or parcel |
| Size | >6 square feet; not included in total signage area | > 6 square feet; not included in total signage area |
| Location | Wall or >8' from ROW and >5' from adjacent property | > 8' outside ROW |
| Height | < 6' | < 6' |

(Ord. No. 2017-003, 11-6-2017)

Sec. 36-278.10. - Parking.

Sec. 36-278.11. - Parking location.

Parking shall conform to article VIII, Off-Street Parking and Loading, except where indicated.

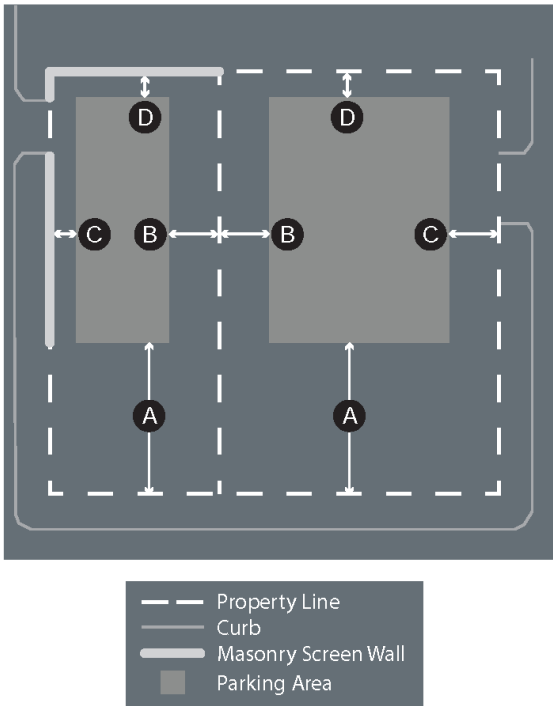
| | | |
|---|---|-----|
| Distance From Property Line | | |
| Front setback (see below) | Ⓐ | 10' |
| Adjacent to common property line | Ⓑ | 10' |
| Side street setback | | |
| - when a masonry screen wall is installed | Ⓒ | 5' |
| - landscape only | Ⓒ | 10' |
| Rear setback | Ⓓ | 5' |

Parking is not permitted between the right-of-way and the building facade. For parking which is adjacent to the building, the front setback is measured from the front of the building, traveling toward the rear of the lot.

Where a parking lot abuts an interior and/or common property line, the property owner shall provide a cross access easement for the purpose of connecting adjacent parking lots.

Parking lot landscaping shall be installed pursuant to 36-150(c). Bioretention/rain gardens pursuant to 36-152 may also be considered.

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 buildings, the rear building setback and loading requirements may be computed from the center of the alley.



Sec. 36-278.12. - Required parking.

Uses specified in this section supercede section 36-600.

| | | |
|--|-----|--|
| <i>Residential (per dwelling unit)</i> | | |
| Single-family | 2.0 | |
| Duplex | 2.0 | |
| Multiple family | 1.5 | |
| Live/work unit | 2.0 | |
| Residential in mixed use buildings | 1.5 | |
| <i>Lodging (per bedroom/hotel room)</i> | | |
| Bed and breakfast | 1.2 | |
| Inn | 1.2 | |
| Hotel/motel | 1.0 | |
| <i>Office (per 1,000 usable square feet)</i> | | |
| Individual enclosed offices | 3.0 | |
| Open office concept | 2.0 | |

| | | |
|--|-----|--|
| <i>Commercial (per 1,000 usable square Feet)</i> | | |
| Retail | 3.0 | |
| <i>Public and private institutional</i> | | |
| | | |
| <i>Site amenities</i> | | |
| 1 bicycle parking facility shall be provided on site per 10 vehicular parking spaces | | |
| Benches may be required at the discretion of the planning commission | | |

;adv=6;(Ord. No. 2017-003, 11-6-2017)

Sec. 36-278.13. - Shared parking.

Parking calculations: When two functions share parking facilities, the sum of their individual parking requirements is divided by the Shared Parking Factor to determine the Effective Parking Requirement. For example, if 12 spaces are needed for a residential development and 32 spaces are needed for a retail development, this amount would be summed to equal 44. This number would be divided by 1.2, according to the chart below, to produce an effective parking requirement of 36.6, or 37 parking spaces. This section supercedes 36-595.

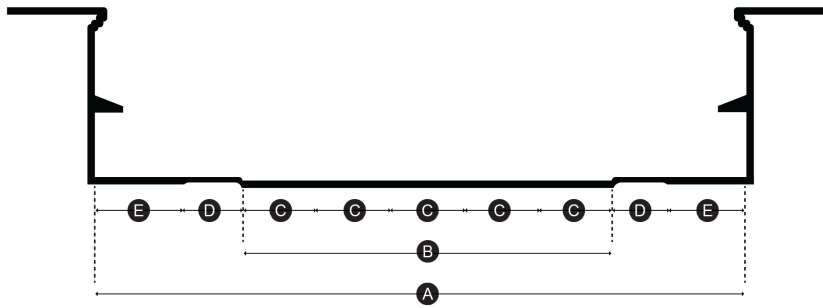
| Function | Residential | Lodging | Office | Retail |
|-------------|-------------|------------|--------|--------|
| Residential | 1.0 | <u>1.1</u> | 1.4 | 1.2 |
| Lodging | <u>1.1</u> | 1.0 | 1.7 | 1.3 |
| Office | 1.4 | 1.7 | 1.0 | 1.2 |
| Retail | 1.2 | 1.3 | 1.0 | 1.0 |

(Ord. No. 2017-003, 11-6-2017)

Secs. 36-278.14—36-278.19. - Reserved.

Sec. 36-278.20. - Public space standards.

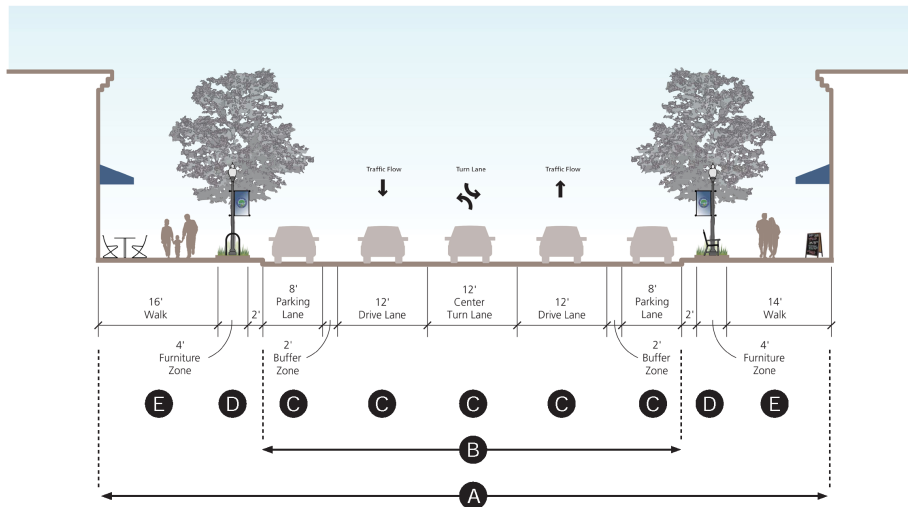
Sec. 36-278.21. - Thoroughfare types.



| STREET TERMINOLOGY | |
|---|----------|
| Right-of-Way (ROW) Width | A |
| The measurement across a thoroughfare of the area under control or ownership of the Michigan Department of Transportation, Hillsdale County Road Commission, or private property owner. | |
| Curb Face to Curb Face Width | B |
| The distance across a thoroughfare between the vertical faces of the curb, typically intended for vehicles, including any on-street parking, planting strips, and gutters. | |
| Traffic and Parking Lanes | C |
| The number and width of areas designated for vehicular travel, not including bicycle lanes. | |
| Planting Zone | D |
| The area of the ROW used for street trees and flowers as well as Low Impact Development stormwater features, such as rain gardens. In some instances, this zone can be used for outdoor dining, depending on surface materials. | |
| Pedestrian Zone | E |
| The area used for pedestrian movement, dedicated to sidewalks and outdoor cafes. | |

Thoroughfare type: Main Street.

Example: Broad Street between Bacon and Carlton

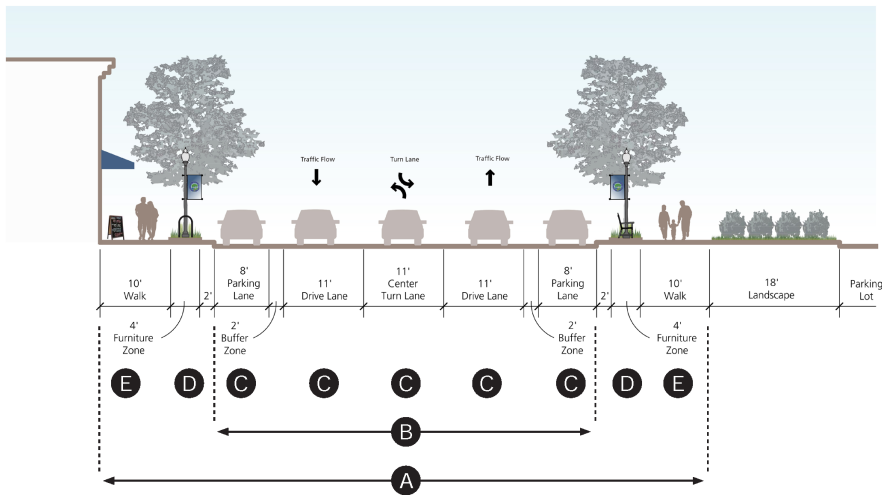


| | | |
|----------------------------|-----|----------|
| Application | | |
| Target Speed | | |
| Target speed | | |
| Overall Widths | | |
| Public realm (between BTL) | 98' | A |

| | | |
|--------------------------|---------|---|
| Right-of-way (ROW) width | 56' | Ⓑ |
| <i>Lanes</i> | | |
| Traffic lanes | 12' | Ⓒ |
| Turn lane | 12' | Ⓒ |
| Parking lanes | 10' | Ⓒ |
| <i>Edges</i> | | |
| Curbs | 2' | Ⓓ |
| Planters and tree grates | 4' | Ⓓ |
| Walkways | 14'-16' | Ⓔ |

Thoroughfare type: Urban Center.

Example: Howell Street

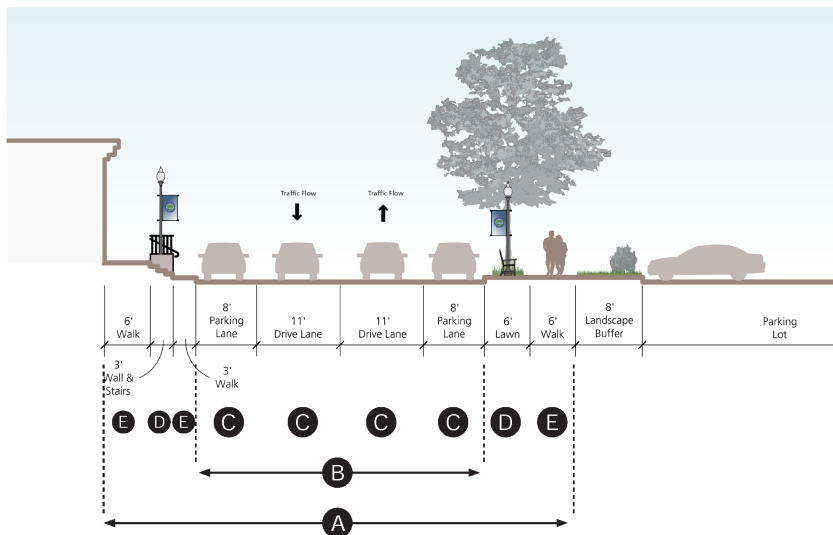


| | | |
|----------------------------|-----|---|
| Application | | |
| <i>Target Speed</i> | | |
| Target speed | | |
| <i>Overall Widths</i> | | |
| Public realm (between BTL) | 94' | Ⓐ |
| Right-of-way (ROW) width | 53' | Ⓑ |

| | | |
|--------------------------|-----|---|
| <i>Lanes</i> | | |
| Traffic lanes | 11' | Ⓒ |
| Turn lane | 12' | Ⓒ |
| Parking lanes | 10' | Ⓒ |
| <i>Edges</i> | | |
| Curbs | 2' | Ⓓ |
| Planters and tree grates | 4' | Ⓓ |
| Landscape buffer | 18' | |
| Walkways | 10' | Ⓔ |

Thoroughfare type: Urban Residential.

Example: Bacon Street between Manning and alley





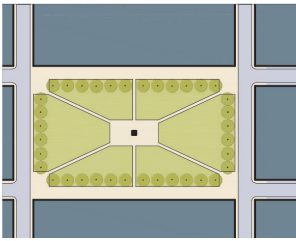
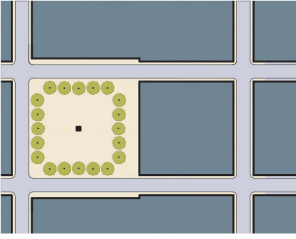
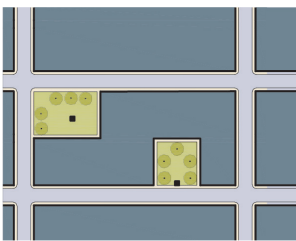
| | | |
|----------------------------|-----|---|
| Application | | |
| <i>Target Speed</i> | | |
| Target speed | | |
| <i>Overall widths</i> | | |
| Public realm (between BTL) | 62' | Ⓐ |

| | | |
|--------------------------|-----|---|
| Right-of-way (ROW) width | 38' | ⓑ |
| <i>Lanes</i> | | |
| Traffic lanes | 11' | ⓒ |
| Turn lane | 12' | ⓒ |
| Parking lanes | 10' | ⓒ |
| <i>Edges</i> | | |
| Curbs | 2' | ⓓ |
| Planters and tree grates | 4' | ⓓ |
| Landscape buffer | 18' | |
| Walkways | 10' | ⓔ |

(Ord. No. 2017-003, 11-6-2017)

Sec. 36-278.22. - Civic spaces.

| TYPE | CLASSIFICATION |
|--|--|
| <p>PARK</p> <p>A natural preserve available for unstructured recreation. A park may be independent of surrounding building Frontages. Its landscape shall consist of Paths and trails, meadows, waterbodies, woodland and open shelters, all naturalistically disposed. Parks may be lineal, following the trajectories of natural corridors. The minimum size shall be 8 acres. Larger parks may be approved by Warrant as Special Districts in all zones.</p> | <p>BC CC CN</p>  |
| <p>GREEN</p> <p>An Open Space, available for unstructured recreation. A Green may be spatially defined by landscaping rather than building Frontages. Its landscape shall consist of lawn and trees, naturalistically disposed. The minimum size shall be 1/2 acre and the maximum shall be 8 acres.</p> | <p>BC CC CN</p>  |

| | |
|--|---|
| <p>SQUARE</p> <p>An Open Space available for unstructured recreation and Civic purposes. A Square is spatially defined by building Frontages. Its landscape shall consist of paths, lawns and trees, formally disposed. Squares shall be located at the intersection of important Thoroughfares. The minimum size shall be 1/2 acre and the maximum shall be 5 acres.</p> | <p>DC DN</p>  |
| <p>PLAZA</p> <p>An Open Space available for Civic purposes and Commercial activities. A Plaza shall be spatially defined by building Frontages. Its landscape shall consist primarily of pavement. Trees are optional. Plazas should be located at the intersection of important streets. The minimum size shall be 1/2 acre and the maximum shall be 2 acres.</p> | <p>DC BC CC</p>  |
| <p>PLAYGROUND</p> <p>An Open Space designed and equipped for the recreation of children. A playground should be fenced and may include an open shelter. Playgrounds shall be interspersed within Residential areas and may be placed within a Block. Playgrounds may be included within parks and greens. There shall be no minimum or maximum size.</p> | <p>DC DN CN</p>  |

Source: SmartCode 9.2, Table 13

(Ord. No. 2017-003, 11-6-2017)

Sec. 36-279. - Application process and appeal.

Sec. 36-279.01. - Application process.

- (a) An application for a permit pursuant to this article must be submitted to the zoning administrator for approval and contain the following information:
- (1) The name, address, and contact information of both the applicant and the business.
 - (2) The name, address and contact information of the property owner if other than the applicant.
 - (3) A site plan showing the proposed location of outdoor sale items, the proposed location and number of benches, tables, chairs, desks, signs, plants, artworks, waste receptacles or other similar amenities, and the location and number of all related equipment, such as, by way of example, outdoor electrical outlets, umbrellas, and railings.
 - (4) The proposed area of occupancy including square feet and dimensions, and the location of existing grates, hydrants, trees, shrubs, and other public items.
 - (5) The proposed clear path to accommodate pedestrian traffic and circulation through and within the use area by customers and members of the general public.
 - (6) If the sale of alcohol is proposed, a copy of approval from the Michigan State Liquor Control Commission.
 - (7) A signed agreement committing and requiring the applicant:
 - a. To provide proof of public liability and property damage insurance with coverage that is satisfactory to Hillsdale and limits of liability of not less than a single limit of \$300,000.00, with the city designated therein as a named insured, to be and remain

in force for the duration of the permitted use of Hillsdale's sidewalk and right-of-way, such proof to be provided at the time of execution of the agreement.

- b. To agree that it will defend, indemnify, and hold the city harmless from all damages, claims, demands, causes of action, lawsuits, attorney fees and related expenses, as a result of actual or claimed personal injury, including death, property damage or other damage or loss of any kind or nature which is or is claimed to arise out of or because of the use of the city's sidewalk or right-of-way by the negligence, gross negligence, or intentional act of applicant or any of its agents, servants, employees, guests, vendors, invitees, and members of the public, and whether caused in part by negligence of the city, its employees, agents, servants, or representatives.
 - c. To agree to repair any damage caused to the sidewalk or right-of-way as a result of the placement of any permitted item or the operation of a permitted business or other activity on a sidewalk or within any other part of the right-of-way at the applicant's expense.
 - d. To represent and covenant that it does not discriminate against any employee, applicant for employment, and shall not discriminate against any general public that will participate in the event it is staging under this agreement or any other member of the public because of race, color, religion, national origin, age, height, weight, marital status or other legally protected class.
- (b) The zoning administrator shall review the application for compliance with the ordinance for approval/disapproval. If determined to be in compliance, the zoning administrator or his designee shall approve the issuance of the permit; if determined to be in substantial but not complete compliance, approve the issuance of the permit subject to restrictions; or if determined to be substantially non-compliant, disapprove and deny the issuance of the permit, as the circumstance requires.
- (c) Permits must be applied for annually and all activities or other actions taken under them shall adhere to all specifications of the City of Hillsdale CBD Sidewalk Use Ordinance and the terms and restrictions contained within the permit. Failure to do so will result in the zoning administrator notifying the permit holder of a violation, either in writing or verbally. If the violation is designated as a safety hazard, it shall be corrected and rectified within the 24-hour period next following notification. All violations that are not designated as safety violations shall be corrected and rectified within the 72-hour period next following notification. If any violation is not corrected and rectified within the time specified, the permit in question shall automatically become void and of no further force or effect, and all items placed on the sidewalk and all business or other activities taken pursuant to it shall be immediately removed and terminated.

(Ord. No. 2017-003, 11-6-2017)

Sec. 36-279.02. - Appeals.

Appeals involving the interpretation or application of these rules, the imposition of restrictions and the denial of a permit may be taken to the zoning board of appeals under such provisions and process as prescribed in section 36-84 of the Hillsdale Municipal Code.

(Ord. No. 2017-003, 11-6-2017)

Secs. 36-280—36-290. - Reserved.

DIVISION 8. - B-3 GENERAL BUSINESS DISTRICT

Sec. 36-291. - Generally.

The B-3 general business district is designed to furnish areas served typically by the central business district with a variety of automotive services and retail activities incompatible with the uses and with the pedestrian movement in such central business district. The B-3 general business districts are characterized by more diversified business types and are often located so as to serve passerby traffic.

(Code 1979, § 17.18.010; Ord. No. 2015-5, 3-16-2015)

Sec. 36-292. - Principal uses permitted.

In a B-3 general business district, no building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this chapter:

- (1) Any retail business or service establishment permitted in a B-2 central business district as a principal use permitted.
- (2) New automobile sales or showroom.
- (3) Bus passenger stations.
- (4) Funeral homes (mortuaries).
- (5) Automobile car wash, when completely enclosed in a building.
- (6) Private clubs or lodge halls.
- (7) Governmental offices or other governmental uses, public utility offices, exchanges, transformer stations, pump stations and service yards, but not including outdoor storage.
- (8) Clinics.
- (9) Retail cold storage establishments.
- (10) Self-service laundry and dry cleaning establishments.
- (11) Bowling alleys.
- (12) Pool or billiard parlor or club.
- (13) Greenhouses, nurseries and garden centers.
- (14) Other uses which are similar to the above uses.
- (15) Accessory structures customarily incidental to the above permitted uses.

(Code 1979, § 17.18.020)

Sec. 36-293. - Uses subject to special conditions.

The following uses shall be permitted in the B-3 general business district after review and approval of the site plan by the planning commission or zoning administrator, whichever is indicated, subject to the conditions herein imposed for each use:

- (1) Outdoor sales space for the exclusive sale of secondhand automobiles or house trailers, subject to the following:
 - a. All lighting shall be shielded from adjacent residential districts.
 - b. Ingress and egress to the outdoor sales area shall be at least 60 feet from the intersection of any two streets measured from the street right-of-way.
 - c. A four-foot-six-inch obscuring wall or fence must be provided when abutting or adjacent districts are zoned for residential use.
 - d. No major repair or major refinishing shall be done on the lot.
- (2) Outdoor sales space for the exclusive sale of non-consignment items, excluding livestock, subject to the following:
 - a. *Size requirements.* The outdoor sales or display area shall not exceed ten percent of the gross floor area of the principal building.
 - b. *Location requirements.* All sales activity and the display of merchandise shall be limited to the area specified on an approved plan. No sales activity or display shall be permitted in the street right-of-way or any required setback area.
 - c. *Surface.* Sales and display areas shall be provided with a permanent, paved surface of asphalt, concrete or similar paving materials and shall be graded and drained so as to dispose of all surface water.
 - d. *Plan.* The submission and approval of a site plan to the planning commission.
- (3) Motel, subject to the following:
 - a. Provided that it can be demonstrated that ingress and egress do not conflict with adjacent business uses.
 - b. A four-foot-six-inch obscuring wall or fence must be provided where abutting or adjacent districts are zoned for residential use.
 - c. No kitchen or cooking facilities are to be provided, with the exception of units for the use of the manager or caretaker.

- d. Each unit shall contain not less than 250 square feet of floor area.
- (4) Business in the character of a drive-in or open-front store, subject to the following:
- a. A setback of at least 60 feet from the right-of-way line of any existing or proposed street must be maintained.
 - b. Ingress and egress points shall be located at least 60 feet from the intersection of any two streets.
 - c. All lighting shall be shielded from adjacent residential districts.
 - d. A four-foot-six-inch obscuring wall or fence must be provided where abutting or adjacent to a residential district. The height of the wall shall be measured from the surface of the ground.
- (5) Commercially used outdoor recreational space for children's amusement parks or miniature golf courses, subject to the following:
- a. Children's amusement park must be fenced on all sides with a four-foot wall or fence.
 - b. Adequate parking shall be provided off the road right-of-way and shall be fenced with a four-foot-six-inch wall or fence where adjacent to the use.
- (6) Automobile service and/or repair stations for sale of gasoline, oil and minor accessories only, and subject to the following:
- a. The curb cuts for ingress and egress to a service station shall not be permitted at such locations that will tend to create traffic hazards in the streets immediately adjacent thereto. Entrances shall be no less than 25 feet from a street intersection, measured from the road right-of-way, or from adjacent residential districts.
 - b. The minimum lot area shall be 10,000 square feet, and so arranged that ample space is available for motor vehicles which are required to wait.
 - c. There shall be provided, on those sides abutting or adjacent to a residential district, a four-foot-six-inch obscuring wall. The height of the walls shall be measured from the surface of the ground.
 - d. All lighting shall be shielded from adjacent residential districts.
 - e. Major engine and body repair, steam cleaning and undercoating when conducted on the site shall be within a completely enclosed building. The storage of wrecked automobiles on the site shall be obscured from public view. No automobile or vehicle of any kind shall be stored in the open for a period exceeding one week.
 - f. All restroom doors shall be shielded from adjacent streets and residential districts.
- (7) Lumber yards subject to the following:
- a. The use is primarily for the storage and sale of retail goods.
 - b. No manufacturing, processing, planing, or milling operations are permitted.
- (8) Family day care home, as defined in section 36-6, the in-home care of one to six or fewer minor children subject to the following conditions:
- a. No dormitory facilities shall be provided or permitted.
 - b. A designated outdoor play area shall be required which complies with state licensing rules. The outdoor play area must be located in the rear yard, as defined in section 36-6, and be enclosed by a fence of at least four and one-half feet in height.
 - c. Signs, as defined in section 26-2, shall be allowed in accordance with the regulations applicable to zone district in which the property is located.
 - d. No family day care home may commence operations until and unless the zoning administrator first approves of occupancy, which approval shall be subject to the applicant providing him or her proof of compliance with all of the following:
 - 1. Registration of said operation with the city as a family day care home;
 - 2. Licensure by the state for the operation of a family day care home;
 - 3. Submission to and compliance with other requirements and restrictions established in this division and other applicable inspections required under the property maintenance code adopted by the city;
 - 4. Compliance with all other requirements and restrictions established in this division and other applicable provisions of this chapter.
- (9) Group day care home, as defined in section 36-6, the in-home care of seven to 12 minor children subject to the following

conditions and restrictions:

- a. No dormitory facilities shall be provided or permitted.
- b. A designated outdoor play area shall be required which complies with state licensing rules. The outdoor play area must be located in the rear yard, as defined in section 36-6, and be enclosed by a fence at least four and one-half feet in height.
- c. Signs, as defined in section 26-2, shall be allowed in accordance with the regulations applicable to the zone district in which the property is located.
- d. No group day care home may commence operations until and unless the zoning administrator first approves of occupancy, which approval shall be subject to the applicant providing him or her proof of compliance with all of the following:
 1. Registration of said operation with the city as a group day care home;
 2. Licensure by the state for the operation of a group day care home;
 3. Submission to and compliance with other requirements and restrictions established in this division and other applicable inspections required under the property maintenance code adopted by the city;
 4. Compliance with all other requirements and restrictions established in this division and other applicable provisions of this chapter.

(10) Child care facility, as defined in section 36-6, for the care of one or more minor children in other than a private home, subject to the following conditions and restrictions:

- a. All conditions and restrictions as are applicable to a group day care home pursuant to subsection (8) of this section.
- b. A designated outdoor play area shall be required which complies with state licensing rules. The outdoor play area must be located in the rear yard, as defined in section 36-6, and be enclosed by a fence at least four and one-half feet in height.
- c. Signs, as defined in section 26-2, shall be allowed in accordance with the regulations applicable to zone district in which the property is located.

(11) Adult bookstores, adult motion picture theaters, cabarets, and massage parlors (adult entertainment establishment as defined in section 8-222), subject to the following:

- a. No adult entertainment establishment may be established, operated, or maintained within the B-3 general business zoning district except on a parcel or lot having a lot line boundary that is directly contiguous to an I-1 light industrial zoning district;
- b. No adult entertainment establishment may be established, operated, or maintained within 500 feet of an R-1, R-2, R-3, RD-1, or RM-1 residential zoning district;
- c. No adult entertainment establishment may be established, operated, or maintained within 500 feet of a church, state-licensed daycare, public library, public park (including publicly owned paths and trails), preschool, elementary, middle or high school, or other educational facility;
- d. No adult entertainment establishment may be established, operated or maintained within 500 feet of any other adult entertainment establishment;
- e. Compliance or noncompliance with the 500-foot minimum distance established in subsection (10)b of this section shall be determined by a measurement that consists of the shortest straight line possible between a point on the line of the parcel or lot on which the adult entertainment establishment is proposed and a point on the district boundary line of the nearest adjacent R-1, R-2, R-3, RD-1, or RM-1 residential zoning district;
- f. Compliance or noncompliance with the 500-foot minimum distance established in subsections (10)c and (10)d of this section shall be determined by a measurement that consists of the shortest straight line possible between a point on the line of the parcel or lot on which the adult entertainment establishment is proposed and a point on the nearest parcel or lot on which a church, state-licensed daycare, public library, public park (including publicly owned paths and trails), preschool, elementary, middle school or high school, other educational facility, or other adult entertainment establishment is located;
- g. The license granted for the establishment, operation, and/or maintenance of an adult entertainment establishment under this subsection (10) may be revoked or suspended in the event any owner or licensee of said establishment or any other operator, employee, agent, or patron of said establishment engages or participates in or suffers the promotion, offer or solicitation of acts of prostitution or other lewd or lascivious conduct on the premises. The acts necessary to support such

revocation or suspension may be shown to have occurred by a preponderance of the evidence. No criminal charge need be brought or conviction obtained based on, resulting or arising from any such conduct as a prerequisite to such revocation or suspension;

(12) Any combination of one or more one-family and multiple-tenant family units, subject to the following requirements:

- a. All dwelling units shall meet the defined requirements of section 36-6, apartments.
- b. A minimum of one parking space shall be provided for each dwelling unit. Parking shall be provided on site, or within a 600-foot radius of the building it is intended to serve, measured from the nearest point of the building with the nearest point of the off-street parking lot.
- c. Dwelling units and accessory buildings related to residential uses shall not be permitted on the ground floor.
- d. Compliance with the requirements applicable to multiple-family residential districts in sections 36-211, 36-212, and 36-411 of Hillsdale's Code of Ordinances.

(Code 1979, § 17.18.030; Ord. No. 2008-12, 12-8-2008; Ord. No. 2015-5, 3-16-2015)

Sec. 36-294. - Area and bulk requirements.

See division 13 of this article limiting the height and bulk of buildings and minimum size of lot by permitted land use in the B-3 general business district.

(Code 1979, § 17.18.040; Ord. No. 2015-5, 3-16-2015)

Secs. 36-295—36-310. - Reserved.

DIVISION 9. - I-1 INDUSTRIAL DISTRICT

Footnotes:

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Editor's note— Ord. No. 2018-007, adopted November 5, 2018, amended division 9 in its entirety to read as herein set out. Former division 9, §§ 36-311—36-315, pertained to the I-1 light industrial district, and derived from the Code of 1979, §§ 17.20.010—17.20.050.

Sec. 36-311. - Generally.

The I-1 industrial district is designed so as to primarily accommodate wholesale and warehouse activities, and industrial operations whose external physical effects are restricted to the area of the district and in no manner affect in a detrimental way any of the surrounding districts. The I-1 district is so structured as to permit, along with any specified uses, the manufacturing, compounding, processing, packaging, assembly and/or treatment of raw, finished or semi-finished products from previously prepared material.

(Ord. No. 2018-007, 11-5-2018)

Sec. 36-312. - Principal uses permitted.

In an I-1 industrial district, no land or building shall be used and no building shall be erected except for one or more of the following uses as described in section 36-311, unless otherwise provided in this chapter:

- (1) All uses shall be conducted wholly within a completely enclosed building, or within a designated area enclosed on all sides except the front with a six-foot obscuring fence or solid wall. The fence or wall shall be completely obscuring on those sides where abutting or adjacent to districts zoned for residential use.
- (2) All public utilities, including buildings, necessary structures, storage yards and other related uses.

(Ord. No. 2018-007, 11-5-2018)

Sec. 36-313. - Uses subject to special conditions.

The following uses shall be permitted in an I-1 industrial district, after review and approval of the site plan by the planning commission or zoning administrator, whichever is indicated, subject to the conditions imposed in this section for each use:

- (1) Restaurants, other places serving food or beverage, or other businesses which in the opinion of the planning commission are intended to serve the convenience needs of persons working in the industrial district subject to the regulations applicable to such uses.
- (2) Child care facility, as defined in section 36-6, for the care of one or more minor children in other than a private home. A designated outdoor play area shall be required which complies with state licensing rules. The outdoor play area must be located in the rear yard, as defined in section 36-6, and be enclosed by a fence at least four feet in height.
- (3) An educational facility which is a trade or vocational.
- (4) The use of a lot for the sale or lease of new or used automobiles, trailers, boats, farm machinery or equipment, recreational vehicles, lawn furniture, playground equipment or garden supplies, which meets all of the following conditions:
 - a. Each point of vehicular ingress and egress to the lot shall be not less than 60 feet from the intersection of any two streets.
 - b. Any repair or refinishing which is done on the lot shall be done within the confines of an enclosed structure.
- (5) A motor vehicle repair station.
- (6) A walk-in clinic for district related medical testing and the treatment of minor injuries shall be permitted in the I-1 industrial district. Each point of ingress or egress shall be directly onto a principal or minor street.
- (7) A structure which is used by a governmental entity.

(Ord. No. 2018-007, 11-5-2018)

Sec. 36-314. - Required conditions.

Any use established in the I-1 district after the effective date of the ordinance codified in this chapter shall be operated so as to comply with the performance standards set forth in article VII of this chapter.

(Ord. No. 2018-007, 11-5-2018)

Sec. 36-315. - Area and bulk requirements.

See division 16 of this article limiting the height and bulk of buildings and the minimum size of lot by permitted land use in the I-1 industrial district.

(Ord. No. 2018-007, 11-5-2018)

Secs. 36-316—36-330. - Reserved.

DIVISION 10. - I-2 HEAVY INDUSTRIAL DISTRICT

Sec. 36-331. - Generally.

The I-2 heavy industrial district is designed 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. The I-2 district is so structured as to permit the manufacturing, processing, and compounding of semifinished or finished products from raw materials.

(Code 1979, § 17.22.010)

Sec. 36-332. - Principal uses permitted.

In an I-2 heavy industrial district, no land or building shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this chapter:

- (1) Any principal use first permitted in an I-1 district.
- (2) Heating and electric power generating plants, and all necessary uses.
- (3) Any production, processing, cleaning, servicing, testing, repair or storage of materials, goods, or products which shall conform with the performance standards set forth in article VII of this chapter, except such uses as specifically excluded from the city by ordinance.
- (4) Junkyards, provided such are entirely enclosed within a building or within an eight-foot obscuring wall, and provided further, that one property line abuts a railroad right-of-way. There shall be no burning on the site and all industrial processes involving the use of equipment for cutting, compressing, or packaging shall be conducted within a completely enclosed building.
- (5) Incineration of garage or refuse when conducted within an approved and enclosed incinerator plant.
- (6) Any of the following production or manufacturing uses, not including storage of finished products; provided that they are located not less than 500 feet distant from any residential district and not less than 200 feet distant from any other district:
 - a. Blast furnace, steel furnace, blooming or rolling mill;
 - b. Manufacture of corrosive acid or alkali, cement, lime, gypsum, or plaster of Paris;
 - c. Petroleum or other inflammable liquids, production, refining, or storage;
 - d. Smelting of copper, iron, or zinc ore;
 - e. Slaughterhouses when conducted within a completely enclosed building.
- (7) Any other use which shall be determined by the board of appeals, after recommendation from the planning commission, to be the same general character as the above permitted uses in this section. The board of appeals may impose any required setback and/or performance standards so as to ensure public health, safety, and general welfare.
- (8) Accessory buildings and uses customarily incidental to any of the above permitted uses.

(Code 1979, § 17.22.020)

Sec. 36-333. - Area, bulk and yard setback requirements.

See division 13 of this article limiting the height and bulk of buildings, the minimum size of lot by permitted land use in the I-2 heavy industrial district.

(Code 1979, § 17.22.030)

Secs. 36-334—36-350. - Reserved.

DIVISION 11. - P-1 VEHICULAR PARKING DISTRICT

Sec. 36-351. - Generally.

The P-1 vehicular parking district is intended to permit the establishment of areas to be used solely for off-street parking of private passenger vehicles as a use incidental to a principal use. The P-1 vehicular parking district will generally be provided by petition or request to serve a use district which has developed without adequate off-street parking facilities.

(Code 1979, § 17.24.010)

Sec. 36-352. - Uses permitted.

Premises in the P-1 vehicular parking district shall be used only for an off-street vehicular parking area and shall be developed and maintained subject to such regulations as are provided in this division.

(Code 1979, § 17.24.020)

Sec. 36-353. - Limitation of use.

Uses in the P-1 vehicular parking district shall be limited as follows:

- (1) The parking area shall be accessory to, and for use in connection with, one or more business or industrial establishments, or in connection with one or more existing professional or institutional office buildings or institutions.
- (2) The parking area shall be used solely for parking of private passenger vehicles, for a period of not more than one day.
- (3) No signs of any kind, other than signs designating entrances, exits and conditions of use, shall be maintained on such parking areas.
- (4) No building other than those for shelter of attendants shall be erected upon premises, and they shall not exceed 15 feet in height.
- (5) No commercial repair work or service of any kind, or sale, or display thereof shall be conducted in such parking area.
- (6) Such parking lots shall be contiguous to an O-1, B-1, B-2, B-3, I-1, or I-2 district. Parking areas may be approved when adjacent to the districts, or on the end of a block where such areas front on a street which is perpendicular to that street servicing the district. There may be a private driveway or public street or public alley between such P-1 district and such O-1, B-1, B-2, B-3, I-1, or I-2 districts.
- (7) Applications for P-1 district rezoning shall be made to the city clerk by submitting a layout of the area requested showing the intended parking plan.

(Code 1979, § 17.24.030)

Sec. 36-354. - Yards.

- (a) Where the P-1 district is contiguous to a residentially zoned district which has a common frontage on the same block with residential structures, or wherein no residential structures have yet been erected, there shall be a setback equal to the required residential setback for the residential district, or a minimum of 25 feet, or whichever is the greater. The required wall in the P-1 vehicular parking district shall be located on this minimum setback line.
- (b) Where the P-1 district is contiguous to side lot lines of premises within a residentially zoned district, the required wall shall be located at least five feet from the side lot line opposite the residential unit or vacant residential lot.

(Code 1979, § 17.24.040)

Sec. 36-355. - Development and maintenance.

P-1 off-street parking districts shall be developed and maintained in accordance with article VIII, division 3, of this chapter.

(Code 1979, § 17.24.050)

Secs. 36-356—36-370. - Reserved.

DIVISION 12. - PRF PARK AND RECREATIONAL FACILITIES DISTRICT

Sec. 36-371. - Purpose.

The PRF park and recreational facilities district and regulations are intended to provide an appropriate zoning classification for specified governmental, civic and recreational facilities where a separate zoning district is deemed appropriate. This division is also intended to protect public and quasi-public facilities from encroachment of certain other uses, and to ensure compatibility with adjoining residential uses. One or more of the facilities are also permitted in one or more of the other zoning districts within the city. Governmental agencies that are exempt from municipal zoning by state or federal statute are encouraged to comply with the standards set forth in this division to the greatest extent possible.

(Code 1979, § 17.25.010)

Sec. 36-372. - Definitions.

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

Park means and includes public parks and open spaces; public gardens; public playgrounds; public swimming pools; public beaches; public lake accesses; and may also include private parks, gardens, playgrounds or other similar uses.

Public means and refers to a building, structure, service or use that is owned, operated, leased by or otherwise exclusively controlled by a governmental or educational entity or agency which is open to use by the general public on a nonprofit basis, either with or without a fee.

Recreational means and includes public ball fields; public skating rinks; public pedestrian and nonmotorized bicycle trails and paths; public nonprofit golf courses without residential dwellings; driving ranges or restaurant; banquet or food service; and other similar public recreational areas and uses, but excluding:

- (1) Courses, trails, paths or tracks for use by motorized off-road or other wheeled, motorized vehicles;
- (2) Nonmotorized bicycle race courses, race trails, race paths or race tracks; and
- (3) Firearm and archery ranges.

(Code 1979, § 17.25.020)

Sec. 36-373. - Principal permitted uses.

In the PRF park and recreational facilities district, no building or land shall be erected, altered, moved, or maintained or used except for park or recreational uses as defined in this chapter, and/or for:

- (1) Essential public services as defined in section 36-6, or uses as defined in section 36-372.
- (2) Buildings, structures and accessory uses customarily incidental to any principal permitted use.

(Code 1979, § 17.25.030)

Sec. 36-374. - Site plans and impact assessments; principal permitted uses.

In the PRF park and recreational facilities district a site plan demonstrating compliance with all applicable provisions of this chapter shall be submitted and be subject to the approval of the planning commission as a prerequisite to the establishment of each proposed principal permitted use. An impact assessment may also be required by the planning commission as a prerequisite to the establishment of a proposed principal permitted use as it deems necessary.

(Code 1979, § 17.25.040)

Sec. 36-375. - Uses subject to special conditions.

The following uses shall be permitted in the PRF park and recreational facilities district subject to compliance with all applicable provisions of this chapter and such other special conditions as are required by the planning commission:

- (1) Public fountains, or public sculptures and other public art forms.
- (2) Public farmer and/or craft shows or markets.
- (3) Public stadiums, public amphitheaters, public band shells or stages.
- (4) Public campgrounds, public canoe liveries or public docks.
- (5) Public golf courses with associated residential dwellings, driving ranges, restaurant/banquet or food service.
- (6) Public miniature golf courses.
- (7) Public facilities for snow skiing, tobogganing and/or sledding.
- (8) Buildings, structures, concessions and other accessory uses that are customarily incidental to any of the above-described uses.
- (9) Nature centers, or educational facilities for the study of outdoor sciences.

(Code 1979, § 17.25.050)

Sec. 36-376. - Site plans and impact assessments; uses subject to special conditions.

A site plan demonstrating compliance with all applicable provisions of this chapter shall be submitted and be subject to the approval of the planning commission as a prerequisite to the establishment of each proposed use subject to special conditions in the PRF park and recreational facilities district. In addition:

- (1) An impact assessment may also be required by the planning commission as a prerequisite to the establishment of a use subject to special conditions as the planning commission deems necessary.
- (2) The planning commission may require compliance with such additional special conditions as are determined necessary to protect the health, safety and welfare of the general public and to ensure compatibility of the proposed special use with adjoining zoning districts.

(Code 1979, § 17.25.060)

Sec. 36-377. - Area and bulk requirements.

See division 13 of this article limiting the height and bulk of buildings and the minimum size of lot by permitted land use in the PRF park and recreational facilities district .

(Code 1979, § 17.25.070)

Sec. 36-378. - Parking areas.

All off-street parking areas in the PRF park and recreational facilities district shall comply with the provisions of division 11 of this article and section 36-148. Requirements for off-street parking shall be determined by section 36-600.

(Code 1979, § 17.25.080)

Sec. 36-379. - Lighting.

Flood lighting or other lighting of playfields, buildings, scoreboards and parking areas in the PRF park and recreational facilities district shall be located and designed to shield the light source from adjoining residences; and general lighting shall be extinguished from the hours of 11:00 p.m. to 7:00 a.m. Special events may be granted a longer lighting period as allowed by the planning commission.

(Code 1979, § 17.25.090)

Sec. 36-380. - Signs.

Signs in the PRF park and recreational facilities district shall comply with the provisions of section 26-33 as a nonresidential use. Interior illumination of signs in the PRF park and recreational facilities district may be allowed upon review of planning commission.

(Code 1979, § 17.25.100)

Secs. 36-381—36-385. - Reserved.

DIVISION 13. - PRD PLANNED REDEVELOPMENT DISTRICT

Footnotes:

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Editor's note— Ord. No. 2005-7, adopted July 18, 2005, amended the Code by the addition of provisions designated as §§ 17.23.010—17.23.080. These provisions have been redesignated as §§ 36-386—36-393, at the editor's discretion in order to preserve the format of the Code.

Sec. 36-386. - Generally.

- (1) *Relationship to comprehensive land use plan.* This district permits and controls the redevelopment of sites and existing buildings, in

a manner that satisfies the goals, objectives, land use plan, and comprehensive development plan contained within the comprehensive land use plan.

- (2) *Need for flexibility.* This district may be used when another district would not provide sufficient flexibility to ensure that desirable and compatible development would occur. This district may also be used in circumstances where compatibility and context issues cannot be resolved by the use of a more traditional zoning district. These flexible development standards are necessary to address special conditions with regard to land use, setbacks, yards, building height and special traffic, policing, or landscaping issues.
- (3) *Mixed-use encouraged.* The PRD encourages mixed-uses that would otherwise not be allowed in combination by this zoning ordinance. Mixed-land uses may occur in the same building (e.g., retail on ground floor, office space above) or in different buildings sited on the same lot or parcel (e.g., freestanding child day care center located on the same parcel as an office building). Active uses such as retail, restaurants, cultural and public spaces are encouraged on the ground floor. In certain circumstances, less intensely developed areas that are characterized by single uses rather than a mix of uses may also be developed using the PRD classification.
- (4) *Relationship to Zoning Act.* The planned redevelopment district (PRD) is designed to accomplish the objectives of the division through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the area in which it is proposed, as authorized in Section 125.584b [sic], planned unit development.

(Ord. No. 2005-7, § 17.23.010, 7-18-2005)

Sec. 36-387. - Eligibility criteria.

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

- (1) *Unified control of property.* The proposed development shall be under single ownership or control, excepting leasehold or tenancy interests under a rental agreement, such that there is a single entity having responsibility for completing the project in conformity with the PRD regulations.
- (2) *Minimum size.* The PRD site shall be a minimum of two acres. The planning commission may approve submission of an application for a PRD on fewer acres provided that the proposal substantially achieves the general purposes of the PRD, as noted in section 36-386, and otherwise meets the eligibility criteria of this section.
- (3) *Comprehensive land use plan.* The property proposed for the PRD shall be located in an area designated as "mixed-use" by the future land use plan of the comprehensive land use plan.
- (4) *Approval.* The planning commission may approve submission of an application for a PRD outside of the areas noted in subsection (3) above, provided that the application meets the following criteria:
 - (a) The proposed project is generally consistent with the general purpose of the PRD; and
 - (b) The proposed project use is generally consistent with the goals, objectives, land use plan, and comprehensive development plan for the area in which the use is proposed.

(Ord. No. 2005-7, § 17.23.020, 7-18-2005)

Sec. 36-388. - Uses permitted.

Permitted uses are as follows:

- (1) Any principal use permitted in the B-2 central business district, section 36-272.
- (2) Any principal use permitted in the RM-1, multiple-family residential district, section 36-212. Area and bulk requirements contained in section 36-214 and division 16 regarding height and bulk of buildings, minimum lot size permitted by land use and maximum density permitted shall apply, unless otherwise provided for in this chapter.
- (3) The following conditional uses in accordance with the requirements of article V of this chapter:
 - (a) Off-street parking, surface or structured;
 - (b) Auditorium, concert hall, and theater;
 - (c) Library;
 - (d) Nightclub, except adult cabaret;

- (e) Bowling alley, skating rink, pool and billiard hall;
 - (f) Transit centers, train and bus stations;
 - (g) Museum;
 - (h) Sports and entertainment arena;
 - (i) Medical center, including hospital, rehabilitation center, and clinic, with administrative offices;
 - (j) Research institution;
 - (k) Drive-in and drive-through uses;
 - (l) Automobile rental establishment;
 - (m) Automobile service establishments;
 - (n) Automobile showrooms;
 - (o) Hotel;
 - (p) Light industrial uses, including:
 - 1. Assembly, production, manufacturing, storage, warehousing or sale of food, textile products, electronics, furniture and fixtures, paper, clay, glass or fabricated metal; and
 - 2. Printing, publishing and allied industries.
- (4) Uses not listed, subject to the following:
- (a) The planning commission may determine that a use not listed is similar in nature and intensity to a permitted use or permitted with approval use, based upon the following:
 - 1. The use is generally consistent with the general purpose of the PRD;
 - 2. The use will not impair the present or potential use of other properties within the same district in the vicinity;
 - 3. That the use has no greater potential impact on surrounding properties than those listed in the district, in terms of aesthetics, traffic generated, noise, potential nuisances, and other effects related to health, safety and welfare.
 - 4. That the use is consistent with the goals, objectives, land use plan, and comprehensive development plan for the area in which the use is proposed.
- (5) Notwithstanding the density limitations imposed pursuant to the preceding subsection (2), the city council, after review and recommendation of the planning commission, may determine whether additional residential units are appropriate and, if so, the total number of such additional residential units that may be permitted based on the following standards:
- (a) Unusual costs incurred in the redevelopment of deteriorating areas.
 - (b) Unusual costs incurred in the following:
 - 1. *Landscaping*—Such as streetscape, open space and plazas, use of existing landscape, pedestrian ways, bicycle paths.
 - 2. *Siting*—Such as topography, view, sun orientation, circulation pattern, physical environment, variance in building setbacks, and building groups (clustering).
 - 3. *Design features*—Such as street sections, harmonious use of materials, parking areas, broken by landscape features, and varied use of house types.

(Ord. No. 2005-7, § 17.23.030, 7-18-2005)

Sec. 36-389. - Design requirements.

(1) *Intent*:

- (a) The following design requirements are intended to deal with the complexities inherent in creating mixed-use projects. The comprehensive land use plan promotes the restructuring of many of the city's existing commercial concentrations and older industrial buildings into compact, walkable, mixed-use centers. The plan advocates incorporating housing, shopping, jobs and services, and providing attractive alternatives to travel by car into mixed-use developments.
- (b) These regulations guide the physical form of the mixed-use project in order to resolve concerns and abate design issues that might occur with the co-location of different uses in the same project. These concerns and design issues may occur within a

project or along its boundaries with surrounding neighborhoods or commercial areas.

- (c) In order to achieve the purposes of the comprehensive land use plan, a wide variety of uses are permitted in the planned redevelopment district. The following requirements describe undesirable as well as desirable traits and development measures that will ensure compatibility.
 - (d) These design requirements shall be utilized in a final site plan that is in compliance with the conditions contained in division 2 of article II of this chapter, and section 36-148 shall be submitted to the planning commission prior to issuance of any building/zoning permits for proposed redevelopment, and shall not be used as criteria to establish said PRD district. Requirements for rezoning shall be addressed in the application process in accordance with section 36-390.
- (2) *Modifications:* Upon application and after receiving a recommendation from the planning commission, the city council may modify any of the design requirements of this section after finding that all of the following conditions exist:
- (a) Existing site conditions, including, but not limited to surrounding land uses, topography, soils, and/or other significant natural features physically preclude or prevent compliance with the requirements of this section without a substantial adverse effect on those features. Any such features shall be clearly identified and described in the application for any requested modification.
 - (b) The justification of any modification is not due solely to financial considerations, which, upon approval of the requested modification would provide a financial benefit. However, this does not preclude the city council from modifying the requirements where the applicant demonstrates that the project would be rendered financially unsound or that the requirement is unnecessarily burdensome in relation to the benefit gained.
 - (c) That no other reasonable design alternatives are available that would comply with the requirements of this section.
 - (d) That the request for modification was reviewed by the planning/zoning administrator, city engineer, director of public safety, director of public services, director of public utilities, or any other person or official designated by the city council.
- (3) *Building design requirements:*
- (a) Building massing and form:
 1. New buildings shall generally respect the existing development patterns for height of buildings within the area they are constructed. No building shall exceed 55 feet in height or four stories, whichever is lower, provided that the city council may approve greater heights when the nature of use requires a higher building.
 2. Height may be restricted to less than 55 feet where the city council finds that a lesser height would be more compatible with existing development patterns and building heights in the vicinity of the PRD district.
 3. Long walls: When building walls for new main buildings are 100 feet or greater in length, design variations must be applied to assure that the building is not monotonous in appearance. Acceptable variations include, but are not limited to the following:
 - a. Recess and projections along the building facade. Variations in depth should be a minimum of ten feet;
 - b. Architectural details or features;
 - c. Enhanced ornamentation around building entryways;
 - d. Landscaping;
 - e. Streetscape elements;
 - f. Variations in building height.
 - (b) Architectural lighting:
 1. Exterior building lighting may be used to accentuate building design by highlighting architectural details and features, without resulting in excessive light and glare.
 2. All architectural lighting shall be shown on the final site plan.
 - (c) Building surfaces: Innovative materials are encouraged provided they appear similar in quality, texture, finish, and dimension to those used traditionally in the neighborhood.
 - (d) Existing buildings:
 1. As physical changes and improvements are made to existing buildings, the heritage, history, and architecture of those structures are worthy of preservation and reused whenever possible. To this end, the planning commission may

recommend and the city council may make those modifications deemed necessary to encourage the preservation of these structures. (See subsection (2) of this section.)

2. Whenever practical, facade renovations shall not destroy or cover original details of a building, unless sufficiently deteriorated to be beyond reasonable repair. The building inspection department shall be required to certify that reasonable repair is not feasible.
- (4) *Walkways:* Continuous pedestrian walkways shall be provided from the public sidewalk or rights-of-way to the customer entrance of all main buildings. Walkways shall connect with points of pedestrian activity such as, but not limited to, transit stops and street crossings.
- (5) *Fences:*
- (a) Fences located within 15 feet of the front property line may not exceed four feet in height.
 - (b) Barbed or razor wire, and electrified fences are prohibited.
 - (c) Fencing located within the front yard must be transparent, as determined under section 36-685. On double frontage lots, both frontages shall be considered front yards.
- (6) *Bicycle amenities:*
- (a) Bicycle parking for commercial, residential and mixed-uses should be conveniently located. Placement of bike racks shall be located so as to minimize conflicts with pedestrian travel.
 - (b) Bicycle parking shall be by bike rack or locker-type parking facilities unless otherwise specified and shall be designed to allow either a bicycle frame or wheels to be locked to a structure attached to the pavement.
- (7) *Parking and loading areas:*
- (a) All uses located within the PRD zone shall provide off-street parking as required in division 2 of article VIII, except as may be modified by this subsection.
 - (b) For all uses, parking requirements shall be 50 percent of that calculated in section 36-600.
 - (c) Off-street parking lot design shall comply with division 3 of article VIII of the Hillsdale Municipal Code.
 - (d) On-street parking directly fronting the lot and public parking within a 300-foot radius of the property shall count toward fulfilling the parking requirement of that lot.
 - (e) Shared parking is encouraged for nonresidential uses. Where formal shared parking arrangements are made, the individual calculation of the required spaces may be reduced by up to 25 percent with planning commission approval.
 - (f) New parking shall not be located between the front facade of a building and the street. Parking areas shall be located to the rear and/or side of buildings and on the interior of blocks. Access to rear or side parking areas may be through the frontage.
 - (g) New parking structures may abut street intersections provided the ground floor contains floor area devoted to a principal use (other than parking) along its public street frontages in accordance with subsection (i), below.
 - (h) For multiple-family uses all off-street parking places shall be to the side or the rear of the building.
 - (i) Driveways shall provide a clear vision triangle, per the standards of the city's traffic safety code, at access points.
 - (j) Parking structures:
 1. Parking structures shall be designed with floor area devoted to a principal use (other than parking) along its public street frontages, except for those areas necessary for entrances and exits.
 2. The planning commission may recommend and the city council may waive this requirement if it is demonstrated that the requirement is impractical for the location of the parking structure or if providing such uses would be inconsistent with the development character of the area, as expressed in the comprehensive land use plan.
 3. Where parking is provided for the entire structure, the structure shall have an architecturally articulated facade designed to screen the parking area.
 - (k) Loading areas shall comply with the applicable provisions of division 4 of article VII of this chapter.
 - (l) Parking landscaping shall comply with section 36-148.
- (8) *General landscaping and screening requirements shall comply with section 36-148.*
- (9) *Signs:*

- (a) Signs within the redevelopment project shall comply with the requirements of chapter 26, and be subject to review according to use or applicable district
 - (b) The planning commission may approve signs that exceed the limitations of chapter 26; provided a sign plan is first submitted and approved for the redevelopment project as a whole, and the planning commission finds that additional signs or sign area is needed to adequately identify individual uses in a mixed-use project.
- (10) *Lighting:* Except for lighting in a public right-of-way, all exterior lighting must be hooded or shielded.
- (11) *Other requirements:*
- (a) All setbacks, lot sizes, and other applicable yard and lot requirements will be recommended by the planning commission and set by the city council for each PRD application, as determined by the submitted development plan.
 - (b) Compatibility. The planning commission shall recommend and the city council shall consider appropriate transitions in landscaping, use, building height and massing, and density at the perimeter of any planned redevelopment district.
 - (c) Lighting and radiation. No project or use shall emit undesirable levels of electromagnetic, microwave, ultrasonic, laser or other radiation.
 - (d) Reflective surfaces. The use of highly reflective surfaces, including reflective glass and reflective metal roofs, is prohibited. This prohibition does not apply to solar panels.
 - (e) Outside storage. No project or use shall store products outside. Any outside display shall be recommended by the planning commission and specifically approved by the city council as part of the PRD application.

(Ord. No. 2005-7, § 17.23.040, 7-18-2005)

Sec. 36-390. - Application and review procedure.

- (1) The owner or group of landowners may make application for a change of zone to a PRD district. The petitioner proposing to change the zone district to PRD shall show proof of control through deed or other legal or equitable interest.
- (2) If one or more uses are proposed that require approval to be permitted, the application shall include all of the information required under article V of this chapter.
- (3) The development plan required under this section shall show the proposed development of the entire property involved in the application. For phased developments, each phase shall be planned such that if later phases are not implemented, the initial phase(s) shall be consistent with the provisions of this article and shall not detract from the feasibility of developing the remaining portion of the subject PRD area in an appropriate and desirable manner.
- (4) Application for a PRD shall consist of the following minimum requirements:
 - (a) A fully completed application form, as supplied by the planning department;
 - (b) Payment of a fee, as established from time to time by the city council;
 - (c) Proof of ownership or control through deed or other legal or equitable interest excluding leases and rental agreements;
 - (d) Any materials deemed necessary by the planning department to demonstrate compliance with the standards of section 36-391;
 - (e) Nine copies of a proposed development plan, including one digital copy if available, drawn to a scale sufficient to clearly show the following minimum items. The planning/zoning administrator may waive individual items if he deems them unnecessary:
 - 1. The location and size of all buildings, structures and the use of each;
 - 2. Public walkways, pedestrian and bicycle amenities;
 - 3. Utilities, drainage and easements in sufficient detail to determine the feasibility of infrastructure solutions;
 - 4. Public streets, private streets, marginal access streets, acceleration and deceleration lanes, and drives;
 - 5. Elevation drawings sufficient to show the architectural solution of all buildings;
 - 6. Use plan specifying generic uses desired including parking areas in the project; and
 - 7. General reference to landscaped and open space areas of the plan.
- (5) Application review. The department of public safety, city engineer, planning/zoning administrator, director of public services, and director of public utilities or their authorized representatives shall review the application. The PRD shall meet all city requirements

for:

- (a) Fire and emergency vehicle access and hydrant locations.
 - (b) Utility service, storm drainage and street layout.
 - (c) Traffic safety and parking lot design.
 - (d) Public facilities.
- (6) The planning commission shall conduct a public hearing, in accordance with the requirements of division 4 of article II of this chapter. Following the public hearing, the planning commission shall forward its recommendation to the city council for approval, approval with conditions, or denial regarding the zoning change and the PRD development plan. In making its recommendation, the planning commission shall consider the review standards of section 36-391 and document the reasons for the recommendation in its minutes.
- (7) If one or more conditional uses are proposed, the application for the use(s) shall be reviewed by the planning commission in accordance with the procedures of article V of this chapter. A separate public hearing shall be required, but may be conducted at the same time as the PRD hearing. The permitted with approval use shall not be valid unless the city council approves the PRD development plan and rezoning.
- (8) The city council shall review the recommendation of the planning commission and, approve, approve with conditions, or deny the application, as appropriate. If approved, the development plan shall be considered an integral part of the zone change. The city council shall consider the recommendation of the planning commission and may base their decision on the review standards of section 36-391 and document the reasons for the decision in its minutes.
- (9) Upon approval by the city council, the zoning map shall be changed to reflect the location of the PRD after the effective date of the rezoning.

(Ord. No. 2005-7, § 17.23.050, 7-18-2005)

Sec. 36-391. - Review standards.

In making its recommendation the planning commission shall, and in making its final decision the city council may, consider the following review standards:

- (1) The PRD application is in substantial compliance with the general purpose of the PRD of section 36-386.
- (2) The PRD meets all of the eligibility criteria of section 36-387.
- (3) All uses within the PRD are to be conducted in a manner that does not interfere with the reasonable use and enjoyment of adjacent properties or adjacent rights-of-way.
- (4) The PRD is not injurious to the use and enjoyment of property in the immediate vicinity for the purposes permitted, nor will it substantially diminish or impair property values within the neighborhood, or the character of the natural environment.
- (5) The establishment, maintenance, location and operation of the PRD shall not be detrimental to or endanger the public health, safety or general welfare.
- (6) In addition, the planning commission shall find that the review standards of article V of this chapter for any proposed conditional uses are also satisfied.

(Ord. No. 2005-7, § 17.23.060, 7-18-2005)

Sec. 36-392. - Additional conditions and requirements.

- (1) In acting upon a PRD application, the planning commission may recommend, and they may impose, additional conditions relating both to the physical and operational aspects of the PRD that are reasonably necessary to protect the public interest and will assure:
 - (a) Protection of natural resource, the health, safety and welfare and social and economic well-being of those who use the PRD project and owners and occupants of surrounding property.
 - (b) Compliance with section 36-386, general purpose of the PRD district, and section 36-391, review standards for PRD developments.
- (2) To insure compliance with the requirements of the PRD and any conditions recommended by the planning commission that are

imposed the city council may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the city covering the estimated cost of improvements associated with the PRD be submitted prior to the issuance of a building permit for any part of the PRD project. Procedures for submission and use of the submitted instrument shall be in accordance with the requirements of the City and Village Zoning Act, Act 207 of 1921, as amended.

(3) Time limit for approval.

- (a) Construction of the approved PRD development plan must be initiated and substantially underway within two years from the effective date of the rezoning. This time limit may be extended one year upon written application to the planning commission prior to the expiration of the approval.
- (b) With a multiple-phase PRD, beginning construction of a phase shall preserve the approval even though the total PRD may be a number of years from completion, provided that consecutive phases must be started within two years of completion of the previous phase.
- (c) If construction has not begun within these time limits, the planning commission may commence rezoning proceedings to an appropriate zone classification. The planning director shall make a recommendation to the planning commission as to appropriate classification.

(Ord. No. 2005-7, § 17.23.070, 7-18-2005)

Sec. 36-393. - Amendments to approved PRDs.

- (1) Following the adoption of the PRD development plan and rezoning by the city council, minor changes in the location of uses, buildings, structures, streets, parking areas, or in the extent of structural coverage or open space may be authorized by the planning commission without additional public hearings.
- (2) The planning commission may, at its discretion, elect to hold a public hearing on any deviation from the adopted PRD site plan.
- (3) A minor change shall be considered one or more of the following:
 - (a) Change in the building size, up to five percent in total floor area.
 - (b) Movement of buildings or other structures by not more than ten feet.
 - (c) Replacement of plant material specified in the landscape plan with comparable materials of an equal or greater size.
 - (d) Changes in building materials to a comparable or higher quality.
 - (e) Changes in floor plans that do not alter the character of the use.
 - (f) Changes required by outside agencies such as the county, state, or federal departments.
- (4) Should the planning commission determine that a change is not minor; the applicant shall follow the procedures of section 36-390 and request an amendment to the approved development plan. The rezoning of the PRD shall not be affected.

(Ord. No. 2005-7, § 17.23.080, 7-18-2005)

Sec. 36-394. - Reserved.

DIVISION 14. - PUD PLANNED UNIT DEVELOPMENT DISTRICT

Footnotes:

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Editor's note— Ord. No. 2005-8, adopted July 18, 2005, amended the Code by the addition of provisions designated as §§ 17.11.010—17.11.070; however said provisions have been redesignated as §§ 36-395—36-401 at the editor's discretion in order to preserve the format of the Code.

Sec. 36-395. - Generally.

The PUD planned unit development district is intended to permit and control the development of preplanned areas for compatible use of land. This district may be used to develop land to enhance the environment by providing open space, preserve or provide woodlots, water frontage and active and passive recreation areas by allowing flexibility for private development. This district may also be used in those

situations where the use of another district would not provide sufficient control to ensure that a desirable and compatible development would occur. A mixture of housing types and nonresidential service and commercial uses not otherwise allowed in combination by this division and which may require a special treatment with regard to setbacks, yards, height and special traffic, policing, or landscaping may also be allowed. This district shall meet the spirit and intent of the comprehensive land use plan and the zoning ordinance.

(Ord. No. 2005-8, § 17.11.010, 7-18-2005)

Sec. 36-396. - Uses permitted.

Permitted uses in a PUD are as follows:

- (1) Uses allowed in the R-I through RM-I residential zoning districts:
 - R-1 through R-3: One-family residential districts.
 - RD-1: One-family and two-family residential district.
 - RM-1: Multiple-family residential district.
- (2) Uses allowed in the O-1 office district; B-1, local business district; and B-3, general business district that are specifically approved for a project at the time of final approval.
- (3) A combination of the uses enumerated in subsections (1) and (2) above.

(Ord. No. 2005-8, § 17.11.020, 7-18-2005)

Sec. 36-397. - Standards.

The following standards shall apply:

- (1) The planned unit development provisions of this division shall apply to a tract of land with a minimum area of ten acres. The planning commission may approve a tract of less than ten acres if the proposed land use meets one or more of the following criteria:
 - (a) Reflects the purpose of section 36-395;
 - (b) Furthers the goals of the comprehensive land use plan;
 - (c) Allows flexible development of otherwise undevelopable property when using conventional design solutions;
 - (d) Allows land uses deemed essential where adequate land area is not available.

The petitioner proposing to change the zone district to PUD shall show proof of control through deed or other legal or equitable interest other than an option to purchase or a tenancy pursuant to a lease or rental agreement. The development plan required under this provision shall show the proposed development of the entire district.

- (2) The total number of dwelling units allowed in a project shall be determined by multiplying the gross acreage of a project area, less the acreage used by nonresidential uses, by the following densities as established in the Comprehensive Land Use Plan for the City of Hillsdale. The following schedule shall be observed:

Units per Gross Acre

| | |
|------------------------------|-------------|
| Low density residential | 1—4.9 |
| Moderate density residential | 5—9.9 |
| High density residential | 10 and more |

Additional residential units may be permitted if appropriate, according to the following standards:

- (a) Unusual costs incurred in the redevelopment of deteriorating areas.
- (b) Unusual costs incurred in the following:
 - 1. Landscaping—Such as streetscape, open space and plazas, use of existing landscape, pedestrian ways, bicycle paths.
 - 2. Siting—Such as topography, view, sun orientation, circulation pattern, physical environment, variation in building setbacks, and building groups (clustering).
 - 3. Design features—Such as street sections, harmonious use of materials, parking areas broken by landscape features, and varied use of house types. The city council, after recommendation of the planning commission, shall determine, based on the above standards, whether additional residential units are appropriate and the total number of said additional units.
- (3) Total ground area occupied by all buildings and structures may not exceed 35 percent of the total ground area of the PUD. The total ground areas shall be computed in acres and square feet within the boundaries of the PUD, and shall include public and private rights-of-way.
- (4) No building shall exceed 45 feet in height, provided that the planning commission may allow greater heights when the PUD district is adjacent to a zoning district that allows a greater height or when greater open spaces, setbacks, topography or nature of use would warrant. Height may be restricted to less than 45 feet where the planning commission finds that a lesser height would be more compatible with existing development patterns in the vicinity of the PUD district or where a lesser height is recommended by the comprehensive land use plan for the area.
- (5) No building, structure or parking area may be erected closer than 25 feet from any PUD zoning district line, provided that the planning commission may, after a public hearing, determine that a greater setback, not to exceed 150 feet, should be required, or provided that where a setback in excess of 25 feet is recommended by the comprehensive land use plan, the planning commission shall be guided by such recommendation. The planning commission may waive some or all of the 25-foot setback to a ten-foot minimum for a building, structure or parking area if such setback is found not to be of significant benefit to adjacent property, to be inappropriate or otherwise unnecessary, provided that, the planning commission may reduce the setback for fences beyond the ten feet.
- (6) All uses located within the PUD zone shall provide off-street parking as required in division 2 of article VIII of this chapter. If it is established that the proposed uses will not generate this need for parking, the planning commission may approve a lesser amount.
- (7) The stages of a PUD use development shall be so scheduled that, if later stages of the development are not implemented, the initial stage(s) shall be consistent with the provisions of this division and shall not detract from the feasibility of developing the remaining portion of the subject PUD area in an appropriate and desirable manner.
- (8) Any development of a commercial area under these provisions shall be designed in a manner to eliminate strip commercial and encourage freestanding uses as a matter of right. The development shall be architecturally pleasing and shall complement the total plan in a mixed-use development. Such commercial area shall provide physical protection for adjacent uses of a less intense nature.
- (9) The establishment, maintenance, location and operation of the PUD project shall not be detrimental to or endanger the public health, safety or general welfare.
- (10) The PUD project shall not be injurious to the use and enjoyment of property in the immediate vicinity for the purposes permitted, nor substantially diminish or impair property values within the neighborhood, or the value of the natural environment.

(Ord. No. 2005-8, § 17.11.030, 7-18-2005)

Sec. 36-398. - Conditions.

The planning commission, in acting upon a PUD project may impose additional conditions relating both to the physical and operational aspects of a project which are reasonably necessary to protect the public interest and assure:

- (1) Protection of natural resource, the health, safety and welfare and social and economic wellbeing of those who use the PUD project and owners and occupants of surrounding property.

- (2) Compliance with section 36-395, general purposes of the PUD district, and section 36-397, standards for PUD developments.
- (3) Provision of security in the form of cash, letter or credit, or performance bond to assure completion of any improvements required as a condition of approval of the use.

(Ord. No. 2005-8, § 17.11.040, 7-18-2005)

Sec. 36-399. - Procedure of requesting a PUD zone.

- (1) The petitioner as defined in section 36-397, showing proof of control of a parcel of land, situated in an area not developed, or developed land proposed for redevelopment, may make application for a change of zone to a PUD district. Such application, along with the material required by division 4 of article II of this chapter, shall be accompanied by a proposed development plan which shall include the following:
 - (a) A topographic map showing existing contour lines at five-foot intervals.
 - (b) A plot plan, to scale, which will show the following:
 - 1. The location and size of all buildings, structures and the use of each;
 - 2. All nonenclosed areas;
 - 3. Utilities, drainage and easements in sufficient detail to determine feasibility;
 - 4. Public streets, private streets, marginal access streets, acceleration and deceleration lanes, drives, parking and loading areas;
 - 5. All landscape treatment, including walls, fences, greenbelts, monuments, fountains, berms and ground cover; and
 - 6. Size, location and design of all signs.
 - (c) A detailed statement outlining the reasons for using the PUD zone and uses proposed for the land. This statement shall include a schedule of development for the project and a statement regarding procedures to be established to maintain any open areas, private streets and parking areas.
 - (d) Typical elevation drawings showing architectural solution of all buildings.
 - (e) Where excavation or extreme movement of dirt is involved, final contours shall be shown on subsection (a) above.

Said plan shall have preliminary review by the department of public safety, city engineer, department of public services, planning/zoning administrator, and the director of public utilities or an authorized representative. The review function of each department shall be:

Department of public safety—Access for police, fire and emergency vehicles and location of fire hydrants.

City engineer—Feasibility for utility service, drainage and streets.

Department of public services—Traffic flow and access to existing public roads.

Planning/zoning administrator—Zoning and overall design as the project relates to adjacent properties.

Director of public utilities—Utility easements and/or rights-of-way, access and availability of public utilities.

- (2) Final procedures. When the planning commission has fulfilled the requirements of division 4 of article II of this chapter, it shall forward the zone change to the city council. The city council shall, in accordance with division 4 of article II of this chapter, consider and, if appropriate, adopt a final development plan which shall enumerate the proposed uses and scheduling of development and the detail of the location of structures, streets, parking areas, landscaping and typical elevations of structures. The adoption of the plan and the zone change that it requires shall be considered an amendment to and an integral part of the zoning ordinance.

(Ord. No. 2005-8, § 17.11.050, 7-18-2005)

Sec. 36-400. - Minor deviations.

Minor changes in the location and siting of buildings, structures, streets or parking areas or in the extent of structural coverage or open space after adoption of the PUD district by the city council maybe authorized by the planning commission without additional public hearings if required by engineering or other circumstances not foreseen at the time the final plan was approved. The planning commission may, in its

discretion, decide to hold a public hearing on any deviation from the adopted PUD site plan. No change or cumulative change brought about by a series of minor deviations may cause any of the following:

- (1) A change in the use or character of the development;
- (2) An increase of more than five percent in overall coverage of structures, or five percent in overall floor space;
- (3) An increase in density of dwelling units;
- (4) An increase in the problems of traffic circulation and public utilities;
- (5) A reduction of more than five percent in approved open space;
- (6) A reduction of off-street parking and loading space;
- (7) A reduction in required pavement widths; or
- (8) A reduction of more than five percent in structural setbacks from the PUD boundary.

(Ord. No. 2005-8, § 17.11.060, 7-18-2005)

Sec. 36-401. - Construction of a PUD.

Construction of a planned unit development pursuant to sections 36-396 through 36-399 must be started within two years from the effective date of rezoning. This time limit may be extended one year upon application to the planning commission if it is demonstrated that substantial progress in being made in the detailing of plans and securing of financing. With a multiple-phase PUD, beginning construction of a phase shall satisfy the requirement even though the total PUD may be a number of years from completion; provided that consecutive phases must be started within two years of completion of the previous phase. If construction has not begun within these time limits, the planning commission may commence rezoning proceedings to an appropriate zone classification. The planning director shall make a recommendation to the planning commission as to appropriate classification.

(Ord. No. 2005-8, § 17.11.070, 7-18-2005)

Sec. 36-402. - Reserved.

DIVISION 15. - C-1 COLLEGE DISTRICT

Footnotes:

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Editor's note— Ord. No. 2005-13, adopted Nov. 21, 2005, amended the Code by the addition of provisions designated as 36-424—36-430; however, said provisions have been redesignated as §§ 36-403—36-409 at the editor's discretion in order to preserve the format of the Code.

Sec. 36-403. - Intent.

The college district is intended to be reserved for those uses associated with the operation of colleges or universities. The buildings are typically large and not necessarily similar to other districts or uses. Grouping of these unique structures and college related uses will provide for a more harmonious, efficient and convenient educational center.

(Ord. No. 2005-13, § 36-424, 11-21-2005)

Sec. 36-404. - Principal permitted uses.

In a college district, no building or land shall be used and no building shall be erected except for one or more of the following specified uses:

- (1) All uses permitted and uses permitted subject to special conditions in a RM-1, multiple-family residential district, and meeting the requirements as set forth in said district with the exception of hospitals which shall be expressly prohibited from this district.
- (2) All college facilities (classroom/laboratory/research facilities, administration facilities, college health centers, sports facilities,

including fields and courts, auditoriums, libraries, museums, cafeterias, agricultural facilities, parking lots and garages, maintenance facilities).

(3) Studios for professional work or teaching of fine arts, interior decorating, photography, music, drama or dancing.

(4) Accessory uses customarily incidental to any of the above permitted uses and located on campus such as services for employees and other persons normally associated with permitted uses.

(Ord. No. 2005-13, § 36-425, 11-21-2005)

Sec. 36-405. - Uses subject to special conditions.

The following uses shall be permitted after review and approval of the site plan by the planning commission, subject to the conditions imposed in this section for each use:

(1) Barber shops and beauty salons subject to the following conditions:

(a) All off street parking areas shall comply with the provisions of section 36-148 and article VIII.

(b) Lighting shall be located and designed to shield the light source from adjoining residences.

(c) Signs and other forms of display must comply with section 26-39 of this Code.

(Ord. No. 2005-13, § 36-426, 11-21-2005)

Sec. 36-406. - Parking areas.

All off-street nonresidential parking shall comply with the provisions of section 36-148 and article VIII.

(Ord. No. 2005-13, § 36-427, 11-21-2005)

Sec. 36-407. - Area and bulk requirements.

See section 36-401 limiting the height and bulk of buildings and the minimum size of lot by permitted land use.

(Ord. No. 2005-13, § 36-428, 11-21-2005)

Sec. 36-408. - Lighting.

All lighting shall be designed to shield the light source from any adjoining residences. Flood lighting or other lighting of playfields, and scoreboards shall be extinguished by 12:00 midnight. Special events may be granted a longer lighting period as allowed by the city manager.

(Ord. No. 2005-13, § 36-429, 11-21-2005)

Sec. 36-409. - Signs.

Signs shall comply with the provisions of section 26-33 for residential and prescribed uses, and section 26-39 for college purposes and subject to the provisions of this section. Interior illumination may be allowed upon review of the planning commission.

(1) Signs located at sports complex, intramural or recreational sports buildings and athletic fields within the college district may contain a reference to sponsorship by commercial entities of athletic buildings, structures, scoreboards, equipment or events within the copy of a changeable copy sign.

(a) Signs may also provide information regarding activities and events of nonprofit organizations whether or not such activities will be held at the facility.

(b) Signs may be print style or contain digital changeable copy.

(Ord. No. 2005-13, § 36-430, 11-21-2005)

Sec. 36-410. - Reserved.

DIVISION 16. - SCHEDULE OF REGULATIONS

Footnotes:

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Editor's note— By the addition of Ord. Nos. 2005-7, 2005-8, and 2005-13, former div. 13, §§ 36-401—36-403, has been redesignated as div. 16, §§ 36-411—36-413.

Sec. 36-411. - Limitations on height, bulk, density and area by land use.

| Districts | Minimum Size Lot Per Unit | | Maximum Height of Structures | | Minimum Yard Setback (Per Lot in Feet) | | | Minimum Floor Area Per Unit (Square Feet) | Maximum Percentage of Lot Area Covered by All Buildings |
|----------------------------------|---------------------------|---------------|------------------------------|-----------|--|-----------------------|-----------------|---|---|
| | Area in Square Feet | Width in Feet | In Stories | In Feet | Front | Each Side | Rear | | |
| R-1 one-family residential | (a) 8,400 | (a) 70 | 3½ | 35 | 25 | 8 | 10 | 1,000 | 30% |
| RD-1 one-family residential | (a) 6,500 | (a) 60 | 2½ | 25 | 25 | 8 | 10 | 1,000 | 30% |
| RD-1 two-family residential | (a) 8,400 | (a) 70 | 2½ | 25 | 25 | 8 | 10 | 1,000 | 35% |
| RM-1 multiple-family residential | (b) | — | 4 | 40 | 25 (c) | 8 (c) | 10 (c) | 1,000 (e) | 35% (b) |
| B-1 local business | — | — | 2½ | 35 | (h) 25 | (e, m) | (f, m) | none | (g) |
| B-2 central business | — | — | (i) | (i) | (h) | (e, m) | (f, m) | none | (g) |
| B-3 general business | — | — | 2½ | (l) 35 | (h) 40 | (e, m) | (f, m) | none | (g) |
| I-1 light industrial | — | — | — | (l) 50 | 50 | (j, k, m, n) 10 | (j, m, o) | none | (h) |
| P-1 vehicular | — | — | (j) | (j) | § 36- 354(a) | § 36- 354(a) | § 36- 354(a) | — | (h) |

| | | | | | | | | | |
|--|-----|-----|-----|-----|-----------|----|--------|-----|-----|
| PRF parks and recreational facilities district | — | — | (i) | (i) | 25 (h) | 10 | (f, m) | — | 30% |
| C-1 college district | (b) | (b) | 4 | 50 | (h) 40 | 10 | (f, m) | (b) | 35% |

Notes:

- (a) In those instances where public sewers are not provided, all lot areas per dwelling unit shall equal at least 12,000 square feet. See sections [36-402](#) and [36-403](#) regarding exceptions as to lot area and density controls.
- (b) In an RM-1 multiple-family residential district, the total number of rooms as defined in [section 36-6](#), in buildings consisting of more than four dwelling units shall not be more than the area of the parcel in square feet divided by 900. All units shall meet the International Property Maintenance Code (IPMC) occupancy area requirements.
- (c) Every lot on which a main building consisting of more than four dwelling units is erected shall be provided with a 40-foot setback on each exterior side of such lot. Each setback shall be increased by one foot for each ten feet or part thereof by which the length of the structure exceeds 40 feet in overall dimension along the adjoining lot line.
- In all RM-1 multiple-family residential districts, the minimum distance between any two buildings shall not be less than the allowable distance as designated by the State of Michigan Single Construction Code. Parking shall not cover more than 30 percent of the area of any required yard, or any minimum distance between buildings. Properties must follow the landscape requirements as listed in [chapter 36](#), sections [36-148](#) through [36-152](#).
- (d) See definitions under [section 36-6](#). All row houses, terraces and other such multiple-type structures shall comply with the floor area requirements under apartments.
- (e) No side yards are required along the interior side lot lines, except as otherwise specified in the single state construction code. On the exterior side yard which borders on a residential district, there shall be provided a setback of not less than ten feet on the side or residential street. If walls of structures facing such interior side lot lines contain windows or other openings, side yards of not less than ten feet shall be provided.
- (f) 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 buildings, the rear building setback and loading requirements may be computed from the center of the alley.
- (g) 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.
- (h) Parking shall be permitted in the front yard after approval of the parking plan layout and points of access by the planning commission. The setback shall be measured from the nearest side of existing and/or proposed right-of-way lines, whichever is greater.
- (i) The maximum height of a structure in the B-2 district shall not exceed 12 feet above the property immediately adjacent. Any proposed structure over 50 feet tall shall require approval of the city planning commission.
- (j) No building shall be closer than 50 feet to the outer perimeter (property line) of such district when the property line abuts any residential district.
- (k) Side yards abutting upon a street and across from other industrial I districts shall be provided with a setback of at least 20 feet.
- (l) Planned developments involving five acres or more under one ownership shall be subject to the approval of the board of appeals, after public hearing, regarding modifications with respect to height regulations. In approving an increase in structure height, the board of appeals shall require that all yards shall at least equal in their depth the height of the structure.
- (m) A four-foot-six-inch obscuring wall or fence shall be provided on those sides of the property abutting land zoned for residential

use.

- (n) Parking shall be permitted on the side yard after approval of the parking plan layout and points of access by the planning commission.
- (o) All storage shall be in the rear yard and shall be completely screened with an obscuring wall or fence not less than six feet high, or with a chain-link type fence and a greenbelt planting so as to obscure all view from any adjacent district or public street.

(Code 1979, § 17.28.010; Ord. No. 2005-14, 11-21-2005; Ord. No. 2014-6, 7-21-2014; Ord. No. 2016-005, 6-6-2016; Ord. No. 2018-004, 7-16-2018)

Sec. 36-412. - Subdivision open space plan.

The intent of this section is to permit one-family, and one-family and two-family, residential subdivisions to be planned as a comprehensive unit, allowing therefor certain modifications to the standards as outlined in section 36-401 to be made in R-1, R-2, R-3 one-family and RD-1 one-family and two-family residential districts, when the following conditions are met:

- (1) The lot area in all one-family and two-family residential districts may be reduced by 20 percent; provided, that the population density shall be no greater than if the land area to be subdivided were developed in the minimum square foot lot areas as required under R-1, R-2, R-3 and RD-1 districts. In accomplishing the 20 percent lot reduction, no lot width in an R-1, R-2 and RD-1 residential district shall be reduced by more than five feet and no lot width in an R-3 district shall be reduced by more than ten feet. All calculations shall be predicated upon these districts having the following number of dwelling units per acre, including streets:

| | | |
|-------------------|---|------------------------------|
| RD-1 (one-family) | = | 5.0 dwelling units per acre |
| RD-1 (two-family) | = | 7.75 dwelling units per acre |
| R-1 (one-family) | = | 3.89 dwelling units per acre |
| R-2 (one-family) | = | 3.40 dwelling units per acre |
| R-3 (one-family) | = | 2.18 dwelling units per acre |

- (2) For each square foot of land gained under the provisions of subsection (1) of this section within a residential subdivision through the reduction of lot size below the minimum requirements as outlined in section 36-401, equal amounts of land shall be dedicated to the subdivision. These dedications shall be either rights in fee or easement, and retained as open space for park, recreation and related uses. All lands dedicated in fee or easement shall meet the requirements of the city council.
- (3) The area to be dedicated for public park and recreation purposes only shall in no instance be less than four acres, and shall be in a location and shape approved by the planning commission in reviewing the proposed subdivision plat. The land shall be so graded and developed as to have natural drainage.
- (4) In approving the application of subdivision open space plan technique, the planning commission must be cognizant of the following objectives:
 - a. To provide a more desirable living environment by preserving the natural character of open fields, stands of trees, brooks, topography and similar natural assets;
 - b. To encourage developers to use a more creative approach in the development of residential areas;
 - c. To encourage a more efficient, aesthetic and desirable use of open area while recognizing a reduction in development costs,

and by allowing the developer to bypass natural obstacles in the site.

- (5) This plan for reduced lot sizes shall only be permitted if it is mutually agreeable to the council and the subdivider or developer.
- (6) Under this open space approach, the developer or subdivider shall dedicate the total park area (see subsection (2) of this section) at the time of filing of the final plat on all or any portion of the plat.

(Code 1979, § 17.28.020; Ord. No. 2016-005, 6-6-2016)

Sec. 36-413. - Averaged lot sizes.

The intent of this section is to permit the sub-divider or developer to vary the lot sizes and lot widths so as to at least average the minimum size of lot per unit as required in section 36-401 for each one-family and two-family residential district. If this option is selected the following conditions shall be met:

- (1) In meeting the average minimum lot size the subdivision shall be so designed as not to create lots of widths less than 66 feet.
- (2) The technique of averaging minimum lot size shall be acceptable only in those instances wherein the entire preliminary plat, which has received the approval of the city, is carried through to a final plat and is then recorded in its totality. Recording of portions of a preliminary plat shall not be acceptable under this option.
- (3) All computations showing lot area and the average area resulting through this technique shall be indicated on the print of the preliminary plat.
- (4) The combining of features of section 36-401 and this section may be carried out. The planning commission shall determine in their review of the preliminary plat that the full intent of section 36-401 and this section has been met.

(Code 1979, § 17.28.030; Ord. No. 2016-005, 6-6-2016; Ord. No 2018-05, 7-16-2018)

Sec. 36-414. - Permitted and special conditional uses.

The following uses are permitted (P), or subject to special conditions (S) within the zoning districts. Conditional uses require approval by the planning commission to the procedures of sections 36-61 through 36-65:

Permitted and Conditional Uses

| | Zoning Districts | | | | | | | | | | | | |
|----------------------------|------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|--------------|----------|----------|
| | B-1 | B-2 | B-3 | C-1 | I-1 | I-2 | PRF | PRD | PUD | O-1 | R-1, 2, 3 | RD- 1 | RM- 1 |
| Assembly and meeting halls | | P | P | P | | | | P | P | P | | | |
| Automobile wash | | | P | | P | | | P | | | | | |
| Banks | P | P | P | P | | | | P | P | P | | | |
| Bars, taverns | P | P | P | | P | | | P | | | | | |
| Bed and Breakfast | S | S | P | | | | | | | S | S | S | S |
| Bulk storage | | | | | P | P | | | | | | | |
| Child care centers | S | S | P | P | S | | | P | P | S | P | P | S |
| Churches | S | S | P | P | | | | P | P | P | S | P | S |

| | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Civic uses | S | P | P | P | P | | | P | P | P | | | S |
| Clubs, dance halls, lodges | S | S | P | P | | | | P | P | P | | | |
| Drive-in and drive-through services | | | P | | | | | P | S | | | | |
| Educational | P | P | P | P | S | | S | | | P | P | S | S |
| Fine arts | P | P | P | P | | | S | P | P | P | S | S | S |
| Garbage processing, recycling | | | | | P | P | | | | | | | |
| Gasoline stations | S | | P | | P | P | | | | | | | |
| Grocery and pharmacy | P | P | P | | | | | P | S | P | S | S | S |
| Health and fitness facilities | S | S | P | P | | | | P | S | P | P | P | P |
| High technology | S | P | P | P | | P | | P | P | P | | | |
| Hotel/motel | | S | S | S | | | | P | | | | | |
| Junkyards and vehicle storage | | | | | S | P | | | | | | | |
| Laboratories | | | | P | S | P | | P | | | | | |
| Media services | P | P | P | P | | | | P | | P | | | |
| Medical | | | P | | | | | | | P | | | P |
| Medical/clinical/general practitioner offices | P | P | P | | | | | P | P | P | S | S | S |
| Mixed-use | P | P | P | | | | | P | P | P | | | |
| Mortuaries and funeral homes | S | P | P | | | P | | | S | P | | | |
| Multi-unit dwellings | | P | S | | | | | | P | P | | | S |
| Municipal/public works | | P | P | P | P | P | | P | P | P | | | |
| Nursing homes | | | P | | | | | P | P | S | | | |
| Office | P | P | P | P | P | S | | P | P | P | P | S | S |
| Outdoor cafes | P | P | P | P | S | | | P | S | | S | S | S |

| | | | | | | | | | | | | | |
|--|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Post office | P | P | P | P | | | | P | S | P | | | |
| Power generation | | | | | S | P | | | | | | | |
| Professional offices | P | P | P | P | P | S | | P | P | P | P | S | S |
| Public utilities | S | S | S | | P | P | | | | P | S | | S |
| Recreational | P | P | P | P | | | P | P | S | P | P | S | S |
| Recreational facilities | P | P | P | P | | | P | P | S | P | P | P | P |
| Retail | P | P | P | S | | | | P | P | | | | S |
| Schools (public, parochial, private) | P | P | P | S | | | | P | P | S | P | P | P |
| Vehicle showrooms | | | P | | P | | | P | | | | | |
| Warehousing | | S | S | | P | P | | | | | | | |
| S = Special Conditional Use P = Permitted Use | | | | | | | | | | | | | |

(Ord. No. 2015-005, 6-6-2016)

DIVISION 17. - TOD TECHNOLOGY OVERLAY DISTRICT

Sec. 36-415. - Purpose.

The purpose of the technology overlay district (TOD) is to promote development of research and technology-related businesses, limited light manufacturing and assembly and other businesses and uses that are compatible with and supportive of technology-related businesses in TOD zones within the city. The TOD is further intended to allow, through the special use process, limited commercial and retail uses.

(Ord. No. 2012-8, 11-5-2012)

Sec. 36-416. - Standards and special requirements.

Uses of buildings and other structures and land located within the TOD are subject to the regulations contained within the underlying zoning classification, as well as the additional requirements imposed by the TOD. In cases where the provisions of the TOD conflict with the regulations of the underlying zoning classification, the provisions of the TOD shall be controlling.

(Ord. No. 2012-8, 11-5-2012)

Sec. 36-417. - TOD definition and location.

A TOD is defined as an area within the City of Hillsdale, described and established by ordinance, that overlays but does not change any area that it covers, in which principal and special uses are allowed that promote and support development of research and technology-related businesses, limited light manufacturing and assembly and other businesses and uses that are compatible with and supportive of technology-

related businesses in TOD zones, subject to compliance with the application, site plan review procedures, restrictions and other applicable provisions of this division.

(Ord. No. 2012-8, 11-5-2012)

Sec. 36-418. - Principal permitted uses.

The following are permitted uses in the TOD, subject to compliance with the application, site plan review procedures, restrictions and other applicable provisions of this ordinance.

- (1) Technology centers.
- (2) Data storage centers.
- (3) Government technology centers.
- (4) Office research complexes.
- (5) Data processing programming and software.
- (6) Broadcasting and production studios.
- (7) Life sciences and medical labs.
- (8) Research and design, engineering.
- (9) Computer design and development.
- (10) Information processing centers.
- (11) Light manufacturing/light assembly.
- (12) Municipal/essential services.
- (13) Parks and recreational facilities.
- (14) Vocational and training centers.

(Ord. No. 2012-8, 11-5-2012)

Sec. 36-419. - Special uses.

In addition to the principal permitted uses, the following special uses are allowed, subject to compliance with the application, site plan procedures, restrictions and other applicable provisions of this article:

- (1) Retail uses that are related to or supportive of the developer's operation or staff that are housed within the same structure as the developer, which retail uses occupy and use ten percent or less of the facility.
- (2) Offices that directly support existing/proposed technology based development that is located within the same facility.
- (3) Services that directly support existing/proposed technology based development that is located within the same facility.
- (4) Children's day care services.

Sec. 36-420. - Prohibited uses.

The following uses are prohibited in the TOD:

- (1) Uses that emit smoke, soot, or noxious fumes or odors, excepting smoke or odors that are typically associated with cafeterias and food service establishments.
- (2) Uses that create or cause vibrations on or beyond the property lines that endanger the health, welfare, or safety of the public or constitute a public nuisance.
- (3) Outside storage of material, supplies or products unless located within an approved storage area that is constructed and landscaped so as to be shielded and not observable from any other lot or public street right-of-way.
- (4) Retail and service establishments unless otherwise specifically allowed as special uses.
- (5) Uses that produce or create heat or glare from operations unless the operation is conducted entirely within an enclosed, roofed building and the heat and glare produced or created are not discernible at or beyond the property line; provided that exterior

lighting for walks, parking lots and other security related purposes shall be exempt from this provision.

(Ord. No. 2012-8, 11-5-2012)

Sec. 36-421. - Required conditions.

- (1) Truck service areas and overhead truck loading/unloading doors shall be totally screened from view from any public right-of-way, including freeway right-of-way, and adjacent properties, except for required driveway access. Such screening shall, be accomplished by the courtyard design of the principal building itself, by a solid ornamental wall of a design, construction and materials similar to that of the principal building, or by an earth berm and plantings, or combination thereof.
- (2) Screening, ornamental walls, berm and plantings shall conform to design standards/guidelines as separately approved by the planning commission; provided, however that the planning commission may waive said requirements, in whole or in part, where truck parking/loading and unloading areas are abutting a railroad, light or heavy industrial district or another TOD or where the adjacent freeway right-of-way or adjacent property or buildings are of a higher elevation than the subject property, and, as a result, the total enclosure from view of such truck loading, unloading and parking areas would result in peculiar or exceptional practical difficulties to or exceptional undue hardship upon the owner of the subject property. The waiver granted shall not be any greater than necessary to relieve the practical difficulty or undue hardship.
- (3) Minimum front, side and rear yard setbacks for buildings, maximum building heights, and parking for all uses permitted under this district shall be as provided and required in section 36-411.
- (4) Off-street parking and loading/unloading space shall be as provided and required in article VIII, chapter 36 of this division. Required parking shall be computed based upon amount of floor area utilized for various purposes, provided that a floor plan indicating such uses, and usable floor space, as defined, is graphically and statistically shown on site plan.
- (5) Landscaping throughout the site shall be provided as required in section 36-148 of this chapter.
- (6) Uses permitted or allowed shall not be located on property sharing a common boundary with property zoned for R-1, R-2, R-3, RD-1 or RM-1 district use unless at least one of the following conditions is satisfied:
 - a. The respective properties are separated by a public right-of-way;
 - b. A landscaped berm of not less than six nor more than ten feet in height satisfying the standards of section 36-148 is constructed and maintained on the TOD property between the use and the adjacent residentially zoned property;
 - c. The abutting or adjacent residentially zoned property is recommended in the master plan for uses other than residential; or
 - d. The abutting residentially zoned property is being used for industrial, commercial or office type use.

(Ord. No. 2012-8, 11-5-2012)

Sec. 36-422. - Development standards.

- (1) Signage shall be limited to a single identification sign or kiosk (identification sign) in the front yard that lists only the names of the occupant/tenants of the development. The dimensions of an identification sign shall not exceed four feet in height or six feet in length and may be raised from the ground by a post system no more than two feet for an overall height that does not exceed six feet. The center of the identification sign shall be at optimum viewing height to a person seated in an automobile and shall be located at least twenty feet from the front lot line. Identification sign materials, lettering, etc., shall be consistent and compatible with the architecture of the development. Changeable copy signs are not permitted.
- (2) Informational signs (informational signs) that do not exceed two feet in height or two feet in length are allowed to provide directional information for, by way of example, office entrances, employee parking, vehicle entry/exit directions, visitor parking and delivery. Informational signs may be raised from the ground by a post system to an optimum viewing height for a person seated in an automobile. Informational sign materials, lettering, etc., shall be consistent and compatible with the architecture of the development. Changeable copy signs are not permitted.
- (3) Parking and driveway areas shall be paved.
- (4) Buildings shall be designed to reflect the intent of this zone district. Plans for all proposed buildings shall be initially submitted to the planning commission in accordance with provisions of section 36-423 for its review. All proposed structures shall comply with design standards/guidelines as set forth by the planning commission.

- (5) All storage of materials and/or wastes shall be within approved buildings and/or enclosed by a sight-obscuring fence or wall as approved by the planning commission. Such storage building(s), fence(s) or wall(s) shall be architecturally compatible with the primary building(s) on the property, and be in compliance with the design standards/guidelines of the park.
- (6) Imaginative designs, landscaping and visual treatments are encouraged. If, in the opinion of the commission, the developer's design meets such criteria, a ten percent lot coverage bonus will be awarded.
- (7) All approved submissions will be considered and included as part of the permit application and issuance.

(Ord. No. 2012-8, 11-5-2012)

Sec. 36-423. - Application, contents and permit issuance or denial.

Applications for development within the TOD shall be accompanied by a boundary survey, architectural drawings, elevations, landscape plan, a site plan, site engineering, and if application is by the property owner's agent, written designation of the agent's name, address, and authority.

- (1) The property owner or his agent ("the applicant") shall meet with the zoning administrator to explain the development proposed, discuss procedures and obtain an application form.
- (2) The applicant shall file the completed application form, together with the required exhibits and the filing fee, with the zoning administrator.
- (3) The zoning administrator shall transmit the application to the planning commission for review, determination, and recommendation to the zoning administration for approval, denial or conditioned approval or conditioned denial of the application.
- (4) The planning commission shall review and determine whether the proposed development complies with the intent and all applicable requirements of the TOD and its provisions, including without limitation those pertaining to the appearance and arrangement of buildings, off-street parking, lighting, landscaping, ingress and egress, drainage, signs and other improvements within the five business days next following completion of its review and determination, the planning commission shall provide the zoning administrator with its findings, determination and recommendations for approval, denial or conditioned approval or conditioned denial of the application for a permit.
- (5) Within five business days following receipt of the planning commission's decision, the zoning administrator shall issue a permit, issue a conditioned permit, or deny issuance of a permit to the applicant in accordance with the planning commission's findings, determination and recommendation.

(Ord. No. 2012-8, 11-5-2012)

Secs. 36-424—36-430. - Reserved.

ARTICLE IV. - SUPPLEMENTAL REGULATIONS

Sec. 36-431. - Accessory buildings.

Accessory buildings and accessory structures shall be subject to the following regulations, which shall apply in all zone districts:

- (1) All accessory buildings and accessory structures are permitted in all zone districts subject to compliance with all of the following:
 - a. The accessory building and/or accessory structure is customarily and clearly incidental to a use that is permitted under this chapter and/or is a permitted use in the zone district in which it is or they are located or to be located;
 - b. The accessory building and/or accessory structure does not create a nuisance or hazard; and
 - c. The accessory building and/or accessory structure meets and is in accordance with all applicable limitations, requirements and provisions of this article and the applicable zone district.
- (2) No accessory buildings or accessory structures shall be established until the principal use to which it is an accessory has been

established or a building, placement or construction permit for the principal use has been obtained.

- (3) 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 title, applicable to the main buildings.
- (4) Accessory buildings or other accessory structures shall not be erected, placed or established in any required yard, unless otherwise permitted by this chapter.
- (5) No detached accessory building or other accessory structure shall be located closer than ten feet to any main building or structure, unless it can conform to all other yard regulations as required for the main building or structure. It shall not be located any closer than three feet to any side or rear lot line, unless otherwise permitted by this chapter. In those instances where the rear lot line is coterminous with an alley right-of-way, the accessory building or accessory structure shall be no closer than one foot to such rear lot line. In no instance shall an accessory building or accessory structure be located within a dedicated easement right-of-way.
- (6) When an accessory building or accessory structure is located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, the accessory building or accessory structure shall not project beyond the front line of the existing main structure on the lot in rear of such corner lot. An accessory building or accessory structure shall not be located within ten feet of a street right-of-way line.

(Code 1979, § 17.46.010; Ord. No. 2005-2, § 17.46.010, 2-21-2005)

Sec. 36-432. - Accessory buildings in residential districts.

Accessory buildings and accessory structures located in any residential zone districts shall be subject to the following regulations except as otherwise permitted in this chapter:

- (1) No detached accessory building or accessory structure in an R-1, RD-1, or RM-1 district shall exceed one story or 15 feet in height.
- (2) No accessory building or accessory structure inclusive of the main structure may exceed the required density requirements of section 36-411.
- (3) Playhouses, greenhouses and gazebos may not be located in side and rear yards within three feet of the property line.
- (4) Swimming pools shall be regulated by the Michigan Residential Building Code. Swimming pools, excepting inflatable swimming pools having a length or diameter of less than five feet and/or a depth of less than 18 inches, shall be placed in the rear yard only. Inflatable swimming pools having a length or diameter of five feet or more and/or a depth of 18 inches or more shall be located within the rear or side yards only. No hot tub or swimming pool shall be located within three feet of the property line.
- (5) Porches and decks must conform to all yard setback, bulk and height requirements. Construction of new porches and decks and the reconstruction of existing porches and decks shall be subject to compliance with the requirements of sections 36-411 and 36-787.
- (6) Game courts, as defined in section 36-6, excepting basketball hoops, are allowed within the rear and side yards only. Notwithstanding anything herein to the contrary, basketball hoops may be located in the driveway to the main residential building or to an accessory building, to an attached or detached accessory building or accessory structure. No game courts, playground or other recreational equipment may be located within three feet of the property line.
- (7) Garbage and trash containers are allowed in the side and rear yards only, except at designated times of pickup, during which they may be located at the property line in accordance with and subject to the provisions of chapter 28 of this Code.
- (8) Clothes lines, supporting poles and similar natural laundry drying equipment are allowed within the side or rear yard but shall not be located within three feet of the property line.
- (9) Pet shelters, pens, cages and runs are allowed only in the rear yard but shall not be located within three feet of the property line.
- (10) The use of semi trailers, enclosed trailers, trucks, rail cars or vehicles as storage buildings or structures or as accessory buildings or structures is prohibited.

(Ord. No. 2005-2, § 17.46.012, 2-21-2005)

Sec. 36-433. - Home occupations.

A home occupation is an accessory use by the occupant or occupants of a dwelling unit by which goods are produced or traded or services are rendered as an economic enterprise. "Home occupation" as used in this Code shall include the use of a single-family dwelling unit by an occupant of that dwelling unit to give instruction in a craft or fine art. Such use shall be incidental to the main use of the dwelling unit as a residence and shall be subject to the following:

- (1) Each home occupation shall comply with the following conditions and restrictions:
 - a. A home occupation shall be conducted entirely within the dwelling unit or within accessory buildings on the same lot as the dwelling unit;
 - b. A home occupation consisting of the instruction of a fine art or craft shall not be operated in conjunction with the operation of a family or group daycare, child care center or daycare center;
 - c. No home occupation shall occupy a portion of the dwelling unit or, if applicable, an allowed associated accessory building that is greater than 25 percent of the usable floor area of the dwelling unit. If more than one home occupation is conducted within a particular dwelling unit or associated accessory buildings the total of all space devoted to said home occupations shall not exceed 25 percent of the useable floor area of the dwelling unit;
 - d. No persons other than occupants of the dwelling unit shall be employed in connection with the home occupation;
 - e. The use of the dwelling unit or, if applicable, of allowed accessory buildings to conduct the home occupation shall not result in:
 1. The creation of noise, dust or dirt, heat, smoke, odors, vibration, glare or bright lighting in excess of that which would customarily be created through the use of the property as a residence;
 2. The creation of interference with radio or television transmissions; or
 3. The production, storage, or dumping of combustible or toxic substances on the property;
 - f. No home occupation shall be conducted in such a manner as to result in persons other than occupants of the dwelling unit coming to the property for the purpose of transacting business relative to the home occupation, except for instruction in a craft or fine art;
 - g. No home occupations may be operated except between the hours of 7:00 a.m. and 7:00 p.m. Monday through Saturday;
 - h. No home occupation for giving instruction in a craft or fine art may be conducted in such a manner as to require or allow more than six persons coming to the property for instruction at any one time;
 - i. The pickup and delivery of goods in connection with the home occupation shall not exceed one pickup and one delivery per day and shall be restricted to the use of a vehicle having a gross vehicle weight of 14,000 pounds or less;
 - j. There shall be no signs or other displays on the property which indicate the home occupation being conducted there;
 - k. The operation of an automobile repair or body shop or any similar business shall not be permitted as a home occupation.
- (2) The following uses shall not be regulated as home occupations:
 - a. Day care for six or fewer children;
 - b. Tutoring for six or fewer persons at one time;
 - c. Economic enterprises conducted by minor children who are occupants of the dwelling unit provided that no adult occupants are employed in the enterprises and the gross income from such enterprises does not exceed \$500.00 annually for all such enterprises conducted on that property;
 - d. The sale of agricultural products when the production of such products for sale is incidental to their production for consumption by occupants of the property and when the sale of such products does not violate subsection (1)e or subsection (1)f of this section;
 - e. Occasional sales as defined in section 36-6 which are conducted on residential properties in districts other than residential use districts; provided, that such sales conform in all other respects with section 36-435.
- (3) The provisions of this section shall be applicable to all dwelling units and associated accessory buildings located in any use district in the city.

- (4) Those home occupations which are in existence on the date that the ordinance codified in this section is adopted and which do not comply with the provisions of the ordinance codified in this section shall be brought into compliance within 90 days after the adoption of the ordinance codified in this section.

(Code 1979, § 17.46.015; Ord. No. 2008-9, 9-2-2008)

Sec. 36-434. - Exterior lighting.

All lighting for parking areas or for the external illumination of buildings and uses shall be directed away from and shall be shielded from adjacent residential districts, and shall also be arranged so as to not adversely affect driver visibility on adjacent thoroughfares.

(Code 1979, § 17.46.020)

Sec. 36-435. - Sales from residential property.

Notwithstanding any other provision of this chapter or any ordinance, occasional sales, as that term is defined in section 36-6, shall be permitted in any residential use district within the city, subject to the following restrictions:

- (1) Advertising of such occasional sales by posters, signs or banners shall be limited to no more than two freestanding posters, signs or banners not exceeding nine square feet each on sale premises. No such posters, signs or banners shall be attached to or supported by any city tree, public utility pole, or other public construction.
- (2) No posters, signs or banners advertising occasional sales shall be erected more than three days prior to the commencement of such occasional sale. Such posters, signs and banners shall be removed by the property owner or sales proprietor within 48 hours following the conclusion of such sale, and in no case shall remain erected for more than eight days.
- (3) No occasional sale shall be held on any public property, right-of-way, or terrace without first obtaining a special permit therefor prior to such sale from the city manager.
- (4) All posters, signs or banners advertising such occasional sales shall contain the name and address of the person, firm or corporation conducting the occasional sale.
- (5) Occasional sales shall be permitted during daylight hours only.
- (6) Fees for reviews and/or inspections required for the issuance of any requested special permit shall be charged in accordance with the fee schedule of the city.

(Code 1979, § 17.46.040)

Sec. 36-436. - Bed and breakfast operations.

Bed and breakfast operations as defined in section 36-6 are permitted subject to the following:

- (1) The bed and breakfast operation shall be conducted entirely within the dwelling unit on the premises, which dwelling unit shall comply with the International Property Maintenance Code (IPMC) bedroom and living room requirements as adopted by the city, and which dwelling unit shall be located on a private lot. The dwelling unit shall not be physically altered for the primary purpose of increasing the space available for the bed and breakfast operation.
- (2) A bathroom shall be provided on each floor where bed and breakfast sleeping rooms are provided and there shall be at least one bathroom for every four bed and breakfast sleeping rooms.
- (3) There shall be provided a minimum of one parking space for the dwelling unit plus one additional parking space for each bed and breakfast room within the dwelling unit.
- (4) There may be one unanimated, non-illuminated sign attached to the dwelling unit according to allowances within chapter 26 of the sign ordinance.
- (5) During such times as the bed and breakfast operation is being conducted, the premises shall not be used for any other permitted use or use subject to special conditions, other than as a single-family dwelling unit. The facilities provided on the premises shall be exclusively for the use of bed and breakfast guests and residents of the dwelling unit.
- (6) If the owner is not on-site at the time of rental, the owner must provide a contact person. This contact person must be available

to accept telephone calls at all times that the dwelling is rented. The contact person must have a key to the dwelling and be capable of being physically present at the dwelling within two hours to address issues within the same time frame.

(Ord. No. 2020-1, 3-16-2020)

Sec. 36-437. - Short-term rentals.

Short-term rentals as defined in section 36-6 are permitted subject to the following:

- (1) Occupants shall not encroach on neighboring properties.
- (2) Campfires shall be maintained in designated fire pits and comply with Hillsdale Municipal Code, section 16-46.
- (3) Owners shall provide sufficient waste receptacles which shall be screened from view. Premises shall be free of visible debris. Garbage shall be disposed of on not less than a weekly basis.
- (4) Room area shall comply with International Property Maintenance Code (IPMC) bedroom and living room requirements as adopted by the city.
- (5) Occupants shall not create a nuisance. For purposes of this subsection, a nuisance includes but is not limited to the following:
 - a. An activity that violates the city noise regulations found in the Hillsdale Municipal Code, chapter 14, article III; and
 - b. Any activity that violates the city firework regulations found in the Hillsdale Municipal Code, section 22-234.
- (6) If the owner of the premises does not reside in the dwelling unit, the owner must provide him or herself, or provide a contact person. This contact person must be available to accept telephone calls at all times that the dwelling is rented. The contact person must have a key to the dwelling and be capable of being physically present at the dwelling within two hours to address issues within the same time frame.

(Ord. No. 2020-1, 3-16-2020)

Secs. 36-438—36-460. - Reserved.

ARTICLE V. - CONDITIONAL USES

Footnotes:

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State Law reference— *Special land uses, MCL 125.584a.*

Sec. 36-461. - General requirement.

Because the uses referred to in this article possess unique characteristics making it impractical to include them in a specific use district classification, such uses shall be permitted by the planning commission under the conditions specified, and after public hearing. In every case, the use referred to in this article shall be specifically prohibited from any R-1, R-2, R-3, or RM-1 districts.

(Code 1979, § 17.48.010)

Sec. 36-462. - Intent.

Conditional uses require special consideration since they service an area larger than the city and require sizable land areas, creating problems of control with reference to abutting use districts. Reference to those uses falling specifically within the intent of this article is as set forth in this article.

(Code 1979, § 17.48.020)

Sec. 36-463. - Outdoor theaters.

Because outdoor theaters possess the unique characteristic of being used only after dark and since they develop concentration of vehicular traffic in terms of ingress and egress from their parking area, they shall be permitted in I districts and in B-3 districts only when the site in question abuts an I district. Outdoor theaters shall further be subject to the following conditions:

- (1) The proposed internal design shall receive approval from the planning commission and the city manager as to adequacy of drainage, lighting and other technical aspects.
- (2) Points of ingress and egress shall be available to and from the outdoor theater, from abutting streets having a right-of-way of at least 66 feet in width.
- (3) All vehicles waiting or standing to enter the facilities shall be provided off-street waiting space. No vehicle shall be permitted to wait or stand within a dedicated right-of-way.
- (4) The area shall be so laid out as to prevent the movie screen from being viewed from residential areas or adjacent major thoroughfares. All lighting used to illuminate the area shall be so installed as to be confined within and directed onto the premises of the outdoor theater site.
- (5) The proposed outdoor theater shall be subject further to the review and approval of the city council.

(Code 1979, § 17.48.030)

Sec. 36-464. - Communication/transmission towers.

Communication/transmission towers and their attendant facilities shall be permitted in I districts subject to the following conditions:

- (1) Communication/transmission towers of any type or structure shall be constructed and installed in compliance with the single state construction code.
- (2) The use shall be located centrally on a continuous parcel having horizontal dimensions of not less than one times the height of the structure, or not less than one times the height of the calculated fall distance, as measured from the base of the structure to all points on the property line, or a minimum distance of 30 feet from all points on the property line, whichever is greater.
- (3) No antennal structure may be installed, mounted or erected on the roof of a building at or within any point that is nearer to any lot line than the total distance between the top of the antennal structure and the ground, nor shall any antennal structure be installed, mounted or erected within six feet from electric power lines or power poles, nor shall any antennal structure encroach upon any street or public place.
- (4) The proposed construction, installation mounting and/or erection of a communication/transmission tower or any attendant facility of same shall, prior to construction, installation, mounting or erection, be subject to:
 - a. Submission to and review and approval of a site plan for compliance with all applicable ordinances, statutes, rules and regulations by the city planning commission.
 - b. Approval by the city engineer as to the adequacy of drainage, lighting, general safety, properly calculated and engineered fall distance, and other technical aspects.
 - c. Final review and approval of the site plan for compliance with all applicable ordinances, statutes, rules and regulations by the city council.

(Code 1979, § 17.48.040)

Sec. 36-465. - Race tracks.

Because race tracks develop a concentration of vehicular traffic in terms of ingress and egress from their parking areas, and cause noise levels which may project beyond the property so used, they shall be permitted in the I districts when located adjacent to a major thoroughfare, and shall be located on a parcel of land which is abutting land zoned for industrial purposes on all sides of the parcel in question, and shall be subject further to the following conditions and such other controls as the planning commission deems necessary to promote health, safety and general welfare in the city:

- (1) All parking shall be provided as off-street parking within the boundaries of the development.
- (2) All access to the parking areas shall be provided from a street having a right-of-way at least 66 feet in width.

- (3) All sides of the development not abutting an industrial zone shall be provided with a greenbelt planting of not less than 20 feet and wall so as to obscure from view all activities within the development. The planting shall be in accord with article X of this chapter.

(Code 1979, § 17.48.060)

Secs. 36-466—36-490. - Reserved.

ARTICLE VI. - FLOODPLAIN CONTROLS

Sec. 36-491. - Intent.

- (a) It is the purpose of this article to significantly reduce hazards to persons and damage to property as a result of flood conditions in the city, 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 Federal Emergency Management Agency, as published in the Federal Register, Vol. 41, No. 207, Tuesday, October 26, 1976, and redesignated at 44 FR 31177, May 31, 1979.
- (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; and
 - (6) To preserve the ability of floodplains to carry and discharge a base flood.

(Code 1979, § 17.26.010)

Sec. 36-492. - Duration of flood hazard overlay zone.

- (a) The flood hazard area zone shall overlay existing zoning districts delineated on the official city 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 flood in the report entitled "The Flood Insurance Study, City of Hillsdale," dated January 6, 1988, with accompanying flood insurance rate maps and flood boundary and floodway maps. Within the flood hazard area zone a regulatory floodway shall be designated. The boundaries of the regulatory floodway shall coincide with the floodway boundaries indicated on the flood boundary and floodway map. The study and accompanying maps are adopted by reference, appended, and declared to be a part of this article. The term "flood hazard area" as used in this article means the flood hazard area zone and the term "floodway" means the designated regulatory floodway.
- (b) Where there are disputes as to the location of a flood hazard area zone boundary, the zoning board of appeals shall resolve the dispute in accordance with section 36-145.
- (c) In addition to other requirements of this article 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. Conflicts between the requirements of this article and other requirements of this article or any other ordinance shall be resolved in favor of this article, except where the conflicting requirement is more restrictive, such more restrictive requirement shall be applied.

(Code 1979, § 17.26.020)

Sec. 36-493. - Development permit.

Development, including the erection of structures and placement of mobile homes, within a flood hazard area shall not occur except upon issuance of a zoning compliance permit in accord with the requirements of sections 36-31 through 36-39 and the following standards:

- (1) The requirements of this article shall be met;
- (2) The requirements of the underlying zoning districts and applicable general provisions of this article shall be met;
- (3) 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 the state department of environmental quality under authority of part 31 of Public Act No. 451 of 1994 (MCL 324.3101 et seq.). Where a development permit cannot be issued prior to the issuance of a zoning compliance permit, a letter from the issuing agency indicating intent to issue contingent only upon proof of zoning compliance shall be acceptable.

(Code 1979, § 17.26.030)

Sec. 36-494. - General standards for flood hazard reduction.

- (a) All new construction and substantial improvements within a flood hazard area, including the placement of prefabricated buildings and mobile homes, shall:
 - (1) Be designed and anchored to prevent flotation, collapse, or lateral movement of the structure;
 - (2) Be constructed with materials and utility equipment resistant to flood damage; and
 - (3) Be constructed by methods and practices that minimize flood damage.
- (b) All new and replacement water supply systems shall minimize or eliminate infiltration of floodwaters into the systems.
- (c) All new and replacement sanitary sewage systems shall minimize or eliminate infiltration of floodwaters into the systems and discharges from systems into floodwaters. Onsite 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 designed, constructed and located to minimize or eliminate flood damage.
- (e) Adequate drainage shall be provided to reduce exposure to flood hazards.
- (f) The building inspector, or his designee, shall review development proposals to determine compliance with the standards in this section and with the applicable provisions of the single state construction code, 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 regulation shall be 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.

(Code 1979, § 17.26.040)

Sec. 36-495. - 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) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the base flood level.
 - (2) All new construction and substantial improvement of nonresidential structures shall have either:
 - a. The lowest floor, including basement, elevated to or above the base flood level; or
 - 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 floodproofing 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 by the single state construction code and shall indicate the elevation to which the structure is floodproofed.

- (b) The most recent based flood elevation data received from the Federal Emergency Management Agency shall take precedence over data from other sources.

(Code 1979, § 17.26.050)

Sec. 36-496. - Mobile home standards.

- (a) All mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties in accord with the following specifications:
- (1) Over-the-top ties shall be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations; except that on mobile homes less than 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 mobile 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 mobile home shall be similarly anchored.
- (b) An evacuation plan indicating alternate vehicular access and escape routes shall be filed with county emergency services for mobile home parks and mobile home subdivisions.
- (c) Mobile homes within zone AE on the flood insurance rate map shall be located in accord with the following standards:
- (1) All mobile homes shall be placed on stands or lots which are elevated on compacted fill or pilings so that the lowest floor of the mobile home will be at or above the base flood level.
 - (2) Adequate surface drainage away from all structures and access for a mobile home hauler shall be provided.
 - (3) In the instance of elevation on pilings, lots shall be large enough to permit steps, piling foundations shall be placed in stable soil no more than ten feet apart; and reinforcement shall be provided for piers more than six feet above ground level.
 - (4) In mobile home parks and mobile home subdivisions which exist at the time this 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 subsections (b)(1), (b)(2) and (b)(3) of this section shall be complied with.

(Code 1979, § 17.26.060)

Sec. 36-497. - Floodway protection standards.

- (a) New construction, substantial improvements and all other development, including fill, shall be prohibited within zone AE 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 part 31 of Public Act No. 451 of 1994 (MCL 324.3101 et seq.), shall be required, provided that the allowable increase shall not exceed one foot. The provisions of this section 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 to this prohibition shall only be made upon certification by a registered professional engineer or the state department of environmental quality that the development proposed will not result in any increases in flood levels during a base flood discharge, and compliance with part 31 of Public Act No. 451 of 1994 (MCL 324.3101 et seq.).
 - (2) The placement of mobile homes shall be prohibited except in mobile home parks and subdivisions which exist at the time the ordinance from which this article is derived is adopted.
 - (3) Development which is permitted in the regulatory floodway shall meet the requirements of sections 36-493 through 36-496.
- (c) The uses of land permitted in an underlying zoning district shall not be construed as being permitted within the regulatory

floodway, except upon compliance with the provisions of this section.

(Code 1979, § 17.26.070)

Sec. 36-498. - Disclaimer of liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based upon engineering and scientific methods of study. 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. Approval of the use of land under this article shall not be considered a guarantee or warranty of safety from flood damage. This article does not imply that areas outside the flood hazard area will be free from flood damage. This article does not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

(Code 1979, § 17.26.080)

Secs. 36-499—36-530. - Reserved.

ARTICLE VII. - PERFORMANCE STANDARDS

Sec. 36-531. - Performance standards.

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

(Code 1979, § 17.30.010)

Sec. 36-532. - Smoke emission.

Smoke emission shall comply with state rules and regulations as established by the state.

(Code 1979, § 17.30.020)

Sec. 36-533. - Dust, dirt and fly ash.

- (a) No person shall operate or cause to be operated, maintain or cause to be maintained any process for any purpose, or furnace or combustion device for the burning of coal or other natural or synthetic fuels, without maintaining and operating, while using the process or furnace or combustion device, recognized and approved equipment, means, method, device, or contrivance to reduce the quantity of gasborne or airborne solids or fumes emitted into the open air, which is operated in conjunction with the process, furnace or combustion device, so that the quantity of gasborne or airborne solids shall not exceed 0.20 grains per cubic foot of the carrying medium at a temperature of 500 degrees Fahrenheit.
- (b) For the purpose of determining the adequacy of such devices, these conditions are to be conformed to when the percentage of excess air in the stack does not exceed 50 percent at full load. The foregoing requirement shall be measured by the A.S.M.E. Test Code for dust-separating apparatus. All other forms of dust, dirt and fly ash shall be completely eliminated insofar as escape or emission into the open air is concerned. The building inspector may require such additional data as is deemed necessary to show that adequate and approved provisions for the prevention and elimination of dust, dirt and fly ash have been made.

(Code 1979, § 17.30.030)

Sec. 36-534. - Open storage.

The open storage of any industrial equipment, vehicles and all materials, including wastes, shall be screened from public view, from a public street and from adjoining properties by an enclosure consisting of a wall not less than six feet in height, which may, depending on land usage, be required to be eight feet in height. Whenever such open storage is adjacent to a residential zone in either a front, side or rear lot

line relationship, whether immediately abutting or across a right-of-way from such zone, there shall be provided an obscuring masonry wall or wood fence of at least six feet in height.

(Code 1979, § 17.30.040)

Sec. 36-535. - Glare and radioactive materials.

Glare from any process, such as or similar to arc welding, or acetylene torch cutting, which emits harmful ultraviolet rays shall be performed in such a manner as not to be seen from any point beyond the property line, and as not to create a public nuisance or hazard along lot lines. Radioactive materials and wastes, including electromagnetic radiation such as from X-ray machine operations, shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, when measured at the property line.

(Code 1979, § 17.30.050)

Sec. 36-536. - 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 MCL 29.1—29.25.

(Code 1979, § 17.30.060)

Sec. 36-537. - Noise.

Objectionable sounds, including those of an intermittent nature, shall be controlled so as not to become a nuisance to adjacent uses.

(Code 1979, § 17.30.070)

Sec. 36-538. - Odors.

Creation of offensive odors shall be prohibited.

(Code 1979, § 17.30.080)

Secs. 36-539—36-570. - Reserved.

ARTICLE VIII. - OFF-STREET PARKING AND LOADING

DIVISION 1. - GENERALLY

Secs. 36-571—36-590. - Reserved.

DIVISION 2. - OFF-STREET PARKING SPACES

Footnotes:

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Editor's note— Ord. No. 2017-006, adopted November 6, 2017, amended division 2 in its entirety to read as herein set out. Former division 2, §§ 36-591—36-600, pertained to similar subject matter, and derived from the Code of 1979, §§ 17.32.010—17.32.100.

Sec. 36-591. - Parking spaces generally.

There shall be provided in all districts, at the time of erection or enlargement of any main building or structure, automobile off-street parking with adequate access to all spaces. The number of off-street parking spaces, in conjunction with all land or building uses shall be provided, prior to the issuance of a certificate of occupancy, as prescribed in this division.

(Ord. No. 2017-006, 11-6-2017)

Sec. 36-592. - Off-street parking.

Off-street parking for residential or non-residential use located in the B-2 downtown business district, unless otherwise provided in this division, shall be either on the same lot or within a 600-foot radius of the building it is intended to serve, measured from the nearest point of the building with the nearest point of the off-street parking lot. On-street parking spaces may be included in parking calculations. Accessibility shall be shown for all lots or parcels intended for use as parking by the applicant.

(Ord. No. 2017-006, 11-6-2017)

Sec. 36-593. - Single-family, two-family and multiple-family dwellings.

Residential off-street parking spaces for single-family, two-family and multiple-family dwellings shall consist of a parking strip, driveway, garage, or combination thereof, and shall be located on the premises they are intended to serve, and subject to the provisions of section 36-431, unless otherwise provided in this division. No parking shall be permitted in the front yard ahead of the required setback line except on a driveway which leads to an approved parking space. Properties shall be permitted only one curb cut per parcel. More than one curb cut may be permitted if lot is a corner lot or if additional frontage exists on an alley. Additional curb cuts must be reviewed by department of public services prior to approval. Circle drives shall not be permitted in the front yard setback.

(Ord. No. 2017-006, 11-6-2017)

Sec. 36-594. - Existing spaces.

Off-street parking existing at the effective date of the ordinance codified in this division in connection with the operation of an existing building or use shall not be reduced to an amount less than required in this division for a similar new building or use.

(Ord. No. 2017-006, 11-6-2017)

Sec. 36-595. - Dual function of spaces.

- (a) Two or more buildings or uses may collectively provide the required off-street parking, in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately.
- (b) In the instance of dual function of off-street parking spaces where operating hours of buildings do not overlap, the planning commission may grant an exception.

(Ord. No. 2017-006, 11-6-2017)

Sec. 36-596. - Storage of vehicles or merchandise.

The storage of merchandise, motor vehicles for sale, trucks, wrecked or junked vehicles, or the repair of vehicles is prohibited.

(Ord. No. 2017-006, 11-6-2017)

Sec. 36-597. - Change of use.

Any area once designated as required off-street parking shall not be changed to any other use unless and until equal facilities are provided elsewhere.

(Ord. No. 2017-006, 11-6-2017)

Sec. 36-598. - Other uses.

For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use which is similar in type.

(Ord. No. 2017-006, 11-6-2017)

Sec. 36-599. - Fractional spaces.

When units or measurements determining the number of required parking spaces result in their requirement of a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one parking space.

(Ord. No. 2017-006, 11-6-2017)

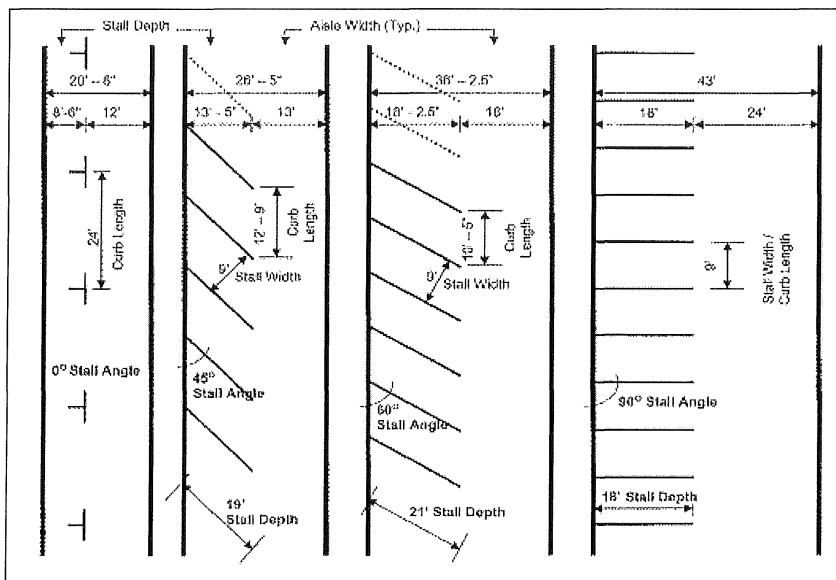
Sec. 36-600. - Parking space determination schedule.

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

| Use | | Number of Minimum Parking Spaces Per Unit of Measure |
|--------------------|--|---|
| <i>Residential</i> | | |
| (1) | Child care centers and nursery schools | 2 spaces plus 1 additional space for pick up or drop off for each 20 children that the facility is licensed to care for within 250 feet radius. |
| (2) | Convalescent homes, hospitals and sanitariums | 1 space for each 6 beds |
| (3) | Group day care homes | 2 spaces for pick up or drop off within 250 feet radius. |
| (4) | Multiple-family dwellings zoned RM-1 | 2 spaces per dwelling unit |
| (5) | Multiple-family dwellings located in any nonresidential zoning district | 1 space per dwelling unit |
| (6) | 1-family dwellings and mobile homes | 1 space per dwelling unit |
| (7) | Rooming houses, boarding and lodging houses | 1 space for each 3 beds |
| (8) | Sororities, fraternities, student cooperatives and other organized group homes | 1 space for each 5 beds |
| (9) | Townhouse dwellings | 2 spaces per dwelling unit |
| (10) | 2-family dwellings | 1½ spaces per dwelling unit |
| (11) | Community center clubhouse and private swimming club building | 1 space per 200 square feet |
| <i>Commercial</i> | | |
| (1) | Athletic clubs, health spas and roller rinks | 1 space per 200 square feet of floor area |
| (2) | Auto washes—Automatic | 1 space per 500 square feet of floor area |
| (3) | Auto washes—Self-serve | 1 space per bay |
| (4) | Banks and similar financial institutions | One space for each 220 square feet of floor area—minimum One space per 180 square feet of floor area—maximum. ^(a) |
| (5) | Barber, beauty shops | 1 space per 100 square feet of floor area |
| (6) | Bowling alleys | 5 spaces per alley |
| (7) | Dance halls, assembly halls and convention halls | 1 space per 100 square feet of floor area |
| (8) | Furniture, home furnishings and appliance stores | 1 space per 800 square feet of floor area |
| (9) | Gasoline filling station | 1 space per fuel pump |
| (10) | Gasoline service station, auto repair and service | 1 space per 300 square feet of floor area and 1 space per fuel pump |
| (11) | Hotels/motels | 1 space per room plus 1 space per shift employee |
| (12) | Indoor court game facilities (handball, racquetball and tennis clubs) | 1 space per 1,000 square feet of floor area |
| (13) | Funeral homes | 1 space per 100 square feet of public floor area. Must provide off-street assembly area for processional lead car, hearse and family vehicle |
| (14) | Restaurants and taverns not located in a retail center | One space for each 100 square feet of usable floor area. |
| (15) | Retail stores and retail centers | |

| | | |
|-------------------|---|---|
| | Retail stores and retail centers less than 100,000 square feet of floor area | One space per 200 square feet of usable floor area—minimum. One space per 150 square feet of usable floor area—maximum. ^(a) |
| | Retail stores and retail centers between 100,000—300,000 square feet of floor area | One space per 300 square feet of usable floor area—minimum. One space per 250 square feet of usable floor area—maximum. ^(a) |
| (16) | Storage and warehousing | 1 space per 2,000 square feet of floor area |
| (17) | Theaters | 1 space for each 3 seats |
| <i>Office</i> | | |
| (1) | Business or professional offices | 1 space per 350 square feet of floor area—minimum One space per 250 square feet of floor area—maximum ^(a) |
| (2) | Medical and dental offices and clinics | One space per 220 square feet of floor area—minimum. One space per 180 square feet of floor area—maximum. ^(a) |
| <i>Assembly</i> | | |
| (1) | Churches | 1 space per 3 seats or 1 space per 6 feet of pew. Public off-street parking spaces within 1,000 feet of the site may be counted if approved as part of a site plan. |
| (2) | Elementary and junior high schools | 3 spaces per classroom. |
| (3) | Senior high schools and institutions of higher learning | 5 spaces per classroom. |
| (4) | Stadia auditorium, not incidental to schools | 1 space per 3 seats or 1 space per 6 feet of bench. |
| <i>Industrial</i> | | |
| (1) | Heavy manufacturing, including tool and dye, foundries, lumber yards, steel fabrication and welding | 1 space per 1,500 square feet of usable floor area or the number of spaces shall equal 110 percent of the employee count of the largest employee shift whichever is less. Handicap provisions must be made. |
| (2) | Limited manufacturing, research and development laboratories | 1 space per 600 square feet of floor area or the number of spaces shall equal 110 percent of the employee count of the largest employee shift whichever is less. Handicap provisions must be made. |
| (3) | Headquarters business offices for commercial and industrial firms | 1 space per 400 square feet of floor area. |
| <i>Other</i> | | |
| (1) | Other uses | Parking spaces for uses not specified shall be determined by the planning commission and zoning administrator, based upon requirements for similar uses. |
| (2) | Parking structures or principal use parking lots | |

^(a) Additional parking may be provided if it does not increase impervious surfaces beyond that which would be provided by meeting the maximum parking required. Examples of additional parking may include, but not be limited to, under-structure parking, rooftop parking, or structured parking above a surface parking lot.



(Ord. No. 2017-006, 11-6-2017)

Sec. 36-601. - Parking lot surface materials.

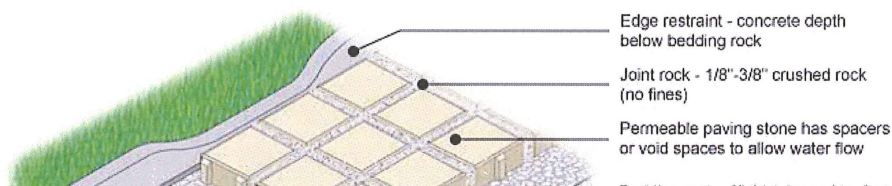
Parking lots may be separated into two separate surface types to be dictated by minimum and maximum parking allowances. Minimum parking allowances must be paved with asphalt, (pervious or impervious) or concrete paving. The remainder of the maximum parking allowance must be paved with a pervious material.

Approved impervious parking lot surface materials are listed as follows:

- (1) Impervious asphalt;
- (2) Concrete;
- (3) Other materials may be approved upon request.

Approved pervious parking lot surface materials are listed as follows:

- (1) Pervious asphalt;
- (2) Limestone;
- (3) Six-inch deep Geogrid fabric backfilled with:
 - a. Limestone,
 - b. Top soil seeded for grass;
- (4) Other materials may be approved upon request.



(Ord. No. 2017-006, 11-6-2017)

Secs. 36-602—36-620. - Reserved.

DIVISION 3. - OFF-STREET PARKING AREAS

Sec. 36-621. - Generally.

Wherever the off-street parking requirements require the building of an off-street parking facility, or where P-1 vehicular parking districts are provided, such off-street parking lots shall be laid out, constructed and maintained in accordance with the standards and regulations set forth in this division.

(Code 1979, § 17.34.010; Ord. No. 2017-005, 11-6-2017)

Sec. 36-622. - Construction; permit required.

No parking lot shall be constructed unless and until a permit is issued by the zoning administrator. Applications for a permit shall be submitted to the zoning administrator. Submit drawings and application according to the commercial site plan review process. Such plans shall be reviewed and approved by the planning commission.

(Code 1979, § 17.34.020; Ord. No. 2017-005, 11-6-2017)

Sec. 36-623. - Layout plans; minimum requirements.

Plans for the layout of off-street parking facilities shall be in accord with the following minimum requirements:

| Parking Pattern (Degrees) | Maneuvering Lane Width (Feet) | Parking Space Width (Feet) | Parking Space Length (Feet) | Total Width of One Tier of Spaces Plus Maneuvering Lane (Feet) | Total Width of Two Tiers of Spaces Plus Maneuvering Lane (Feet) |
|---------------------------|-------------------------------|----------------------------|-----------------------------|--|---|
| 0 (parallel parking) | 12 | 8 | <u>23</u> | 20 | 28 |
| 30 to 53 | 12 | <u>8.5</u> | 20 | 32 | 52 |
| 54 to 74 | 15 | <u>8.5</u> | 20 | 36.5 | 58 |
| 75 to 90 | 20 | 9 | 20 | 40 | 60 |

(Code 1979, § 17.34.030; Ord. No. 2017-005, 11-6-2017)

Sec. 36-624. - Maneuvering lane access.

All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street shall be prohibited.

(Code 1979, § 17.34.040; Ord. No. 2017-005, 11-6-2017)

Sec. 36-625. - Maneuvering lane movement.

All maneuvering lane widths shall permit one-way traffic movement, with the exception of the 90-degree pattern where two-way movement may be permitted.

(Code 1979, § 17.34.050; Ord. No. 2017-005, 11-6-2017)

Sec. 36-626. - Ingress and egress.

Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles. Ingress and egress to a parking lot lying in an area zoned for other than residential use shall not be across land zoned for residential use.

(Code 1979, § 17.34.060; Ord. No. 2017-005, 11-6-2017)

Sec. 36-627. - Bumper stops or wheel checks.

Bumper stops or wheel checks shall be provided and so located as to prevent any vehicle from projecting beyond the parking lot area or from bumping screening facility.

(Code 1979, § 17.34.070; Ord. No. 2017-005, 11-6-2017)

Sec. 36-628. - Entrances and exits.

Each entrance and exit to and from such parking lot shall be at least 20 feet distant from any adjacent property located in any residential district.

(Code 1979, § 17.34.080; Ord. No. 2017-005, 11-6-2017)

Sec. 36-629. - Fences, landscaping and planting.

The parking area shall meet all guidelines listed in the City of Hillsdale Landscape Ordinance, article III, chapter 36, sections 36-148 through and including 36-152.

(Code 1979, § 17.34.090; Ord. No. 2017-005, 11-6-2017)

Sec. 36-630. - Surfacing.

The entire parking area, including parking spaces and maneuvering lanes, required under this division shall have surfacing in accordance with specifications listed in division 2, sections 36-601 and department of public services specifications. Such facilities shall be drained so as to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property or toward a building. The parking area shall be surfaced within one year of the date the permit is issued.

(Code 1979, § 17.34.100; Ord. No. 2017-005, 11-6-2017)

Sec. 36-631. - Lighting.

All lighting used to illuminate any off-street parking area shall not exceed 20 feet in overall height above ground level, and shall be so installed as to be confined within and directed on the parking area only.

(Code 1979, § 17.34.110; Ord. No. 2017-005, 11-6-2017)

Sec. 36-632. - Modification of yard and wall requirements.

The planning commission, upon application by the property owner of the parking area, may modify the yard and wall requirements where, in unusual circumstances, no good purpose would be served by compliance with the requirements of this division.

(Code 1979, § 17.34.120; Ord. No. 2017-005, 11-6-2017)

Sec. 36-633. - Wall length.

In all cases where a wall extends to an alley which is a means of ingress and egress to a 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.

(Code 1979, § 17.34.130; Ord. No. 2017-005, 11-6-2017)

Sec. 36-634. - Additional requirements.

In addition to the requirements set forth in this division, such parking area shall comply with such further requirements or conditions as may be prescribed by the planning commission for the protection of the residential district abutting such parcel or parcels in which the parking area is to be located.

(Code 1979, § 17.34.140; Ord. No. 2017-005, 11-6-2017)

Secs. 36-635—36-650. - Reserved.

DIVISION 4. - OFF-STREET LOADING

Sec. 36-651. - Purpose.

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

(Code 1979, § 17.36.010; Ord. No. 2017-004, 11-6-2017)

Sec. 36-652. - Spaces; ratio in certain districts.

All spaces in B-1, B-2 and B-3 districts shall be provided in the ratio required in section 36-411, of this chapter under minimum rear yard.

(Code 1979, § 17.36.020); Ord. No. 2017-004, 11-6-2017)

—

Sec. 36-653. - Specifications for spaces.

All spaces in industrial district shall be laid out in the dimension of at least ten feet by 50 feet, or 500 square feet in area, with a clearance of at least 14 feet in height. Loading dock approaches shall be constructed using an approved material listed in section 36-601. All spaces in Industrial districts shall be provided in the following ratio of spaces to usable floor area:

| Gross Floor Area (In Square Feet) | Loading and Unloading Spaces Required in Terms of Square Feet of Usable Floor Area |
|--------------------------------------|---|
| 0—1,400 | None |
| 1,401—20,000 | 1 space |
| 20,001—100,000 | 1 space plus 1 space for each 20,000 square feet in excess of 20,001 square feet |
| 100,001—500,000 | 5 spaces plus 1 space for each 40,000 square feet in excess of 100,001 square feet. |

(Code 1979, § 17.36.030; Ord. No. 2017-004, 11-6-2017)

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Secs. 36-654—36-680. - Reserved.

ARTICLE IX. - OBSCURING WALLS AND FENCES

Footnotes:

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Editor's note— Ord. No. 2014-3, adopted July 21, 2014, in effect repealed the former article IX, §§ 36-681—36-685, and enacted a new § 36-681 as set out herein. The former article IX pertained to similar subject matter and derived from the Code of 1979, §§ 17.40.010—17.40.050.

Sec. 36-681. - Requirements.

All fences, walls, and landscape berms of any nature, type or description located in the City of Hillsdale must conform to the following regulations:

- (1) *Approval required.* The erection, construction or alteration of any fence, wall or other type of protective barrier must be approved by the zoning administrator (or designee) as to conformance with the requirements of the zoning district and this section.
- (2) *General fence, wall, and landscape berm standards.*
 - a. Fence wall, or landscape berm height measurement. The height of a fence, wall, or landscape berm will be measured using the following method:
 1. The permitted height of all fences, walls, and landscape berms will be measured from the finished grade adjacent to the fence, wall, or berm, as determined by the zoning administrator (or designee).

2. Where elevations differ by more than four feet within ten feet of side or rear lot lines, the zoning administrator (or designee) shall require an additional fence, wall, or landscape berm height for the property as measured from the lower elevation.
 3. The permitted height of fences or walls will not be measured from any part of a berm or any area of the ground that has been built-up or constructed in a manner that would have the effect of allowing a taller fence than permitted by this chapter.
 4. Fencing materials must be all weather and zero maintenance. Treated wood must meet the American Wood Protection Association's UC4B standard for ground contact (heavy duty).
- b. *Masonry walls.* Masonry walls must be constructed of the same or complementary building material to that of the principal structure and must be un-pierced (except for pedestrian and vehicular connections) and have a decorative cap. Cement or slag blocks will not be permitted.
 - c. *Visibility at intersections.* All fences in the front yards must comply with the requirements of this article, visibility at intersections.
 - d. *Decorative fences, walls and landscape berms.* Fences, walls, and landscape berms which are two and one-half feet or less in height are considered decorative and do not require a permit.
 - e. *Landscape berms.* Where provided, landscape berms must conform to the following standards.
 1. Berms must comply with the height restrictions for fences and walls in subsections (3) and (4) of this section, but in no case may they be maintained at a continuous height. All berms must be undulating and include gaps where deemed necessary.
 2. Sides of the berm must be constructed with slopes no steeper than one foot vertical for each three feet horizontal.
 3. In measuring slope and height, grade elevation will be the average grade elevation adjacent to the proposed berm.
 4. Side slopes must be protected from erosion by sod, seed or other living ground cover. If slopes are seeded, they must be protected until the seed germinates and a permanent lawn is established.

Wall and Fence Height Requirements:

| Use | Max. Ht. Requirements |
|---|--|
| 1. P-1 Vehicular Parking Districts | Four feet six-inch high wall or fence |
| 2. Off-street parking area (other than P-1 Districts) | Four feet six-inch high wall or fence |
| 3. O-1, B-1, B-2, or B-3 Districts | Four feet six-inch high wall or fence |
| 4. I-1 and I-2 Districts, open storage areas, loading or unloading areas, service areas. | Six feet high to eight feet high obscured wall or fence (height shall provide the most complete obscuring possible). |
| 5. Hospital, ambulance and delivery areas | Six feet high wall or fence |
| 6. Utility buildings, stations, and/or substations, except that in cases where all equipment is contained within a building or structure constructed so as to be similar in appearance to the residential building in the surrounding area. | Six feet high obscured wall or fence |
| 7. Trailer Courts | Four feet six-inch high wall or fence |

| | |
|---|---|
| 8. Retention areas | At the discretion and approval of both Planning Commission and the City Engineer, a fence may be required around retention areas. |
| 9. Residential Districts (front yard) | Three feet six-inches high fence or trellis |
| 10. Residential Districts (side and rear yards) | Six feet high wall or fence |

(3) Fences and walls in the residential districts and manufactured housing communities.

- a. Ornamental fences and walls located in the required and addressed front yard meeting the definition of a non-privacy fence and not intended to restrain animals of any kind may be up to three feet six inches in height, unless otherwise approved by the zoning administrator (or designee), and must be set back at least one foot from the sidewalk/right-of-way line.
- b. All fences or walls must be ornamental in nature and should be made of wrought iron, treated or rot resistant wood, brick, stone and similar replications of these materials. However, when abutting residentially zoned and/or used property, and when used to screen parking or outdoor storage areas, the fence must be constructed of an opaque weatherproof material, woven chain link fencing is not permitted.
- c. Fences and walls located in the required and non-addressed (secondary) front yard of a corner or double frontage lot must be setback from the property line as follows, unless otherwise approved by the zoning administrator (or designee):
 1. No less than one foot for ornamental fences and walls meeting the definition of a non-privacy fence and not intended to restrain animals of any kind up to three feet six inches in height;
 2. No less than four feet for fences and walls up to four feet in height.
 3. No less than six feet for fences and walls up to six feet in height.
- d. Fences and walls located in the side and rear yards may have a maximum height of six feet, unless otherwise approved by the zoning administrator (or designee), and may be located on the property line assuming the front yard fencing requirements are satisfied.
- e. Residents are encouraged to utilize ornamental materials, including but not limited to materials such as wrought iron, brick, stone, treated wood and similar replications of these materials, such as vinyl fencing that has the appearance of one of these materials.
- f. Chain link or similar fencing is permitted everywhere except within the front yard.
- g. The finished side of a fence or wall must face outward toward any adjacent property or right-of-way.
- h. No fences or walls are permitted within the required site clearance triangles. The same site clearance triangle applies to solid fences abutting detached garages located on the non-addressed frontage of a corner lot, visibility at intersections.

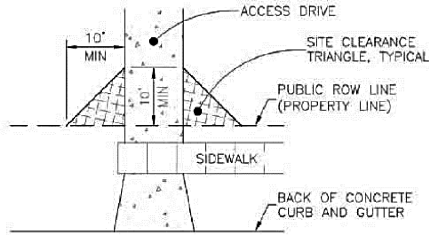
(4) *Fences and walls in commercial and industrial districts.*

- a. No fence or wall may exceed eight feet in height, unless otherwise approved by the zoning administrator (or designee).
- b. Fences located in the required non-addressed (secondary) front yard of a corner or double frontage lot, must be set back from the property line, unless otherwise approved by the zoning administrator (or designee), as follows:
 1. No less than one foot for ornamental fences and walls meeting the definition of a non-privacy fence and not intended to restrain animals of any kind up to three feet six inches in height;
 2. No less than four feet for fences up to four feet in height;
 3. No less than six feet for fences up to six feet in height; and
 4. No less than eight feet for fences up to eight feet in height.
- c. All fences or walls must be ornamental in nature and should be made of wrought iron, treated or rot resistant wood, brick, stone and similar replications of these materials. However, when abutting residentially zoned and/or used property, and

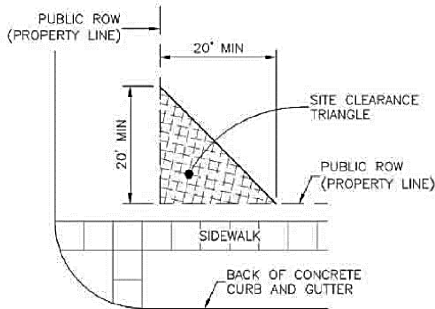
when used to screen parking or outdoor storage areas, the fence must be constructed of an opaque weatherproof material, woven chain link fencing is not permitted.

- d. Chain link or similar fencing is permitted everywhere except within the front yard and when abutting residentially zoned and/or used property.
 - e. No fences or walls are permitted within the required site clearance triangles, visibility at intersections.
- (5) Temporary protective fencing associated with construction projects. During construction, protective fencing must be placed around existing vegetation proposed for preservation and other site elements which cannot be easily removed or stored.
- a. Proposed protective fencing must be clearly identified on the landscape plan.
 - b. Protective fencing cannot be located closer than one foot outside the perimeter of the following, as identified on the landscape plan:
 1. The drip lines of existing trees and shrubs; and
 2. Planting beds and other site element.
- (6) *Prohibited fences.* The following fences are prohibited:
- a. A fence consisting in whole or part of coils of barbed wire, concertina wire or razor wire;
 - b. A fence with razor edges, broken glass, affixed spikes, projecting nails or other pointed instruments of any kind or description attached; fence gates cannot be constructed so as to create a hazard to the public by the projection of any pointed instrument or member when open or partially open;
 - c. A fence charged or connected with an electrical current, provided however, this provision cannot be construed to apply to electrical fences installed below ground as elements of an animal control or security system;
 - d. A standard barbed wire fence except upon essential service sites or industrial properties which do not abut property zoned or used for residential purposes; in such locations, standard barbed wire may be installed on the top of a fence on arms or cradles extending inward over the owner's property provided that the fence has a minimum height of six feet above the adjacent grade and the combined height of the fence and barbed wire and arms does not exceed eight feet above the adjacent grade;
 - e. A fence which consists in whole or part of woven plastic or other similar materials utilized within a chain link fence; and
 - f. A fence with all metal opaque paneling (e.g., barn siding, roof material, etc.) unless it is part of a conditional use permit.
 - g. Concrete barrier units such as are used on construction sites or highways to restrict traffic flow.
- (7) *Visibility at intersections.*
- a. When a driveway intersects a public right-of-way or when the subject property abuts the intersection of public rights-of-way, all fences, walls, berms, hedges, screens, structures, plantings or other landscaping within the site clearance triangle areas described below must permit unobstructed cross-visibility. Shrubs and groundcovers located in a site clearance triangle may not be permitted to grow to a height of more than two and one-half feet above the grade at the edge of the pavement. Portions of required berms located within sight clearance triangle cannot exceed a height of two and one-half feet above the pavement grade at the edge of the pavement. Canopy trees may be maintained in this area provided that all branches are trimmed to maintain a clear vision for a vertical height of ten feet above the roadway surface. Other landscaping, except turf grass or ground cover maintained at a height of two and one-half feet, cannot be located closer than three feet from the edge of a driveway.
 - b. The site clearance triangles referred to above are:
 1. The area formed at the corner intersection of a public right-of-way and a driveway, two sides of the triangle area being ten feet in length measured along the right-of-way line and access drive line and the third side being a line connecting these two sides. For the purpose of plantings located in the lawn extension/terrace, the site clearance triangle extends beyond the right-of-way line to the curb/edge of pavement at an angle perpendicular to both of those lines.

The area formed at a corner intersection of two public right-of-way lines, the two sides of the triangular area being 20 feet in length measured along the abutting public right-of-way lines and the third side being a line connecting these two sides. For the purpose of plantings located in the lawn extension/terrace, the site clearance triangle extends beyond the right-of-way line to the curb/edge of pavement at an angle perpendicular to both of those lines.



Driveway



Public Rights-of-Way

(Ord. No. 2014-3, 7-21-2014)

Secs. 36-682—36-710. - Reserved.

ARTICLE X. - PLANT MATERIAL

Footnotes:

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Editor's note— Ord. No. 2016-002, adopted March 7, 2016, amended article X, in its entirety to read as herein set out. Former article X, §§ 36-711—36-714, pertained to similar material, and derived from the Code of 1979, §§ 17.42.010—17.42.040.

Sec. 36-711. - Generally.

Whenever in this chapter a greenbelt or planting is required, it shall be planted within six months from the date of issuance of a certificate of occupancy, and shall thereafter be reasonably maintained with permanent plant materials to provide a screen to abutting properties. Suitable materials equal in characteristics to the plant materials listed in this article with the spacing as required shall be provided. All plant materials shall be provided with a minimum one-year warranty for plant material and labor.

(Ord. No. 2016-002, 3-7-2016)

Sec. 36-712. - Plant material spacing.

- (a) Plant materials shall not be placed closer than four feet from the fence line or property line.
- (b) Where plant materials are planted in two or more rows plantings shall be staggered in rows.
- (c) Follow American Nursery and Landscape Association (ANLA) standards for nursery stock.
- (d) All lists are non-inclusive.

(Ord. No. 2016-002, 3-7-2016)

Sec. 36-713. - Plant material; by size and type.

(a) *Large trees (mature height over 40 feet tall).*

Note: All trees must be single stemmed. Spacing minimum 20 feet on center. Refer to ANLA Standards for planting size and spacing.

| Latin Name | Common Name | Native | Notes |
|--------------------------|-------------------|--------|-------------------|
| Acer rubrum | Red Maple | Yes | |
| Acer saccharum | Sugar Maple | Yes | |
| Betula nigra | River Birch | Yes | |
| Celtis occidentalis | Hackberry | Yes | |
| Cercidiphyllum japonicum | Katsuratree | No | |
| Corylus colurna | Turkish Filbert | No | |
| Eucommia ulmoides | Hardy Rubber Tree | No | |
| Ginkgo biloba | Ginkgo | No | male variety only |
| Gleditsia triacanthos | Honeylocust | Yes | thornless variety |
| Liquidambar styraciflua | Sweetgum | Yes | |
| Liriodendron tulipifera | Tulip Tree | Yes | |
| Nyssa Sylvatica | Blackgum | Yes | |
| Platanus Occidentalis | Sycamore | Yes | |
| Platanus Xacerifolia | London Planetree | No | |
| Quercus Alba | White Oak | Yes | |
| Quercus Bicolor | Swamp White Oak | Yes | |
| Quercus Imbricaria | Shingle Oak | Yes | |
| Quercus Macrocarpa | Bur Oak | Yes | |
| Quercus Rubra | Red Oak | Yes | |
| Tilia Americana | Basswood | Yes | |
| Tilia Cordata | Littleleaf Linden | No | |
| Zelkova Serrata | Japanese Zelkova | No | |

(b) *Medium trees (mature height 25–40 feet tall).*

Note: All trees must be single stemmed. Spacing minimum 20 feet on center. Refer to ANLA Standards for planting size and spacing.

| Latin Name | Common Name | Native | Notes |
|-------------------|----------------------|--------|-------|
| Carpinus Betulas | European Hornbeam | No | |
| Cladrastis Lutea | American Yellowwood | Yes | |
| Ostrya Virginiana | American Hophornbeam | Yes | |
| Parrotia Persica | Persian Parrotia | No | |

(c) *Small trees (mature height under 30 feet).*

Note: All trees must be single stemmed. Spacing minimum 15 feet on center. Refer to ANLA standards for planting size and spacing.

| Latin Name | Common Name | Native | Notes |
|----------------------|-------------------|--------|-------|
| Acer Campestre | Hedge Maple | No | |
| Acer Griseum | Paperbark Maple | No | |
| Amelanchier Species | Serviceberry | Yes | |
| Carpinus Caroliniana | American Hornbeam | Yes | |
| Cercis Canadensis | Eastern Redbud | Yes | |
| Cornus Kousa | Kousa Dogwood | No | |
| Prunus Sargentii | Sargent Cherry | No | |
| Prunus Serrulata | Kwanzan Cherry | No | |
| Malus Species | Crabapple | Yes | |
| Prunus Incamp | Okame Cherry | Hybrid | |

| Plant Material | Adjacent to Walkways | Adjacent to Building | Parking Areas | Service Areas | Front Yard Greenbelt | Landscape Buffer | Site Plantings | Retention Areas | Specimen Plantings | Steep Slopes |
|----------------|----------------------|----------------------|---------------|---------------|----------------------|------------------|----------------|-----------------|--------------------|--------------|
|----------------|----------------------|----------------------|---------------|---------------|----------------------|------------------|----------------|-----------------|--------------------|--------------|

| | | | | | | | | | | |
|-----------------------------------|---|---|---|---|---|---|---|---|---|--|
| Spruce, Norway | | X | | X | X | X | X | | | |
| Pine, Red or White | | X | | X | X | X | X | | | |
| Hemlock | | X | | | | X | X | X | | |
| Fir, Douglas | | X | | X | X | X | X | | X | |
| <i>Narrow Evergreen Trees</i> | | | | | | | | | | |
| Red Cedar | | X | | | | X | X | X | | |
| Arborvitae | | X | | X | | X | X | | | |
| Juniper (varieties) | | X | | X | X | X | X | | | |
| <i>Large Deciduous Trees</i> | | | | | | | | | | |
| Oak | | X | | | X | X | X | X | | |
| Maple | X | X | X | X | X | X | X | X | | |
| Beech | | X | | | X | | X | | | |
| Linden | X | X | X | X | X | X | X | | | |
| Ginko (male only) | | X | | | X | X | X | | X | |
| Honeylocust (seedless, thornless) | X | X | X | X | X | X | X | X | | |
| Birch | | X | | | X | X | X | | | |
| Sycamore | X | X | X | X | X | X | X | | | |
| <i>Small Deciduous Trees</i> | | | | | | | | | | |

| | | | | | | | | | | |
|---------------------------------------|---|---|---|--|---|---|---|---|---|---|
| Dogwood, Flowering | X | X | | | | | X | | X | |
| Cherry, Flowering | | X | | | X | | X | | X | |
| Plum, Flowering | | X | | | X | | X | | | |
| Pear, Flowering | | X | X | | X | | X | | | |
| Redbud | X | X | | | X | | X | X | | |
| Magnolia | | X | | | X | | X | | X | |
| Crabapple | | X | X | | X | | X | X | | |
| Hornbeam | | X | | | X | | X | | | |
| Hawthorne | | | | | | | | | X | |
| <i>Large Evergreen Shrubs</i> | | | | | | | | | | |
| Falsecypress | | X | | | | X | X | | | |
| Yew, Various | | X | | | | X | X | | | |
| Arborvitae — Various | | X | | | | X | | | | |
| Juniper, Pfitzer | | X | | | | X | | | | |
| Pine, Mugho | | X | | | | X | X | | | |
| <i>Large Deciduous Shrubs</i> | | | | | | | | | | |
| Lilac | | X | | | | | X | | | X |

| | | | | | | | | | | |
|---|---|---|--|--|---|---|---|---|---|---|
| Border Privet (hedge planting) — Limited Use | | X | | | | X | X | | | X |
| Sumac, ornamental | | | | | | X | X | X | | X |
| Pyracantha | | X | | | | X | X | | | |
| Weigela | | X | | | X | X | X | | | |
| Quince, Flowering | | X | | | X | X | X | | | |
| Barberry | | X | | | X | X | X | | | X |
| Cotoneaster (Peking or Spreading) | | X | | | X | X | X | | | |
| Sargent Crabapple | | X | | | X | X | X | | X | |
| Dogwood, Red Osier | | X | | | X | X | X | X | | X |
| Euonymus (varieties) | | X | | | X | X | X | X | | |
| Viburnum, Mohawk | | X | | | X | X | X | | | |
| <i>Small Evergreen Shrubs</i> | | | | | | | | | | |
| Yew, Various | | X | | | | | | | | |
| Russian Cypress | X | X | | | | | | | | |
| Pine, Dwarf Mugho | | X | | | | | | | | |

| | | | | | | | | | | |
|---------------------------------------|---|---|--|--|--|---|---|---|---|---|
| Juniper, Savin | | X | | | | | | | | |
| Euonymus, varieties | | X | | | | | | | | |
| <i>Small Deciduous Shrubs</i> | | | | | | | | | | |
| Aronia | X | X | | | | X | X | | | |
| Butterfly Bush | | X | | | | X | X | | X | |
| Calycanthus — Sweetshrub | X | X | | | | X | X | | | X |
| Callicarpa — Beautyberry | X | X | | | | X | X | | | X |
| Buttonbush | | X | | | | X | X | X | | |
| Caryopteris | X | X | | | | X | X | | X | |
| Euonymus, Winged | | X | | | | X | X | | | |
| Privet, Regal | | X | | | | X | X | | | X |
| Sumac, Fragrant | | X | | | | X | X | | | X |
| Quince, Japanese | | X | | | | X | X | | | |
| Cotoneaster, Cranberry | | | | | | X | X | X | | X |
| Potentilla | | X | | | | X | X | | | |
| Spirea | | | | | | X | X | | | |
| <i>Ground Cover</i> | | | | | | | | | | |

| | | | | | | | | | | |
|---------------------------------------|---|---|--|---|--|---|---|--|---|---|
| Pachysandra | X | X | | X | | X | | | | X |
| Epimedium | X | X | | X | | X | | | | X |
| Periwinkle (Vinca) Limit Use | X | X | | X | | X | | | | X |
| Ivy, Baltic — Limit Use | X | X | | X | | X | | | | |
| Euonymus, varieties — Limit Use | X | X | | X | | X | | | | X |
| <i>Vines</i> | | | | | | | | | | |
| Clematis | | X | | | | | X | | X | |
| Virginia Creeper | | X | | | | | X | | | X |
| Porcelain Berry | | | | | | | X | | X | |
| Dutchman's Pipe | | | | | | | X | | X | |
| Hardy Kiwi | | X | | | | | X | | X | |

X indicates best result areas for plantings.

(Ord. No. 2016-002, 3-7-2016)

Sec. 36-714. - Trees not permitted.

It is unlawful to plant any of the following:

| Latin Name | Common Name | Notes |
|---------------------|------------------|-------------------|
| Acer saccharinum | Silver Maple | pure species only |
| Ailanthus altissima | Tree of Heaven | |
| Rhamnus cathartica | Common Buckthorn | |

| | | |
|------------------------|--------------|-------------------|
| Catalpa speciosa | Catalpa | |
| Elea gnus | Autumn Olive | |
| Acer negundo | Boxelder | |
| Ulmus pumilla | Siberian Elm | |
| Robinia psuedoacacia | Black Locust | |
| Gleditsia tricanthos | Honey Locust | pure species only |
| Zanthoxylum americanum | Prickly Ash | |
| Maclura pomifera | Osage Orange | |
| Morus | Mulberry | |
| Fraxinus | Ash | All species |

(Ord. No. 2016-002, 3-7-2016)

Sec. 36-715. - Rain garden planting materials.

| Common Name | Height |
|------------------------|----------|
| Blue Grama | 1—2 feet |
| Bottle Gentian | 1 foot |
| Butterfly Milkweed | 1—4 feet |
| Columbine | 1—2 feet |
| Culver's Root | 3—6 feet |
| Fox Sedge | 1—3 feet |
| Golden Alexander | 1—3 feet |
| Little Bluestem | 2 feet |
| Mountain Mint | 1—3 feet |
| Nodding Onion | 1—2 feet |
| Pale Purple Coneflower | 4 feet |

| | |
|----------------------|----------|
| Prairie Blazing Star | 2—5 feet |
| Prairie Smoke | 1 foot |
| Sideoats Grama | 2—3 feet |
| Silky Aster | 1—2 feet |

(Ord. No. 2016-002, 3-7-2016)

Secs. 36-716—36-740. - Reserved.

ARTICLE XI. - NONCONFORMING USES

Footnotes:

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State Law reference— *Nonconforming uses and structures, MCL 125.583a.*

Sec. 36-741. - Intent.

- (a) Within the districts established by this chapter, or amendments that may later be adopted, there exist lots, structures and uses of land and structures which were lawful before the ordinance codified in this chapter was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this chapter or future amendments.
- (b) It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

(Code 1979, § 17.44.010)

Sec. 36-742. - Scope.

To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of the ordinance codified in this chapter and upon which actual building construction has been diligently carried on. Actual construction is defined to include the placing of construction materials in permanent position and fastened in a permanent manner except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction; provided, that work shall be diligently carried on until completion of the building involved; and provided, however, that not more than 12 months have elapsed since the permit was issued for such construction.

(Code 1979, § 17.44.020)

Sec. 36-743. - Extending or enlarging uses.

A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of the ordinance codified in this chapter by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.

(Code 1979, § 17.44.030)

Sec. 36-744. - Nonconforming lots.

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of the ordinance codified in this chapter. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided, that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance to yard requirements shall be obtained through approval of the board of appeals.

(Code 1979, § 17.44.040)

Sec. 36-745. - Nonconforming uses of land.

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

- (1) No such nonconforming use shall be enlarged or increased, nor extend to occupy a greater area of land than was occupied at the effective date of adoption or amendment of the ordinance codified in this chapter.
- (2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of the ordinance codified in this chapter.
- (3) If such nonconforming use of land ceases for any reason for a period of more than 60 days, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

(Code 1979, § 17.44.050)

Sec. 36-746. - Nonconforming structures.

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

- (1) No such structure may be enlarged or altered in a way which increases its nonconformity.
- (2) Should such structures be destroyed by any means wherein the fair value of reconstruction is more than 50 percent of the total fair value of the building at the time of the destruction, it shall not be reconstructed except in conformity with the provisions of this chapter. Fair value shall be determined by a private appraiser appointed by the city council.
- (3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(Code 1979, § 17.44.060)

Sec. 36-747. - Nonconforming uses of structures and land.

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

- (1) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered, except in changing the use of the structure to a use permitted in the district in which it is located.
- (2) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of the ordinance codified in this chapter, but no such use shall be extended to occupy any land outside such building.
- (3) If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to

another nonconforming use; provided, that the board of appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the board of appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this chapter.

- (4) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the district in which such structure is permitted, and the nonconforming use may not thereafter be resumed.
- (5) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or ceases to exist for six consecutive months or for 18 months during any three-year period, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. Structures occupied by seasonal uses shall be excepted from this provision.
- (6) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

(Code 1979, § 17.44.070)

Sec. 36-748. - Repairs and maintenance.

- (a) On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing to an extent not exceeding 50 percent of the assessed value of the building; provided, that the cubic content of the building as it existed at the time of passage or amendment of the ordinance codified in this chapter shall not be increased.
- (b) Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

(Code 1979, § 17.44.080)

Sec. 36-749. - Exceptions.

Any use for which a general exception or special approval is permitted as provided in this chapter shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

(Code 1979, § 17.44.090)

Sec. 36-750. - Change of tenancy or ownership.

There may be a change of tenancy, ownership, or management of any existing nonconforming uses of land, structures and premises, provided there is no change in the nature or character of such nonconforming uses except in conformity with the provisions of this chapter.

(Code 1979, § 17.44.100)

Sec. 36-751. - Nonconformance created by governmental right-of-way acquisition.

In the event the State of Michigan, the Hillsdale County Road Commission, the City of Hillsdale or any other governmental agency or department acquires property from the owner or owners of developed land, whether platted or unplatted, by the exercise of the power or eminent domain or by agreement and voluntary conveyance for or in connection with the improvement, expansion or establishment of a right-of-way for purposes of constructing, relocating, widening, placing, improving and maintaining streets, utility lines, poles and equipment, as a result of which a nonconformance is created on the land from which said right-of-way is acquired with the minimum setback, lot width, lot area, landscape and/or parking requirements of chapter 36 of the Code of the City of Hillsdale, any buildings or structures that are rendered nonconforming thereby may thereafter be altered, enlarged, or rebuilt, anything contained in chapter 36 to the contrary notwithstanding, if and only if:

- (1) The alteration, enlargement or rebuilding of any building or structure rendered nonconforming by said acquisition or taking does not increase the nonconformity created by it unless and except as might otherwise be permitted by variance authorized

under this chapter;

- (2) The alteration, enlargement or rebuilding of any existing building or structure rendered nonconforming by said acquisition or taking is set back not less than 15 feet from the nearest public right-of-way line;
- (3) The alteration, enlargement or rebuilding of any existing building or structure rendered nonconforming by said acquisition or taking otherwise complies with all applicable provisions of chapter 36 of the Code of the City of Hillsdale.

(Ord. No. 2005-5, § 17.44.110, 5-16-2005)

Secs. 36-752—36-780. - Reserved.

ARTICLE XII. - EXCEPTIONS

Sec. 36-781. - Scope.

The regulations in this chapter shall be subject to the interpretations and exceptions set forth in this article.

(Code 1979, § 17.52.010)

Sec. 36-782. - Essential services.

Essential services shall be permitted as authorized and regulated by law and other ordinances of the city. It is the intention hereof to exempt such essential services from the application of this chapter.

(Code 1979, § 17.52.020)

Sec. 36-783. - Voting places.

The provisions of this chapter shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.

(Code 1979, § 17.52.030)

Sec. 36-784. - Height limit.

The height limitations of this chapter shall not apply to farm buildings, chimneys, church spires, flag poles, public monuments, or wireless transmission towers; provided, however, that the board of appeals may specify a height limit for any such structure when such structure requires authorization as a use permitted on special approval or under article V of this chapter.

(Code 1979, § 17.52.040)

Sec. 36-785. - Lot area.

Any lot existing and of record at the time the ordinance codified in this chapter became effective may be used for any principal use, other than uses permitted on special approval for which special lot area requirements are specified in this chapter, permitted in the district in which such lot is located whether or not such lot complies with the lot area requirements of this chapter; provided, that all requirements other than lot area requirements prescribed in this chapter are complied with; and provided, that not more than one dwelling unit shall occupy any lot except in conformance with the provisions of this chapter for required lot area for each dwelling unit.

(Code 1979, § 17.52.050)

Sec. 36-786. - Lots adjoining alleys.

In calculating the area of a lot that adjoins an alley or lane, for the purpose of applying lot area requirements of this chapter, one-half the width of such alley abutting the lot shall be considered as part of such lot.

(Code 1979, § 17.52.060)

Sec. 36-787. - Porches.

An existing porch that currently projects into the front yard requirement by not more than eight feet may be replaced in the exact same size and manner as prior to reconstruction. An existing porch that currently projects into the rear yard to a point that is 15 feet or more from the rear property line may be replaced in the exact same size and manner as prior to reconstruction. Subject to compliance with all other applicable provisions of this Code, newly constructed front porches and decks may project into a required front yard for a distance not exceeding eight feet and newly constructed back porches and decks may project into the rear yard up to a point that is 15 feet or more from the rear property line.

(Code 1979, § 17.52.070; Ord. No. 2005-1, § 17.52.070, 2-21-2005)

Sec. 36-788. - Projections into yards.

Architectural features, not including vertical projections, may extend or project into a required side yard not more than three inches for each one foot of width of such side yard, and may extend or project into a required front yard or rear yard not more than three feet. Architectural features shall not include those details which are normally demountable. Terraces, wheelchair ramps and ornamental features which do not rise more than four feet above the ground may project into a required yard.

(Code 1979, § 17.52.080; Ord. No. 2008-11, 11-17-2008)