

TITLE V: ZONING AND PLANNING

Chapter

- 50. ZONING
- 51. PLANNING COMMISSION
- 52. REGULATION OF ANTENNAS
- 53. FLOOD DAMAGE PREVENTION
- 54. SUBDIVISION CONTROL
- 55. REGULATION OF ADULT BUSINESSES

CHAPTER 50: ZONING

Section

Article I. Purpose and Title

- 5.1 Short title
- 5.2 Purpose
- 5.3 Interpretation and conflicting regulations
- 5.4 Vested right
- 5.5 Reserved

Article II. Definitions

- 5.6 Construction of language
- 5.7 Definitions A-B
- 5.8 Definitions C-D
- 5.9 Definitions E-F
- 5.10 Definitions G-H
- 5.11 Definitions I-J
- 5.12 Definitions K-L
- 5.13 Definitions M-N
- 5.14 Definitions O-P
- 5.15 Definitions Q-R
- 5.16 Definitions S-T
- 5.17 Definitions U-V
- 5.18 Definitions W-Z

Article III. Zoning Districts and Map

- 5.19 Districts established
- 5.20 Zoning map
- 5.21 District boundaries interpreted
- 5.22 Zoning of vacated areas
- 5.23 Zoning of annexed areas
- 5.24 Reserved
- 5.25 Reserved

Article IV. Residential Districts

- 5.26 Intent
- 5.27 Schedule of uses

- 5.28 Area, height and placement requirements
- 5.29 Standards applicable to single-family dwellings
- 5.30 Standards applicable to two-family and multiple family dwellings
- 5.31 Reserved
- 5.32 Reserved
- 5.33 Reserved
- 5.34 Reserved

Article V. C-1, Commercial District

- 5.35 Intent
- 5.36 Schedule of uses
- 5.37 Area, height and placement requirements
- 5.38 Uses specifically prohibited
- 5.39 Additional requirements applying to the commercial district
- 5.40 Reserved

Article VI. Planned Unit Development (PUD)

- 5.41 Intent
- 5.42 Qualifying conditions
- 5.43 Permitted uses
- 5.44 General development requirements
- 5.45 PUD review procedures
- 5.46 Pre-application conference
- 5.47 PUD concept plan review
- 5.48 Final PUD site plan review
- 5.49 Standards of approval
- 5.50 Deviations from approved final PUD site plan
- 5.51 Expiration and extension
- 5.52 Appeals and variances
- 5.53 Reserved
- 5.54 Reserved
- 5.55 Reserved

Article VII. General Provisions

- 5.56 Compliance with provisions
- 5.57 Uses per lot
- 5.58 Access
- 5.59 Height exceptions
- 5.60 Setback requirements
- 5.61 Encroachments into required yard setbacks
- 5.62 Corner lots
- 5.63 Through lots
- 5.64 Temporary uses and special events
- 5.65 Hours of operation
- 5.66 Essential services
- 5.67 Voting place

5.68 Mechanical equipment screening

5.69 Lighting

Article VIII. Additional Use Requirements

5.70 Accessory buildings, structures and uses

5.71 Dining and entertainment uses

5.72 Office uses

5.73 Public and institutional uses

5.74 Residential uses

5.75 Other uses

Article IX. Off-Street Parking Requirements

5.76 Off-street parking, loading, access and circulation requirements

5.77 Minimum parking requirements

5.78 Modifications and exemptions

5.79 Off-street parking facility location and design

5.80 Off-street loading requirements

5.81 Storage and repair of vehicles

5.82 Commercial vehicles

Article X. Site Plan Review

5.83 Intent

5.84 Uses requiring review

5.85 Site plan and sketch plan review procedures

5.86 Submittal requirements

5.87 Standards for approval

5.88 Conditions of approval

5.89 Validity of approved plans

5.90 Amendment to approved plans

Article XI. Special Land Uses

5.91 Intent

5.92 Scope

5.93 Procedures

5.94 Review standards

5.95 Validity of permit

5.96 Amendments, expansions and change in use

5.97 Revocation of an approved special land use

5.98 Appeals

5.99 Restrictions on resubmittal of a special land use request

Article XII. Zoning Board of Appeals

5.100 Creation and membership

5.101 Proceedings

5.102 Powers and duties

5.103 Decisions

5.104 Time limit on variances and termination of variances

5.105 Automatic termination of use variance

Article XIII. Amendments and Rezoning

- 5.106 Initiation of rezoning and text amendments
- 5.107 Application procedure
- 5.108 Rezoning and text amendment guidelines
- 5.109 Amendment considerations
- 5.110 Conditional rezoning

Article XIV. Nonconformities

- 5.111 Intent
- 5.112 Nonconforming uses
- 5.113 Nonconforming buildings and structures
- 5.114 Nonconforming lots
- 5.115 Nonconforming resulting from right-of-way dedication
- 5.116 Elimination of nonconformities

Article XV. Administration and Enforcement

- 5.117 Enforcement
- 5.118 Duties of the Director of Public Works
- 5.119 Plot plan/survey
- 5.120 Permits
- 5.121 Fees
- 5.122 Performance guarantees

Article XVI. Enactment Provisions

- 5.123 Repeal of ordinances
- 5.124 Severability
- 5.125 Enactment and effective date

ARTICLE I. PURPOSE AND TITLE

§ 5.1 SHORT TITLE.

This chapter shall be known, and may be cited, as “the Zoning Ordinance of the City of East Grand Rapids”.

(Ord. effective 11-29-2013)

§ 5.2 PURPOSE.

The provisions of this chapter, enacted under the authority of the state’s Zoning Enabling Act, being M.C.L.A. §§ 125.3101 et seq., shall be held to be minimum requirements adopted for the promotion of the public health, safety and for the encouragement of the orderly growth of the city community, as well as the general welfare. This chapter is intended to ensure that uses of land shall be situated in appropriate locations and relationships; to limit the inappropriate overcrowding of land and congestion of population and transportation systems and other public facilities; and to facilitate adequate and efficient provision of transportation systems, sewage disposal, water, energy, education, recreation and other public service and facility needs.

(Ord. effective 11-29-2013)

§ 5.3 INTERPRETATION AND CONFLICTING REGULATIONS.

In its interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience or general welfare. It is not intended by this chapter to impair or interfere with any other existing provision of law or ordinance. However, where this chapter imposes a greater restriction than is required by existing ordinance or by rules, regulations or permits, the provisions of this chapter shall control.

(Ord. effective 11-29-2013)

§ 5.4 VESTED RIGHT.

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

(Ord. effective 11-29-2013)

§ 5.5 RESERVED.

ARTICLE II. DEFINITIONS

§ 5.6 CONSTRUCTION OF LANGUAGE.

(A) The following words, terms and phrases, when used in this chapter, shall have the meanings assigned to them in this chapter, except where the context clearly indicates a different meaning.

(B) The following rules of construction apply to this chapter.

(1) The particular shall control the general and the use of a general term shall not be taken to have the same meaning as another specific term. For example, a “dry cleaning retail establishment” shall not be interpreted to be the same as a “retail business supplying commodities on the premises”, if each term is listed as a separate and distinct use.

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

(3) A building or structure includes any and all of its parts.

(4) The phrase “used for” includes “arranged for”, “designed for”, “intended for”, “maintained for” and “occupied for”.

(5) The word **SHALL** is always mandatory and not discretionary. The word **MAY** is permissive.

(6) The word **PERSON** includes any individual, corporation, partnership, incorporated association, limited liability company or any other similar entity.

(7) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunctions “and”, “or” or “either-or”, the conjunction shall be interpreted as follows.

(a) **AND.** Indicates that the connected items, conditions, provisions or events apply.

(b) **OR.** Indicates that the connected items, conditions, provisions or events may apply singly or in any combination.

(c) **EITHER-OR.** Indicates that the connected items, conditions, provisions or events apply singly but not in combination.

(8) Terms not defined in this chapter shall have the meaning customarily assigned to them.

(Ord. effective 11-29-2013)

§ 5.7 DEFINITIONS A-B.

ACCESSORY BUILDING, STRUCTURE OR USE. A building, structure or use on the same lot with, and of a nature which is customarily incidental and subordinate to the principal building, structure or use or the property.

ADDITION. An extension or increase in floor area or height of a building or structure.

ADULT. A person at the legal age of adulthood, as defined by the laws of the state.

ADULT DAY CARE HOME. A private residence with the approved capacity to receive six or fewer adults, to be provided with foster care for periods of less than 24 hours per day, five or more days per week and for two or more consecutive weeks, as licensed and regulated under the Adult Foster Care Facility Licensing Act, Public Act 218 of 1979, M.C.L.A. §§ 400.701 et seq., as amended.

ADULT FOSTER CARE. See **FOSTER CARE.**

ALLEY. A secondary right-of-way which provides a means of access to the rear of a lot and/or building.

ALTERATION. A change, addition or modification in construction or type of occupancy; any change in a building, such as walls, partitions, columns or joists; any change in the dimensions or configuration of the roof, exterior walls or foundation; or any change which may be referred to as altered or reconstructed.

APARTMENT. See **DWELLING UNIT.**

BASEMENT. The part of a building between a floor and ceiling, which is partially below and partially above ground level, but with a vertical distance from grade to the floor below that is greater than the vertical distance from grade to the ceiling. A **BASEMENT** is not counted as a story (see Figure 2-1).

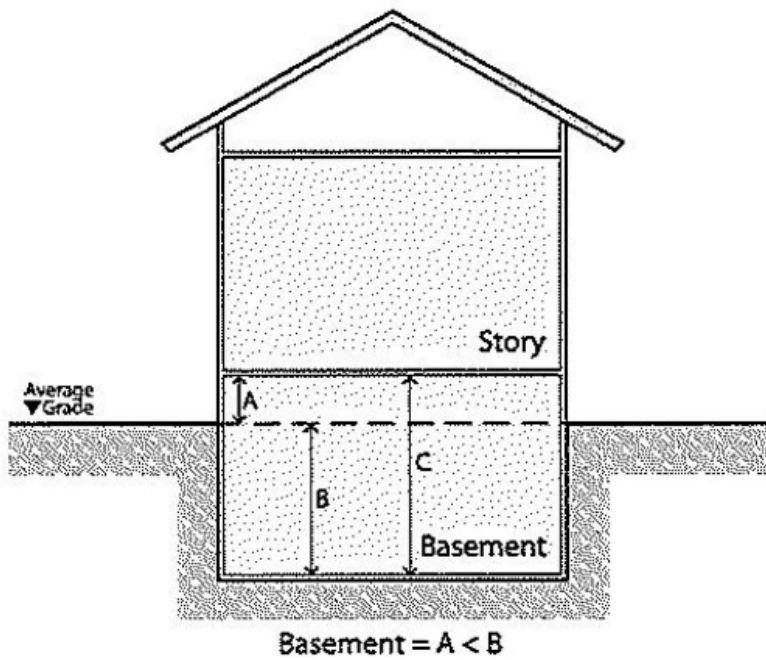


Figure 2-1: Basement

BED AND BREAKFAST. A private residence, occupied by the owner or resident manager, in which guest room accommodations are provided to overnight lodgers for compensation, and which may include breakfast as a part of the accommodation.

BERM. An earth mound covered with grasses, trees and other plants; designed to provide visual interest, screen undesirable views and impacts and help separate incompatible uses.

BOARD. The Zoning Board of Appeals for the City of East Grand Rapids.

BREW PUB. A restaurant which serves alcoholic beverages and brews handcrafted, natural beer intended for retail consumption on the premises and on any premises that has a license as a standard full-service restaurant owned and operated in its entirety by the same corporate ownership and management as the brew pub.

BREWERY, MICRO. A facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail or wholesale, on or off premises, with a capacity of not more than 15,000 barrels per year. A **MICRO BREWERY** may include other uses such as a standard restaurant, bar or live entertainment, as otherwise permitted in the zoning district.

BUFFER. An open area that does not contain development, structures and buildings, but which may include landscaping, a screen wall or berm used to physically separate and screen one land use or property from another.

BUILDING. A temporary or permanent independent structure, with a roof supported by columns, walls or other supports that is used to house people, animals, possessions or conduct business activities or other uses. A **BUILDING** may or may not have a permanent location on the ground. See also **STRUCTURE**.

BUILDING HEIGHT. See **HEIGHT OF BUILDING OR STRUCTURE**

BUILDING LINE. See **SETBACK LINE**.

BUILDING OFFICIAL or **BUILDING INSPECTOR.** The person designated by the city to administer the Building Code.

BUILDING, PRINCIPAL. The building in which a principal use is located.

(Ord. effective 11-29-2013; Ord. effective 9-14-2019)

§ 5.8 DEFINITIONS C-D.

CARPORT. A roofed structure, open on two or more sides, which may or may not be attached to a building, providing storage for vehicles.

CARRY-OUT SERVICE. A service that is ancillary to a permitted use involving the sale of pre-ordered and ready-to-consume food or beverages, which are packaged and intended for consumption off the premises. These items are delivered to a customer who is either waiting in the premises, or in a motor vehicle parked in a space designated and used for carry-out service.

CERTIFICATE OF OCCUPANCY. A document issued by the city certifying that a structure or use has been constructed and will be used in compliance with all applicable regulations and, therefore, occupancy or the use of the building can occur.

CHILD CARE CENTER. See **DAY CARE FACILITY**.

CITY COMMISSION. The City Commission of the City of East Grand Rapids.

CLINIC. An establishment that admits patients on an outpatient basis for examination and treatment by physicians, dentists or similar medical professionals. **CLINIC** does not include a marijuana collective, cooperative or dispensary, or the business of a primary caregiver or other business or use involved in the medical use of marijuana.

CLINIC, VETERINARY. A veterinary establishment that admits animals on an outpatient basis for examination and treatment and which are usually not lodged overnight.

COMMERCIAL VEHICLE. Include:

- (1) Vehicles primarily used to transport commercial goods or materials, or used to provide a commercial service;
- (2) Tractor cabs used for hauling semi-trailers;
- (3) All vehicles, including passenger vehicles, affixed with signs advertising or identifying an establishment, product, service or activity; and
- (4) Mobile mechanized equipment, such as cranes, bulldozers, trenchers, tractors, compressors and similar equipment.

CONDITIONAL REZONING. A rezoning that is conditioned by a specific use and/or other restrictions, voluntarily offered the applicant and recorded with the property.

CONDOMINIUM, SITE.

- (1) **BUILDING ENVELOPE.** The area of a condominium unit within which the principal building or structure may be constructed, together with any accessory structures, as described in the master site condominium deed.
- (2) **CONDOMINIUM ACT.** Public Act 59 of 1978, being M.C.L.A. §§ 559.101 to 559.272.
- (3) **CONDOMINIUM UNIT.** The portion of the condominium project designed and intended for separate ownership and use, as described in the master deed of the condominium project, within which a building or other improvements may be constructed by the condominium unit owner. A **SITE CONDOMINIUM UNIT** is considered a lot by this chapter.
- (4) **CONDOMINIUM PROJECT.** A plan or project consisting of not less than two condominium units, established in conformance with the Condominium Act.
- (5) **LIMITED COMMON ELEMENT.** An area that is appurtenant to a site condominium unit and that is reserved in the master deed for the site condominium development for the exclusive use of the owner of the site condominium unit.
- (6) **SITE CONDOMINIUM.** A condominium development in which each condominium unit consists of an area of vacant land and a volume of vacant air space, within which a building or other improvements may be constructed.
- (7) **SITE CONDOMINIUM DEVELOPMENT.** A development consisting of not less than two site condominium units, established in compliance with the Condominium Act.
- (8) **SITE CONDOMINIUM DEVELOPMENT PLAN.** The plans, drawings and information prepared for a site condominium development, as required by § 66 of the Condominium Act, being M.C.L.A. § 559.166 and this chapter, for review by the Planning Commission and the City Commission.

CONVALESCENT HOME or NURSING HOME. A facility licensed as a “nursing home” by the State Department of Public Health under Article 17 of the Public Health Code, Public Act 368 of 1978, being M.C.L.A. §§ 333.1101 et seq., as amended. A **NURSING HOME** shall include an extended care facility, hospice and convalescent home.

CUL-DE-SAC. The vehicle turn-around area constituting the terminus of a street that has only one outlet to another street.

CUPOLA. A small ornamental structure placed on top of a larger roof, sometimes used as a lookout or to provide light and air. (Also called a **BELFRY**.)

DAY CARE FACILITY. A facility licensed under the Child Care Organizations Act, Public Act 116 of 1973, being 722.111 to 722.128. **DAY CARE FACILITIES** include the following.

- (1) **CHILD CARE CENTER.** A facility other than a private residence in which one or more preschool or school age children are given care and supervision for periods of less than 24 hours per day, and where the parents or guardians are not immediately available to the child. A **CHILD CARE CENTER** or day care center includes a facility that provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, before- or after-school program or drop-in center.
- (2) **FAMILY DAY CARE HOME.** 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 HOMES** include a home in which care is given to an unrelated minor child for more than four weeks during a calendar year.
- (3) **GROUP DAY CARE HOME.** 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. A **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.

DECK. A structure, which may be directly attached to a dwelling, without a roof or walls, except for railings, that is constructed on piers or an above-grade foundation wall and used as an outdoor living area.

DENSITY, GROSS. The number of dwelling units per acre of land.

DENSITY, NET. The number of dwelling units per acre of land, not including the area in rights-of-way for streets and any submerged land, unless otherwise specified in this chapter.

DIRECTOR OF PUBLIC WORKS. The person designated by the City Commission to administer this zoning chapter.

DRIVE-IN OR DRIVE-THROUGH FACILITY. A system used to serve patrons of a business while in their motor vehicles, either exclusively or in addition to service within a building or structure.

DRIVEWAY. A privately controlled and maintained easement, right-of-way or other interest in land, located and constructed in accordance with the requirements of this chapter, providing vehicular access from a public or private street to a lot.

DWELLING UNIT. A building or portion of a building, designed for use and occupancy by one family, having permanent provisions for living, sleeping, cooking and sanitation. A recreational vehicle, vehicle chassis, tent or other transient residential use is not considered a **DWELLING**.

(1) **DWELLING, MULTIPLE-FAMILY.** A building containing three or more dwelling units where each unit may have access to a common hallway, stairs or elevator, or where each unit may have individual access to a street or common courtyard.

(2) **DWELLING, SINGLE-FAMILY.** A freestanding dwelling unit that is physically separate from any other dwelling.

(3) **DWELLING, TWO-FAMILY.** A one-family dwelling unit attached to one other dwelling by a common wall. (Also known as a **DUPLEX**.)

(Ord. effective 11-29-2013)

§ 5.9 DEFINITIONS E-F.

EASEMENT. A grant of one or more rights by the property owner to and/or for the use by the public, a utility or another person or entity.

ESSENTIAL SERVICES. The erection, construction, alteration or maintenance by a public utility, or municipal department, of underground, surface or overhead gas, communication, telephone, electrical, steam, fuel or water, transmission, distribution collection, supply, or disposal systems. This includes related poles, wires, pipes, conduit, cables, public safety alarm and communication equipment, traffic signals, hydrants and similar accessories that are necessary to furnish adequate service, addressing general public health, safety, convenience or welfare. These do not include wireless telecommunication towers (unless located on public property and used as part of a municipal emergency communications network); wind energy conversion systems (WECS); offices, utility buildings, substations or structures that are enclosures or shelters for service equipment; or maintenance depots.

EXCAVATION. The process of altering natural grade by cutting or filling earth, or any activity by which soil or rock is cut, dug, quarried, uncovered, removed, displaced or relocated.

FAMILY. Either of the following defines a family:

(1) An individual or group of two or more persons, related by blood, marriage or adoption, together with foster children and servants of the principal occupants 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, non-transient domestic character, and who cook and live as a single nonprofit housekeeping unit. This does not include a society, club, fraternity, sorority, association, half-way house, lodge, organization, group of students or other individuals whose domestic relationship is of a transitory or seasonal nature, such as a school term, or a period of rehabilitation or treatment, or is otherwise not intended to be of a permanent nature.

FENCE. A permanent outdoor partition, wall, fence, structure or gate, erected as a barrier or enclosure.

FILLING. Depositing or dumping any matter into or onto the ground.

FLOOR AREA, GROSS. The sum of the horizontal area of all building floors, excluding basements, measured from the interior faces of exterior walls, (see Figure 2-2).

FLOOR AREA, LIVABLE. The total area of all floors whose height is more than half above finished grade, having a minimum floor to ceiling height of seven and a half feet, located on a permanent foundation, wired for electrical service and heated for year-round use.

FLOOR AREA, USABLE. The sum of the total horizontal area of all building floors that are used or intended to be used for the sale of merchandise, or to serve clients or customers, and all areas devoted to employee work space. **FLOOR AREA** is measured from the interior faces of exterior walls. Excluded from **USABLE FLOOR AREA** are those parts of a building principally used, or intended to be used to store or process merchandise, and hallways, elevators, stairs, bulkheads, or utility or sanitary facilities. (See Figure 2-2.)

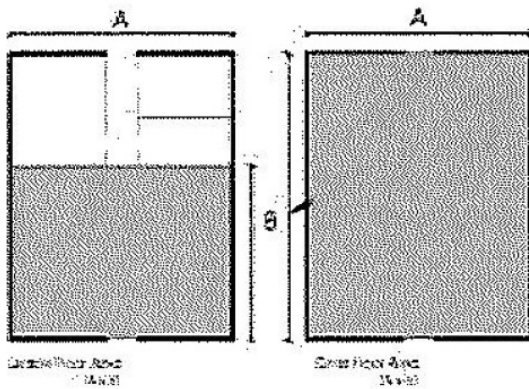


Figure 2-2: Floor area

FOSTER CARE.

(1) **ADULT FOSTER CARE FACILITY.** A facility defined by the Adult Foster Care Facility Licensing Act (Public Act 218 of 1979) as an establishment providing foster care to adults. Included are foster care facilities and family homes for adults who are aged, mentally ill, developmentally disabled or physically disabled, and who require supervision on an ongoing basis, but who do not require continuous nursing care.

(a) **ADULT FOSTER CARE FAMILY HOME.** A private residence with an approved capacity of six or fewer adults, where foster care is provided 24 hours per day, five or more days per week, and for two or more consecutive weeks. It is licensed and regulated under the Adult Foster Care Facility Licensing Act, Public Act 218 of 1979, being M.C.L.A. §§ 400.701 et seq., as amended. The person issued the adult foster care family home license is a member of the household and an occupant of the residence.

(b) **ADULT FOSTER CARE GROUP HOME.** A private residence where adults are provided with foster care 24 hours a day, five or more days per week, and for two or more consecutive weeks. A foster care group home with an approved capacity of at least seven, but not more than 12 adults is a “small group home”. A group home with an approved capacity of at least 13, but not more than 20 adults is a “large group home”. An adult foster care facility is licensed under the Adult Foster Care Facility Licensing Act, Public Act 218 of 1979, being M.C.L.A. §§ 400.701 et seq., as amended, and the person issued the adult foster care group home license is a member of the household and an occupant of the residence.

(2) **FOSTER FAMILY HOME.** A private home, licensed under Public Act 116 of 1973, being M.C.L.A. §§ 722.111 to 722.128, in which at least one, but not more than four, minor children who are not related to an adult member of the house by blood or marriage, or who are not placed in the household pursuant to the Adoption Code (Public Act 288 of 1939, being M.C.L.A. §§ 701.1 et seq., as amended), are given care and supervision 24 hours per day, four or more days per week for two or more consecutive weeks, unattended by a parent or guardian. The person issued the license is a permanent resident of the home.

(3) **FOSTER FAMILY GROUP HOME.** A private home, licensed under Public Act 116 of 1973, being M.C.L.A. §§ 722.111 to 722.128 in which more than four, but fewer than seven minor children, who are not related to an adult member of the house by blood or marriage, or who are not placed in the household pursuant to the Adoption Code (Public Act 288 of 1939, as amended), are given care and supervision 24 hours per day, four or more days per week for two or more consecutive weeks, unattended by a parent or guardian. The person issued the license is a permanent resident of the home.

FRONTAGE. See **LOT FRONTAGE.**

(Ord. effective 11-29-2013)

§ 5.10 DEFINITIONS G-H.

GRADE. The elevation of the ground adjacent to a structure. **EXISTING OR NATURAL GRADE** is the elevation that exists or existed prior to human- made alterations. **FINISHED GRADE** is the elevation established after filling or excavation.

GREENBELT. A strip of land providing visual relief between properties, reserved for landscaping, berms, walls or fencing; often between abutting uses of differing intensities or along the street frontage.

HEIGHT OF BUILDING OR STRUCTURE. The vertical distance measured from the average elevation of the finished lot grade at the front of the building, to the highest point of a flat roof; to the deck line of a mansard roof; to the average height between the eaves and ridge for a gable, hip and gambrel roof, or to an equivalent point on any other roof. When the lot is developed and permits a walkout entry at the rear of the building, the **HEIGHT** shall be measured from the average elevation of the finished lot

grade at the rear of the building.

HOME OCCUPATION. An occupation or profession that is customarily incidental and secondary to the use of a Building height dwelling. It is conducted within a dwelling, carried out by its occupants utilizing equipment typically found in a home and is not evident from the outside.

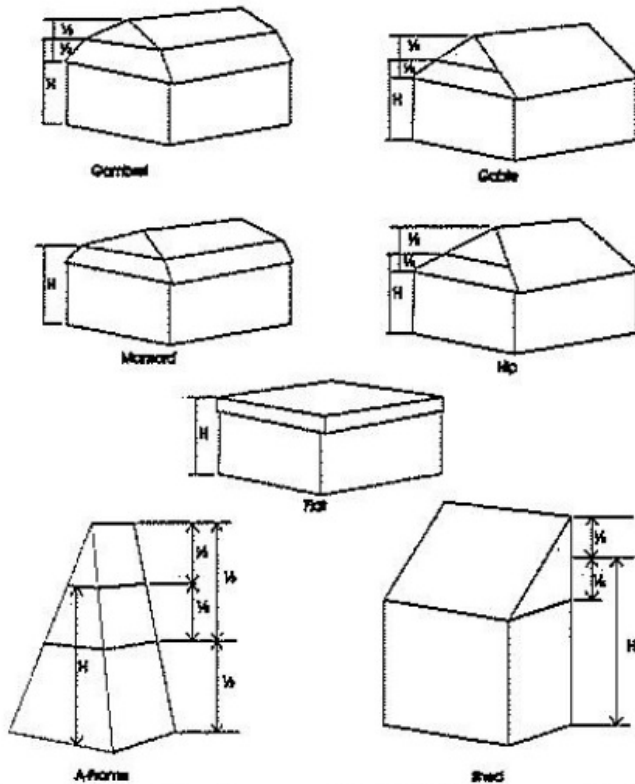


Figure 2-3: Building height

HOSPITAL. A facility providing health care services primarily for in-patient and surgical care of the sick or injured, including related facilities that are an integral part of the facility such as laboratories, out-patient departments, clinics, central service facilities and staff offices.

HOTEL. A business establishment offering lodging accommodations to travelers and tourists for a daily rate and which may offer additional services, such as restaurants, entertainment, and meeting rooms to guests and the general public.

HOUSEHOLD. All persons occupying a house, apartment, group of rooms or a single room occupied as separate living quarters, regardless of their relationship to one another.

HOUSING, INDEPENDENT LIVING AND ASSISTED LIVING. A building or buildings containing individual dwelling units designed for and restricted to occupancy by persons of a specified age who are retired or are nearing retirement and wish to live in a community environment, but do not require nursing or medical supervision. Group dining facilities and non-medical personal care services may also be provided. Such housing does not include a nursing home.

(Ord. effective 11-29-2013; Ord. effective 9-14-2019)

§ 5.11 DEFINITIONS I-J.

IMPERVIOUS SURFACE. Any material that substantially reduces or prevents the infiltration of storm water into the earth.

INOPERABLE VEHICLE. An unlicensed and/or uninsured motor vehicle that is incapable of being operated under its own power.

JUNK. Including, but not limited to inoperable vehicles; solid waste; motor vehicles, machinery, appliances, products or merchandise with missing parts; scrap metals or materials that are damaged or deteriorated; or vehicles or machines in a condition preventing them from being used as manufactured.

(Ord. effective 11-29-2013)

§ 5.12 DEFINITIONS K-L.

LOADING SPACE. A designated off-street space on the same lot as a building or group of buildings, used to temporarily park a commercial vehicle while loading and unloading merchandise or materials.

LOT. A parcel of land intended for individual ownership and use, separately described on a deed or other instrument recorded in the office of the County Register of Deeds, whether by metes and bounds, as part of a platted subdivision or site condominium. See lot of record. (See Figure 2-4.)



- (1) **LOT AREA.** The area of land included within a lot as defined by lot lines, but excluding any public rights-of-way.
- (2) **LOT COVERAGE, BUILDINGS.** The lot area, stated as a percentage of the total, covered by all buildings and areas under roof.
- (3) **LOT COVERAGE, PAVEMENT AND BUILDINGS.** The lot area, stated as a percentage of the total, covered by all buildings and paved surfaces, including driveways, patios and walkways. One-half the area of permeable surfaces, approved by the Director of Public Works, are also counted toward this calculation.
- (4) **LOT FRONTAGE.** The length of the front lot line measured at the street right-of-way; except as defined for flag lots.
- (5) **LOT WIDTH.** The horizontal distance between side lot lines measured at the two points where the required front setback intersects the side lot lines.
- (6) **LOT, CORNER.** A lot with at least two contiguous sides abutting two intersecting streets, and where the interior angle of the intersecting streets is less than 135 degrees. Also, a lot located on a curved street or streets if tangents of the curve, at the points of beginning with the lot or the points of intersection of the side lot lines with the street line, intersect at an interior angle of less than 135 degrees.
- (7) **LOT, DOUBLE FRONTAGE OR THROUGH.** An interior lot bordered by two, more or less, parallel streets. For the purpose of this definition, if one side of the lot is bordered by an alley opposite of a street the lot is not considered a **THROUGH LOT**.
- (8) **LOT, INTERIOR.** A lot other than a corner or through lot.

LOT LINES. See Figure 2-4.

- (1) **FRONT LOT LINE.**
 - (a) For an interior lot, the **FRONT LOT LINE** shall be the line abutting the street right-of-way or private street easement.
 - (b) For a corner lot, the **FRONT LOT LINE** shall be the line that abuts the street right-of-way or private street easement that is designated on the plat of subdivision or was determined to be the front lot line at the time a permit was issued for the principal building on the lot. If there is no indication on the plat or in the records of original permits, the **FRONT LOT LINE** shall be determined by the Director of Public Works in accordance with § 5.62.
 - (c) For a through lot, each line abutting the street right-of-way or private street easement shall be considered **FRONT LOT LINE** for purposes of determining minimum setbacks.
- (2) **REAR LOT LINE.** The lot line opposite and most distant from the front lot line. In the case of an irregular, triangular or flared lot, the rear lot line shall be a line at least ten feet in length entirely within the lot, parallel to and at the maximum distance from the front lot line. A through lot does not have a **REAR LOT LINE**.
- (3) **SIDE LOT LINE.** A lot line that is neither a front lot line nor a rear lot line.
- (4) **STREET LINE.** Any lot line separating a lot from a public or private street right-of-way. A front street line shall be the

street line that is also the front lot line, as defined in this section.

LOT OF RECORD. A parcel of land separately described on a plat, condominium document or metes and bounds description recorded in the office of the County Register of Deeds, which was in existence on the effective date of this chapter.

(Ord. effective 11-29-2013; Ord. effective 2-27-2015)

§ 5.13 DEFINITIONS M-N.

MANUFACTURED HOME. A factory-built, single-family structure that is manufactured under the National Manufactured Home Construction and Safety Standards Act, being 42 U.S.C. §§ 5401 et seq. It is transportable in one or more sections, built on a permanent chassis or foundation and used as a dwelling. It is not constructed with a permanent hitch or other device allowing its transport, other than for its delivery to a permanent site and does not have wheels or axles permanently attached to its body or frame.

MARIJUANA.

(1) **MARIJUANA, MARIHUANA or CANNABIS.** The term shall have the meaning given to it in § 7601 of the state's Public Health Code, Public Act 368 of 1978, being M.C.L.A. §§ 333.1101 et seq., as is referred to in § 3(d) of the state's Medical Marijuana Act, PA 2008, Initiated Law 1, M.C.L.A. § 333.26423d. Any other term pertaining to **MARIJUANA** used in this chapter and not otherwise defined shall have the meaning given to it in the state's Medical Marijuana Act and/or in the General Rules of the state's Department of Community Health issued in connection with that Act.

(2) **MARIJUANA DISPENSARY OR DISPENSARY.**

(a) Any business, facility, association, cooperative, location or operation, whether fixed or mobile, where medical marijuana is made available to, sold, traded, used, grown, processed, delivered or distributed by or to one or more of the following:

1. A primary caregiver (as defined by Michigan Initiated Law 1 of 2008, as amended);
2. A qualifying patient (as defined by Michigan Initiated Law 1 of 2008, as amended); or
3. Members of the public.

(b) A medical **MARIJUANA DISPENSARY** shall also include any place, location, facility or operation, whether fixed or mobile, where medical marijuana is smoked or consumed by three or more persons at one time.

(c) A medical **MARIJUANA DISPENSARY** shall not include the dispensation of medical marijuana by a primary caregiver personally dispensing to not more than five qualified patients in strict accordance with Michigan Initiated Law 1 of 2008, as amended, so long as the lawful amount of medical marijuana is delivered to the qualifying patient where the qualifying patient resides and it is done in full compliance with this chapter, all other applicable city ordinances and applicable state and federal laws, rules and regulations.

(3) **MEDICAL USE OF MARIJUANA.** The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating

medical condition, as defined under the state's Medical Marijuana Act, PA 2008, Initiated Law 1, M.C.L.A. §§ 333.26421 et seq.

MASTER PLAN. The plan adopted by the city in accordance with the state's Planning Enabling Act, Public Act 33 of 2008, as amended.

MEZZANINE. A partial story between two main stories of a building.

MINI-WAREHOUSE/SELF STORAGE FACILITY. A building or a group of buildings in a controlled-access compound where individual compartments, stalls or lockers are rented out to tenants to store goods.

MOBILE HOME. A manufactured home.

MOTEL/HOTEL. A building or group of buildings on the same lot, containing sleeping or dwelling units in which lodging is provided for compensation on a transient basis. The term includes motor lodges, hotels and similar facilities.

MOTOR HOME. See **RECREATIONAL VEHICLE.**

NONCONFORMING LOT. A lot lawfully existing on the effective date of this chapter, or subsequent amendment, that does not meet the current area and/or width requirements of the zoning district in which it is located.

NONCONFORMING STRUCTURE. A building or any of its parts, lawfully existing on the effective date of this chapter, or subsequent amendment, that does not conform to the current provisions of the district in which it is located.

NONCONFORMING USE. A use or activity lawfully existing on the effective date of this chapter, or subsequent amendment, that does not conform to the current use provisions of the zoning ordinance.

NURSERY SCHOOL. See **DAY CARE FACILITY.**

NURSING HOME. A nursing care facility, including a county medical care facility, but excluding a hospital, or a facility created by Public Act 152 of 1885, as amended, being M.C.L.A. §§ 36.1 to 36.12, which provide organized nursing care and medical treatment to seven or more unrelated individuals, suffering or recovering from illness, injury or infirmity.

(Ord. effective 11-29-2013)

§ 5.14 DEFINITIONS O-P.

OFFICE. A room, suite of rooms or building in which a person transacts the affairs of a business, profession, service, industry or government.

OFFICE, SERVICED. Also known as **DROP-IN OFFICES** or **VIRTUAL OFFICES**. An office space available for short-term rental or use, including periods as short as one hour or less. Users are provided with connections to wireless networks, and may also be provided access to telephones, printers and other office machines. A **SERVICED OFFICE** also may or may not provide shared clerical and other administrative services.

OPEN SPACE. A parcel, or area of land or water, that may or may not be improved and that is reserved for public or private use.

OUTDOOR DISPLAY, SALES. The outdoor placement, storage or keeping, for display purposes, of equipment, vehicles, trailers and other similar goods for sale on a premises.

OUTDOOR STORAGE. The outdoor placement of goods such as building or construction materials, equipment, vehicles, trailers and other supplies, for future use, production, assembly, preservation or disposal.

PARKING LOT. An open area, outside a public right-of-way, used for the parking of motor vehicles and accessory conveyances for a fee or as an accommodation for clients, customers, residents or employees.

PARKING SPACE. A defined space used to park a motor vehicle.

PATIO. An uncovered at-grade courtyard or outdoor platform.

PERMEABLE SURFACE. A porous material that permits storm water to percolate or infiltrate into the soil below. Examples of permeable materials include: pervious concrete; porous asphalt; paving stones; or concrete or plastic-based pavers.

PERSONAL SERVICE ESTABLISHMENT. A business providing services involving the care of a person, or the care or repair of personal goods or apparel.

PERSONAL TRAILER. A wheeled vehicle that is not self-propelled, but capable of transporting contents. It is designed to be towed by a motor vehicle, but not designed or intended to be used as a living quarters.

PET, DOMESTICATED OR HOUSEHOLD. An animal commonly domesticated as a companion and kept in a home or yard. Examples include dogs, cats, birds, fish, rabbits, small rodents and similar animals, which do not present an unusual risk to a person or property.

PLANNING COMMISSION. The City of East Grand Rapids Planning Commission.

PLANTS.

(1) **PLANTS, GROUND COVER.** Low-growing plants such as perennial flowers, grasses and vines. Chipped wood, bark mulch, concrete, gravel and similar materials, or artificial plants, are not considered **GROUND COVER**.

(2) **PLANTS, SHRUBS.** Woody plants with several stems arising from the base.

PLAT. A map of a subdivision of land, recorded with the County Register of Deeds, pursuant to the Subdivision Control Act, Public Act 288 of 1967, being M.C.L.A. §§ 560.101 to 560.293, Land Division Act, Public Act 591 of 1996, being M.C.L.A. §§ 560.101 et seq., as amended.

PRINCIPAL BUILDING. See **BUILDING, PRINCIPAL**.

PRINCIPAL USE. See **USE, PRINCIPAL**.

PRODUCT SHOWROOM. A business establishment that includes a defined space in which merchandise samples are displayed to prospective buyers but are generally available only for viewing and must be ordered. Typical product examples include flooring, cabinetry, appliances and similar bulky household items.

(Ord. effective 11-29-2013; Ord. effective 9-14-2019)

§ 5.15 DEFINITIONS Q-R.

RADIO AND TELEVISION BROADCASTING STATION. An establishment consisting of a studio, transmitter and antennas engaged in transmitting audio or video programs to the public.

RECREATION FACILITY, INDOOR. A facility, open either to the general public or to members and their guests, located in an enclosed building designed to accommodate sports, recreational activities, training or related enterprises. Also included are accessory uses that clearly support the primary use, such as sporting goods shops, food service and party/banquet facilities serving patrons of the indoor recreation use, spectator accommodations, changing/locker rooms and employee offices.

RECREATION FACILITY, OUTDOOR. A recreation facility operated primarily for outdoor recreation uses, and related buildings and structures that are accessory to the primary outdoor nature of the activities. Included are golf courses and related support facilities, court games, field sports, shooting ranges, winter sports, swim clubs, campgrounds and resorts, or combination of such uses.

RECREATIONAL VEHICLE/ RECREATIONAL UNIT.

(1) **RECREATIONAL VEHICLE.** A travel, camping or tent trailer; motor home; truck camper or similar vehicle designed primarily as temporary living quarters for recreational, camping or travel use. It is either self-powered or mounted on or drawn by another vehicle. It does not include a manufactured home. For purposes of this chapter, utility trailers shall also be considered **RECREATIONAL VEHICLES**.

(2) **RECREATIONAL UNIT.** A vehicle used primarily for recreation, such as a boat, jet ski, snowmobile, all-terrain vehicle, dune buggy or similar vehicle or equipment. A recreational unit mounted on a personal trailer is considered a single **RECREATIONAL UNIT**.

(Ord. effective 11-29-2013)

§ 5.16 DEFINITIONS S-T.

SCREEN WALL. A solid wall or fence erected to shield, buffer and/or screen incompatible uses.

SCREENING or **BUFFERING.** A way of visually shielding or obscuring one abutting or nearby structure or use from another, using a fence, wall, berm or vegetation.

SELF-STORAGE FACILITY. See **MINI- WAREHOUSE/SELF STORAGE FACILITY**.

SERVICE AREA. An outdoor area related to a nonresidential use that is used for loading and unloading operations and to receive and temporarily store goods, materials and equipment.

SERVICED OFFICE. See **OFFICE, SERVICED**.

SETBACK. The minimum required horizontal distance, measured from the lot lines (see Figure 2-5) for structures on a lot to be separated from the lot lines, as follows.

(1) **FRONT SETBACK LINE.** The line marking the required distance from the street right-of-way or easement which establishes the minimum front yard setback.

(2) **REAR SETBACK LINE.** The line marking the required distance from the rear lot line which establishes the required rear yard setback.

(3) **SIDE SETBACK LINE.** The lines marking the required distance from the side lot lines, which establishes the required side yard setbacks.

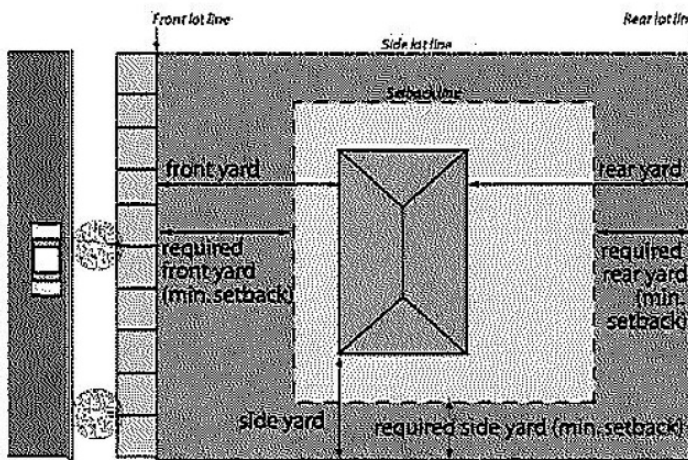


Figure 2-5: Setbacks

SIGN. Any device, panel, banner or structure constructed or maintained with words, numbers or characters thereon for the purpose of an advertisement, announcement or giving information. (See city sign ordinance.)

SINGLE OWNERSHIP. A parcel of land in separate and distinct ownership from adjacent parcels.

SITE PLAN. A plan of a proposed project that shows all relevant features necessary to determine if it meets the requirements and standards of this chapter.

STORY. The part of a building, except a mezzanine or basement, that is between the surface of one floor and the surface of the next floor above it. If there is no floor above, then a **STORY** is the space between the floor and the above ceiling. See also **BASEMENT** and **MEZZANINE**.

STORY, HALF. The uppermost habitable story under a sloped roof with a usable floor area that does not exceed 50% of the floor area of the story immediately below; provided, the area contains at least 200 square feet with a clear height of at least seven and a half feet.

STREET. A public or private thoroughfare, used or intended to be used for passage or travel by motor vehicles **STREET** also includes the term **ROAD**.

(1) **STREET, PRIVATE.** A privately owned and maintained street serving three or more lots, parcels, buildings or dwellings, and constructed on a privately owned easement.

(2) **STREET PUBLIC.** An easement, right-of-way or other interest that has been conveyed to and accepted by a governmental body for the purpose of providing access to abutting land.

STRUCTURE. Anything constructed or erected requiring a permanent location in, or on the ground, or that must be attached to something having such a permanent location. **STRUCTURES** include, but are not limited to: parking lots; access drives; buildings; swimming pools and signs.

TEMPORARY STORAGE UNIT. A transportable, box-like container or structure designed and used primarily for temporary storage of personal property, household goods and other such materials for use on a temporary basis. A **TEMPORARY STORAGE UNIT** is not considered an accessory structure and does not include a truck trailer, or other part of a motor vehicle, nor any type of wheeled vehicle or conveyance, except when attached to a truck for delivery and removal. A **TEMPORARY STORAGE UNIT** may also be termed a portable storage container (PSC).

TEMPORARY USE. See **USE, TEMPORARY.**

TRAILERS. See **RECREATIONAL VEHICLE.**

TREE, CANOPY. A deciduous shade tree.

TREE, EVERGREEN. A tree with foliage that persists and remains green throughout the year.

TREE, ORNAMENTAL. A small deciduous tree grown for its foliage and/or flowers.

(Ord. effective 11-29-2013)

§ 5.17 DEFINITIONS U-V.

USE. Any purpose for which land or a structure is designed, arranged, intended, used, maintained or occupied.

(1) **ACCESSORY USE.** A use customarily incidental and subordinate to the principal use of the structure or premises.

(2) **PRINCIPAL USE.** The primary purpose for which land or a structure may be used.

(3) **SPECIAL LAND USE.** A principal or accessory use that may be permitted within a zoning district, subject to compliance with certain procedures, requirements and conditions necessary to ensure its compatibility with other uses allowed in the district or surrounding area.

(5) **TEMPORARY USE.** A use or uses that occur on private property which are inherently temporary or which are proposed to be engaged in for only a short period of time. Examples include: parade-of-homes type events, street fairs, art exhibits, weddings and gatherings or events in residential neighborhoods involving large groups of people. **TEMPORARY USES** do not include garage sales which are regulated separately, nor would they include events or activities which occur entirely within a park, street or other property owned or controlled by the city or the schools in the event the activity has been approved by the city or the schools.

(5) **USE PERMITTED BY RIGHT.** A principal or accessory use that is permitted within a zoning district as a matter of right; provided, all dimensional and other general requirements of that district are met.

VARIANCE. An allowed modification to the requirements of this chapter, as authorized by the Zoning Board of Appeals under the provisions of this chapter and Public Act 207 of 1921, being M.C.L.A. §§ 125.581 to 125.590, as amended.

VEHICLE SERVICE STATION. An establishment where motor vehicle fuel is sold, along with accessory uses such as minor vehicle repair services; the sale of related products and accessories which may also be installed on the premises and the sale of convenience items. Convenience retail sales include such things as snacks, food and beverages and/or fast food where food is prepared and ordered either indoors, or via a drive-through and consumed on or off the site.

(Ord. effective 11-29-2013)

§ 5.18 DEFINITIONS W-Z.

WAREHOUSE. A building primarily used to store goods, materials and commodities, including associated driveways and vehicle circulation and parking areas. A **WAREHOUSE** may include goods, materials and commodities stored on a wholesale basis before being distributed for retail sale and also a self-storage warehouse where customers deliver and store goods and remove them when storage is terminated.

WIND ENERGY CONVERSION SYSTEM (WECS).

(1) Is a combination of:

(a) A surface area (typically a blade, rotor or similar device), either variable or fixed, for utilizing the wind for electrical power;

(b) A shaft, gearing, belt or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator or other electricity-producing device;

(c) The generator, alternator or other device to convert the mechanical energy of the surface area into electrical energy, generally housed in a nacelle;

(d) The tower, pylon, building mount or other structure upon which any, all or some combination of the above are mounted;

(e) Other components not listed above, but that are associated with the normal construction, operation and maintenance of a WECS; and

(f) A WECS may have a horizontal axis, with a rotor that spins perpendicular to the ground or a vertical axis, with a rotor that spins parallel to the ground.

(2) **WECS HEIGHT.** The distance measured between the ground (at normal grade) and the highest point of a WECS (for a horizontal axis WECS, the measurement shall be to the tip of the rotor blade when the blade is in the full vertical position). The height of a building mounted WECS shall be measured from the grade of the building upon which it is attached.

(3) **WECS, ON-SITE SERVICE.** A single WECS placed upon a lot or parcel with the primary intent to service the energy needs of only the structures and uses on the same lot or parcel. (See Figure 2-6.)

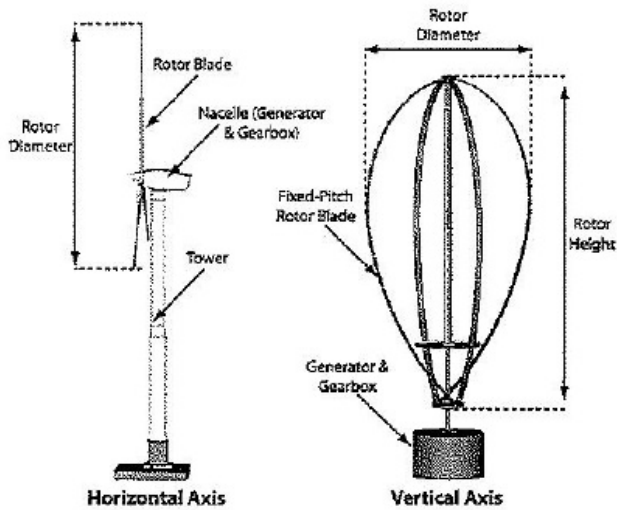


Figure 2-6: Wind energy conversion systems

WIRELESS TELECOMMUNICATION TOWER. A freestanding structure or one that is attached to another structure, supporting one or more antennas for telephone, radio or other communication.

YARD. The open spaces on a lot located between a building and a lot line. The term **REQUIRED YARD** refers to the portion of the yard lying between the lot lines and required setback lines. (See Figure 2-7.)

(1) **YARD, FRONT.** The space extending the full width of the lot, the depth of which is the shortest horizontal distance between the front lot line and the nearest wall of the principal structure (not including a covered porch, deck or patio attached to it).

(2) **YARD, REAR.** The space extending the full width of the lot, the depth of which is the shortest horizontal distance between the rear lot line and the nearest wall of the principal building or a covered porch, deck or patio attached to it. A through lot is not considered to have a **REAR YARD**.

(3) **YARD, SIDE.** The space between a principal building and the side lot line, extending from the front yard to the rear yard, the width of which is the shortest horizontal distance from the side lot line to the nearest wall of the principal building or a covered porch, deck or patio attached to it.

(4) **YARD, REQUIRED.** The area within the required setback, on all four sides of a building.

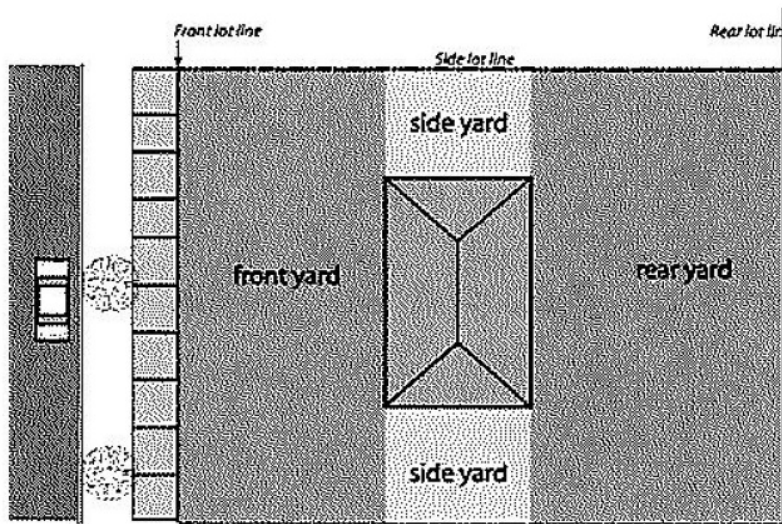


Figure 2-7: Yards

ZONING ACT. The state's Zoning Enabling Act, Public Act 110 of 2006, being M.C.L.A. §§ 125.3101 et seq., as amended.

ZONING BOARD OF APPEALS. The City of East Grand Rapids Zoning Board of Appeals.

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

(Ord. effective 11-29-2013; Ord. effective 3-15-2019)

ARTICLE III. ZONING DISTRICTS AND MAP

§ 5.19 DISTRICTS ESTABLISHED.

The following zoning districts are established:

- (A) Residential districts:
 - (1) Single-family districts:
 - (a) R-1 Single-Family Residential;
 - (b) R-2 Single-Family Residential; and
 - (c) R-3 Single-Family Residential.
 - (2) MFR Multiple-Family Residential.
- (B) Commercial district: C-1 Commercial District.

(Ord. effective 11-29-2013)

§ 5.20 ZONING MAP.

(A) The locations and boundaries of these descriptions are hereby established on a map entitled "City of East Grand Rapids Zoning Map" which is hereby adopted and declared to be a part of this chapter.

(B) Regardless of any published copies of the zoning map, the official zoning map shall be located in the office of the City Clerk and shall be the final authority as to the current zoning status of all land in the city. A record is to be kept by the City Clerk of all changes made or required to be made to the official zoning map.

(C) The official zoning map shall be identified by the signature of the City Clerk.

(D) (1) The official zoning map shall be kept up to date and accessible to the general public.

(2) Once a change to the map becomes effective, it shall be reflected on the official zoning map.

(Ord. effective 11-29-2013; Ord. effective 1-17-2014; Ord. effective 2-26-2016; Ord. effective 7-28-2017)

§ 5.21 DISTRICT BOUNDARIES INTERPRETED.

Where the boundaries of a zoning district, as shown on the official zoning map, are uncertain, the following rules shall apply.

(A) Where boundaries approximately follow streets, alleys or highways, their centerlines or those lines extended shall constitute the zoning district boundaries.

(B) Where boundaries approximately follow lot lines, they shall be construed as following those lot lines.

(C) Where boundaries approximately follow city limits lines, they shall be construed as following those lines.

(D) Where boundaries are approximately parallel to the centerline of a street or highway, they shall be construed as being parallel to the centerline and at the distance from the centerline as indicated on the official zoning map. If a distance is not given, the location on the map shall be determined by using a scale.

(E) Where boundaries follow the shoreline of a stream, lake or other body of water, they shall be construed to follow that shoreline. In the event the shoreline changes, the boundaries shall be construed as moving with the shoreline. Boundaries indicated as approximately following the centerline of streams, rivers, drainage ditches or other bodies of water shall be construed to follow those centerlines.

(F) Where the application of these rules leaves a reasonable doubt as to the boundaries between two districts, the Zoning Board of Appeals shall interpret the boundary location.

(G) If a parcel or lot is divided by a zoning district boundary, the entire parcel or lot shall be subject to the requirements of the district encompassing the larger area within the parcel or lot.

(Ord. effective 11-29-2013)

§ 5.22 ZONING OF VACATED AREAS.

When a street, alley or other public way is vacated by governmental action, and when the lands within the boundaries of such a facility are attached to and become a part of the lands adjoining the vacated street, alley or public way, the lands formerly within the boundaries of the facility shall be subject to the same zoning regulations as apply to the adjoining lands.

(Ord. effective 11-29-2013)

§ 5.23 ZONING OF ANNEXED AREAS.

Upon annexation of any land to the city, the annexed property shall be zoned R-1 upon annexation. The property owner, City Commission or Planning Commission may thereafter initiate a rezoning amendment to rezone the annexed property into the appropriate district.

(Ord. effective 11-29-2013)

§ 5.24 RESERVED.

§ 5.25 RESERVED.

ARTICLE IV. RESIDENTIAL DISTRICTS

§ 5.26 INTENT.

(A) *Single-family districts.* The single-family dwelling districts are established to encourage a suitable environment for the development of single-family neighborhoods and compatible and supportive recreational, institutional and educational uses. These districts are intended to protect single-family neighborhoods from encroachment by uses that are incompatible with the density and character of established single-family neighborhoods. The following single-family residential districts are established:

- (1) R-1 Single-Family Residential District;
- (2) R-2 Single-Family Residential District; and
- (3) R-3 Single-Family Residential District.

(B) *Multiple-family districts.* MFR Multiple-Family Residential District. The MFR District is established to accommodate a mix of complementary housing options within specific locations where varied unit types and higher densities create a suitable transition from adjacent land uses, accommodate varied lifestyle choices, provide affordable options, and support the recommendations of the City Master Plan.

(Ord. effective 11-29-2013; Ord. effective 5-13-2022)

§ 5.27 SCHEDULE OF USES.

Uses permitted in the districts are listed in Table 5.27 Schedule of Uses: Residential Districts. Additional requirements related to a specific use, if any, are referenced in the "Additional Requirements" column. Any use not specifically listed shall be prohibited, unless the use is determined to be a similar use according to § 5.75(A). The requirements in footnotes are an integral part of this chapter and shall apply in all instances.

<i>Table 5.27 Schedule of Uses: Residential Districts</i>					
<i>P = Permitted use by right</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>MFR</i>	<i>Additional Requirements</i>
<i>S = Special land use (See Article XI for procedures and requirements)</i>					

Table 5.27 Schedule of Uses: Residential Districts

<i>P = Permitted use by right</i> <i>S = Special land use (See Article XI for procedures and requirements)</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>MFR</i>	<i>Additional Requirements</i>
Accessory					
Accessory buildings, structures and uses	P	P	P	P	§ 5.70(A)
Adult foster care family home	P	P	P		
Adult foster care group home		S	S		
Day care home, family	P	P	P		
Day care home, group		S	S		
Foster family group home		S	S		
Foster family home	P	P	P	P	
Home occupation	P	P	P	P	§ 5.70(B)
Home occupation, with no more than one employee who is not a member of the family	S	S	S	S	§ 5.70(B)
Residential					
Independent and assisted living				S	§ 5.74(A)
Multiple-family dwellings, new construction				S	§§ 5.28 (A), 5.30, 5.77(A)
Single-family conversions to multi-family dwellings, up to four units				P	§§ 5.28 (A), 5.30, 5.77(A)
Single-family dwellings	P	P	P	P	
Two-family dwellings				P	§§ 5.28 (A), 5.30, 5.77(A)
Recreation/Cultural					
Parks and recreational facilities, publicly owned	P	P	P	P	
Public facilities (government buildings, public museums, public galleries, public libraries and the like)	S	S	S	S	
Public and Institutional					
Churches and places of worship	S	S	S	S	§ 5.73(A)
Convalescent and nursing homes				S	§ 5.73(B)
Hospital	S	S			§ 5.77(A)
Private or parochial school	S	S	S	S	§ 5.73(C)
School residential campus	S	S	S	S	§ 5.73(C)
Services					
Child care center				S	
Other Uses					
Essential services	P	P	P	P	§ 5.66
Similar uses	P/S	P/S	P/S	P/S	§ 5.75(A)
Wind energy conversion systems	S	S			§ 5.75(C)
Wireless telecommunications facilities	S	S	S	S	§ 5.75(D)

(Ord. effective 11-29-2013; Ord. effective 11-18-2016; Ord. effective 5-13-2022)

§ 5.28 AREA, HEIGHT AND PLACEMENT REQUIREMENTS.

(A) *Dimensional requirements.* Building height, setbacks, lot coverage and minimum lot area for development in the residential districts shall conform to the requirements of Tables 5.28-1 and 5.28-1a for the R-1, R-2 and R-3 Districts, and Table

5.28-2 for the MFR District. The requirements in footnotes are an integral part of this chapter and shall apply in all instances.

Table 5.28-1 Dimensional Requirements: Single-Family Residential Districts					
Requirement/District		R-1	R-2	R-3	
Table 5.28-1 Dimensional Requirements: Single-Family Residential Districts					
Requirement/District		R-1	R-2	R-3	
Minimum area (sp. ft.)		12,000	7,200	5,000	
Distance from street line in which minimum area must be met (ft.) ¹		120	100	100	
Minimum lot width (ft.)		100	72	50	
Minimum yard setback (ft.) ²	Front	30	25	25	
	Side ³	Total	24	18	14
		Least side	10	7	7
		Adjoining a street	24	20	12
	Rear ⁴	25	25	25	
Maximum building height	Feet	35	35	35	
	Stories	2.5	2.5	2.5	

1. The minimum lot area shall be determined by measuring from the front street line the specified distance along the side lot lines from the intersection of each side lot line with the front street line, and connecting the points thus determined with a single straight line. The minimum lot area shall be met within the polygon thus created.

2. See additional requirements or exceptions in §§ 5.28(B), (C), (D), and 5.114.

3. The stated side yard setbacks shall apply only to the principal dwelling on single-family lots. For all other permitted principal buildings, the side yard shall not be less than the stated requirement or 20 feet, whichever is greater.

4. A corner lot that adjoins in the rear a lot in a residential district may have no rear yard; see §§ 5.28(C) and 5.62.

Table 5.28-1a Maximum Lot Coverage			
Lot Size (sq. ft.)	Maximum Building Coverage¹	Maximum Impervious Surface	Maximum Not-to-Exceed Impervious Surface (sq. ft.)
5,000 SF	35%	50%	2,500 SF
5,000 – 7,199 SF	35%	50%	3,240 SF
7,200 – 11,999	35%	45%	4,800 SF
12,000 SF	35%	40%	

1. Includes principal and accessory buildings and structures, including covered walkways; but does not include unroofed structures such as porches, patios or decks.

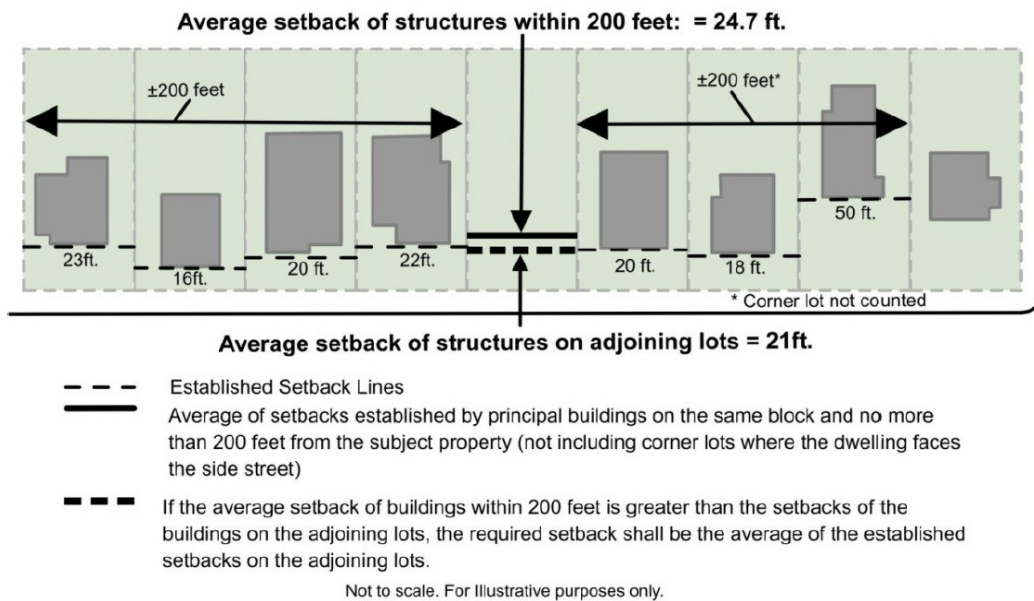
Table 5.28-2 Dimensional Requirements: MFR Multiple-Family Residential District				
Requirement		Single-Family	Two-Family	Multiple-Family
Table 5.28-2 Dimensional Requirements: MFR Multiple-Family Residential District				
Requirement		Single-Family	Two-Family	Multiple-Family
Minimum area per unit (sq. ft.)		4,000	For single-family conversions: 2,000; For new construction: 2,500	1
Minimum lot width (ft.)		40	For single-family conversions: 40 For new construction: 50	n/a
Minimum yard setback	Front	10	10	10
		Total	10	20

(ft.)	Side	Least side	5	5	10
		Adjoining a street	12	12	12
	Rear	25	25	25	
Maximum yard setback	Front	25	25	25	
Maximum building height	Feet	35	35	For properties fronting on Croswell Ave. or Bagley Ave., 40; for all other areas, 35	
	Stories	2.5	2.5	For properties fronting on Croswell Ave. or Bagley Ave., 3; for all other areas, 2.5	
Maximum lot coverage (percent)	Buildings	2	50	60	
	Pavement and buildings	2	65	80	

1. See § 5.30.

2. Lot coverage requirements for single-family dwellings shall be as specified in Table 5.28-1a.

(B) *Established front yard setback* (See Figure 1). In the R-1, R-2 and R-3 Districts, if 25% or more of all of the parcels on one side of a street between two intersecting streets contain a principal structure, the minimum front yard setback shall be the average of the front yards established by the principal structures located on lots on the same side of the street within the same block that are within 200 feet in each direction from the subject property (not including corner lots where the front setback is on the intersecting street), provided:



(1) If this average results in a setback that is greater than the established front yard setbacks of the principal structures on both of the lots adjacent to the property in question, the required setback shall be the average of the established setback of the adjacent lots;

(2) For a double frontage (through) lot, the requirements of this division (B) shall apply only to the established setbacks from the street upon which the lot is addressed. The setback from the opposite street shall be subject to the minimum front yard setback requirements of the zoning district. In the case of a row of three or more contiguous double frontage lots, these requirements shall apply only to the established setbacks from the street upon which the majority of the lots are addressed; and

(3) If less than 25% of the parcels on one side of a street between two intersecting streets contain a principal structure, the required front setback shall be as required for the zoning district.

(C) *Corner Lots*. Where the rear yard of a corner lot in the R-1, R-2 or R-3 District adjoins any residential district, no part of the principal building within 25 feet of the common lot line shall be nearer the side street than the established front yard on the adjoining lot; however, any portion of the principal structure on the corner lot that lies beyond the established front yard on the adjoining lot may be erected to the minimum least side yard requirement of that zone district. (See Figure 2.)

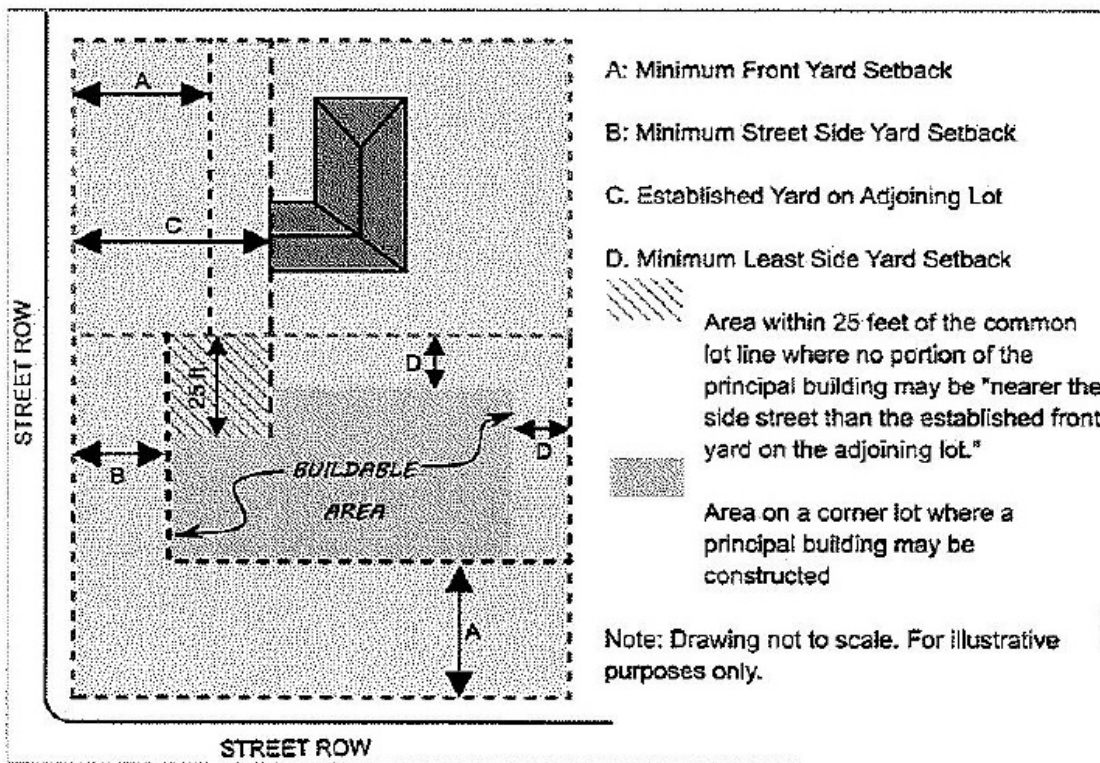


Figure 4-2: Corner Lot Setbacks

(D) *Through lots.*

(1) *Primary front yard.*

(a) The Director of Public Works shall designate the primary front street upon which the principal structure shall face and be addressed.

(b) The primary front yard shall abut the primary front street and the opposite street shall be the secondary front street. The primary front yard setback shall be determined through division (B) above.

(c) The designation of primary front street will consider the following.

1. Location and orientation of existing or proposed buildings on the through lot in relation to existing buildings on properties in the same general neighborhood, historic development patterns and existing developed through lots; and

2. Location and impact of existing vegetation, water or other natural features affecting the location of buildings or structures on the lot in question.

(2) *Secondary front yard.*

(a) The secondary front yard setback shall be a line parallel to the secondary street and shall be established by a line that is the continuation of a required rear setback line of an adjacent interior lot addressed on the primary street.

(b) In the case of two differing rear setback lines on adjacent lots, the more restrictive shall apply.

(3) *Established through lot development.* In the case of three or more contiguous through lots recorded prior to the date of adoption of this chapter, the secondary front setback shall be established by the minimum front setback requirements of the zoning district in which the lots are located.

(Ord. effective 11-29-2013; Ord. effective 2-27-2015; Ord. effective 10-2-2015; Ord. effective 5-13-2022)

§ 5.29 STANDARDS APPLICABLE TO SINGLE- FAMILY DWELLINGS.

All dwelling units located outside of manufactured housing communities shall comply with the following requirements.

(A) All dwelling units shall provide a minimum height between the interior floor and ceiling of seven and one-half feet or if a manufactured home, it shall meet the requirements of the United States Department of Housing and Urban Development Regulations, entitled Mobile Home Construction and Safety Standards, effective June 15, 1976, as amended.

(B) The minimum width of any single-family dwelling unit shall be 24 feet for at least 67% of its length, measured between the exterior part of the walls having the greatest length.

(C) (1) All dwellings without basements shall provide a crawl space below the entire floor of the dwelling four feet in depth, with a vapor barrier consisting of two inches of concrete on the floor of the crawl space.

(2) The crawl space shall also be provided with adequate drains to drain any accumulation of water in the crawl space.

(3) The building official may allow an alternative building plan to be utilized if consistent with the approved construction code of the city.

(D) All dwellings shall be firmly attached to the foundation so as to be watertight as required by the construction code adopted by the city or, if a manufactured home, shall be anchored to the foundation by an anchor system designed and constructed in compliance with the United States Department of Housing and Urban Development Regulations entitled "Mobile Home Construction and Safety Standards".

(E) The wheels, pulling mechanism and tongue of any manufactured home shall be removed prior to placement on a foundation.

(F) All dwellings shall be connected to a public sanitary sewer and water supply system.

(G) (1) All dwellings shall provide steps or porch areas, permanently attached to the foundation where there exists an elevation differential of more than one foot between any door and the surrounding grade.

(2) All dwellings shall provide a minimum of two points of ingress and egress.

(H) All additions to dwellings shall meet all the requirements of this chapter.

(I) (1) Prior to issuance of a building permit for any dwelling unit, construction plans, including a plot plan adequate to illustrate compliance with the requirements of this chapter, shall be submitted to the Building Official.

(2) If the dwelling unit is a manufactured home, there shall also be submitted adequate evidence to assure that the dwelling complies with the standards applicable to manufactured homes set forth in this section.

(J) All manufactured homes shall meet the standards for manufactured home construction contained in the United States Department of Housing and Urban Development Regulations entitled "Mobile Home Construction and Safety Standards" effective June 15, 1976, as amended. All other dwellings shall meet the requirements of the Construction Code adopted by the city.

(K) (1) A minimum of 150 square feet of enclosed storage space, excluding closets, shall be provided for each dwelling.

(2) The required enclosed storage space may consist of a basement, garage, shed or other structure approved by the Director of Public Works.

(Ord. effective 11-29-2013)

§ 5.30 STANDARDS APPLICABLE TO TWO- FAMILY AND MULTIPLE FAMILY DWELLINGS.

Two-family and multiple family dwellings in the MFR Residential District shall comply with the following standards.

(A) *General standards.*

(1) Single-family conversions to multi-family dwellings shall be encouraged to promote the intent of the MFR Residential District while preserving the existing character and housing stock to the greatest extent possible. For the purposes of this section, **SINGLE-FAMILY CONVERSIONS** are defined as the repurposing of a single-family home to accommodate up to four dwelling units. All other development shall be considered new construction.

(2) All developments in the MFR District shall conform to the standards in Table 5.30.

Table 5.30 Development Standards in MFR Residential District		
Lot Size (square feet)	Single-Family Conversion	New Construction
Minimum unit size (square feet)	Studio: 300 1 bedroom: 450 2 bedroom: 650 3 bedroom: 850	Studio: 350 1 bedroom: 550 2 bedroom: 800 3 bedroom: 1,000
Minimum lot area per unit (s.ft. per unit)	Duplex: 2,000 3 - 4 units: 1,660	Duplex: 2,500 3+ units: 2,100

(3) Wherever two or more different building materials are used on a building façade, the heavier material in weight or appearance shall be placed below the lighter material.

(4) In the case of multiple family buildings where the dwelling units are accessed from a common hallway or gathering area, the main entrance to the building shall face a public street and be directly accessible from the sidewalk adjoining the front yard.

(5) Rooftop terraces or patios atop a flat roof structure shall subject to the following.

(a) No part of the rooftop terrace or patio, including the floor or base level, shall exceed the maximum allowable building height except as provided in § 5.59 of the zoning ordinance.

(b) Rooftop terraces shall maintain the following setbacks:

i. Minimum 20 feet from the front lot line;

ii. Minimum 25 feet from the rear lot line; and

iii. Minimum ten feet from each side lot line, but in no case less than five feet from the side exterior building walls.

(c) Lighting for a rooftop terrace or patio shall not exceed three foot height from the terrace surface and shall comply with § 5.69 of the zoning ordinance.

(6) A minimum of 40 square feet of enclosed storage space, excluding closets, shall be provided for each dwelling unit. The required enclosed storage space may be located within a basement, garage, or other structure approved by the Director of Public Works.

(B) *Standards for single-family conversions.*

(1) No more than four dwelling units shall be developed in a single-family conversion.

(2) Single-family conversions may increase their existing livable floor area, provided that such expansion does not exceed 25% of the existing livable floor area of the home, and that no more than a combined 25% of the existing exterior wall and roof area of the home is removed or demolished.

(3) Existing porches in the front of the building shall be retained or replaced with porches of comparable or greater size and character.

(4) Surface parking for single-family conversions shall be located in the rear or side yard only. However, in no case shall any portion of a parking structure, parking lot, or attached garage be located closer to the front lot line than the main entry of the building.

(C) *Standards for new construction.*

(1) For new two family and multiple family structures, windows shall be incorporated into all façades, covering at least 25% of the front wall and 10% of all other walls. For the purposes of calculating the required area, only wall areas that cover habitable floors or stories may be used. Walls less than five feet in width shall be exempt from this requirement.

(2) To promote compatibility with the existing character of the MFR Residential Districts, all new two family and multiple family structures shall incorporate a minimum of four of the following architectural or design elements:

(a) Porches, patios, or balconies for each dwelling unit. Porches shall be a minimum six feet deep and 10 feet wide;

(b) Gable, hip, or gambrel roof;

(c) Brick, stone, or similar masonry materials, covering at least 50% of the exterior façades;

(d) Horizontal siding, excluding vinyl siding;

(e) Decorative columns and dormers;

(f) Windows featuring shutters, muntins, grills, or transoms;

(g) Windows covering at least 25% of each exterior wall, not including walls less than five feet in width. For the purposes of calculating this area, only wall areas that cover habitable floors or stories may be used;

(h) Bay, bow, or similarly articulated windows;

(i) Decorative pediments over front and side entries; or

(j) Foundation plantings along the front façade, minimum four foot depth.

(3) No uninterrupted building façade that faces a public street shall exceed 30 feet in length. Building wall offsets of at least one foot (projection or recesses), cornices, pilasters, and plinths shall be acceptable means to break up the building mass.

(4) Surface parking or detached parking structures for new construction shall not be located in the front or side yards. In addition, such parking areas or structures shall be screened from public view from adjoining streets and adjacent properties to the extent practical. Where attached parking garages are provided, garage doors and entries shall be located behind the frontmost façade of the principal building and shall be oriented toward the side or rear of the lot only.

(5) For multiple family developments with five or more dwelling units, access to parking areas shall be provided by a driveway with a minimum 24 foot width. Such driveway shall have a minimum five foot setback from side lot lines.

(Ord. effective 5-13-2022)

§ 5.31 RESERVED.

§ 5.32 RESERVED.

§ 5.33 RESERVED.

§ 5.34 RESERVED.

ARTICLE V. C-1, COMMERCIAL DISTRICT

§ 5.35 INTENT.

The C-1 Commercial District is designed primarily to provide services to the adjacent residential area and to provide shopping and entertainment that appeals to an area-wide market.

(Ord. effective 11-29-2013)

§ 5.36 SCHEDULE OF USES.

(A) Uses permitted in the nonresidential districts are listed in Table 5.36. Additional requirements related to a specific use, if any, are referenced in the “Additional Requirements” column.

(B) Any use not specifically listed shall be prohibited, unless the use is determined to be a similar use according to §.75(A).

Table 5.36 Schedule of Uses: Commercial District		
P = Permitted use by right S = Special land use	C-1	Additional Requirements
Table 5.36 Schedule of Uses: Commercial District		
P = Permitted use by right S = Special land use	C-1	Additional Requirements
Accessory		
Accessory outdoor customer service activities such as delivery of products to customers’ vehicles, grocery cart use, escorting of customers and home delivery	P	§ 5.70(C)
Accessory outdoor dining	P	§ 5.70(C)
Accessory outdoor sales and display (including temporary sales)	P	§ 5.70(C)
Accessory outdoor storage	S	§ 5.70(C)
Accessory uses clearly ancillary to the principal use (accessory structures are not permitted)	P	
Dining and Entertainment		
Micro brewery or brew pub	S	§ 5.71(A)
Restaurants, including standard service and carry-out, excluding drive-through service and entertainment/floor shows	P	
Soda fountain, ice cream shop or candy store	P	
Recreation/Cultural		
Art gallery/studio	P	
Parks and recreational facilities, publicly owned	P	
Public facilities (government buildings, public museums, public galleries, public libraries and the like)	S	
Residential		
Residential dwelling above the ground floor of a commercial building	P	§ 5.74(B)
Residential dwelling on the ground floor of a commercial building	S	§ 5.74(C)
Retail		
Retail food/grocery, up to 50,000 sq. ft. gross floor area, which may also include food items prepared on site for sale on the premises	P	
Retail sales other than food/groceries, up to 10,000 sq. ft. gross floor area	P	
Services		
Automatic teller machines, walk-up only, accessory to or separate from a bank or similar financial institution	P	
Banks and similar financial institutions, without drive-through facilities	P	
Business service establishments, including printing/copy centers, postal centers, travel agents, graphics services	P	
Dance or music studio	P	
Drive-through facilities for banks and pharmacies, but not including any other uses	S	
Dry cleaner/laundry (including pick-up stations and self-service laundries)	P	
Health clubs and fitness centers, and private sports and recreational instructional facilities not including physical therapy clinics staffed by medical professionals	P	

Hotels, including bed and breakfasts	S		§ 5.74(D)
Personal service establishments, including small electronics/appliance repair, shoe repair, dressmakers/tailors, tanning salons, barber or beauty salon, decorating and upholstery shops, and other similar repair shops	P		
Photographer	P		
Offices	On Ground Floor	Above Ground Floor	Specific Requirements (Special Land Uses Only)
Medical/dental offices and clinics of physicians, dentists, psychologists, chiropractors, optometrists, physical therapists and similar or allied professions, and non-boarding veterinary services with no outside uses	P	P	§ 5.72(A)
Non-profit professional, civic, social, fraternal, political and religious organizations	S	P	§ 5.72(A)
Professional office services such as: insurance, real estate, legal, sales and similar or allied professions	P	P	§ 5.72(A)
Product showrooms and similar mixed office with product display uses	P	P	§ 5.74(C)
Serviced offices		P	§ 5.72(B)
Other Uses			
Essential services	P		§ 5.59
Radio and television broadcasting stations	P		
Similar uses	P/S		§ 5.75(A)
Wireless telecommunications systems	S		§ 5.75(D)

(Ord. effective 11-29-2013; Ord. effective 9-14-2019)

§ 5.37 AREA, HEIGHT AND PLACEMENT REQUIREMENTS.

All lots in the nonresidential districts shall conform to the requirements of Table 5.37. The requirements in footnotes are an integral part of this article and shall apply in all instances.

Table 5.37 Dimensional Requirements: C-1 Commercial District			
Requirement		C-1	
Table 5.37 Dimensional Requirements: C-1 Commercial District			
Requirement		C-1	
Minimum area per unit (sq. ft.)		0	
Minimum lot width (ft.)		0	
Minimum yard setback (ft.)	Front	0 ¹	
	Side	Adjoining C-1 or MFR	0
		Adjoining R-1, R-2 or R-3	7
		Adjoining a street	0
	Rear ²	Adjoining C-1	0
Adjoining Residential		24	
Maximum building height	Feet	40	
	Stories	3	
Maximum lot coverage		N/A	
<p>1. Buildings shall be located at the right-of-way line; provided, the Planning Commission (and if applicable, the City Commission) may approve a site plan for a commercial building in the C-1 District that is set back no more than 15 feet from the right-of-way line, if one or more of the following conditions is present:</p> <p>A. The proposed building or addition is in line with a setback established by existing buildings located on either side of the subject property;</p> <p>B. The setback is necessary to provide for clear vision around corners or at driveway entrances; or</p> <p>C. The proposed use is a restaurant that will provide outdoor seating in the front yard.</p> <p>2. Where an alley separates the C-1 District from property in a residential district, the full alley width may be counted as part of the required rear yard.</p>			

(Ord. effective 11-29-2013; Ord. effective 10-1-2021; Ord. effective 5-13-2022)

§ 5.38 USES SPECIFICALLY PROHIBITED.

Although any use not listed in Table 5.36 is not permitted, the following uses are specifically determined to be contrary to the intent and character of the C-1 District and shall not be permitted:

(A) Drive-through and drive-in restaurants; and

(B) Medical marijuana dispensaries. No medical marijuana dispensary shall be commenced, conducted, operated or utilized from any property in the C-1 District. Any person who violates this section shall be subject to a fine and/or imprisonment as provided in § 1.13 of the city code of ordinances. In addition, any medical marijuana used or possessed in violation of this section shall be seized and forfeited to the city.

(Ord. effective 11-29-2013)

§ 5.39 ADDITIONAL REQUIREMENTS APPLYING TO THE COMMERCIAL DISTRICT.

(A) All sales of products on the premises, whether primary or incidental, shall be at retail.

(B) All business and service activities or uses shall be conducted entirely within a completely enclosed building, except accessory outdoor uses according to § 5.70.

(C) The production, fabrication or processing of goods within the C-1 District is prohibited unless specifically permitted in the schedule of uses or under the following conditions:

(1) Production, fabrication or processing of goods may be carried on as an accessory use to a permitted principal use;

(2) The entire output shall be sold at retail on the premises; and

(3) A maximum of 25% of the floor area occupied by the principal use may be used for production, fabrication or processing.

(Ord. effective 11-29-2013)

§ 5.40 RESERVED.

ARTICLE VI. PLANNED UNIT DEVELOPMENT (PUD)

§ 5.41 INTENT.

(A) The intent of this article is to offer an alternative to conventional development by permitting flexibility in the regulations for development. The standards in this article are intended to promote and encourage development on parcels of land that are suitable in size, location and character for the uses proposed while ensuring compatibility with adjacent land uses.

(B) The PUD rezoning process is provided as a design option to allow for one or more of the following:

(1) Encourage innovation in land development in terms of variety, design, layout and type of structures constructed;

(2) Promote the efficient use of land to facilitate a more economic arrangement of buildings, circulation systems, land use and utilities;

(3) Encourage the adaptive re-use of significant or historic buildings;

(4) Provide the opportunity to mix compatible uses or residential types;

(5) Preserve and protect significant natural features, open space and cultural/historic resources;

(6) Ensure that new development is consistent with the character of the community;

(7) Promote efficient provision of public services and utilities;

(8) Minimize adverse traffic impacts and accommodate safe and efficient pedestrian access and circulation;

(9) Encourage development of convenient recreational facilities;

(10) Encourage the use and improvement of land where site conditions make development under conventional zoning difficult or less desirable; or

(11) Allow a density for any residential portion of a planned unit development that is greater than would otherwise be allowed by the zoning ordinance, yet is still appropriate and compatible with other uses both within the planned unit development and adjacent to it and with the density of adjacent properties.

(C) The PUD process and standards provide for flexibility in design and permit variation of the specific bulk, area, and in some situations, the density requirements of this chapter on the basis of the total PUD plan, subject to the approval of the PUD by the Planning Commission in accordance with the requirements set forth herein. A PUD shall not be sought primarily to avoid the standards and requirements of other zoning districts.

(Ord. effective 11-29-2013)

§ 5.42 QUALIFYING CONDITIONS.

The following criteria shall apply to all planned unit developments (PUDs).

(A) *Unified control.* The planned unit development shall be under the control of one owner or group of owners and shall be capable of being planned and developed as one integral unit.

(B) *Recognizable benefit.* The applicant shall demonstrate that the PUD provides at least four of the following site design elements, which could not be attained through a project designed under conventional zoning:

- (1) Mixed-use development with residential and nonresidential uses or a variety of housing types;
- (2) Pedestrian/transit-oriented design with buildings oriented to the sidewalk and parking to the side or rear of the site;
- (3) High quality architectural design beyond the site plan requirements of this chapter;
- (4) Extensive landscaping beyond the site plan requirements of this chapter;
- (5) Preservation, enhancement or restoration of natural resources (trees, slopes, wetland areas, views to Reeds Lake, and the like);
- (6) Preservation or restoration of significant or historic resources;
- (7) Provision of open space or public plazas or features;
- (8) Efficient consolidation of poorly dimensioned parcels or property with difficult site conditions (e.g. topography, shape and the like);
- (9) Effective transition between higher and lower density uses, and/or between nonresidential and residential uses; or allowing incompatible adjacent land uses to be developed in a manner that is not possible using a conventional approach;
- (10) Shared vehicular and pedestrian access between properties or uses;
- (11) Mitigation to offset impacts on public facilities (such as street improvements); or
- (12) Significant use of sustainable building and site design features such as: water use reduction, water efficient landscaping, innovative wastewater technologies, low impact storm water management, optimize energy performance, on-site renewable energy, passive solar heating, reuse/recycled/ renewable materials, indoor air quality or other elements identified as sustainable by established groups such as the U.S. Green Building Council (LEED) or ANSI National Green Building Standards.

(C) *Compatibility with adjacent uses.* The proposed location of uses or structures that are of a significantly different scale or character than the abutting residential districts, such as access drives, parking areas, waste receptacles, swimming pools, tennis courts and facilities of a similar nature, shall not be located near the perimeter of the PUD or so as to negatively impact the residential use of adjacent lands.

(D) *Public utilities.* All uses within the PUD shall be served by public water and sewer systems.

(E) *Master plan.* The proposed PUD shall be consistent with the city's master plan.

(Ord. effective 11-29-2013)

§ 5.43 PERMITTED USES.

(A) Any use permitted by right or by special land use allowed in any district may be permitted in a planned unit development, provided that all of the objectives and standards of this article are determined to be met and there is compliance with the procedures of this article.

(B) Residential and nonresidential uses may be permitted in combination to create an integrated, mixed-use development based upon the recommendations of the city's master plan.

(C) Approval of a PUD shall include the identification of the specific uses permitted within the PUD, and only those uses so approved shall be permitted.

(Ord. effective 11-29-2013)

§ 5.44 GENERAL DEVELOPMENT REQUIREMENTS.

(A) *Residential density.* The PUD concept plan shall state the residential zoning district, as provided in Article IV, upon which the proposed density is based. For projects that include single-family developments, the PUD concept plan narrative shall state a minimum lot size for single-family development based on the minimums for single-family dwellings listed in this chapter for the R-1, R-2, R-3 and MFR Districts. For projects that include multiple-family dwellings, the density of the multiple-family development shall be based upon the lot area per multiple-family unit as required for the MFR District. Any deviation from these minimums shall be included in the table of modifications as required in § 5.47(A).

(B) *Dimensional requirements.* The area, height and placement requirements for each portion of the PUD shall be based upon a stated zoning district, as provided in Articles IV and V. The PUD concept plan narrative shall state the area, height and placement requirements for each portion of the PUD, based upon the appropriate zoning district and the residential density determined in division (A) above.

- (1) Residential developments shall meet the area, height and placement requirements of the R-1, R-2, R-3 or MFR

Districts, depending upon the type and character of the development.

(2) Commercial developments shall meet the area, height and placement requirements of the C-1 District.

(3) Each use in mixed use developments (containing both residential and commercial development) shall meet the height, area and placement requirements of the zoning district that corresponds to each element of the proposed development, as listed in divisions (B)(1) and (B)(2) above.

(4) Deviations from the minimums set forth above shall be included in the table of modifications as required in §5.47(A).

(C) *Modifications.* To encourage flexibility and creativity consistent with the intent of the PUD, the City Commission, after recommendation from the Planning Commission, may permit modifications from the density, area, height and placement requirements for the stated district(s).

(1) Any regulatory modification shall be approved through a finding by the City Commission, after recommendation by the Planning Commission, that the modification results in a higher quality of development than would be possible using conventional zoning standards.

(2) All deviations from dimensional requirements shall be listed in the table of modifications required in §5.47(A). Unless modifications are specifically requested and approved by the city, the site plan shall comply with the appropriate requirements of the identified zoning districts, as specified in divisions (A) and (B) above.

(Ord. effective 11-29-2013)

§ 5.45 PUD REVIEW PROCEDURES.

The PUD review and approval process includes the following three steps.

(A) *Pre-application.* Pre-application conference with city staff and consultants to review the PUD concept and discuss the review process.

(B) *Concept plan.*

(1) Planning Commission review of PUD concept plan and scheduling of public hearing;

(2) Planning Commission public hearing; review and recommendation on PUD rezoning and PUD concept plan; and

(3) City Commission public hearing; approval of PUD rezoning and PUD concept plan.

(C) *Final PUD Plan.*

(1) Planning Commission review of final site plan and PUD agreement; and

(2) City Commission approval of final site plan and PUD agreement.

(Ord. effective 11-29-2013)

§ 5.46 PRE-APPLICATION CONFERENCE.

A pre-application conference shall be held with city staff for the purpose of determining the eligibility of the request for consideration as a PUD.

(A) A request for a pre-application conference shall be made to the Director of Public Works. As part of the pre-application conference, the applicant shall submit at least five copies of a sketch plan that shows the property location, boundaries, significant natural features, vehicular and pedestrian circulation, and land use for the entire site.

(B) The city shall advise the applicant of the conformance of the PUD concept with the intent and objectives of a PUD in the city, whether the concept qualifies under the requirements of this article, and whether the general concept is substantially consistent with the city's master plan.

(C) Formal action shall be not taken at a pre-application conference, and statements made at the pre-application conference shall not be considered binding commitments or an approval of the concept.

(Ord. effective 11-29-2013)

§ 5.47 PUD CONCEPT PLAN REVIEW.

(A) *PUD concept plan submittal.*

(1) *PUD concept site plan.* The PUD concept site plan shall be drawn to an engineer's scale of not less than one inch equals 50 feet for property less than three acres, or one inch equals 100 feet for property three acres or more in size, that includes all of the following:

(a) Title block with sheet number/title; name, address and telephone number of the applicant and firm or individual who prepared the plans; and date(s) of submission and any revisions;

(b) Scale and north-point;

(c) Location map drawn to a separate scale;

(d) Legal description of property;

- (e) Zoning classification of site and all abutting parcels;
- (f) Net acreage (minus rights-of-way) and total acreage;
- (g) Existing lot lines, building lines, structures, parking areas and other improvements on the site and within 100 feet of the site;
- (h) Proposed lot lines, lot dimensions, property lines, setback dimensions and other improvements;
- (i) Location and height of all proposed buildings or structures;
- (j) Location of existing and proposed streets, driveways, parking lots, sidewalks and pathways on or within 250 feet of site;
- (k) Proposed off-street parking lots and number of spaces;
- (l) Conceptual landscape plan;
- (m) The general location of existing plant material;
- (n) Location of existing drainage courses, floodplains, rivers and MDEQ regulated wetlands;
- (o) Location of existing and proposed sanitary sewers;
- (p) Location of existing and proposed water mains;
- (q) Storm water retention and detention pond locations and existing, or proposed storm sewers;
- (r) Number, type and location of residential units;
- (s) Density calculations by type of residential unit; and
- (t) Location and size of recreation and open space areas.

(2) *Concept plan narrative.* The PUD concept plan shall be accompanied by a narrative that describes the proposed PUD, the proposed timeframe of development, the zoning district(s) upon which the proposed density and the area, height and placement requirements are based, and documentation indicating how the qualifying conditions in § 5.42 and the standards of § 5.49 are met.

(3) *Table of modification.*

(a) The application shall include a table detailing all modifications from the use, density, area, height and placement requirements of the zoning district identified in the concept plan narrative.

(b) The table shall also detail all modifications from off-street parking regulations, general provisions, or subdivision regulations that would otherwise be applicable to the uses and development proposed in the absence of the proposed PUD.

(c) This table shall clearly identify the allowed regulation in comparison to the requested modification.

(4) *Phasing plan.*

(a) For projects proposed to be developed in phases, the PUD concept for the entire site shall be submitted for PUD concept approval.

(b) A map showing boundaries of individual phases shall be submitted, along with a proposed timeline for development of each phase.

(5) *Additional information.* Any additional information requested by the Planning Commission to better assist in the determination of PUD qualification such as, but not limited to: market studies; fiscal impact analysis; traffic impact studies; and environmental impact assessments.

(B) *PUD concept plan Planning Commission review.*

(1) *Review and public hearing.*

(a) The Planning Commission shall review the draft PUD concept plan at a regular or special meeting.

(b) Upon determination by the Planning Commission that the application meets the requirements of this article, a public hearing shall be set for a date certain. Notice of the public hearing shall conform to the requirements of the Zoning Act.

(2) *Recommendation.* The Planning Commission shall review the PUD concept plan in consideration of public hearing comments, technical reviews from city staff and consultants, correspondence from applicable review agencies and compliance with the standards of this article and other applicable standards and requirements of this chapter. The Planning Commission shall recommend approval, approval with conditions or denial of the PUD to the City Commission. The recommendation shall be based on the following:

- (a) Whether all applicable provisions of this article and this chapter are met;
- (b) Whether the proposed PUD meets the intent of this article, as outlined in §5.41;
- (c) Whether the qualifying conditions in §5.42 are met; and
- (d) Whether the standards of approval in §5.49 are met.

(C) *City Commission review of PUD zoning and PUD concept plan*

(1) *City Commission action.* Following receipt of a recommendation from the Planning Commission on the PUD rezoning and PUD concept plan, the City Commission shall, after a public hearing, review the rezoning and concept plan and either approve, deny, or approve with conditions.

(2) *Rezoning.* Upon approval by the City Commission, the property subject to the PUD shall be rezoned to PUD, which shall become effective after notification and publication according to the state's Zoning Enabling Act, being M.C.L.A. §§ 125.3101 et seq. (Public Act 110 of 2006, as amended).

(D) *Conditions.* In accordance with the state's Zoning Enabling Act, reasonable conditions may be attached to the approval of a PUD for the purpose of ensuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity; protecting the natural environment and conserving natural resources; ensuring compatibility with adjacent uses of land; promoting the use of land in a socially and economically desirable manner; and furthering implementation of the city's master plan. Conditions attached to the approval shall be incorporated into the PUD agreement required to be submitted with the final PUD site plan.

(E) *Time limits for concept plan approval.*

(1) Approval of the PUD concept plan by the City Commission shall confer upon the owner the right to proceed through the subsequent final planning phase for a period not to exceed two years from date of approval. If application for final site plan approval for the PUD or a phase of the PUD is not requested within this time period, the PUD concept plan approval shall automatically become null and void and all rights thereunder shall terminate.

(2) The City Commission may for good cause approve one extension of up to one year, if requested in writing by the applicant prior to the expiration date of the original concept plan approval or subsequent one year extension.

(3) Upon expiration of a PUD concept plan, the City Commission may direct the Planning Commission to conduct a public hearing and make a recommendation to revoke the PUD zoning and rezone the property to its original designation or other district as appropriate.

(Ord. effective 11-29-2013)

§ 5.48 FINAL PUD SITE PLAN REVIEW.

(A) Following PUD concept plan approval, a final PUD site plan for the entire PUD or individual phases of the PUD shall be submitted in accordance with § 5.86.

(B) All final PUD site plans subsequently submitted shall conform with the PUD concept plan, all conditions attached to preliminary approval, the PUD agreement and the requirements of this chapter.

(C) The final PUD site plan shall be accompanied by a PUD agreement for review and recommendation by the Planning Commission after review by the City Attorney. The agreement shall provide:

- (1) A survey of the acreage comprising the proposed development;
- (2) The manner of ownership of the developed land;
- (3) The manner of the ownership and of dedication or mechanism to protect any areas designated as common areas or open space;
- (4) Provision assuring that open space areas shown on the plan for use by the public or residents of the development will be or have been irrevocably committed for that purpose; the city may require deed restrictions, conveyances or other documents to be placed in escrow to accomplish this;
- (5) Satisfactory provisions shall be made to provide for the future financing of any improvements shown on the plan for site improvements, open space areas and common areas which are to be included within the development and that maintenance of such improvements is assured by a means satisfactory to the Planning Commission;
- (6) The cost of installing, improving and maintaining streets and the necessary utilities has been assured by a means satisfactory to the city;
- (7) Provisions to ensure adequate protection of natural features;
- (8) Statements binding the agreement and approved final PUD site plan to any future owner; and
- (9) Any other commitment determined necessary to ensure that the PUD is developed and operated in accordance with the requirements of this chapter. The final PUD site plan shall be incorporated by reference and attached as an exhibit.

(D) The Planning Commission shall review the final PUD site plan and PUD agreement and shall determine that the plan and agreement are in conformance with the approved PUD concept plan.

(1) Minor changes from the approved PUD concept plan may be approved according to §5.50(A).

(2) Any changes from the approved concept plan not determined to be minor shall require that a new PUD concept plan be submitted and approved according to § 5.47 before further consideration of the changed plan(s).

(E) (1) If the Planning Commission determines that the final PUD site plan and PUD agreement are in conformance with the approved PUD concept plan, it shall recommend approval to the City Commission.

(2) The Planning Commission may recommend, and the City Commission may approve, additional conditions if it determines that the conditions are necessary to ensure conformity with the approved PUD concept plan.

(F) The City Commission shall consider the recommendation of the Planning Commission and shall approve the final PUD site plan and PUD agreement if they conform to the requirements of this article. Upon approval, the final PUD agreement shall be executed by all parties (including the city) and shall be recorded with the County Register of Deeds.

(Ord. effective 11-29-2013)

§ 5.49 STANDARDS OF APPROVAL.

A PUD shall only be approved if it complies with each of the following standards as well as applicable standards established elsewhere in this chapter:

(A) The proposed PUD complies with the intent and all qualifying conditions of §§5.41 and 5.42 of this article, respectively;

(B) The uses conducted within the proposed PUD, the PUD's impact on the community and other aspects of the PUD are consistent with the city's master plan;

(C) The proposed PUD shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property, the surrounding uses of land, the natural environment and the capacity of public services and facilities affected by the development;

(D) The PUD shall not change the essential character of the surrounding area;

(E) The PUD shall not be hazardous to adjacent property or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes or glare; and

(F) The PUD shall not place demands on public services and facilities in excess of current or anticipated future capacity.

(Ord. effective 11-29-2013)

§ 5.50 DEVIATIONS FROM APPROVED FINAL PUD SITE PLAN.

Changes to an approved PUD shall be permitted only under the following circumstances.

(A) *Minor changes.*

(1) The holder of an approved final PUD site plan shall notify the Director of Public Works of any desired changes to the approved PUD. A minor change may be approved administratively, according to the requirements of this section.

(2) A change that would alter any specified conditions imposed as part of the original approval or any condition of the approved PUD agreement may not be considered as a minor change.

(B) *Minor changes approved by the Director of Public Works* The following minor changes may be approved administratively by the Director of Public Works. The Director shall determine that the change will not alter the basic design or intent of the approved PUD.

(1) Reduction of the size of any building and/or sign.

(2) Movement of buildings or signs by no more than three feet, provided setbacks are not reduced.

(3) Landscaping approved in the final development plan that is replaced by similar landscaping to an equal or greater extent.

(4) Changes in floor plans of up to 5% of the total floor area which do not alter the character of the use or increase the amount of required parking.

(5) Internal rearrangement of a parking lot which does not affect the number of parking spaces, access locations or design.

(6) Changes required or requested by the city, the county or other state or federal regulatory agency to conform with laws or regulations.

(C) *Other minor changes.*

(1) A minor change that is not listed in division (B) above may be submitted to the Planning Commission to determine if the change is minor in scope and/or effect and that the change would not alter the basic design or intent of the approved PUD.

(2) If Planning Commission determines that the proposed change is minor, the Director of Public Works shall be authorized to approve it administratively.

(D) *Major changes.* A change that the Director of Public Works or Planning Commission determines is not minor must be submitted as an amendment to the PUD and shall be processed in the same manner as the original PUD application.

(Ord. effective 11-29-2013)

§ 5.51 EXPIRATION AND EXTENSION.

Each development shall be under meaningful construction within one year after the date of approval of the final PUD site plan, except as follows.

(A) *Expiration.* If meaningful construction does not commence during the one-year period or any approved extension, the final PUD site plan and PUD agreement shall be null and void.

(B) *Extension.* The City Commission may grant extensions of up to one year each, if the applicant applies for the extension, in writing, prior to the expiration of the original PUD final site plan approval or any subsequent extension. In order to qualify for an extension, the applicant shall present reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the applicant and the PUD requirements and standards have not changed.

(C) *PUD zoning designation.* If a final PUD site plan expires, the property shall remain zoned PUD unless the city rezones the property to a different zoning designation. If any applicant thereafter intends to develop a PUD on the property, the applicant shall be required to submit a new PUD application and follow the same process as the original approval.

(Ord. effective 11-29-2013)

§ 5.52 APPEALS AND VARIANCES.

(A) The Zoning Board of Appeals shall have no jurisdiction to hear appeals of or make interpretation of any decisions regarding this article or a proposed PUD concept plan or site plan.

(B) This shall not prevent an individual lot owner from seeking a variance following the final approval of the PUD according to the procedures and standards of Article XII; provided that:

(1) The Zoning Board of Appeals may only grant variances from area, height and placement requirements imposed by the PUD; and

(2) A variance shall not be considered that would affect any condition of the approved PUD, any requirement of the approved and recorded PUD agreement or would increase the residential density of the project.

(Ord. effective 11-29-2013)

§ 5.53 RESERVED.

§ 5.54 RESERVED.

§ 5.55 RESERVED.

ARTICLE VII. GENERAL PROVISIONS

§ 5.56 COMPLIANCE WITH PROVISIONS.

Except as specified in this chapter, no building, structure or premises shall be used or occupied, and no building or part of any building or other structures shall be erected, razed, moved, placed, reconstructed, extended, enlarged or altered, except in conformity with the provisions of this chapter.

(Ord. effective 11-29-2013)

§ 5.57 USES PER LOT.

Except as otherwise provided in this chapter (including approved planned unit developments), there shall be only one principal use per lot of record.

(Ord. effective 11-29-2013)

§ 5.58 ACCESS.

All lots and parcels shall have frontage upon and be accessed from a public right-of-way or private street easement. All parcels or lots created after the effective date of this article shall provide the required frontage by meeting the minimum lot width requirement along the public or private street, as required for the zoning district within which the parcel or lot is located.

(Ord. effective 11-29-2013)

§ 5.59 HEIGHT EXCEPTIONS.

(A) The following structures may exceed the height requirements of the district by not more than 15 feet:

- (1) Belfries;
- (2) Chimneys;
- (3) Church spires;
- (4) Cooling towers;
- (5) Cupolas;
- (6) Elevator bulkheads;
- (7) Public monuments;
- (8) Radio and television antennas and towers; and

(9) Roof structures housing necessary mechanical appurtenances.

(B) Parapet walls may exceed the height requirements of the district by not more than four feet. In any case, a parapet wall shall not exceed four feet in height, measured from the adjoining roof.

(C) An enclosed stairway used to access a rooftop terrace or patio in the MFR Residential District may exceed the height requirements of the district by not more than nine feet, provided that the area of the enclosed stairway above the allowable building height does not exceed 160 square feet. Only one such enclosed stairway exceeding the height requirement shall be permitted per building.

(Ord. effective 11-29-2013; Ord. effective 5-13-2022)

§ 5.60 SETBACK REQUIREMENTS.

All setbacks shall be measured from the property lines. In the case of a private street or similar access easement, setbacks shall be measured from the easement line. A building shall not be erected, converted, enlarged, reconstructed or structurally altered, except in conformity with the setback requirements of the district in which it is located.

(Ord. effective 11-29-2013)

§ 5.61 ENCROACHMENTS INTO REQUIRED YARD SETBACKS.

The following elements and appurtenances may encroach into or over a required yard setback as provided in Table 5.61.

Table 5.61 Encroachments into Required Yard Setbacks			
Type	Allowed Encroachment into a Setback		
	Front Yard	Side Yard	Rear Yard
Table 5.61 Encroachments into Required Yard Setbacks			
Type	Allowed Encroachment into a Setback		
	Front Yard	Side Yard	Rear Yard
Accessory structures, residential, detached	See § 5.70		
Accessible ramps, wheelchair lifts and similar structures	Least encroachment necessary to meet state or federal requirements, but no more than 8 ft; must maintain a 3-foot side yard setback		
Air conditioning units, generators and other mechanical equipment ¹	None	3 ft.	3 ft.
		No more than 5 ft. from the building	
Arbors, trellises and pergolas (attached to principal building)	6 ft.	3 ft.	10 ft.
Awnings and canopies			
Balconies	5 ft.	None	10 ft.
Bay windows	3 ft.	3 ft.	3 ft.
Chimneys	3 ft.	3 ft.	3 ft.
Eaves and gutters	1 foot	1 foot	1 foot
Fences and walls	See § 8.61 of the city code of ordinances		
Flagpoles	Permitted up to 6 ft. from all lot lines		
Light poles (not including ground-mounted lights)	Permitted up to 6 ft. from all lot lines		
Paved patios and similar at-grade structures (not including driveways and sidewalks), un-roofed and unenclosed ²	10 ft.	Up to 3 ft. from a side lot line	Up to 3 ft. from a rear lot line
Porches, decks and stoops, uncovered and unenclosed ²	6 ft.	3 ft.	10 ft.
Porches, decks and stoops, covered but unenclosed ³	6 ft. or 20% of required setback (whichever is less)	None	None
Signs	See city code Chapter 83		
Stairways (not including steps to main floor entry) and below-grade stairwells	None	3 ft.	10 ft.
Swing sets and similar play structures (attached)	None	Up to 3 ft. from a side lot line	Up to 3 ft. from a rear lot line
Window wells and egress windows, below grade	3 ft.	3 ft.	3 ft.

Footnotes:

1. See § 5.68 for screening requirements.
2. Any covered or roofed porch, deck, patio, stoop or similar structure shall be considered part of the principal building and shall comply with the required setbacks for the principal building, except for covered or roofed porches, decks, stoops, or similar structures in the front of the house.
3. There shall be no walls, windows or screens. A railing, not exceeding 36 inches in height measured from the floor of the porch, shall be permitted; provided, it shall comprise individual spokes or slats evenly spaced and not more than 50% opaque on all sides.

(Ord. effective 11-29-2013; Ord. effective 3-15-2019)

§ 5.62 CORNER LOTS.

(A) A corner lot with two street frontages shall have a front lot line and front yard, a street side lot line and street side yard, an interior side lot line and interior side yard and a rear lot line and rear yard, except as noted in § 5.28. The front lot line and front yard shall be determined by the Director of Public Works or designee,

according to one or more of the following considerations:

- (1) The narrower of the street lines shall be the front lot line;
- (2) The front lot line shall be adjacent to the street upon which the building is addressed;
- (3) The front lot line shall be adjacent to the street upon which the front of the building, including its main entrance, is oriented; or
- (4) A street line has been designated on the plat of subdivision as the front lot line.

(B) For corner lots with two street frontages, if the Director of Public Works or designee cannot determine the front lot line according to the above criteria, the Zoning Board of Appeals shall determine the front lot line under its powers to interpret the meaning and intent of this chapter, according to Article XII.

(C) A corner lot with street frontage on three sides shall have the following lot lines and yards.

(1) If the dwelling is oriented toward one of the two parallel streets, the lot shall have two front lot lines and two front yards, a street side lot line and street side yard, an interior side lot line and interior side yard, and no rear lot line and rear yard. The Director of Public Works or designee shall consider the following when determining orientation of the dwelling:

- (a) Location and orientation of existing or proposed buildings on the through lot in relation to existing buildings on properties in the same general neighborhood, historic development patterns and existing developed through lots; and
- (b) Location and impact of existing vegetation, water or other natural features affecting the location of buildings or structures on the lot in question.

(2) If the dwelling is oriented toward the middle street, the lot shall have three front lot lines and three front yards abutting the streets, and a rear lot line and rear yard.

(Ord. effective 2-27-2015)

§ 5.63 THROUGH LOTS.

(A) A through lot shall have two front lot lines and two front yards, two interior side lot lines and two interior side yards, and no rear lot line or rear yard.

(B) Access to the lot shall only be from the primary street. Where a driveway or other access to the lot exists from the secondary street, such driveway or access shall be removed prior to a certificate of occupancy.

(Ord. effective 2-27-2015)

§ 5.64 TEMPORARY USES AND SPECIAL EVENTS.

The requirements of this section are intended to provide for regulation of certain listed temporary uses and associated events on private property. Where expressly permitted by this section, temporary uses and special events may take place outdoors, notwithstanding any limitation or prohibition against outdoor activity otherwise provided by the zoning regulations of the city. A temporary use shall meet all of the following requirements.

(A) *Nuisance, hazardous features.* The temporary use shall not result in any hazard or nuisance to the adjacent users or uses of property or otherwise be contrary to the public health, safety or welfare of the community.

(B) *Traffic and circulation.* The temporary use shall not create hazardous vehicular or pedestrian traffic conditions on or adjacent to the site of the temporary use or event, or result in traffic in excess of the capacity of the street serving the use. The temporary use shall not:

- (1) Unreasonably interfere with the use of the street or sidewalk for pedestrian or vehicular traffic;
- (2) Unreasonably interfere with the view of, access to, or use of property adjacent to the street;

- (3) Interfere with street cleaning or snow removal activities;
 - (4) Cause damage to the sidewalk or street or to trees, benches, landscaping or other objects lawfully located in the right-of-way;
 - (5) Cause violation of any state or local laws; or
 - (6) Reduce the effectiveness or access to any utility pole, street lighting, sign or other traffic control device.
- (C) *Public facilities and services.* Adequate utility, drainage, refuse management, sanitary facilities, emergency services and access, and similar necessary facilities and services must be available for the temporary use.
- (D) *Natural environment.* The temporary use shall not have a substantial adverse impact on the natural environment.
- (E) *Site suitability.* The site must be suitable for the temporary use, considering flood hazard, drainage, soil and other conditions which might constitute a danger to life, health or property.
- (F) *Building, electrical and other codes.* The temporary use and all associated temporary improvements, including, but not limited to, tents, stands, temporary electrical systems, temporary heating systems and temporary lighting systems must comply with all applicable provisions of the building code, the electrical code and such other codes as are from time to time adopted or amended pursuant to the city code.
- (G) *Duration.* A temporary use shall occur only for as short a time as practicable. In no case shall a temporary use exist for a period in excess of 30 days in any 12-month period, nor shall any property be used for a temporary use in excess of 30 days during any 12-month period.

(H) *Maintenance and cleanup of premises.*

- (1) The area occupied by the temporary use must be kept in a neat and well kept manner at all times.
- (2) Within 24 hours after the closing of the sale or event, the owner or operator of the temporary use shall remove and properly dispose of all temporary improvements, signs, trash and debris resulting from the temporary use.
- (3) It shall be unlawful for the owner or operator of the use to abandon the premises without such cleaning and removal.
- (4) If any owner or operator fails to do such cleaning and removal, the city may enter upon the premises, do such cleaning and removal, and charge the cost thereof to the owner or operator of the event.

(I) *Uses of public property; approval required; liability insurance required*

- (1) No portion of a temporary use may take place on the public right-of-way or other publicly-owned property, unless the applicant shall have first obtained approval for such use from the public body or department having jurisdiction over the property.
- (2) (a) Prior to receiving approval for a temporary use that will take place, wholly or in part, on publicly-owned property, the applicant shall obtain comprehensive general liability insurance of amounts of at least \$500,000 per occurrence for bodily injury and property damage and \$1,000,000 in the aggregate, with a company or companies authorized to do business in the state.
- (b) The insurance shall insure the applicable against liability for death or bodily injury to persons or damage to property which may result from the temporary use or conduct incident thereto, and shall name the city as an additional insured party.
- (c) The insurance shall remain in full force and effect in the specified amounts for the duration of the temporary use. Proof of such insurance shall be furnished to the city.

(Ord. effective 11-29-2013)

§ 5.65 HOURS OF OPERATION.

No business, other than hotels or bed and breakfast establishments which are allowed to operate 24 hours a day, shall be open to the public between the hours of 12:00 a.m. (midnight) and 5:00 a.m.; provided, however, that on New Year's Eve, businesses may be open until 1:00 a.m. on January 1.

(Ord. effective 11-29-2013; Ord. effective 9-14-2019)

§ 5.66 ESSENTIAL SERVICES.

Essential services shall be permitted in all districts, subject to prior review of all plans by the Planning Commission to determine that the yard, parking and landscaping (if any) requirements are met, and that all planned facilities are designed to be compatible with surrounding uses.

(Ord. effective 11-29-2013)

§ 5.67 VOTING PLACE.

The provisions of this chapter shall not interfere with the temporary use of any property as a voting place in connection with a federal, state, county, city or other public election.

(Ord. effective 11-29-2013)

§ 5.68 MECHANICAL EQUIPMENT SCREENING.

(A) (1) Mechanical units located on the ground shall be located in the rear or side yard not closer than three feet to adjoining property.

(2) When attached to a building, the mechanical equipment shall be architecturally integrated or appropriately screened by shrubbery or fencing so as to not be visible from neighboring property.

(3) Fences shall comply with the requirements of §8.61 of the city's code of ordinances.

(B) If located on the roof of a building or in a location that cannot otherwise be screened, the equipment shall be enclosed or designed in a manner that is architecturally integrated with the building where it is located.

(C) A permit shall be required for any mechanical equipment proposed to be placed within a side yard, in accordance with the following.

(1) A request shall be filed with the Director of Public Works on a form provided for that purpose, along with a filing fee in an amount established by the City Commission.

(2) In evaluating the permit request, the Director of Public Works shall consider the following:

- (a) The proposed type and quality of screening;
- (b) The adjacent land use;
- (c) The width of the side yard and distance to neighboring buildings;
- (d) The proximity of residential uses;
- (e) The level of noise or sound to be emitted by the mechanical equipment; and
- (f) Such other factors relevant to the specific proposed location.

(Ord. effective 11-29-2013)

§ 5.69 LIGHTING.

Outdoor light fixtures, except for architectural lighting that provides accent lighting directly on a building facade, shall be direct cut-off fixtures, designed to prevent light spill or trespass beyond the boundaries of the property where the fixture is located.

(Ord. effective 11-29-2013)

ARTICLE VIII. ADDITIONAL USE REQUIREMENTS

§ 5.70 ACCESSORY BUILDINGS, STRUCTURES AND USES.

(A) *Accessory buildings and structures.*

(1) An accessory building or structure attached to a principal building shall be considered a part of the principal building and shall be subject to all height and setback requirements of the principal building; however, certain attached accessory structures may be permitted to encroach within required yard setbacks, according to § 5.61.

(2) Detached accessory buildings and structures are not permitted in the C-1 Commercial District, except for mechanical appurtenances such as air conditioning units and similar devices serving a principal building or use; provided, such devices may not be located within any front yard or any right-of-way and shall otherwise comply with the requirements of § 5.68.

(3) The permitted number and size of detached accessory buildings on any lot containing a single- or two-family dwelling shall be in accordance with the requirements specified in Table 5.70-1, based on whether a garage is attached to the principal dwelling and the number of vehicle stalls provided within such attached garage.

<i>Table 5.70-1 Maximum Size and Number of Accessory Buildings</i>					
<i>Lot Size (Sq. Ft.)</i>	<i>Number of Accessory Buildings Allowed</i>	<i>Maximum Total Size (Sq. Ft.) Allowed for All Accessory Buildings ¹</i>			
		<i>If No Attached Garage</i>	<i>If One Stall Attached</i>	<i>If Two Stalls Attached</i>	<i>If Three or More Stalls Attached</i>
<i>Table 5.70-1 Maximum Size and Number of Accessory Buildings</i>					
<i>Lot Size (Sq. Ft.)</i>	<i>Number of Accessory Buildings Allowed</i>	<i>Maximum Total Size (Sq. Ft.) Allowed for All Accessory Buildings ¹</i>			
		<i>If No Attached Garage</i>	<i>If One Stall Attached</i>	<i>If Two Stalls Attached</i>	<i>If Three or More Stalls Attached</i>
≤5,000	1	576	336	120	0
5,000 – 7,199	2	864	576	336	120
7,200 – 11,999	2	864	576	336	336
12,000 – 21,999	2	1,008	720	432	336

22,000 – 43,560	2	1,296	1,008	720	432
43,560 (1 acre)	3	1,296			
1. Regardless of the sizes specified, no more than 25% of the rear yard shall be occupied by accessory buildings.					

(4) Multiple-family dwellings may have a maximum of one detached garage or carport per unit; provided, detached garages or carports shall not be permitted for any dwelling unit that contains an attached garage. In any case, one detached storage building per development, not exceeding 200 square feet, may be provided.

(5) A detached accessory building less than 200 square feet in area shall not exceed a maximum of height of 12 feet. All other accessory buildings may be up to one and one-half stories or 16 feet in height, whichever is less; provided, the height of the accessory building shall not exceed the height of the principal building on the site.

(6) A detached accessory building shall be located at least ten feet from any principal building situated on the same lot and at least six feet from any other accessory building on the same lot.

(7) A detached accessory building shall be located at least three feet from both side and rear lot lines.

(8) Except as otherwise provided in this division (A), accessory buildings shall be erected only in the rear yard.

(a) A detached garage may be located in a rear or side yard not closer to the street than the principal building on the lot, or the principal building on the lot immediately abutting the location of the garage, whichever is greater.

(b) A detached building accessory to a swimming pool that is constructed in accordance with the provisions of Chapter 82 of the city code may be located in a side yard if it is adjoining the pool and is located at least 60 feet from any street right-of-way line.

(9) No portion of any accessory building may be used as a dwelling unit, and all accessory buildings may only be used in a manner which is appropriate, subordinate and incidental to that of the principal building or premises.

(10) On a lot with a residential use, a covered walkway may be constructed between a detached garage and the principal building, provided that the minimum separation and setback requirements in divisions (A)(6) and (A)(7) above are met. The covered walkway may not exceed five feet in width, shall consist of a roof supported by posts or columns and must remain perpetually unenclosed; however, a railing and/or kneewall, constructed no higher than 36 inches above the walkway surface, is permitted. The walkway surface may not be constructed more than six inches above grade, excluding any steps necessary to access the garage and/or the principal building. The covered walkway may not be used for living space, gathering space (i.e., a deck), or for

storage purposes. A garage attached to a principal building via a covered walkway meeting these requirements shall not be considered to be attached to the principal building and may meet the reduced setback allowed for accessory buildings.

(11) A carport shall not be used for storage of materials other than a vehicle, unless the items stored are completely enclosed in a closet or specially designed compartment.

(B) *Home occupations.* It is the intent of this section to establish a general threshold of acceptable, nonresidential business activity, beyond which the activity shall not be permitted. A home occupation is permitted if the activity meets all of the following criteria.

(1) No person other than members of the immediate family residing on the premises shall be engaged in the home occupation. One additional person who is not a member of the immediate family residing on the premises may also engage in the home occupation if approved as a special land use pursuant to Article XI of this chapter.

(2) Except as otherwise provided in this section, any occupation that includes or requires customers or patrons to visit the home to engage in the business is prohibited. This prohibition shall not include instruction by an occupant of a residence in a craft or fine art, when conducted within the residence; provided, all other requirements of this section are met.

(3) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants. Not more than 25% of the gross floor area of the dwelling unit shall be used in the conduct of the home occupation.

(4) The home occupation shall be conducted entirely within the dwelling unit involved, and there shall be no change in the outside appearance of the dwelling or other visible evidence of the conduct of such home occupation on the property. Outside operations or storage associated with the home occupation, including outside storage of vehicles related to the business, is prohibited.

(5) Mechanical, maintenance and repair work on motor vehicles and repair of small engines and mechanical devices is prohibited except for such work on items owned or leased by the occupant for his or her personal use.

(6) There shall be no traffic generated by a home occupation in greater volume or intensity than would normally be expected in a residential neighborhood.

(7) There shall be no equipment or process used in a home occupation that creates noise, vibration, glare, fumes, or odors detectable to the normal senses, or which creates visual or audible interference that disturbs radio, television or other telecommunications receivers off the premises. In addition, the home occupation must also comply with the provisions of Chapters 91 and 97 of the city code dealing with noise.

(8) There shall be no business sign displayed.

(9) The home occupation shall be conducted entirely within the principal dwelling; however, a passenger vehicle or light truck used for the business may be stored within an accessory garage.

(C) *Accessory outdoor customer service, outdoor dining and outdoor sales and display (including temporary sales)*

(1) All business and service activities or uses shall be conducted entirely within a completely enclosed building, except the following uses may occur outdoors:

(a) Limited outdoor customer service activities such as delivery of products to customers' vehicles, grocery cart use, escorting of customers and home delivery;

(b) Outdoor table, bench and waiter/waitress services for restaurants, provided that adequate accessible maneuvering space on the public sidewalk is provided;

(c) Outdoor displays of products, provided that adequate accessible maneuvering space is maintained on the sidewalk, and any products are removed and taken indoors at the end of each business day; and

(d) Temporary outdoor or sidewalk sales, provided that such sales are of a limited duration and that adequate accessible maneuvering space is maintained on the sidewalk.

(2) Prior to establishment of an outdoor use or activity upon city-owned property or the public right-of-way, the owner or applicant shall annually submit a site plan for review and approval and issuance of a permit by the City Manager or his or her designee. The city may require that uses located upon the public right-of-way provide proof of insurance in an amount approved by the city, and that the city be named as an additional named insured on the proprietor's liability insurance policy.

(D) *Outdoor storage.*

(1) Outdoor storage shall only be permitted as a special use, accessory to principal uses in the C-1 District.

(2) The outdoor storage area shall be screened from view of adjoining properties, in accordance with the following specifications:

(a) A solid, sight-obscuring fence or wall shall surround the storage area;

(b) The fence or wall shall not contain any openings other than a gate of access, which shall be closed at all times when not in use; and

(c) The fence or wall shall be constructed of masonry, treated wood or other material approved as part of the special use approval; provided, the material is determined to be durable, weather resistant, rust proof and easily maintained. Chain link and barbed wire fences shall not be permitted.

(3) If approved as part of the special use approval, the required screening may be comprised of suitable plant material, upon a determination that the alternate materials will provide the same degree or better of opacity, screening and compatibility with adjoining properties as a fence or wall.

(Ord. effective 11-29-2013; Ord. effective 10-2-2015)

§ 5.71 DINING AND ENTERTAINMENT USES.

(A) *Brew pub.*

(1) Revenue from food sales shall constitute more than 50% of the total business revenues.

(2) No more than 50% of the total gross floor area of the establishment shall be used for the brewery function including, but not limited to, the brew house, boiling and water treatment areas, bottling and kegging lines, malt milling and storage, fermentation tanks, conditioning tanks and serving tanks.

(3) Except as otherwise specifically permitted by this division (A), retail carryout of beer shall not be permitted.

(4) Brew pubs may sell beer in keg containers larger than a U.S. gallon (3,785 ml/128 U.S. fluid ounces) only for the following purposes and in the following amounts:

(a) An unlimited number of kegs for special events, the primary purpose of which is the exposition of beers brewed by brew pubs and micro breweries, which include the participation of at least three such brewers; and

(b) An unlimited number of kegs for city co-sponsored events where the purpose of the event is not for commercial profit and where the beer is dispensed by employees of the brew pub and not wholesaled to the event co-sponsors.

(5) All mechanical equipment visible from the street (excluding alleys), an adjacent residential use or residential zoning district shall be screened using architectural features consistent with the principal structure.

(6) Loading bays shall not face toward any street, excluding alleys.

(7) Loading bays facing an adjacent residential use or residential zoning district, shall have the doors closed at all times, except during the movement of raw materials, other supplies and finished products into and out of the building.

(8) Loading and unloading of materials and equipment shall be permitted only between the hours of 8:00 a.m. and 6:00 p.m. Monday through Saturday.

(9) Outdoor storage shall not be allowed. This prohibition includes the use of portable storage units, cargo containers and tractor trailers.

(B) *Micro brewery.*

(1) The micro brewery shall produce no more than 15,000 barrels (465,000 U.S. gallons/17,602.16 hectoliters) of beer per year.

(2) This use shall be permitted only in conjunction with a restaurant, in accordance with the following:

(a) No more than 75% of the total gross floor space of the establishment shall be used for the brewery function, including, but not limited to, the brew house, boiling and water treatment areas, bottling and kegging lines, malt milling and storage, fermentation tanks, conditioning tanks and serving tanks;

(b) The facade of any accessory use(s) shall be oriented toward the street, excluding alleys, and, if located in a multi-tenant building, to the common space where the public can access the use; and

(c) Pedestrian connections shall be provided between the public sidewalks and the primary entrance(s) to any accessory use(s).

(3) All mechanical equipment visible from the street (excluding alleys), an adjacent residential use or residential zoning district, shall be screened using architectural features consistent with the principal structure.

(4) Access and loading bays are discouraged from facing toward any street, excluding alleys.

(5) Access and loading bays facing any street, adjacent residential use or residential zoning district, shall have the doors closed at all times, except during the movement of raw materials, other supplies and finished products into and out of the building.

(6) Loading and unloading materials and equipment shall be permitted only between the hours of 8:00 a.m. and 6:00 p.m. Monday through Saturday.

(7) Outdoor storage shall not be allowed, including the use of portable storage units, cargo containers and tractor trailers.

(Ord. effective 11-29-2013)

§ 5.72 OFFICE USES.

(A) *Professional offices on the ground floor.* In approving office use on the ground floor, the following standards are met.

(1) Professional offices on the ground floor of a commercial building are subject to the off-street parking requirements in Article 9 of this chapter; provided, the required parking may be permitted to be located off site if the following requirements are met:

(a) The required parking spaces are located off-street within 300 feet of the entrance to the office;

(b) The parking area meets all applicable requirements of this chapter for off-street parking;

(c) The owner provides written assurance that the spaces will be permanently available; and

(d) A maintenance agreement is provided to ensure the continued upkeep of the parking area.

(2) If a building has both retail/service/ entertainment uses and office uses on the ground floor, the retail/service/entertainment use(s) shall be located in the storefront, adjacent to the public sidewalk; however, a single entry door in the façade that leads to the office use shall be permitted.

(3) The structure containing the office use shall maintain a retail character, with ground floor display windows, facades, signs and lighting similar in nature to and compatible with that provided by retail uses.

(a) For existing structures, existing windows, doors or other wall openings shall not be eliminated or enclosed, unless the Planning Commission finds that any eliminated windows/doors are compensated by new windows, doors or other wall openings and that the retail character and nature of the building is retained.

(b) For new structures, any ground floor wall facing a street shall have transparent areas, equal to at least 70% of its portion of the façade, between one and eight feet from the ground. Walls on upper floors facing a street shall have transparent areas equal to at least 35% of its portion of the façade.

(c) Glass shall be clear or lightly tinted only. Opaque applications shall not be applied to the glass surface, except for window signs as permitted in Chapter 81, Signs.

(B) *Serviced offices (drop-in office).* Parking shall be provided at the ratio required for professional offices.

(C) *Product showrooms and similar mixed office with product display uses.*

(1) Must be open during regular business hours, at a minimum five days a week for at least five continuous hours a day.

(2) Must allow walk-in customers (not just by appointment).

(3) A minimum of 70% of the street facing façade on the ground level must contain display windows that allow outside pedestrians to see into the building.

(4) If associated fleet/service vehicles are to be parked onsite, they must either be parked inside a building or must be screened so that they are not visible from the street right-of-way.

(5) The square footage of office space must be equal to or lesser than the square footage of display and storage areas.

(Ord. effective 11-29-2013; Ord. effective 9-14-2019)

§ 5.73 PUBLIC AND INSTITUTIONAL USES.

(A) *Churches and places of worship.* The purpose of these requirements is to integrate churches into the fabric of the city's neighborhoods, but not at the expense of the residential character of those areas. Therefore, the scale of the church, parking lots and related uses shall be compatible with abutting homes and in character with the surrounding neighborhood.

(1) The minimum lot area shall be one acre.

(2) The minimum lot width shall be 150 feet.

(3) At least one property line shall abut and have direct access to an arterial or collector street.

(4) To the extent possible, shared parking arrangements should be employed with other uses in the vicinity, consistent with § 5.78(B)(1) to minimize the number of spaces required on the church property.

(B) *Convalescent and nursing homes.*

(1) The required minimum lot size shall be determined by multiplying the number of persons comprising the approved resident capacity of the facility by 2,500 square feet; provided, the lot shall be no less than two acres in any event.

(2) Parking shall be provided at a ratio of one space per employee, plus one space for each resident (based on approved capacity).

(3) The building shall be at least 25 feet from all side and rear property lines for one story buildings and 40 feet for all buildings or portions of buildings two or more stories in height.

(4) The facility shall be licensed in accordance with all applicable requirements of the state.

(C) *Private or parochial school.* The purpose of these requirements is to integrate schools into the fabric of the city's neighborhoods, but not at the expense of the residential character of those areas. Therefore, the scale of the school, parking lots and related uses shall be compatible with abutting homes and in character with the surrounding neighborhood.

(1) The minimum lot area shall be one acre.

(2) The minimum lot width shall be 150 feet.

(3) At least one property line shall abut and have direct access to an arterial or collector street.

(4) All buildings, parking areas and outdoor activity areas (ball fields, playgrounds, bleachers and the like) shall be set back a minimum of 40 feet from any side or rear property line abutting a residential district.

(5) A six-foot high fence shall be constructed along any side or rear property line abutting a residential district.

(6) Lighting for night time activity areas shall be directed and shielded so the light source is not visible from any residential use within 150 feet of the light fixture. All lighting, including building and security lighting, shall be located to prevent glare on adjacent properties and streets.

(Ord. effective 11-29-2013)

§ 5.74 RESIDENTIAL USES.

(A) *Independent and assisted living.*

(1) The minimum required lot size shall be five acres or 2,500 square feet per dwelling unit, whichever is greater.

(2) Parking shall be provided at a ratio of one space per employee, plus one space per dwelling unit.

(3) The building shall be at least 25 feet from all side and rear property lines for one story buildings and 40 feet for all buildings or portions of buildings two or more stories in height. A front setback of at least 25 feet shall be provided.

(B) *Residential dwellings above the ground floor in a commercial building* Nonresidential uses, including storage, shall not be located on the same floor as a dwelling unit.

(C) *Residential dwellings on the ground floor in a commercial building.*

(1) Dwelling units shall not occupy any space along the front of a commercial building, except for the entry door and hallway leading towards dwelling.

(2) The entire width of the building, except for the entry door and associated hallway of a dwelling, along any street frontage must be occupied by a nonresidential use otherwise allowed in the C-1 District.

(D) *Hotels and bed and breakfast establishments.* A parking plan must be submitted with the applicant's site plan during the special land use approval process. This parking plan shall include at the minimum at least one dedicated parking spot for 75% of the available rooms.

§ 5.75 OTHER USES.

(A) *Similar uses.* Since every potential use cannot be addressed in this chapter, each district provides for similar uses, referencing this section. All applications for a use not specifically listed in any zoning district shall be submitted to the Director of Public Works for review and decision, based on the following standards.

(1) The Director of Public Works shall find that the proposed use is not listed as a named permitted or special land use in any zoning district.

(2) If the use is not addressed in any district, the Director of Public Works shall review the uses listed as permitted and special land uses in the zoning district in which the use is proposed and determine if a use listed in the district closely resembles the proposed use. This determination shall be based upon criteria such as potential impact on property values, nature of use, traffic generated, aesthetics, noise, vibration, dust, smoke, odor, glare and other objectionable impacts on the health, safety and welfare in the city.

(3) If a use is determined to be similar to a named use within the district, the proposed use shall comply with any specific standards or other ordinance requirements that apply to the named use. If the named use is a special land use, the similar use may only be approved according to the requirements of § 5.94.

(4) The Director of Public Works may, at his or her discretion, submit the proposed use to the Planning Commission for determination of the appropriateness of the use.

(5) Where the Director of Public Works or Planning Commission determines a proposed use is not similar to any named use addressed within the district, the applicant may petition for an amendment to this chapter.

(6) The determination as to whether a proposed use is similar in nature and class to another named permitted or special land use within a district shall be considered as an interpretation of the use regulations, and not as a use variance; this determination may be appealed as provided in Article XII.

(7) Upon determination by the Director of Public Works or Planning Commission that a use is similar to a named use, the Director of Public Works shall initiate an amendment to this chapter to list the similar use in the schedule of uses for the zoning district.

(B) *Temporary storage units.*

(1) *Registration of temporary storage units.*

(a) Prior to or within 72 hours of the initial delivery of a temporary storage unit or units, the property owner, occupant of the premises (if not the owner) or storage unit supplier shall register the placement of the storage unit with the Director of Public Works; provided, however, such registration shall not be required if the storage unit is removed within 72 hours of its delivery.

(b) Registration requires the following:

1. Completing the required application form and providing the property owner's or occupant's name (if not the owner), number and size of the temporary storage units to be registered, the address at which the storage unit(s) will be placed, delivery date, removal date and a sketch illustrating the location and placement of the storage unit(s); and

2. Written approval of the application by the Director of Public Works.

(c) The effective date of the registration shall be the date of the Director of Public Works approval.

(2) *Placement requirements.*

(a) It shall be unlawful to place or permit the placement of a temporary storage unit on property located within the city unless it is registered with the Director of Public Works, as required in division (B)(1) above.

(b) Temporary storage units shall only be placed upon or within a driveway or a parking area or, if access exists at the side or rear of the lot, the side or rear yard.

(c) No temporary storage unit shall be placed upon or within public property or a public place, including, without limitation, a street, sidewalk or outlawn.

(d) The temporary storage unit shall not be located at the registered address for more than 30 consecutive days, including the days of delivery and removal.

(e) Each lot is limited to a maximum of one registration per six-month period.

(f) The temporary storage unit shall not exceed eight feet in height, eight feet in width and 16 feet in length.

(g) The temporary storage unit shall be secured in a manner that does not endanger the safety of persons or property in the vicinity of the unit.

(h) The temporary storage unit shall be maintained in good condition, free from evidence of deterioration, weathering, discoloration, graffiti, rust, ripping, tearing or other holes or breaks at all times.

(i) No temporary storage unit shall be used for human occupancy or to store solid waste, construction debris, demolition debris, business inventory, commercial goods, goods for property other than the property where the storage unit is located or any other illegal or hazardous material. Upon reasonable notice, the city may inspect the contents of any temporary storage unit

at any reasonable time to ensure compliance with these requirements.

(j) Any temporary storage unit which is not removed at the end of the time for which it may lawfully remain in place, may be removed by the city immediately, without notice, and the cost of such removal may be assessed against the property on which the unit was located.

(k) A sign identifying the storage unit supplier, mounted on the temporary storage unit, shall not require a sign permit; provided, the storage unit is in compliance with this § 5.76(B) and all other applicable ordinances.

(C) *Wind energy conversion systems.* In addition to the uses specified elsewhere in this section, this subsection establishes on-site service wind energy conversion systems (WECS) as a special use in the R- 1 and R-2 Districts and provides standards for the installation and operation of a WECS within the city.

(1) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ON-SITE SERVICE WECS. A WECS placed upon a lot or parcel with the primary intent to service the energy needs of the structures and uses on the same lot or parcel.

WECS HEIGHT. The distance measured between the ground (at normal grade) and the highest point of a WECS (for a horizontal axis WECS, the measurement shall be to the tip of the rotor blade when the blade is in the full vertical position). The height of a building-mounted WECS shall be measured from the grade of the building upon which it is attached.

WIND ENERGY CONVERSION SYSTEM (WECS). A combination of:

1. A surface area capable of being set into motion by the wind (typically a blade, rotor or similar device), either variable or fixed, for utilizing the wind for electrical power;
2. A shaft, gearing, belt or coupling that converts the movement of the surface area into a form suitable for driving a generator, alternator or other electricity-producing device;
3. The generator, alternator or other device to convert the mechanical energy of the surface area into electrical energy, generally housed in a nacelle;
4. The tower, pylon, building mount or other structure upon which any, all or some combination of the above are mounted;
5. Other components not listed above but associated with the normal construction, operation and maintenance of a WECS; and
6. A WECS may have a horizontal axis, with a rotor that spins perpendicular to the ground, or a vertical axis, with a rotor that spins parallel to the ground.

(2) *Review requirements.*

(a) An on-site service WECS shall be allowed as a special land use in the R-1 and R-2 Residential Districts, subject to the requirements of this section.

(b) An application and site plan shall include the following information:

1. Name of applicant, name of site plan preparer, name of WECS manufacturer and name of WECS installer, with contact information;
2. A scaled drawing of the property, showing dimensions of all property lines and the area of the lot in square feet;
3. Location and setback of all structures on the site, including any overhead utility lines;
4. Proposed location of the WECS on the building;
5. Setbacks of the WECS, in accordance with the setback requirements of this section, from property lines;
6. A scaled elevation drawing of the WECS installation (including the building) showing WECS height, rotor diameter and all other applicable elements to confirm conformance with the requirements of this section; and
7. Certification that the WECS system and mount meet all applicable standards.

(3) *General requirements.*

(a) Only building-mounted on-site service WECS shall be allowed.

(b) Power rating of the WECS turbine shall not be greater than 20 kW.

(c) The WECS shall provide energy only to the structures and uses on the same property upon which the WECS is located and must be owned or leased by the owner of the same property; however, this does not prevent the distribution to the local utility company, through net metering, of any power that is generated beyond the needs of the structures or uses on the property.

(d) No sound attributed to the WECS in excess of 35 dBA shall be discernible at the property line.

(e) There shall be no signs on the WECS other than the name of the manufacturer and applicable safety information. There shall be no lighting on or directed to the WECS.

(f) The WECS shall be painted in a neutral matte color, or may be painted in similar colors to those on the building.

(g) A WECS shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation or over speeding. Emergency shut-off information shall be in a location easily accessible and viewable.

(h) A WECS shall be designed to prevent unauthorized access.

(i) A WECS shall not be installed in any location where its proximity to existing fixed broadcast, re-transmission or reception antenna for radio, television or wireless phone or personal communication systems would produce electromagnetic interference with signal transmission or reception.

(j) A WECS shall be removed when the device or equipment is no longer operating or when it has been abandoned. A WECS shall be deemed abandoned when it has not produced electrical energy for six consecutive months.

(k) An existing and approved WECS may be repaired and maintained; however, a WECS may only be replaced with a new or replacement WECS upon approval of the Director of Public Works, provided that the new WECS is of the same or more restrictive height, rotor diameter, setback and the like as the WECS it replaces. For the purposes of this division (C)(3)(k), a **NEW OR REPLACEMENT WECS** shall mean all of the WECS, excluding the tower or support structure.

(4) *Site and location requirements.*

(a) *Number.* There may be more than one building mounted on-site service WECS on a single property, provided that each individual WECS meets all of the requirements in this section, and each WECS shall be separated from any other WECS no less than ten feet, measured between the maximum extension of the rotors.

(b) *Attachment.*

1. A building mounted WECS shall be attached to the principal structure. The WECS shall not be mounted to the vertical face of a gable end, dormer or other facade visible from the street, or visible from the lakeside on a waterfront lot, other than a roof surface.

2. To the greatest degree possible, the WECS shall be mounted to the building in the least visible location from the street, or from the lakeside of any waterfront lot.

(c) *Setback.* The WECS shall be mounted so that it is set back from adjoining property lines a distance equal to the WECS height. The setback shall be measured from the property line (considered as a plane extending from the ground to the highest point of the WECS) to the closest extension of the rotor relative to the property line. (See graphic.)

(d) *WECS height.* The WECS height shall be limited by available setbacks as required in division (C)(4)(c) above; however, no WECS shall exceed the maximum permitted height for principal buildings in the district, plus 20 feet; nor shall any WECS extend more than 20 feet above the highest point on the roof of the building upon which it is mounted.

(e) *Rotor diameter.* The diameter of the rotor shall not exceed 15 feet.

(5) *Discretionary conditions.* The City Commission may impose other terms and conditions regulating the construction, installation, use, maintenance, repair and removal of any WECS. Such other terms and conditions may include, but are not limited to, the following:

(a) The preservation of existing trees and other existing vegetation not required to be removed for installation of a WECS;

(b) The reasonable replacement of trees or other vegetation removed or destroyed during the construction or installation of a WECS;

(c) Altering the location of the WECS to prevent impacts on neighboring properties, provided that all other requirements of this section are met; and

(d) Requiring a performance bond or letter of credit, in favor of the city, and conditioned upon the timely and faithful performance of all required conditions of the special land use, including, but not limited to, the timely and complete removal of a WECS, regulated under the terms of this section, when required. Such performance bond or letter of credit shall remain in effect during and after the operation of a WECS until its operations have ceased and it has been removed.

(D) *Wireless telecommunications facilities.*

(1) (a) The application for special use approval for a wireless telecommunications tower shall be submitted jointly by the owner/operator of the tower and the owner of the property on which the tower is to be located.

(b) In addition to the application submittal requirements specified in §5.94, a visual impact analysis shall be submitted which includes graphic depictions of the anticipated appearance of the tower from important vantage points in the surrounding area.

(c) Methods used in preparing the analysis shall be reviewed and approved by the Director of Public Works.

(2) A wireless communications tower shall be exempt from building height limitations; provided, however, that the tower height shall be no higher than the minimum height necessary to serve its intended function and, in no case shall exceed 199 feet.

(3) If the height required for the tower to serve its intended function decreases from the installed height, due to technological advancement, additional tower installations at other locations or other factors, the tower shall be lowered to such decreased minimum height.

(4) The wireless communication tower shall be set back from all property lines a distance equal to the height of the tower, including antennas.

(5) It shall be the responsibility of the applicant to demonstrate to the satisfaction of the City Commission that it is not feasible to provide equivalent service by locating the antenna on an existing tower or other existing structure in the city.

(6) The tower shall not have an adverse impact on significant views from properties within one-quarter mile of the tower site. For purposes of this division (D), a **SIGNIFICANT VIEW** is defined as a view from a residential property that has one or more of the following characteristics:

(a) A view from a residence and its immediate perimeter which encompasses landscape features substantially free of human-made alteration, as a result of the unique topographic siting of the home;

(b) A view which is a dominant feature of a residential building site and which contributes significantly to its value, as evidenced by the siting of a home on the property, the size, number and orientation of windows on the home, and the location and orientation of improved outdoor spaces, such as patios and decks, on the home site; or

(c) The fact that the proposed tower may be visible from a residence shall not alone be considered an adverse impact on a significant view.

(7) (a) The tower and any ancillary building housing equipment needed for operation of the tower shall be of a size, type, color and exterior materials that are aesthetically and architecturally compatible with the surrounding area, and as unobtrusive as possible.

(b) Landscape screening may be required by the City Commission to accomplish screening of equipment buildings.

(8) (a) The applicant shall provide documentation of any lighting to be installed on the tower.

(b) If tower lighting is required or proposed, the tower location may not be approved unless the City Commission determines that it will not have a significant adverse impact on properties and residents of the surrounding area.

(9) The tower shall be designed to accommodate, and the owner/operator of the tower shall agree to permit, use of the tower by other communications services providers, including local government agencies, on reasonable terms, so long as such use does not conflict with the owner/operator's use of the tower.

(10) (a) If, for any reason, the tower ceases operation or is abandoned, the city may order its removal from the site by the owner of the tower and/or the owner of the property on which the tower is located.

(b) The tower shall be removed within 90 days of the date of such notification. If the tower is not removed within 90 days of notification by the city, the city may arrange for the removal of the tower and shall bill the cost of removal, plus 10% of the cost, to the owner of the tower and the owner of the property on which the tower is located.

(11) (a) These parties shall be jointly liable for removal of the tower.

(b) If the charges are not paid within 30 days after billing, they shall be collected as a single lot assessment in accordance with the City Charter and § 5.117 of this code.

(E) *Small cell wireless facilities.*

(1) *General.*

(a) The collocation of a small cell wireless facility and associated support structure within a public right of way ("ROW" is not subject to zoning reviews or approvals under this chapter to the extent exempt from such reviews under Act 365 of 2018, as amended ("Act 365"), and Act 366 of 2018, as amended ("Act 366"). In such case, a utility pole in the ROW may not exceed 40 feet above ground level without special land use approval (pursuant to division (E)(5) hereof) and a small cell wireless facility in the ROW shall not extend more than five feet above a utility pole or wireless support structure on which the small cell wireless facility is collocated.

(b) Collocation of a small cell wireless facility or installation of an associated support structure shall require that the wireless provider apply for and obtain a permit from the city consistent with the city code.

(c) Small cell wireless facilities (as defined below) and associated wireless support structures not exempt from zoning reviews are only permitted in accordance with the provisions of this chapter and Act 365, and upon application for and receipt from the city of a permit consistent with the city code.

2. *Definitions.* For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

SMALL CELL WIRELESS FACILITY. A wireless facility that meets both of the following requirements:

(a) Each antenna is located inside an enclosure of not more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements would fit within an imaginary enclosure of not more than six cubic feet.

(b) All other wireless equipment associated with the facility is cumulatively not more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

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

WIRELESS COMMUNICATIONS SUPPORT STRUCTURE. A structure that is designed to support, or is capable of supporting, wireless communications equipment. A **WIRELESS COMMUNICATIONS SUPPORT STRUCTURE** may include a monopole, lattice tower, guyed tower, water tower, utility pole or building.

WIRELESS SUPPORT STRUCTURE. A freestanding structure designed to support or capable of supporting small cell wireless facilities. **WIRELESS SUPPORT STRUCTURE** does not include a utility pole (as defined in Act 365).

(3) *Wireless communications equipment.*

(a) Wireless communications equipment (but not a wireless communications support structure) is a permitted use and allowed in all zoning districts. Wireless communications equipment does not have to be related to the principal use of the site. Wireless communications equipment is not subject to zoning review and special land use approval if all of the following requirements are met:

1. The wireless communications equipment will be collocated on an existing wireless communications support structure or in an existing equipment compound.

2. The existing wireless communications support structure or existing equipment compound is in compliance with this chapter or was approved by the City Commission.

3. The proposed collocation will not do any of the following:

A. Increase the overall height of the wireless communications support structure by more than 20 feet or 10% of its original height, whichever is greater.

B. Increase the width of the wireless communications support structure by more than the minimum necessary to permit collocation.

C. Increase the area of the existing equipment compound to greater than 2,500 square feet.

4. The proposed collocation complies with the terms and conditions of any previous final approval of the wireless communications support structure or equipment compound by the City Commission.

(b) Notwithstanding the foregoing, wireless communications equipment otherwise exempt hereunder must still comply with all other applicable city codes, including a determination by the building inspection that the collocation will not adversely impact the structure to which it is attached.

(c) A collocation that meets the requirements of divisions (E)(3)(a)1. and 2. , above, but which does not meet divisions (E)(3)(a)3. or 4. , is subject to special land use review by the City Commission in accordance with the provisions hereof, § 5.75(D) and Article XI of this chapter, and Section 514 of Act 366, M.C.L.A. § 125.3514(2) through (6). Any equipment placed in a residential district shall not be erected at a height that requires lighting. Any equipment placed adjacent to a residential district or use that requires lighting shall be a continuous red beacon at night.

4. *Special land use standards—Wireless communications equipment and wireless communications support structures.*

(a) A wireless communications support structure must be installed on a lawful lot for the zoning district in which it is located, either as a principal use, or as an accessory use related to the principal use.

(b) Wireless communication equipment that is not attached to an existing structure (thus requiring the installation of a new wireless communications support structure) or that is not exempt under § 5.75(E)(3) hereof, is subject to special land use review consistent with § 5.75(D) and Article XI of this chapter; provided, however, that in the event of conflict between these provisions and Act 366, the provisions of Act 366 shall control. Processing of a special land use application is subject to the following requirements:

1. Within 14 business days after receiving an application under this section, the City Commission shall notify the applicant in writing whether the application is complete. The notice tolls the running of the 14-business-day period.

2. The running of the time period tolled under division (E)(4)(a)1. resumes when the applicant makes a supplemental submission in response to the City Commission's notice of incompleteness.

3. If the application is for a collocation of wireless communications equipment that satisfies the requirements of divisions (E)(3)(a)1. and 2. hereof, but does not satisfy the requirements of divisions (E)(3)(a)3. and 4. hereof, then the City Commission shall approve or deny the application and notify the applicant in writing within 60 days after an application is deemed complete by the City Commission.

4. If the application is for a new wireless communications support structure and accompanying wireless communications equipment, then the City Commission shall approve or deny the application and notify the applicant in writing within 90 days after an application is deemed complete by the City Commission.

5. The fee for zoning review of a special land use and associated site plan shall be as established by the City Commission by resolution from time to time, but shall not exceed the lesser of (i) the City Commission's actual, reasonable costs to review and process the special land use application, or (ii) \$1,000.

(c) Small cell wireless facilities and wireless support structures not exempt under Act 365 shall be subject to special land

use approval pursuant to § 5.75(E)(5) hereof.

(5) *Special land use standards for non-exempt small cell wireless facilities.* The modification of existing or installation of new small cell wireless facilities or the modification of existing or installation of new wireless support structures used for such small cell wireless facilities that are not exempt from zoning review in accordance with the Act 365 shall be subject to special land use review and approval in accordance with the following procedures and standards:

(a) The processing of a special land use application is subject to all of the following requirements:

1. Within 30 days after receiving an application under this division (F)(5), the City Commission shall notify the applicant in writing whether the application is complete. The notice tolls the running of the 30-day period.

2. The running of the time period tolled under division (F)(5)(a)1. resumes when the applicant makes a supplemental submission in response to the City Commission's notice of incompleteness.

3. The City Commission shall approve or deny the application and notify the applicant in writing within 90 days after an application for a modification of a wireless support structure or installation of a small cell wireless facility is received or 150 days after an application for a new wireless support structure is received. The time period for approval may be extended by mutual agreement between the applicant and the City Commission.

(b) The City Commission shall base its review of the special land use request on the standards contained in §.94 and Article XI of this chapter; provided, however, that a denial shall comply with all of the following:

1. The denial is supported by substantial evidence contained in a written record that is publicly released contemporaneously.

2. There is a reasonable basis for the denial.

3. The denial would not discriminate against the applicant with respect to the placement of the facilities of other wireless providers.

(c) In addition to the provisions set forth in §5.94 and Article XI of this chapter, in the City Commission's review:

1. An applicant's business decision on the type and location of small cell wireless facilities, wireless support structures, or technology to be used is presumed to be reasonable. This presumption does not apply with respect to the height of wireless facilities or wireless support structures.

2. An applicant shall not be required to submit information about its business decisions with respect to any of the following:

A. The need for a wireless support structure or small cell wireless facilities.

B. The applicant's service, customer demand for the service, or the quality of service.

3. The City Commission may impose reasonable requirements regarding the appearance of facilities, including those relating to materials used or arranging, screening, or landscaping.

4. The City Commission may impose spacing, setback, and fall zone requirements substantially similar to spacing, setback, and fall zone requirements imposed on other types of commercial structures of a similar height in a similar location.

(d) The fee for zoning review of a special land use and associated site plan shall be as established by the City Commission by resolution from time to time, but shall not exceed (i) \$500 for a new small cell wireless facility or modification to an existing small cell wireless facility, and (ii) \$1,000 for a new wireless support structure or a modification to an existing wireless support structure.

(e) Within one year after a zoning approval is granted, a small cell wireless provider shall commence construction of the approved structure or facilities that are to be operational for use by a wireless services provider, unless the City Commission and the applicant agree to extend this period or the delay is caused by a lack of commercial power or communications facilities at the site. If the wireless provider fails to commence the construction of the approved structure or facilities within the time required the zoning approval is void.

(Ord. effective 11-29-2013; Ord. effective 11-15-2019)

ARTICLE IX. OFF-STREET PARKING REQUIREMENTS

§ 5.76 OFF-STREET PARKING, LOADING, ACCESS AND CIRCULATION REQUIREMENTS.

(A) Except as may be exempted below, there shall be provided in all districts, at the time of erection or enlargement of any main building or structure, vehicular off-street parking space, with unrestricted access to all spaces, in accordance with the requirements of this article.

(B) (1) If the computation of the minimum number of parking spaces results in a fraction, any fractional amount of 0.5 or greater shall be rounded up to the next whole number.

(2) All other fractional results shall be rounded down to the previous whole number.

(C) (1) For any use not specifically listed, the Director of Public Works shall determine if the use is similar to any listed uses, and shall apply that parking requirement.

(2) If the use is not similar to any listed uses, the Planning Commission shall determine a reasonable parking space

requirement, based upon a parking generation study provided by the applicant.

(3) The Planning Commission, in reviewing this study, may require it to be reviewed by a traffic engineer, transportation planner or similar professional prior to making a decision.

(D) Required parking shall be installed prior to issuance of a certificate of occupancy.

(Ord. effective 11-29-2013)

§ 5.77 MINIMUM PARKING REQUIREMENTS.

(A) *Residential and institutional uses.* The minimum number of off-street parking spaces by type of use shall be determined in accordance with the Residential and Institutional Parking Space Requirements Table below.

Residential and Institutional Parking Space Requirements	
Use	Minimum Number of Parking Spaces Per Unit of Measurement
Residential and Institutional Parking Space Requirements	
Use	Minimum Number of Parking Spaces Per Unit of Measurement
Institutional Uses	
Churches and similar places of worship	One space for each three seats or six feet of pews in the main unit of worship
Hospitals	Two for each one inpatient bed, plus four spaces per each 1,000 square feet of usable floor area dedicated to administrative offices, pharmacies, medical clinics and similar uses
Private and parochial elementary and junior high schools	One space for each teacher, employee or administrator
Private and parochial senior high schools	One space for each teacher, employee or administrator, and one space for each ten students
Residential Uses	
Single-family residential uses	Two spaces per dwelling unit
Two family and multiple family residential uses	Efficiency, studio, and one-bedroom units: 1.1 parking spaces per dwelling unit
	Two-bedroom units: 1.4 parking spaces per dwelling unit
	Units with more than two bedrooms: 1.8 parking spaces per dwelling unit

(1) No person shall park a vehicle, as defined in § 79 of the state's Vehicle Code (Public Act 300 of 1949, being M.C.L.A. §§ 257.1 to 257.923), in the front yard of any residential lot except on an improved driveway. For purposes of this section, **IMPROVED DRIVEWAY** shall mean a driveway constructed of concrete, asphalt or a permeable surface approved by the Director of Public Works. No improved driveway shall occupy more than 40% of the front yard.

(2) The following requirements shall apply to all parking areas located within residential zones, except for parking spaces that service one- and two-family dwellings.

(a) Parking areas shall conform to the front yard setback requirements of the residential zone in which it is located; provided, where a setback line has been established by existing residential buildings occupying 50% or more of the frontage within the same block, such established setback shall apply.

(b) Parking areas shall have a minimum side yard greenbelt of ten feet on any side that is adjacent to property in single-family residential districts. All required front and side yards shall be planted and landscaped and properly maintained to screen the adjoining properties. These parking areas shall be enclosed by a fence or wall six feet in height sufficient to screen the parking lot from adjoining residential areas.

(c) Parking areas shall be used solely for the parking of passenger automobiles and other vehicles of less than 7,000 pounds gross vehicle weight. No commercial repair work or services or storage of any kind shall be conducted on such parking lot.

(d) No sign, other than entrance, exit and condition of use signs shall be maintained; all signs shall conform to the provisions of Chapter 81, Signs, of the city code.

(e) Where the parking lot access adjoins a commercial zone, access shall be from the street on which the commercial zoned property has frontage, wherever practical, and shall be at least 20 feet from any adjacent property line in a R-1 District and five feet from any adjacent property in a R-2 District.

(B) *Business uses.* Except as otherwise modified or exempted in §5.78, uses in the C-1 Commercial District shall comply with the parking space requirements in the C-1 District Parking Space Requirements Table below.

C-1 District Parking Space Requirements	
Use	Required Parking Spaces
C-1 District Parking Space Requirements	
Use	Required Parking Spaces
Banks	One space for each 200 square feet of usable floor area, including employee work space
Beauty parlor or barber shop	Two spaces for each beauty or barber shop chair
Dry cleaners, laundries and drop-off stations	One space for each 500 square feet of usable floor area
Furniture and appliance, household equipment, repair shops, showroom of a decorator or similar trade	One space for each 800 square feet of usable floor area. For floor area used in processing, one additional space shall be provided for each two processing employees
Health and fitness clubs, dance studios or other similar uses	One space for each 200 square feet of usable floor area, plus one space per employee, plus two spaces for each indoor tennis or racquetball court
Offices for business, professional or service uses, except medical	One space for each 330 square feet of usable floor area
Offices for doctors, dentists or similar medical professions	One space for each 200 square feet of usable floor area
Permitted residential uses	One and one-half spaces per dwelling unit
Personal and business service establishments except as otherwise specified in this table	One space for each 300 square feet of usable floor area
Restaurants	One space for each 100 square feet of usable floor area
Retail stores except as otherwise specified in this table	One space for each 300 square feet of usable floor area
Supermarkets/grocery stores/convenience stores and other retail food sales	One space for each 250 square feet of usable floor area

(1) Every parcel of land used as a community or private parking area in the C-1 zone shall be developed and maintained in accordance with the following requirements.

(a) Off-street parking areas shall be effectively screened on any side adjoining or facing a residential zone district or institutional use by a solid, uniformly painted fence or wall not less than four nor more than six feet in height, maintained in good condition; provided, where the adjacent owners agree in writing, a screening of hedge or other natural landscaping may be substituted for the required fence or wall. Fences or hedges adjacent to parking spaces shall be protected from vehicles by curbs or wheel stops.

(b) All off-street parking areas and loading areas shall be surfaced and maintained with an approved asphalt, bituminous or Portland cement binder pavement, to provide a durable and dustless surface and shall be graded and drained to dispose of all surface water. Permeable surface materials may satisfy this requirement, if approved by the Director of Public Works.

1. Surface water from any off-street parking or loading area of 1,000 square feet or more must be disposed of through an underground drainage system. The underground system must include such catch basins, manholes, storm sewer connection and other structures necessary to properly dispose of surface water. In the event that a public storm sewer system is not available for connection, then plans for disposal of storm water shall be approved by the Director of City Services. No off-street parking or loading area drainage system may be connected to a sanitary sewer system.

2. Off-street parking and loading areas shall be enclosed by fences, walls or barriers necessary to ensure that motor vehicles may not enter or exit at points other than those expressly provided for that purpose and that motor vehicles using the parking area or loading area may not encroach on adjacent public rights-of-way or private property.

3. Lighting provided for off-street parking or loading areas shall be arranged to reflect away from the adjoining residence buildings or streets.

(2) Application for the approval of construction or paving of parking or loading areas shall be made in accordance with the requirements of Article X, Site Plan Review.

(Ord. effective 11-29-2013; Ord. effective 5-13-2022)

§ 5.78 MODIFICATIONS AND EXEMPTIONS.

(A) *Exemptions.* Uses within certain locations in the Gaslight Village Business District shall be exempt from the parking requirements otherwise applicable, as specified in the C-1 District Parking Space Requirements Table.

(1) *Exempt zone defined.* For the purposes of this section, the **EXEMPT ZONE** shall include all properties zoned C-1 within the following described areas:

(a) All properties that have frontage on the south side of Wealthy Street;

(b) The properties with frontage on the north side of Wealthy Street, beginning at the northeast corner of Wealthy Street and Lovett Street, extending 133 feet southeasterly along the north side of Wealthy Street;

(c) The east side of Lovett Street;

(d) The east and west sides of Croswell Street; and

(e) The east and west sides of Bagley Street.

(2) *Non-exempt uses.* Regardless of location, however, the following uses shall not be exempt from the C-1 District Parking Space Requirements Table:

(a) Any permitted residential use shall comply with the requirements of the table; and

(b) Special land uses shall provide off-street parking as required in the table, subject to all other specific conditions applicable to that use.

(3) *Existing parking.*

(a) Any public or private off-street parking space existing on or created after the effective date of this article shall comply with all applicable requirements of this article with respect to required size and location of parking facilities.

(b) Any public or private off-street parking spaces existing on the effective date of this article shall be maintained and the number of existing parking spaces on any property shall not be reduced, unless approved by the Planning Commission. In making a determination that a reduction is warranted, the Planning Commission shall find that the property meets one or more of the requirements of division (B) below.

(B) *Modification of parking requirements.* The minimum number of parking spaces required by this article may be modified by the Planning Commission in consideration of the following factors.

(1) Shared parking by multiple uses is feasible where there will be a high proportion of multipurpose visits, or uses have peak parking demands during differing times of the day or days of the week.

(a) Shared parking areas shall be on the same lot, upon an adjacent lot or lots, or within 300 feet (measured from the nearest edge of the parking lot to the front door of the business) of the business(es) served by the shared parking area. However, the city may approve a shared parking agreement that does not meet this requirement, provided the following conditions are met:

1. The applicant(s) shall provide a parking study showing how the use of on-site, adjacent and/or remote lots meet the requirements of this chapter;

2. Remote parking spaces shall be designated for use by employees only. The City Commission, after recommendation by the Planning Commission, may permit remote spaces to be occupied by vehicles belonging to non-employees if the applicant provides a valet service from the place of business.

3. The applicant shall provide a means of motorized transit between remote lots and the place of business, when any remote lot is more than 500 feet from the place of business (measured from the nearest pedestrian access of the parking area, along the nearest public pedestrian pathway, to the front door or employee entrance of the business).

(b) Pedestrian and vehicular connections shall be maintained between the lots and the business(es) served.

(c) Shared parking agreements shall be filed with the County Register of Deeds and the city.

(2) Convenient municipal off-street parking is available to meet peak time parking demands of the use. The City Commission may require payment of fees to offset acquisition, construction and maintenance costs in accordance with the community parking provisions of this article.

(3) On-street parking spaces located along the site's frontage are available.

(4) Walk-in trade can reasonably be expected due to sidewalk connections to adjacent residential neighborhoods, employment centers or other nearby commercial uses, where it can be determined that some portion of the patronage of these businesses comes from other uses (e.g., employees of area offices patronizing restaurants, and the like).

(a) The site design shall incorporate pedestrian connections to the site and on-site pedestrian circulation providing safe and convenient access to the building entrance.

(b) The reduction in the required number of spaces allowed under this division (B) shall not exceed 20%.

(5) Other forms of travel such as transit are available and can reasonably be expected to off-set some parking demand. The Planning Commission may require the site design incorporate pedestrian connections to nearby transit stops or bicycle parking facilities.

(6) A parking study, prepared by a qualified traffic engineer or transportation planner, has been submitted by the applicant demonstrating that another standard would be more appropriate based on actual number of employees, expected level of customer traffic or actual counts at a similar establishment. The Planning Commission may require a parking study to document that any one of the criteria of divisions (B)(1) to (B)(6) above would be met.

(C) *Mixed uses.* In the case of mixed uses, the total requirements for off-street parking areas shall be the sum of the requirements of the individual uses computed separately. Collective provision for off-street parking areas for two or more buildings or uses shall be permitted; provided, the total off-street parking spaces shall not be less than the sum of the

requirements for the various uses computed separately. Cumulative parking requirements for mixed-use occupancies or shared facilities may be reduced by the Planning Commission, in accordance with the provisions of division (B) above.

(D) *Community parking.* The provisions of this article relative to nonresidential off-street parking may be met by participation in a municipal or community parking program designed to serve the area in which the use is located. Any community parking program shall be established by city ordinance, which shall designate the parking area; the area to be served by the parking program and the allocation of the cost of the program. The ordinance shall provide for open space to be distributed throughout the parking area, as the City Commission deems necessary for the public health, safety and general welfare.

(E) *Maximum parking.* In order to minimize excessive areas of pavement that detract from aesthetics, contribute to high rates of storm water runoff and generate added heat, the minimum parking space requirements of this article shall not be exceeded by more than 10%, unless approved by the Planning Commission as part of site plan review. In considering additional parking, the Planning Commission shall determine, based on documented evidence, that the parking is needed to accommodate the use on a typical day.

(Ord. effective 11-29-2013)

§ 5.79 OFF-STREET PARKING FACILITY LOCATION AND DESIGN.

(A) *Location.* Off-street parking facilities shall be located as hereinafter specified.

(1) For all residential uses and for all nonresidential uses within residential zones, required parking shall be provided on the same parcel as the building.

(2) For all nonresidential uses in the C-1 zone, required parking spaces shall be provided within 300 feet of the building being served, measured along public rights-of-way from the nearest point of the parking facility to the nearest point of the building.

(a) Required parking may be provided off-site, on a lot or lots where there is a lease or shared parking agreement to accommodate parking, provided such arrangement is approved by the Planning Commission. Any lease or shared parking agreement shall include a provision that requires notification to the building official of any change in the terms or expiration. The building official may allow modifications to parking agreements where parking compliance is achieved in some other manner or a parking variance is granted by the Zoning Board of Appeals.

(b) All off-street parking required to meet the standards of this article shall be provided within the same zoning district as the principal use and shall be within a convenient walking distance of the building entrances, as determined by the Planning Commission, except that valet parking may be provided elsewhere.

(B) *Parking design.* Wherever off-street parking is provided, it shall be laid out in accordance with the following table.

<i>Parking Pattern (Degree)</i>	<i>Parking Maneuvering Lane Width Minimum</i>	<i>Parking Space Width</i>	<i>Space Length</i>
0 (parallel)	12 ft.	8 ft.	23 ft.
30 to 53	12 ft.	8 ft. 6 in.	18 ft.
54 to 74	15 ft.	8 ft. 6 in.	18 ft.
75 to 90	24 ft.	9 ft.	18 ft.

(1) The location and design of entrances, exits, surfacing, landscaping, marking and lighting shall be subject to the approval of the Director of Public Works to ensure adequate regulation to traffic safety and protection of the adjacent residential area.

(2) If parking spaces are adjacent to and accessed from a two-way parking maneuvering lane, the minimum width of the lane shall be 24 feet, regardless of the parking angle.

(3) Except for one- and two-family dwellings, all parking spaces shall be designed so ingress and egress to each space is unobstructed at all times. On properties with a one- or two-family dwelling, the parking spaces may be designed so a space is blocked by a vehicle occupying another space.

(4) All parking spaces and driveways shall be hard surfaced and drained. Permeable surfaces approved by the Director of Public Works may be used to satisfy this requirement.

(Ord. effective 11-29-2013)

§ 5.80 OFF-STREET LOADING REQUIREMENTS.

In all districts, every building, or part thereof, hereafter erected, which is to be occupied by a retail store or block of stores of over 10,000 square feet, hospital, laundry, dry cleaning or other uses similarly requiring the receipt or distribution in vehicles of materials or merchandise, there shall be provided and maintained on the same premises with the same building, off-street loading spaces in relation to gross floor area as follows:

(A) Up to 20,000 square feet GFA: one space;

(B) Twenty thousand and one to 50,000 square feet GFA: two spaces;

(C) Fifty thousand and one to 100,000 square feet GFA: three spaces; and

(D) One additional space for each additional 100,000 square feet GFA or part thereof, provided that:

(1) Each loading space shall have the following dimensions:

(a) For conventional trucks: at least ten feet in width, 25 feet in length and 14 feet in height; and

(b) For tractor/trailers: at least ten feet in width, 50 feet in length and 14 feet in height.

(2) A loading space may occupy all or any part of any required yard or court space, except that no loading space may be located in the front yard.

(3) No such space shall be located closer than 50 feet to any lot in any residence district unless wholly within a completely enclosed building or enclosed on all sides by a wall or uniformly painted solid board or masonry fence of a uniform appearance not less than six feet in height.

(Ord. effective 11-29-2013)

§ 5.81 STORAGE AND REPAIR OF VEHICLES.

(A) *Recreational vehicles and recreational units in residential districts.* No recreational vehicle or recreational unit may be kept or stored outdoors on any property in a residential district for a period longer than 72 hours, except in compliance with all of the following conditions:

(1) The recreational vehicle or unit is owned by the occupant of the property on which it is stored;

(2) Storage shall be in the rear yard only;

(3) The vehicle shall be kept in good repair and in a sightly condition; and

(4) Recreational vehicles and recreational units shall be shielded from view from streets or adjacent lots, by shrubbery or fencing compatible with the general appearance of the neighborhood and the requirements of this article.

(B) *Inoperable vehicles.* No unlicensed, inoperable, partially dismantled, wrecked, junked or discarded motor vehicle, recreational vehicle or recreational unit shall be parked or stored on any premises in any residential district for longer than seven days, except if stored in a fully enclosed building.

(C) *Mechanical work.* Within a residential district, mechanical work on vehicles not owned or leased by the occupant of a dwelling for his or her personal use is prohibited. In any case, such mechanical work that is permitted shall only occur within an enclosed garage.

(Ord. effective 11-29-2013)

§ 5.82 COMMERCIAL VEHICLES.

Commercial vehicles shall not be located on any property within a residential zone, unless parked or stored within a completely enclosed garage or building. This shall not prevent the temporary location of any such vehicle on property while engaged in a delivery, pickup or service run to the property where located.

(Ord. effective 11-29-2013)

ARTICLE X. SITE PLAN REVIEW

§ 5.83 INTENT.

The purpose of this article is to establish a uniform set of requirements for the planning and design of developments within the city in order to achieve the following objectives: to determine compliance with the provisions of this chapter; to promote the orderly development of the city; to prevent depreciation of land values; to ensure a consistent level of quality throughout the community; to ensure a harmonious relationship between new development and the existing natural and human-made surroundings; to achieve the purposes of the city's master plan; to promote consultation and cooperation between applicants and the city in order that applicants may accomplish their objectives in the utilization of land, consistent with the public purposes of this chapter and the master plan.

(Ord. effective 11-29-2013)

§ 5.84 USES REQUIRING REVIEW.

(A) *Commission review.* Site plan review by the Planning Commission and City Commission shall be required for the creation of a use or construction of a building under the following circumstances:

(1) Any use permitted by right in the C-1 District;

(2) Any use, other than a single- or two-family dwelling, in a Residential District;

(3) Any special land use;

(4) Site condominiums in any district;

(5) The creation of three or more lots or condominium units from a single parcel or lot within a five-year period;

(6) Any private park, common area or jointly used property which is used or designed for recreational use or lake or stream access and which is designed, used or available for use by the owner or occupants of any other lot of record; and

(7) Any change, alteration to or expansion of any of the above, except as included under administrative review.

(B) *Administrative review.* The Director of Public Works shall have the authority to review and approve site plans under the following circumstances:

(1) Expansion of an existing building or structure by not more than 1,000 square feet or 25% of the existing gross floor area, whichever is less;

(2) The reconfiguration of an existing parking area that does not alter the number of parking spaces; and

(3) Addition or relocation of:

(a) Driveways and entrances;

(b) Landscaping;

(c) Lighting;

(d) Refuse containers;

(e) Retention/detention ponds;

(f) Sidewalks; and

(g) Signs.

(Ord. effective 11-29-2013)

§ 5.85 SITE PLAN AND SKETCH PLAN REVIEW PROCEDURES.

The process for reviewing a site plan shall be as follows.

(A) *Application.* A complete site plan (either sketch plan or final site plan), in sufficient number as required by the city, and an electronic version, in a format specified by the city, shall be submitted to the Director of Public Works, along with an application for that purpose and a fee, as established by the City Commission.

(B) *Completeness.* The Director of Public Works shall review the application and plans for completeness and, if all requirements are met, will process them as follows. Incomplete applications shall be returned to the applicant without further processing.

(C) *Distribution.* Upon determining that the application and plans are complete, the Director of Public Works shall review the plan, if a sketch plan, or transmit the plan to the Planning Commission, if a site plan, for consideration at its next meeting. The Director of Public Works shall not be required to submit any site plan for Planning Commission review which was submitted less than 20 days prior to the next regularly scheduled Planning Commission meeting. In addition, at his or her sole discretion, the Director of Public Works may provide copies to city departments and/or consultants for review.

(D) *Decision.* The Director of Public Works or Planning Commission, as applicable, shall consider the respective sketch plan or site plan along with comments from departments and consultants, if any.

(1) If the plan is a sketch plan, the Director of Public Works shall provide comments to the applicant based on the plan's conformance with applicable zoning requirements, compatibility with neighboring property, vehicular access and internal circulation, and other relevant considerations. Following revisions to the plan, if any, or based on the originally submitted plan, the Director of Public Works shall, based on the applicable standards of § 5.87, either:

(a) Approve the sketch plan as submitted;

(b) Approve the sketch plan with conditions; or

(c) Deny approval of the sketch plan, if the applicable requirements and standards have not been met.

(2) If the plan is a site plan, the Planning Commission shall, based on the standards of approval of § 5.87, either:

(a) Recommend approval of the site plan to the City Commission as submitted;

(b) Recommend approval of the site plan to the City Commission with conditions; or

(c) Recommend denial of the site plan to the City Commission if applicable requirements and standards have not been met.

(3) Upon receiving the recommendation of the Planning Commission, the City Commission shall consider the site plan, the Planning Commission recommendation and the standards of § 5.87 and approve, approve with conditions or deny the site plan application.

(E) *Acceptance.* If approved, two copies of the sketch plan or site plan shall be signed and dated by the Director of Public Works and the applicant. One copy shall be kept on file with the city and one copy shall be returned to the applicant or his or her designated representative. If the plan is approved with conditions, a revised plan shall be submitted reflecting those conditions and signed by the applicant and the Director of Public Works, prior to issuance of any permits.

(Ord. effective 11-29-2013)

§ 5.86 SUBMITTAL REQUIREMENTS.

Each sketch plan or site plan shall contain the following information, as applicable, unless waived by the Director of Public Works as unnecessary or not applicable to the proposed project. Incomplete plans will be returned to the applicant without further processing.

<i>Required Information</i>	<i>Sketch Plan</i>	<i>Site Plan</i>
<i>Required Information</i>	<i>Sketch Plan</i>	<i>Site Plan</i>
General Information		
Date, north arrow and scale	X	X
Name and firm address of the professional individual responsible for preparing site plan	X	X
Name and address of the property owner or petitioner	X	X
Location sketch showing site, adjacent streets and properties within 500 feet	X	X
Legal description of the subject property		X
Size of subject property in acres (square feet, if less than one acre)	X	X
Boundary survey		X
Preparer's professional seal		X
Existing Conditions		
Existing zoning classification of subject property	X	X
Property lines and required setbacks (dimensioned)	X	X
Location, width and purpose of all existing easements	X	X
Location and dimension of all existing structures on the subject property	X	X
Location of all existing driveways, parking areas and total number of existing parking spaces on subject property	X	X
Abutting street right-of-way width		X
Location of all existing structures, driveways and parking areas within 300 feet of the subject property's boundary		X
Existing water bodies (lakes, rivers, creeks, wetlands and the like)	X	X
Existing landscaping and vegetation on the subject property	X	X
Size and location of existing utilities		X
Location of all existing surface water drainage facilities		X
Proposed Development		
Location and dimensions of all proposed buildings	X	X
Driveways, interior streets and parking areas (including number of parking spaces required and proposed)	X	
Location of all proposed drives (including dimensions and radii), acceleration/deceleration lanes, sidewalks, walls, fences, signs (location, number and size), exterior lighting (location and type of fixture), curbing, parking areas (including dimensions of a typical parking space and the total number of spaces required and to be provided) and unloading areas		X
Recreation areas, common use areas, dedicated open space and areas to be conveyed for public use		X
Floodplain areas and basement and finished floor elevations of all buildings		X
Landscape plan (showing location of proposed materials, size and type)		X
Layout and typical dimensions of proposed parcels and lots		X
Number of proposed dwelling units (by type), including typical floor plans for each type of unit		X
Number and location (by code, if necessary) of efficiency and one or more bedroom units		X
All deed restrictions or covenants		X
Brief narrative description of the project including proposed use, existing floor area (square feet), size of proposed expansion (square feet) and any change in the number of parking spaces	X	X
Engineering		
Proposed method of handling sanitary sewage and providing potable water	X	

Location and size of proposed utilities, including connections to public sewer and water supply systems		X
Location and spacing of fire hydrants		X
Location and type of all proposed surface water drainage facilities		X
Grading plan at no more than five-foot contour intervals		X
Proposed streets (including pavement width, materials and easement or right-of-way dimensions)		X
Building Details		
Description of building materials	X	X
Typical elevation views of all sides of each building type		X
Gross and net floor area		X
Elevation views of building additions	X	X
Building height	X	X
Additional Information		
Any other information required by the Director of Public Works, Planning Commission or City Commission to demonstrate compliance with other applicable provisions of this chapter	X	X

(Ord. effective 11-29-2013)

§ 5.87 STANDARDS FOR APPROVAL.

A site plan shall be approved only upon a finding of compliance with the following standards.

(A) The site plan must comply with all standards of this article and all applicable requirements of this chapter and all other applicable laws and regulations.

(B) The site must be designed in a manner that is harmonious, to the greatest extent possible, with the character of the surrounding area.

(C) The site must be designed so as to minimize hazards to adjacent property, and to reduce the negative effects of traffic, noise, smoke, fumes and glare to the maximum extent possible.

(D) Unless a more specific design standard is required by the city through a different ordinance, all uses and structures subject to site plan review shall comply with the following design standards.

(1) *Traffic circulation.* The number, location, size of access and entry points, and internal vehicular and pedestrian circulation routes shall be designed to promote safe and efficient access to and from the site, and circulation within the site. In reviewing traffic features, the number, spacing and alignment of existing and proposed access points shall be considered relative to their impact on traffic movement on abutting streets and adjacent properties.

(2) *Storm water.* Storm water detention and drainage systems shall be designed so the removal of surface waters will not adversely affect neighboring properties or public storm water drainage systems. Unless impractical, storm water shall be removed from all roofs, canopies and paved areas by underground surface drainage system.

(3) *Landscaping.* The landscape shall be preserved in its natural state, insofar as practicable, by minimizing unnecessary tree and soil removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas. Provision or preservation of landscaping, buffers or greenbelts may be required to ensure that the proposed uses will be adequately buffered from one another and from surrounding property.

(4) *Screening.* Where nonresidential uses abut residential uses, appropriate screening shall be provided to shield residential properties from noise, headlights and glare.

(5) *Lighting.* Lighting shall be designed to minimize glare on adjacent properties and public streets. As a condition of site plan approval, reduction of lighting during non-business hours may be required.

(6) *Utility service.* All utility service shall be underground, unless impractical.

(7) *Exterior uses.* Exposed storage areas, machinery, heating and cooling units, service areas, loading areas, utility buildings and structures, and similar accessory areas shall be located to have a minimum negative effect on adjacent properties, and shall be screened, if reasonably necessary, to ensure compatibility with surrounding properties.

(8) *Emergency access.* All buildings and structures shall be readily accessible to emergency vehicles.

(9) *Water and sewer.* Water and sewer installations shall comply with all city specifications and requirements.

(10) *Signs.* Permitted signs shall be located to avoid creating distractions and visual clutter.

(11) *Building design.* New or substantially remodeled buildings shall be reasonably compatible in appearance with, or shall enhance, the established general character of other buildings in the immediate vicinity.

(Ord. effective 11-29-2013)

§ 5.88 CONDITIONS OF APPROVAL.

Conditions intended to ensure compliance with the intent of this chapter and all other regulations of the city may be imposed upon the approval of a site plan.

(Ord. effective 11-29-2013)

§ 5.89 VALIDITY OF APPROVED PLANS.

Site plan approval shall expire one year after the date of approval, unless substantial construction has commenced and is being carried on. The Director of Public Works, in the case of a sketch plan, or the City Commission, in the case of a site plan, may grant one extension of up to one additional year; provided, the applicant requests, in writing, an extension prior to the date of expiration of the plan. The extension shall be approved if the applicant presents reasonable evidence to the effect that the development has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed within the extension period. If the above provisions are not fulfilled or the extension has expired prior to construction, the site plan approval shall become null and void.

(Ord. effective 11-29-2013)

§ 5.90 AMENDMENT TO APPROVED PLANS.

(A) Any proposed change to an approved sketch plan may be approved by the Director of Public Works; provided, at his or her sole discretion, the request for a change may be referred to the Planning Commission for action.

(B) Minor changes to an approved site plan may be approved by the Director of Public Works without requiring a resubmittal to the Planning Commission; provided that the applicant or property owner notifies the Director of Public Works of any proposed amendment to the plan prior to making the change on the site, and the Director of Public Works determines the proposed minor revision does not alter the basic design nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:

- (1) Reduction in building size or increase in building size up to 5% of the total approved floor area;
- (2) Movement of buildings or other structures by no more than ten feet;
- (3) Replacement of plant material specified in the landscape plan with comparable materials of an equal or greater size;
- (4) Changes in building materials to a comparable or higher quality;
- (5) Building additions, of up to 25% of the total floor area but not more than 1,000 square feet, which do not alter the character of the use; and
- (6) Changes required or requested by county, state or federal regulatory agencies in order to conform with other laws or regulations.

(C) Where the modifications are not determined to be minor, the site plan shall require resubmittal in accordance with §.85 for Planning Commission and City Commission review, as required for the original approval.

(Ord. effective 11-29-2013)

ARTICLE XI. SPECIAL LAND USES

§ 5.91 INTENT.

Special uses are generally consistent with the purpose of the zoning district in which they are permitted but, due to unique operational characteristics, may not be desirable or compatible in all locations. Factors such as traffic, hours of operation, noise, odor or similar potential effects require that the special use be evaluated relative to its appropriateness on a case-by-case basis. Therefore, special uses may be permitted within a zoning district, with city approval, following a review of the use and its potential impact on its surroundings. This article establishes the review procedures for special uses and the general standards that must be met for all special uses. Some specific uses are also subject to additional standards and requirements to mitigate their potential negative impacts.

(Ord. effective 11-29-2013)

§ 5.92 SCOPE.

A special use shall be permitted only when the City Commission has approved the proposed use and the associated site plan, as provided by this article and other applicable provisions of this chapter. Except as otherwise expressly provided by this chapter, the general procedures, standards and requirements in this article shall apply to all special uses and shall be in addition to any other requirements applicable to particular special uses. In those cases where the specific requirements of this article are more restrictive than other provisions of this chapter, the special use requirements shall apply.

(Ord. effective 11-29-2013)

§ 5.93 PROCEDURES.

(A) *Application.* A person owning or having an interest in a property may apply for a special use as provided in this chapter.

(B) *Filing.* An application shall be filed with the Director of Public Works at least 30 days prior to the Planning Commission meeting at which it is first to be considered. Further consideration and scheduling before the Planning Commission shall not occur unless the application is found to be complete.

(C) *Fees.* A non-refundable fee shall be paid when an application is filed. The application shall not be considered until all fees, established by resolution of the City Commission, have been paid in full.

(D) *Application requirements.* A completed application, signed by the property owner, must be accompanied by the following:

(1) Copies of a site plan that meet the standards and requirements of Article X;

(2) A statement indicating that the proposed use complies with the general standards for approval in §5.94, any specific requirements for the use and with all other applicable ordinance requirements; and

(3) Any additional information deemed necessary to determine the impact of the proposed special land use on adjacent properties, public infrastructure and the community as a whole. Information may include, but is not limited to, traffic impact analyses, environmental impact assessments, market studies (to determine market demand and feasibility), fiscal impact analyses or reports and/or testimony by officials representing state, county or local departments of public safety (police and fire), health, highways or streets and/or environment. Any additional studies deemed necessary may be completed by an individual or firm of the city's choosing, but at the applicant's expense.

(E) *Scheduling for special use and site plan review.* The Director of Public Works will review the application and, if determined to be complete, shall schedule the special use request before the Planning Commission.

(F) *Review and action.*

(1) The Director of Public Works or designee shall review the application and, if determined to be complete, shall schedule a public hearing to consider the special land use. The public hearing shall be noticed as required by the state's Zoning Enabling Act.

(2) The Planning Commission shall conduct a public hearing and also review the site plan submitted with the application.

(3) Following the public hearing, the Planning Commission shall consider the comments heard in relation to the special use standards of § 5.94 and the standards of §5.87 for site plan approval and shall recommend to the City Commission approval, approval with conditions or denial of the special use application.

(4) The Planning Commission recommendation shall be forwarded to the City Commission for final action. Prior to making its decision, the City Commission shall conduct a public hearing, notice of which shall be in accordance with the requirements of the Zoning Act. Following the hearing, the City Commission shall consider the application, public comment, the recommendation of the Planning Commission, the accompanying site plan and the standards of § 5.94 and shall approve, approve with conditions or deny the special use request.

(5) Upon approval or approval with conditions of both the special use request and the site plan, the Director of Public Works shall issue a special use permit, which shall be subject to the conditions of approval, if any, and all other applicable requirements for the proposed use and the zone district.

(Ord. effective 11-29-2013)

§ 5.94 REVIEW STANDARDS.

A special use application shall be approved only when it meets all of the standards of this section and any specific standards that apply to the use as listed in Article VIII.

(A) The proposed use will comply with the general objectives and land use policies of the city's master plan.

(B) The proposed use will be designed, constructed, operated and maintained so it is appropriate and harmonious with the intended character and appearance of the surrounding area; will be compatible with the intent of the zone district; and will not change the essential character of the surrounding area.

(C) The establishment, maintenance, location or operation of the use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in that zone district.

(D) The establishment, maintenance, location or operation of the proposed use will not be detrimental to or endanger the health, safety or general welfare of any persons; will not be injurious to or conflict with the use or enjoyment of neighboring property for the purposes permitted; and will not result in any significant adverse impact on the natural environment.

(E) The proposed use will not involve activities, processes, materials and equipment or conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.

(F) Adequate utilities, highways, streets, access, drainage structures, police and fire protection, refuse disposal, schools and other necessary services or facilities have been or will be provided to serve the proposed use; the proposed use will not place undue demands on public services or facilities that result in exceeding their capacity.

(G) The proposed use will, in all other respects, conform to the applicable regulations of the zone district in which it is located, specific requirements of Article VIII, all conditions of approval, and all other applicable provisions of law, ordinance or statute.

(Ord. effective 11-29-2013)

§ 5.95 VALIDITY OF PERMIT.

The special use or activity must commence within one year of approval or it shall expire. The City Commission may approve one extension for up to one additional year, if a request is made by the applicant in writing prior to the initial expiration.

(Ord. effective 11-29-2013)

§ 5.96 AMENDMENTS, EXPANSIONS AND CHANGE IN USE.

The site plan approved in conjunction with the special land use shall become part of the approval record. Any improvements relative to the authorized use shall be consistent with the approved site plan, unless a change is approved, in accordance with § 5.90. Any change in use shall be subject to the applicable requirements of the zoning district in which the property is located and site plan review in accordance with Article X.

(Ord. effective 11-29-2013)

§ 5.97 REVOCATION OF AN APPROVED SPECIAL LAND USE.

The City Commission shall have the authority to revoke a special use permit when the applicant has failed to comply with any of the applicable requirements of this article, other applicable sections of this chapter, or the conditions of approval. The City Commission may revoke a previous approval if it finds that a violation exists and has not been remedied. The special use permit may be suspended or revoked according to the following procedures.

(A) Conditions that may result in a suspension or revocation include, but are not limited to, the following:

(1) The special use was not constructed in conformance with the approved plans, or the property is not being used in conformance with the approved special use;

(2) Compliance with the special use permit and any conditions have not been consistently demonstrated, and administrative attempts to secure compliance have been unsuccessful;

(3) The special use permit has been issued erroneously based on incorrect or misleading information supplied by the applicant and/or his or her agents;

(4) The operation of the use granted by the special use permit has created a risk or danger to the public health, safety or welfare; or

(5) The special use violates any provision of this chapter or other city, county, state or federal regulations.

(B) If the Director of Public Works determines that a special use permit should be suspended or revoked, he or she shall prepare a report specifying the factual details of the violation and the reasons to suspend or revoke the permit.

(C) The Director of Public Works shall file the report with the City Commission and provide a copy to the owner, authorized agent or employee by certified mail, return receipt requested.

(D) Within 30 days of filing the report with the City Commission, a hearing date will be set for the City Commission to consider the alleged violation(s) to determine if the special use permit should be suspended or revoked. The owner or authorized agent shall be notified personally or by certified mail, return receipt requested, not less than 15 days before the scheduled hearing.

(E) The owner shall have an opportunity to respond to any allegations made by: questioning adverse witnesses; presenting witnesses on his or her behalf; and presenting arguments, personally or through legal counsel in his or her own behalf.

(F) The City Commission shall prepare a written report of its findings within 30 days of completing all hearings and provide them to the owner either personally or by certified mail, return receipt requested. If the City Commission concludes that the special use permit must be suspended or revoked, the owner shall immediately cease to conduct, operate or carry on the business or use for which the special use permit was granted.

(Ord. effective 11-29-2013)

§ 5.98 APPEALS.

The City Commission's decision regarding approval or denial of a special use application may not be appealed to the Zoning Board of Appeals. However, prior to consideration of a special use, a variance to a dimensional requirement related to the building or property in question may be filed with the Zoning Board of Appeals.

(Ord. effective 11-29-2013)

§ 5.99 RESTRICTIONS ON RESUBMITTAL OF A SPECIAL LAND USE REQUEST.

A special use application that has been denied may not be re-submitted for one year from the date of denial, except when new evidence or information found sufficient by the Director of Public Works justifies an earlier re-application.

(Ord. effective 11-29-2013)

ARTICLE XII. ZONING BOARD OF APPEALS

§ 5.100 CREATION AND MEMBERSHIP.

(A) A Zoning Board of Appeals is hereby established having the powers, duties, and membership which are set forth in Act 110 of Michigan Public Acts of 2006, as amended, and in accordance with the City Charter.

(B) The Zoning Board of Appeals shall consist of seven members appointed by the City Commission who are electors residing in the city, one of whom shall be a member of the Planning Commission, and one of whom shall be a member of the City Commission, plus two alternate members.

(C) Members shall be appointed for terms of three years, except that the terms for the Planning Commission or City Commission members shall be the same as that for their office. Members can be reappointed. Terms shall be staggered so that at least two members are up for appointment every year. Of the initial members, some shall be appointed for a one-year term, some for a two-year term, and some for a three-year term so that the terms of approximately one-third of the members will expire each year. All vacancies for unexpired terms shall be filled for the remainder of the term.

(D) The City Commission shall appoint two alternate members to serve on the Zoning Board of Appeals, who shall also serve for three-year terms. The alternate members shall have the same voting rights as a regular member and shall sit as regular members of the Zoning Board of Appeals in the absence of a regular member, or for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. Once an alternate has been called to serve in a particular case, the alternate shall continue to participate in that case until a decision has been rendered.

(E) Members of the Zoning Board of Appeals or alternates shall be removable by the City Commission for malfeasance, misfeasance, or nonfeasance in office upon filing of written charges and following a public hearing.

(F) A member shall disqualify themselves from a vote in which the member has a conflict of interest. Failure of a member to disqualify themselves from a vote in which the member has a conflict of interest constitutes malfeasance in office. Any Planning Commission or City Commission member on the Zoning Board of Appeals shall abstain from any vote on an issue which they had previously voted upon as a member of the Planning Commission or the City Commission.

(Ord. effective 11-29-2013; Ord. effective 1-1-2022)

§ 5.101 PROCEEDINGS.

(A) Meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson and at other times as the Zoning Board of Appeals may specify in its Rules of Procedure.

(B) A record of the proceedings of each meeting shall be kept by the Board, relating evidence presented by the applicant and the resolution by the Board, the vote of each member on each question, or, if absent or failing to vote, indicating such fact. These shall be a public record and immediately filed in the office of the Board.

(C) The Board shall receive reasonable assistance from other departments in carrying out the functions of the Board.

(D) The Zoning Board of Appeals shall not consider any application or appeal without the payment of an application fee in an amount established by the City Commission. The application or appeal shall be filed with the Director of Public Works, who shall transmit the application, together with all plans, specifications and other papers pertaining to the application or appeal, to the secretary of the Board.

(E) An appeal from any ruling of the Director of Public Works or other administrative officer administering any portion of this chapter may be taken by any person, including the city, affected or aggrieved. Notice of such appeal shall be filed with the City Clerk and shall specify the grounds of such appeal, and it shall be filed within 15 days after the order, requirements, decision or determination appealed from is made.

(F) An appeal shall stay all proceedings in furtherance of the action appealed from unless the building inspector certifies to the Board, after notice of appeal shall have been filed, that by reason of facts stated in this certificate, a stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by restraining order which may, on due course shown, be granted by the Board or by the circuit court on application, after notice to the Director of Public Works.

(G) When an application or appeal has been filed in proper form and with the required data, the secretary of the Board shall immediately place the application or appeal upon the calendar for hearing and cause notices stating the time, place and object of the hearing to be served. Such notices shall be published in a newspaper of general circulation in the city and served personally or by mail at least 15 days prior to the day of such hearing, upon the applicant or the appellant, the Director of Public Works and the owners of record and occupants of property within 300 feet of the premises in question, which notices, if by mail, shall be addressed to the respective property owners of record at the address given in the last assessment roll. Any party may appear at the hearing in person or by attorney.

(H) Upon the day for hearing any application or appeal, the Board may adjourn the hearing in order to permit the obtaining of additional information, or to cause such further notice as it deems proper to be served upon such other property owners as it decides may be interested in said application or appeal. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of said hearings unless the Board so decides.

(I) No application for a variance which has been denied wholly or in part by the Board shall be resubmitted except upon proof of changed conditions satisfactory to the Director of Public Works or the Director's designee.

(Ord. effective 11-29-2013; Ord. effective 1-1- 2022)

§ 5.102 POWERS AND DUTIES.

(A) The Zoning Board of Appeals, in conformity with the provisions of this chapter and Public Act 110 of 2006, being M.C.L.A.

§§ 125.3101 et seq., as amended, may reverse or affirm, wholly or in part, or may modify the order, requirements, decision or determination appealed from, and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers to hear and decide all matters referred to it or upon which it is required to pass under this chapter.

(B) The provisions of this article are to be construed as consistent with the applicable provisions of the statutes of the state, as established by the state's Zoning Enabling Act, being M.C.L.A. §§ 125.3101 et seq. (Public Act 110 of 2006, as amended). In the event of a conflict between the provisions of this article and said statutory provisions, the statutory provisions are to prevail.

(Ord. effective 11-29-2013)

§ 5.103 DECISIONS.

(A) The concurring vote of a majority of the members of the Zoning Board of Appeals is necessary to reverse an order, requirement, decision, or determination of the administrative official or body or to decide in favor of the applicant on a matter upon which the Zoning Board of Appeals is required to pass under the Zoning Ordinance or to grant a variance to the Zoning Ordinance, except that a concurring vote of two-thirds of the members of the Zoning Board of Appeals shall be necessary to grant a variance from the uses of land permitted in this chapter. A copy of the Board's decision shall be transmitted to the applicant or appellant and to the Director of Public Works. Such decision shall be binding upon the Director of Public Works and observed by him or her, and he or she shall incorporate the terms and conditions of the same in the permit to the applicant or appellant whenever a permit is authorized by the Board. The decision of the Board shall be final.

(B) The Board, after public hearing, shall have the power to decide applications, filed as hereafter provided, for variances:

(1) Where it is alleged by the appellant that there is error or misinterpretation in any order, requirement, decision, grant, or refusal made by the Director of Public Works or other administrative officer in the carrying out or enforcement of the provisions of this chapter;

(2) Where by reason of the exceptional narrowness, shallowness, or shape of a specific piece of property, or by reason of exceptional topographic conditions, or other extraordinary situation or condition of the land, building or structure, or of the use or development of property immediately adjoining the property in question, the literal enforcement of the requirements of this chapter would involve practical difficulties (dimensional variance) or would cause unnecessary hardship (use variance); or

(3) Where there are practical difficulties (dimensional variance) or unnecessary hardship (use variance) in the way of carrying out the strict letter of this chapter relating to the construction, structural changes in equipment, or alterations of buildings or structures, or the use of land, building, or structures, so that the spirit of this chapter shall be observed, public safety secured, and substantial justice done.

(C) A dimensional variance from the provisions or the requirements of this chapter shall be authorized only upon an affirmative finding by the Board, based upon competent material and substantial evidence on the whole record, that the following criteria are satisfied:

(1) Special conditions or circumstances exist which are peculiar to the land, structure or building involved and which are not generally applicable to other lands, structures or buildings in the same district;

(2) The special conditions or circumstances do not result from the actions of the applicant;

(3) Authorizing a variance will not be of substantial detriment to the neighboring property and will not be contrary to the spirit and purpose of this chapter; and

(4) A nonconforming use of neighboring lands, structures or buildings shall not, in itself, be considered grounds for granting a variance.

(D) A use variance request shall be subject to the following requirements and criteria. In addition to the information required for dimensional variance requests, an application for a use variance shall include a plan drawn to scale detailing the specific use and improvements proposed by the applicant, and a summary of the facts which support each of the following conclusions:

(1) Applicant's property cannot be used for the purposes permitted in the zoning district;

(2) Applicant's plight is due to unique circumstances peculiar to his property and not to general neighborhood conditions;

(3) Applicant's suggested use would not alter the essential character of the area;

(4) Applicant's problem has not been self-created;

(5) Unavailability of administrative relief which may afford reasonable use of applicant's property.

(E) Any party aggrieved by a decision of the Zoning Board of Appeals may appeal to the Circuit Court.

(Ord. effective 11-29-2013; Ord. effective 1-1- 2022; Ord. effective 1-29-2022)

§ 5.104 TIME LIMIT ON VARIANCES AND TERMINATION OF VARIANCES.

(A) Unless otherwise specifically provided by the Board as a condition of approval, any variance granted by the Zoning Board of Appeals shall automatically become null and void after a period of 24 months from the date granted, unless the owner or his or her agent has demonstrated that substantial steps have been taken for effecting the variance.

(B) If a building or structure, a part of which was constructed in reliance upon a variance granted by the city, is demolished, destroyed, or damaged to an extent of more than 60% of its replacement value, exclusive of the foundation, the variance which

was previously granted for the building or structure is terminated. The property owner may apply for a new variance.

(Ord. effective 11-29-2013; Ord. effective 1-29- 2022)

§ 5.105 AUTOMATIC TERMINATION OF USE VARIANCE.

Any use variance granted by the Board shall automatically become null and void if either of the following conditions is found to exist: the use approved by the Board ceases or is otherwise discontinued for a period of 12 consecutive months or more; or the use to which the property is put is a use allowed by the existing zoning district.

(Ord. effective 11-29-2013)

ARTICLE XIII. AMENDMENTS AND REZONING

§ 5.106 INITIATION OF REZONING AND TEXT AMENDMENTS.

Amendments to this chapter may be initiated by the City Commission on its own motion or, in the manner and pursuant to the procedure herein set forth, may be initiated by any person, firm or corporation filing an application with the city. The Planning Commission may, at its discretion, also initiate amendments to this chapter through the Director of Public Works and also recommend amendments to the City Commission for adoption.

(Ord. effective 11-29-2013)

§ 5.107 APPLICATION PROCEDURE.

Amendments shall be processed as provided for in the state's Zoning Enabling Act, including notification to adjoining property owners and occupants, where applicable, and a public hearing. If an amendment is requested by a person, firm or corporation, the request shall be filed on a form provided for that purpose and accompanied by an application fee, as set by the City Commission.

(Ord. effective 11-29-2013)

§ 5.108 REZONING AND TEXT AMENDMENT GUIDELINES.

The following guidelines shall be used by the Planning Commission, and may be used by the City Commission in consideration of amendments to the zoning ordinance.

(A) *Text amendment.*

- (1) The proposed text amendment would clarify the intent of the ordinance.
- (2) The proposed text amendment would correct an error or oversight in the ordinance.
- (3) The proposed text amendment would address changes to the state legislation, recent case law or opinions from the state's Attorney General.
- (4) The proposed text amendment would promote compliance with changes in other county, state or federal regulations.
- (5) In the event the amendment will add a use to a district, that use shall be fully consistent with the intent of the district and the character of the range of uses provided for within the district.
- (6) The amendment will not create incompatible land uses within a zoning district, or between adjacent districts.
- (7) The proposed text amendment is supported by the findings of reports, studies or other documentation on functional requirements, contemporary building practices, environmental requirements and similar technical items.
- (8) As applicable, the proposed change shall be consistent with the city's ability to provide adequate public facilities and services.
- (9) The proposed change shall be consistent with the city's desire to protect the public health, safety and welfare of the community.

(B) *Map amendment (rezoning).*

- (1) Whether or not the proposed rezoning is consistent with the goals, policies and future land use map of the city's master plan; or, if conditions have changed significantly since the master plan was adopted, consistency with recent development trends in the area.
- (2) Whether the proposed district and the uses allowed are compatible with the site's physical, geological, hydrological and other environmental features. The potential uses allowed in the proposed zoning district shall also be compatible with surrounding uses in terms of land suitability, impacts on the community, density, potential influence on property values and traffic impacts.
- (3) Whether, if rezoned, the site is capable of accommodating the uses allowed, considering existing or planned infrastructure, including streets, sanitary sewers, storm sewer, water, sidewalks and street lighting.
- (4) Other factors deemed appropriate by the Planning Commission or City Commission.

(Ord. effective 11-29-2013)

§ 5.109 AMENDMENT CONSIDERATIONS.

Upon receipt of a report and summary of public hearing comments from the Planning Commission, as provided for in the state's Zoning Enabling Act, the City Commission may modify and subsequently adopt the proposed amendment, or adopt it as presented by the Planning Commission. The City Commission may refer any proposed modifications back to the Planning Commission for additional comment.

(Ord. effective 11-29-2013)

§ 5.110 CONDITIONAL REZONING.

It is recognized that there are certain instances where it could be in the best interests of the city, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a rezoning request. It is the intent of this section to permit a process, consistent with the provisions of § 405 of the state's Zoning Enabling Act (M.C.L.A. § 125.3405), by which an owner seeking a rezoning may voluntarily offer conditions regarding the use and/or development of land as part of the rezoning request.

(Ord. effective 11-29-2013)

ARTICLE XIV. NONCONFORMITIES

§ 5.111 INTENT.

Within the districts established by this chapter or any subsequent amendments, there exist lots, structures and uses of land and structures which were lawful, either as conforming or nonconforming uses before this chapter was effective, but which would be prohibited, regulated or restricted under the terms of this chapter or amendments hereto.

(A) It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their continuance. It is further the intent of this chapter that nonconformities shall not be enlarged, expanded or extended, or be used as grounds for adding other structures or uses prohibited elsewhere in the same district, except by appeal to the Zoning Board of Appeals.

(B) Such uses are declared to be incompatible with the permitted uses in the districts involved.

(C) A nonconforming use of a structure, a nonconforming use of land or a nonconforming use of a structure and land shall not be extended or enlarged after the passage of this chapter by attachment on a building, structure 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 in the district involved.

(D) To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this chapter and upon which actual building construction has been continuously and diligently carried on. **ACTUAL CONSTRUCTION** is hereby 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 continuously and diligently carried on until completion of the building involved.

(Ord. effective 11-29-2013)

§ 5.112 NONCONFORMING USES.

(A) A nonconforming use shall not be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of the adoption or amendment of this chapter.

(B) No part of any nonconforming use shall be moved, unless such movement eliminates the nonconformity.

(C) If a nonconforming use is abandoned for any reason for a period of more than 12 months, any subsequent use shall conform to the requirements of this chapter. A nonconforming use shall be determined to be abandoned if one or more of the following conditions exists, and which shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use:

- (1) Utilities, such as water, gas and electricity to the property, have been disconnected;
- (2) The property, buildings and grounds have fallen into disrepair;
- (3) Signs or other indications of the existence of the nonconforming use have been removed;
- (4) Equipment or fixtures necessary for the operation of the nonconforming use have been removed; or

(5) Other actions, which in the opinion of the Director of Public Works, constitute an intention of (on) the part of the property owner or lessee to abandon the nonconforming use.

(D) A nonconforming use may be changed to another nonconforming use provided all of the following determinations are made by the Zoning Board of Appeals:

(1) The proposed use shall be as compatible or more compatible with the surrounding neighborhood than the previous nonconforming use;

(2) The proposed nonconforming use shall not be enlarged or increased, nor extended to occupy a greater area of land or building than the previous nonconforming use; and

(3) That appropriate conditions and safeguards are provided to ensure compliance with the intent and purpose of this chapter.

(Ord. effective 11-29-2013)

§ 5.113 NONCONFORMING BUILDINGS AND STRUCTURES.

(A) Where a lawful building or structure exists at the effective date of this chapter, or an amendment thereto, that does not comply with the requirements of this chapter because of restrictions such as lot area, coverage, width, height or yards, that building or structure may be continued so long as it remains otherwise lawful, subject to the following provisions.

(1) The building or structure shall not be enlarged or altered in a way that increases its nonconformity, except in cases in which the setback of a building or structure is nonconforming by 50% or less of the distance required by this chapter. Only in these cases may the nonconforming setback be extended along the same plane as the existing nonconforming setback, provided that in so doing, the setback itself is not further reduced.

(2) If a nonconforming building or structure is destroyed or significantly damaged, the following shall apply.

(a) If destroyed or damaged to an extent of more than 60% of its replacement value, exclusive of the foundation, the building or structure shall be reconstructed only in conformance with the applicable requirements of the zoning district in which it is located.

(b) If a nonconforming building or structure is destroyed or damaged to an extent less than 60% of its replacement value, it may be reconstructed as it existed at the time of such destruction or damage, if reconstruction commences and progresses meaningfully within six months of the destruction or damage. Otherwise, it shall be reconstructed only in conformity with the provisions of this chapter.

(3) If a nonconforming building or structure is moved for any reason and for any distance, it shall be moved to a location which complies with the requirements of this chapter.

(B) None of the provisions of this section are meant to preclude normal repairs and maintenance, or improvements of any nonconforming building or structure which do not increase the nonconforming condition; or to prevent strengthening or correcting of any unsafe condition of the building or structure.

(Ord. effective 11-29-2013)

§ 5.114 NONCONFORMING LOTS.

(A) Subject to the requirements of division (B) of this section, if a lot in any zone district in which single-family dwellings are permitted does not satisfy the requirements stated in this chapter for a conforming lot in that zone district, a single-family dwelling and accessory buildings may be erected on any lot of record that existed on the effective date of adoption or amendment of this chapter, subject to the following conditions:

(1) Height of the dwelling shall not exceed two and one-half stories or 25 feet, whichever is less. The height will be measured as provided in this chapter regarding the definition of **BUILDING, HEIGHT OF**.

(2) Side yards may be reduced by the same percentage that the area of the lot bears to its own district requirements, subject to the following conditions:

(a) The side yard in no instance shall be less than five feet.

(b) In no case shall the side yard setback on the side street of a corner lot be reduced from that required by the zoning district.

(c) In no case shall any required setback in any yard abutting Reeds Lake, Fisk Lake or the Reeds Lake/Fisk Lake channel be reduced.

(Ord. effective 10-2-2015)

(B) If two or more lots or a combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter, and if all or part of the lots do not meet the requirements stated in this chapter for lot width or area for conforming lots in the zone district in which the lots are located, then all of the following conditions apply, unless a variance is granted by the Zoning Board of Appeals:

(1) The land involved shall be considered to be an undivided parcel for zoning purposes.

(2) No portion of the parcel which does not meet the lot width and area requirements stated in this chapter for a conforming lot in the zone district in which the land is located shall be separately used or occupied.

(3) No division of the parcel shall be made which leaves remaining any lot width or area below the requirements stated in this chapter for a conforming lot in the zone district in which the parcel is located, unless a lot is divided and legally combined with an adjacent lot or lots in accordance with the provisions of the Subdivision Control Ordinance.

(Ord. effective 11-29-2013)

§ 5.115 NONCONFORMING RESULTING FROM RIGHT-OF-WAY DEDICATION.

Where a nonconforming front yard setback, parking lot setback or greenbelt is created as a result of additional street right-of-way width being acquired by a street agency, the building or parking lot may be improved or expanded without the need to obtain a variance from the Zoning Board of Appeals, provided the following conditions are met.

- (A) The building or parking lot complies with the front yard setback prior to the acquisition of the additional street right-of-way.
- (B) The building or parking lot expansion will not reduce the depth of the front yard setback.
- (C) All other requirements of this chapter are met and necessary approvals obtained.

(Ord. effective 11-29-2013)

§ 5.116 ELIMINATION OF NONCONFORMITIES.

In accordance with the state's Zoning Enabling Act, the city may acquire private property by purchase condemnation or otherwise for removal of nonconforming uses and structures; provided, the property shall not be used for public housing.

(Ord. effective 11-29-2013)

ARTICLE XV. ADMINISTRATION AND ENFORCEMENT

§ 5.117 ENFORCEMENT.

(A) Any building erected, altered or converted, or any use carried out in violation of any provision of this chapter, is hereby declared to be a nuisance per se. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this chapter shall have committed a civil infraction and may be ordered to pay a civil fine of not more than \$500.

(B) Each day that a violation occurs or continues shall constitute a separate offense, as follows.

(1) The fine for any offense which is a first repeat offense shall be no less than \$500, plus costs and other sanctions.

(2) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than \$1,000, plus costs and other sanctions.

(Ord. effective 11-29-2013)

§ 5.118 DUTIES OF THE DIRECTOR OF PUBLIC WORKS.

Except where otherwise stated, the provisions of this chapter shall be administered by the Director of Public Works who shall have the power to:

(A) Grant certificates of occupancy;

(B) Make inspections of buildings and premises necessary to carry out the duties of administration and enforcement of this chapter;

(C) Issue and serve appearance tickets on any person with respect to any violation of this chapter where there is reasonable cause to believe that the person has committed such an offense; and

(D) Perform such other functions necessary and proper to enforce and administer the provisions of this chapter.

(Ord. effective 11-29-2013)

§ 5.119 PLOT PLAN/SURVEY.

Every application for a building permit shall be made as required by the Building Code and shall designate the existing or intended use of the structure or premises or part thereof which it is proposed to alter, erect or extend, and the number of dwelling units, if any, to occupy it. The application shall be accompanied by ink, blueprint or photostat copies of drawings in a quantity specified by the Director of Public Works, drawn to scale, showing the actual lines, angles and dimensions of the lot to be built upon or used and the exact size and location on the lot of all existing and proposed structures and uses, together with specifications. The application shall contain other information with respect to the lot and adjoining property as may be required by the Director of Public Works. One copy of both plans and specifications shall be filed in and retained by the office of the Director of Public Works and the other shall be delivered to the applicant when the application has been approved and the permit issued. In cases of minor alterations, the Director of Public Works may waive portions of the foregoing requirements obviously not necessary for determination of compliance with this chapter.

(Ord. effective 11-29-2013)

§ 5.120 PERMITS.

(A) *Zoning review.* In conjunction with the issuance of a building permit, a zoning review shall be performed prior to erection, alteration, movement or substantial repair of any building, structure, or commercial sign.

(B) *Building permits.*

(1) A building permit shall not be issued for the erection, alteration or use of any building or structure or for the use of any land which is not in accordance with all provisions of this chapter.

(2) The holder of every building permit for the construction, erection, alteration, repair or moving of any building or structure shall notify the Director of Public Works immediately upon completion of the work authorized by the permit for a final inspection.

(C) *Certificate of occupancy.*

(1) Vacant land shall not be used and an existing use of land shall not be changed to a different class of use, unless a certificate of occupancy is first obtained for the new or different use.

(2) A building or structure which is hereafter erected or altered shall not be occupied or used unless and until a certificate of occupancy has been issued for the building or structure.

(3) Certificates of occupancy, as required by city's Building Code, shall also constitute certification of compliance with the zoning ordinance.

(4) A record of all certificates of occupancy issued shall be kept on file in the office of the Director of Public Works and copies shall be furnished upon request to any person owning or renting the property which is the subject of the certificate.

(Ord. effective 11-29-2013)

§ 5.121 FEES.

(A) The City Commission shall by resolution establish fees for the administration of the city's zoning ordinance, including all proceedings and matters that may arise. A listing of current fees shall be available for review by the public during office hours at City Hall. Such fees may be changed from time to time by resolution of the City Commission. The applicant shall pay all applicable fees upon the filing of any application, proposed plan or other request or application under this chapter, including, but are not limited to the following:

- (1) Requests to the Zoning Board of Appeals;
- (2) Site plan review;
- (3) Rezoning requests and zoning ordinance amendments;
- (4) Special land use requests;
- (5) Site condominium review;
- (6) Planned unit development or amendments to planned unit developments;
- (7) Sign permits and other zoning and building permit fees;
- (8) Private streets;
- (9) Plat (subdivision) review; and
- (10) Any other requests or reviews referred to the Planning Commission.

(B) In addition to regularly established fees, the City Commission, in its discretion, may also require an applicant to submit to the city (prior to city review of an application or proposed site plan) an amount of money determined by the city to be a reasonable estimate of the fees and costs which may be incurred by the city in reviewing and acting upon such application or related matters, to be known as an escrow fund. The city shall not charge fees or assess costs for the time expended by city employees (except when authorized under appropriate provisions of the Freedom of Information Act) or for incidental costs and expenses, but may charge fees or assess costs for all other reasonable costs and expenses incurred by the city doing and in connection with the review process and other related proceedings, whether or not the application is granted. Such reimbursable costs and expenses may include, but shall not be limited to, City Attorney fees, city engineering fees, costs and fees for services of outside consultants, fees and expenses of other professionals who may assist the city, costs and fees for studies and reports pertaining to the matters in question, special meeting costs and other reasonable costs and expenses. Escrow funds shall be retained by the city for reimbursement of such costs and expenses. Any escrow funds paid or deposited by an applicant which are not used or spent by the city shall be refunded to the applicant. In the event an applicant fails to comply with escrow fund requirements and all matters pertaining thereto, in addition to all other remedies available, the city shall impose a single lot assessment on the subject premises in accordance with § 1.306 of the city code of ordinances.

(Ord. effective 11-29-2013)

§ 5.122 PERFORMANCE GUARANTEES.

(A) As a condition of approval of a private street, site plan review, special land use or planned unit development, the Planning Commission or City Commission, whichever is designated as the approving authority, may require a financial guarantee of sufficient sum to assure the installation of features or components of the approved activity or construction which are considered necessary to protect the health, safety and welfare of the public and of users or inhabitants of the proposed development. Those features or components, hereafter referred to as "improvements", may include, but shall not be limited to, streets, curbing, landscaping, fencing, walls, screening, lighting, drainage facilities, sidewalks, driveways, utilities and similar items.

(B) Performance guarantees shall be processed in the following manner.

(1) Prior to the issuance of a certificate of occupancy, the applicant shall submit an itemized estimate of the cost of the required improvements subject to the performance guarantee. The estimate shall be reviewed by the Director of Public Works and may, in his or her sole discretion, be forwarded to other departments and/or consultants for review. The amount of the performance guarantee, as approved by the Director of Public Works, shall be 100% of the cost of purchasing materials and

installing the required improvements, plus the cost of necessary engineering and a reasonable amount for contingencies, not to exceed 125% of the estimated cost of materials and installation.

(2) The required performance guarantee may be in the form of a cash deposit, certified check, irrevocable bank letter of credit or surety bond acceptable to the city.

(3) Upon receipt of the required performance guarantee, the Director of Public Works shall issue a building permit for the subject development or activity, provided it is in compliance with all other applicable provisions of this chapter and other applicable ordinances of the city.

(4) The Director of Public Works, upon the written request of the guarantor, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvements.

(5) When all of the required improvements have been completed, the guarantor shall send written notice to the Director of Public Works of completion of the improvements. The Director of Public Works shall then inspect all of the improvements and approve, partially approve or reject the improvements with a statement of the reasons for any rejections. If partial approval is granted, the cost of the improvement rejected shall be set forth. Where partial approval is granted, the guarantor shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.

(C) A record of authorized performance guarantees shall be maintained by the Director of Public Works.

(Ord. effective 11-29-2013)

ARTICLE XVI. ENACTMENT PROVISIONS

§ 5.123 REPEAL OF ORDINANCES.

Chapter 50, Title V of the code of ordinances, known as the "City of East Grand Rapids Zoning Ordinance", adopted on May 20, 1974, and all amendments thereto, are hereby repealed. The repeal does not affect any act done or offense committed, or any liability, penalty, forfeiture, or punishment acquired thereunder. The repeal does not include the Official Zoning Map of the City of East Grand Rapids Zoning Ordinance, which is hereby adopted as a part of this chapter. The repeal also does not include any existing approved PUD ordinances.

(Ord. effective 11-29-2013)

§ 5.124 SEVERABILITY.

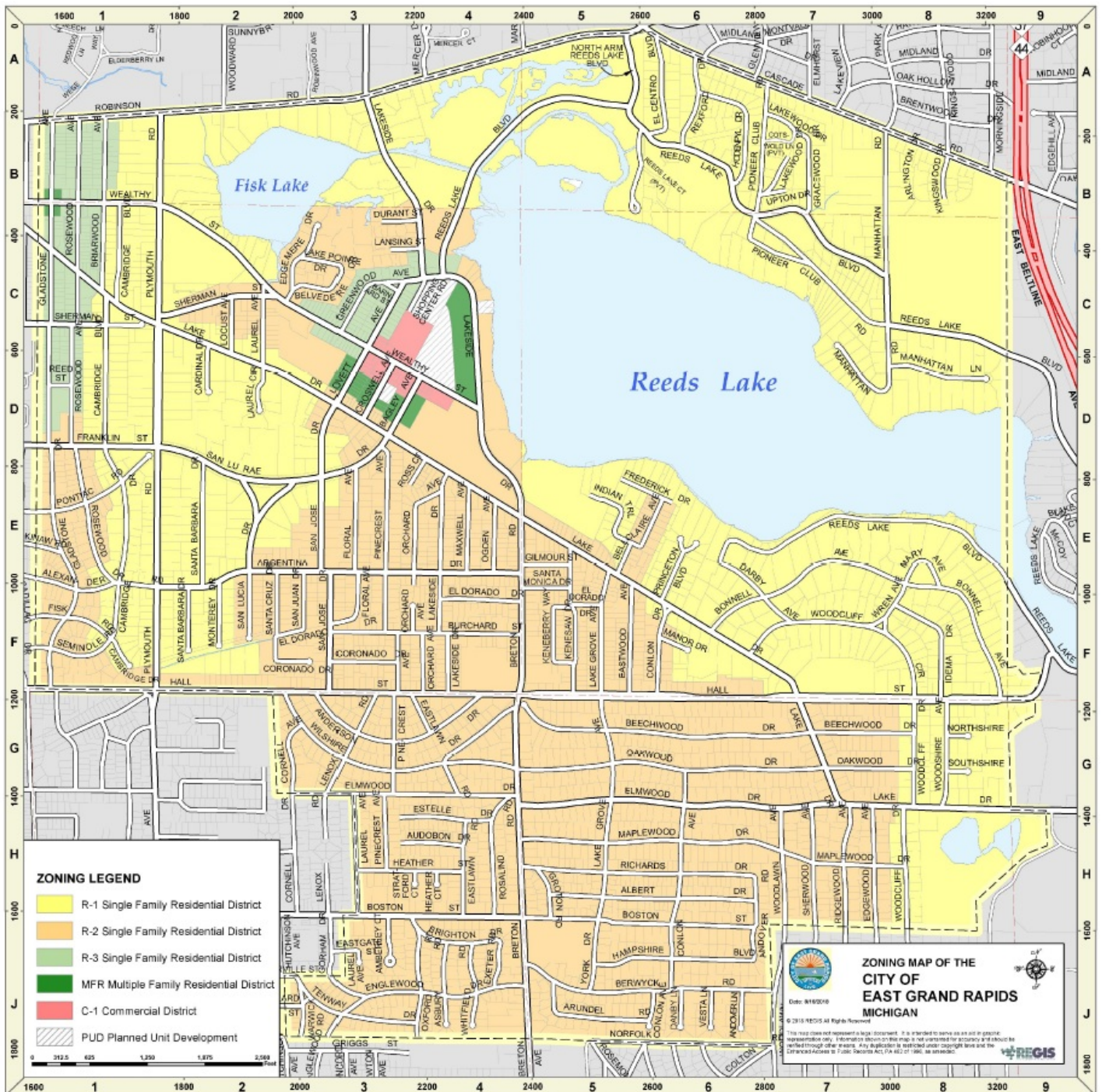
The various parts, sentences, paragraphs, sections and clauses of this chapter are hereby declared to be severable. If any part, sentence, paragraph, section or clause of this chapter is adjudged unconstitutional or invalid by a court or administrative agency of competent jurisdiction, the unconstitutionality or invalidity shall not affect the constitutionality or validity of any remaining provisions of this chapter.

(Ord. effective 11-29-2013)

§ 5.125 ENACTMENT AND EFFECTIVE DATE.

A public hearing having been held as required by the state's Zoning Enabling Act, being M.C.L.A. §§ 125.3101 et seq., the provisions of this chapter are hereby adopted, and shall take effect on November 29, 2013.

(Ord. effective 11-29-2013)



CHAPTER 51: PLANNING COMMISSION

Section

- 5.200 Planning Commission established
- 5.201 Organization
- 5.202 Contracts for special services
- 5.203 Contents of master plan
- 5.204 Master plan referred to City Commission
- 5.205 Hearing on master plan
- 5.206 Adoption of master plan
- 5.207 Authorization for public works
- 5.208 Control of building within public ways

- 5.209 Public works appeal procedure
- 5.210 Capital improvement plans
- 5.211 Zoning
- 5.212 Subdivision regulations
- 5.213 Plat approval
- 5.214 General powers

§ 5.200 PLANNING COMMISSION ESTABLISHED.

A city Planning Commission is hereby created pursuant to the provisions of Public Act 33 of 2008, being M.C.L.A. §§ 125.3811 through 125.3825, and shall be accorded all powers, duties, and functions established by said Public Act 33 of 2008, being M.C.L.A. §§ 125.3811 through 125.3825, and Public Act 222 of 1943, being M.C.L.A. §§ 125.51 et seq., as amended, including, but not limited to, the powers, duties and functions herein provided.

(Prior Code, § 5.200)

§ 5.201 ORGANIZATION.

The Commission shall consist of nine members who shall, insofar as possible, represent different professions or occupations appointed by the Mayor subject to the approval of a majority vote of the members elect of the City Commission. The term of each member shall be three years, except that three members of the first Commission shall serve for terms of one year, three for terms of two years, and three for terms of three years. Members of the Planning Commission shall serve without compensation and hold no other municipal office except that one member may also be a member of the City Zoning Board of Appeals. Terms of office shall commence on July 1 and terminate on June 30. The Mayor and City Manager or other administrative official designated by the City Manager may attend meetings of the Planning Commission but shall have no vote. The Planning Commission shall, during the first meeting in the month of July of each year, elect from its members a chairperson, a vice-chairperson and a secretary, and shall from time to time adopt rules of procedure which shall become effective upon ratification by the City Commission. The Planning Commission shall hold at least one regular meeting in each month and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record.

(Prior Code, § 5.201)

§ 5.202 CONTRACTS FOR SPECIAL SERVICES.

The Planning Commission may contract with city planners, engineers, architects and other consultants for such services as it may require. The expenditures of the Planning Commission shall be within the amounts appropriated for the purpose by the City Commission, which shall provide the funds, equipment and accommodations necessary for the work of the Planning Commission.

(Prior Code, § 5.202)

§ 5.203 CONTENTS OF MASTER PLAN.

It shall be the function and duty of the Planning Commission to make and adopt a master plan for the physical development of the city, including any areas outside of its boundaries which bear relation to planning within the city. Such plan, with the accompanying maps, plats, charts and descriptive matter, shall show the recommendations of the Planning Commission for the development and maintenance of said territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the city and its environs which will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity and general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public utilities and other public requirements. The Planning Commission may adopt the plan as a whole by a single resolution, or may by successive resolutions adopt successive parts of the plan, said parts corresponding with major geographical sections of the city or with functional subdivisions of the subject matter of the plan, and may adopt any amendment or extension thereof or addition thereto.

(Prior Code, § 5.203)

§ 5.204 MASTER PLAN REFERRED TO CITY COMMISSION.

Before holding a public hearing on the proposed plan or any part thereof or any amendment, extension or addition thereto, the Planning Commission shall certify the same to the City Commission for its review and advice back to the Planning Commission. The Planning Commission shall, following such certification, take no further action with regard to said plan or any public hearing thereon until a period of 30 days shall have expired from the date the same was certified to the City Commission. The City Commission, within 30 days from the receipt of the same from the Planning Commission, shall forward to the Planning Commission its recommendations and advice, which shall be advisory only on the Planning Commission. In the event that the City Commission forwards no such recommendations or advice within such 30-day period, it shall be presumed that the City Commission is in accord with the said plan, amendment, extension or addition thereto.

(Prior Code, § 5.204)

§ 5.205 HEARING ON MASTER PLAN.

Before the adoption of the plan or any part thereof, or any amendment, extension or addition thereto, the Planning Commission shall hold at least one public hearing thereon; notice of the time and place of which shall be given not less than 15 days prior to such hearing by one publication in a newspaper of general circulation in the city and by registered or certified United States mail to each public utility company operating within the division of the city affected.

(Prior Code, § 5.205)

§ 5.206 ADOPTION OF MASTER PLAN.

The adoption of the plan or of any part or amendment or extension or addition shall be by resolution of the Planning Commission carried by the affirmative vote of not less than six members of the Planning Commission. An attested copy of the plan or part thereof shall be certified to the City Commission and to the County Register of Deeds.

(Prior Code, § 5.206)

§ 5.207 AUTHORIZATION FOR PUBLIC WORKS.

Whenever the Planning Commission shall have adopted the master plan, no street, park or other public way, ground or open space, or public building or structure, shall be authorized by the City Commission until the location, character and extent thereof shall have been submitted to and approved by the Planning Commission. Provided, that in case of disapproval, the Planning Commission shall communicate its reasons to the City Commission, which shall have the power to overrule such disapproval by a recorded vote of not less than two-thirds of its entire membership. Provided, further, that if the public way, ground, space, building, structure or utility is one, the authorization or financing of which does not fall within the province of the City Commission, then the submission to the Planning Commission shall be by the board, commission or body having such jurisdiction and the Planning Commission's disapproval may be overruled by a vote of not less than two-thirds of the membership of said board, commission or body.

(Prior Code, § 5.207)

§ 5.208 CONTROL OF BUILDING WITHIN PUBLIC WAYS.

(A) In accordance with Public Act 222 of 1943, being M.C.L.A. §§ 125.51 et seq., the Planning Commission shall have the power to make, or cause to be made, and thereafter to amend, and to certify to the City Commission detailed and precise plats showing proposed future outside lines of one or more new, extended or widened streets, avenues, places or other public ways, or of one or more parks, playgrounds or other public grounds or extensions thereof shown on such adopted master plan.

(B) The City Commission may, by ordinance, adopt any such precise plat, or amendment thereto, certified to it by the Planning Commission; provided, that prior notice be given as required by statute. No permit shall be issued for, and no building or structure or part thereof shall be erected on any land located within the proposed future outside lines of any new, extended or widened street, avenue, place or other public way, or of any park, playground or other public grounds or extension thereof shown on any such certified and adopted plat.

(Prior Code, § 5.208)

Statutory reference:

Related provisions, see M.C.L.A. §§ 125.51 and 125.52

§ 5.209 PUBLIC WORKS APPEAL PROCEDURE.

(A) The Board of Zoning Appeals shall have the power on appeal filed with it by the owner of such land to authorize the granting of a permit for the erection of a building or structure, or part thereof, within the lines of any such mapped street, park, playground or other public ground in any case in which such Board finds upon the evidence and arguments presented to it on such appeal:

(1) That the entire property of the appellant located in whole, or in part, within the lines of such mapped street, park, playground or other public ground cannot yield a reasonable return to the owner unless such permit be granted; and

(2) That, balancing the interest of the municipality in preserving the integrity of the adopted map and the interest of the owner of the property in the use and benefits of his or her property, the granting of such permit is required by considerations of justice and equity.

(B) Before taking any such action, the Board of Zoning Appeals shall hold a public hearing thereon, at least ten days' notice of the time and place of which shall be given to the appellant by mail at the address specified by the appellant in his or her appeal petition. In the event that the Board of Zoning Appeals decides to authorize a building permit, it shall have the power to specify the exact location, ground area, height and other details and conditions of size, character and construction, and also the duration of the building or structure, or part thereof, to be permitted.

(Prior Code, § 5.209)

§ 5.210 CAPITAL IMPROVEMENT PLANS.

The Planning Commission shall, from time to time, recommend to the appropriate public officials programs for public structures and improvements and for the financing thereof. It shall be part of its duties to consult and advise with public officials and agencies, public utility companies, civic, educational, professional and other organizations, and with citizens, with relation to

the protecting or carrying out of the plan.

(Prior Code, § 5.210)

§ 5.211 ZONING.

The Planning Commission shall advise the City Commission on matters relating to the administration of the zoning chapter.

(Prior Code, § 5.211)

Cross-reference:

Zoning, see Chapter 50

§ 5.212 SUBDIVISION REGULATIONS.

The Planning Commission shall adopt regulations governing the subdivision of land within the city. Such regulations may provide for proper arrangement of streets in relation to other streets and to the master plan, for adequate and convenient open spaces for traffic, utilities, access of firefighting apparatus, recreation, light and air, and for avoidance of congestion of population. Such regulations may further provide the extent to which streets and other ways shall be graded and improved and to which water and sewer and other utility mains, piping or other facilities shall be installed as a condition precedent to the approval of the plat. All such regulations shall be published as provided by law for the publication of ordinances and before adoption a public hearing shall be held thereon. A copy thereof shall be certified by the Planning Commission to the County Register of Deeds.

(Prior Code, § 5.212)

Cross-reference:

Subdivision control, see Chapter 54

§ 5.213 PLAT APPROVAL.

Whenever the Planning Commission shall have adopted that portion of a master plan relating to the major street system and shall have filed a certified copy of such plan in the office of the County Register of Deeds, and whenever the Planning Commission shall have adopted subdivision regulations as herein provided, then no plat of a subdivision of land within the city shall be filed or recorded until it shall have been approved by the Planning Commission and the City Commission. The Planning Commission shall approve, modify or disapprove of a plat within 60 days after the submission thereof to it; otherwise such plat shall be deemed to have been approved; provided, however, that the applicant for plat approval may waive this requirement and consent to an extension of such period. Provided, also, that a public hearing be held on each proposed plat and notice thereof be given as provided by statute.

(Prior Code, § 5.213)

Statutory reference:

Related provisions, see M.C.L.A. § 125.52

§ 5.214 GENERAL POWERS.

In general, the Planning Commission shall have such powers as may be necessary to enable it to fulfill its functions, promote city planning and carry out the purposes of this chapter.

(Prior Code, § 5.214)

CHAPTER 52: REGULATION OF ANTENNAS

Section

- 5.221 Antenna defined
- 5.222 Exemption; definition of width
- 5.223 Permit required
- 5.224 Regulations
- 5.225 Amateur (HAM) radio antennas
- 5.226 Appeal; reasonable accommodation
- 5.227 Permit fees

§ 5.221 ANTENNA DEFINED.

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

ANTENNA. Any fixture or apparatus located outdoors which is designed or utilized to transmit or receive radio, microwave, television or similar waves, signals or electrical impulses. The term **ANTENNA** shall include, but shall not be limited to, television antennas, citizen band radio antennas, amateur radio antennas and satellite dishes.

(Prior Code, § 5.221) (Ord. effective 2-17-1995)

§ 5.222 EXEMPTION; DEFINITION OF WIDTH.

This chapter shall not apply to any satellite dish antenna which does not exceed one meter in diameter in a residential zone or two meters in diameter in a commercial zone. In addition, this chapter shall not apply to any antenna which does not exceed one meter in width and which does not exceed 60 inches (including the pole or post) in height, as measured from the ground or roof (if mounted on top of the roof) to the top of the antenna. Such antenna shall still be subject to applicable building codes (if any). For purposes of this chapter, the width of an antenna shall be measured at its widest diameter, dimension or girth, and for an antenna with several sides or appendages, shall be measured from tip to tip. The width of an antenna shall not include the supporting pole or post.

(Prior Code, § 5.222) (Ord. effective 2-17-1995; Ord. effective 9-27-1996)

§ 5.223 PERMIT REQUIRED.

Except as exempted by § 5.222 of this chapter and as otherwise provided in § 5.225 of this chapter, no antenna shall be installed outdoors until and unless an antenna permit has been issued by the city pursuant to this chapter.

(Prior Code, § 5.223) (Ord. effective 2-17-1995)

§ 5.224 REGULATIONS.

In order to protect the public health and safety and to minimize the visual impact of antennas, the city adopts the following regulations regulating antennas. Antennas are permitted in all zoning districts subject to the following requirements.

(A) The antenna shall be permanently secured to a stable foundation.

(B) No portion of the antenna shall conduct or display any advertising, message or other graphic representation other than the manufacturer's name.

(C) A freestanding antenna or tower (i.e., not mounted on a roof) shall be located only in the rear yard or the side yard and shall not be closer to a property line than its height or the depth of the required rear or side yard setback, whichever is the greater.

(D) All antennas must be grounded to protect against damage from lightning.

(E) In determining whether to issue an antenna permit, the City Services Department shall apply the following standards.

(1) The antenna shall be installed and placed so as not to constitute a safety hazard due to wind or storm.

(2) The antenna shall not block areas which will hamper firefighting equipment.

(3) The antenna shall be placed so as not to be too close to electrical lines or tree limbs.

(4) The antenna shall not be located or placed as to have a serious adverse impact or effect on adjacent or nearby properties or land uses.

(5) A commercial or public antenna, including accessory buildings or structures, shall comply with the use regulations of the zoning district where it is located and shall be fully enclosed by a sturdy fence, securely gated, having such height as is reasonably determined by the City Services Department.

(6) The antenna and the construction, installation, maintenance and operation thereof shall comply with all federal, state and local laws, ordinances and regulations.

(F) (1) The City Services Department, in its reasonable discretion, may impose other terms and conditions regulating the construction, installation, use and maintenance of antennas. Such other terms and conditions may include, though need not be limited to, the following:

(a) The screening or buffering of an antenna or tower and any accessory buildings or structures thereof;

(b) The timely removal of unused or unsafe antennas or towers or accessory buildings or structures thereof;

(c) For commercial or public antennas, the prohibition on the construction or occupancy of dwellings or other buildings or the construction and use of other structures within a specified isolation distance from an antenna or tower; and

(d) If an antenna tower is involved, shields, fences, removal of ladders or other safety precautions can be required to prevent unauthorized persons from climbing the tower.

(2) Notwithstanding the above, no condition shall be imposed which would hinder the ability of the antenna to receive or send signals.

(G) An applicant for an antenna permit can appeal a decision of the City Services Department to the City Commission pursuant to § 5.226 of this chapter.

(Prior Code, § 5.224) (Ord. effective 2-17-1995; Ord. effective 9-27-1996)

§ 5.225 AMATEUR (HAM) RADIO ANTENNAS.

(A) For purposes of this chapter, an **AMATEUR RADIO ANTENNA** shall be defined as an antenna operated for the purpose of receiving or transmitting communications by a radio station as described in of 47 U.S.C. § 153 and which is operated under license issued by the Federal Communications Commission (FCC). Amateur radio antennas shall not be subject to the requirements of this chapter, except as follows. No outdoor amateur radio antenna shall be installed until and unless an amateur radio antenna permit has been issued by the City Services Department. Amateur radio antenna permits are not transferrable and shall automatically expire when the person issued the permit no longer owns the property involved or that person's license from the FCC is no longer valid. The City Services Department shall not issue an amateur radio antenna permit until the applicant has presented proof of a current FCC license and the following requirements are met.

(1) If the antenna is to be installed in a rear yard, side yard or on the roof, the permit shall be issued upon presentment of the FCC license to the City Services Department.

(2) No permit shall be issued for the installation of an antenna in the front yard unless the requirements of §.224 of this chapter have been met.

(B) If the effect of any of the requirements of division (A)(2) above will be to preclude or prevent the operation of an amateur radio antenna, the antenna shall not be subject to those provisions which precludes or prevents such operation and the City Services Department shall issue the amateur radio antenna permit.

(Prior Code, § 5.225) (Ord. effective 2-17-1995)

§ 5.226 APPEAL; REASONABLE ACCOMMODATION.

Where the effect of any of the provisions of this chapter would be to prevent or preclude the effective operation of an antenna (including the ability to send or receive signals where applicable), such antenna may be approved by the City Commission if it is reasonably demonstrated that the effect of the application of any of the provisions of this chapter would be to preclude or prevent the operation of such antenna. In granting approval for an antenna, the City Commission may impose reasonable conditions upon such approval, but such conditions shall not interfere with the reasonable use of the antenna and such conditions, if any, shall be no more than the minimum practicable regulations necessary to accomplish the city's legitimate purposes in regulating such antennas.

(Prior Code, § 5.226) (Ord. effective 2-17-1995)

§ 5.227 PERMIT FEES.

The City Commission may establish the fees for permits hereunder from time to time by resolution. The City Commission need not require a permit fee.

(Prior Code, § 5.227) (Ord. effective 2-17-1995)

CHAPTER 53: FLOOD DAMAGE PREVENTION

Section

- 5.301 Statement of purpose
- 5.302 Definitions
- 5.303 General provisions
- 5.304 Administration
- 5.305 Provisions for flood hazard reduction

§ 5.301 STATEMENT OF PURPOSE.

It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas.

(Prior Code, § 5.301)

§ 5.302 DEFINITIONS.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meanings they have in common usage and to give this chapter its most reasonable application.

APPEAL. A request for a review of the local administrator's interpretation of any provision of this chapter or a request for a variance.

AREA OF SPECIAL FLOOD HAZARD. The land in the floodplain within the community subject to a 1% or greater chance of flooding in any given year.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

DEVELOPMENT. Any human-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

FLOOD or FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from:

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

FLOOD INSURANCE RATE MAP (FIRM). The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY. The official report provided in which the Federal Insurance Administration has provided flood profiles, as well as the flood boundary floodway map and the water surface elevation of the base flood.

HABITABLE FLOOR. Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a **HABITABLE FLOOR**.

LOCAL ADMINISTRATOR. The Director of City Services or his or her designee.

NEW CONSTRUCTION. Structures for which the "start of construction" commenced on or after the effective date of this chapter.

START OF CONSTRUCTION. The first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a structure without a basement or poured footings, the **START OF CONSTRUCTION** includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation.

STRUCTURE. A walled and roofed building, or a gas or liquid storage tank, that is principally above ground.

SUBSTANTIAL IMPROVEMENT.

(1) Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:

- (a) Before the improvement or repair is started; or
- (b) If the structure has been damaged and is being restored, before the damage occurred.

(2) 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:

- (a) 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
- (b) Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

VARIANCE. A grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

(Prior Code, § 5.302) (Ord. effective 8-14-1992)

§ 5.303 GENERAL PROVISIONS.

(A) *Lands to which this chapter applies.* This chapter shall apply to all areas of special flood hazards within the jurisdiction of the city.

(B) *Basis for establishing the areas of special flood hazard* The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for East Grand Rapids," dated March, 1980, with accompanying flood insurance rate map is hereby adopted by reference and declared to be a part of this chapter. The flood insurance study is on file at the office of the Director of City Services.

(C) *Floodway protection standards.* New construction, substantial improvements and all other development, including fill, shall be prohibited within zone number A1 on the FIRM, except where it is demonstrated to the 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 Public Act 451 of 1994, being M.C.L.A. §§ 324.1301 et seq. shall be required, provided that the allowable increase shall not exceed one foot. Zone A1 on the FIRM shall be considered to be the floodway.

(D) *Penalties for noncompliance.* No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. For each violation, and in addition, the violator shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to

prevent or remedy any violation.

(E) *Abrogation and greater restrictions.* This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and other provisions of this code, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Prior Code, § 5.303)

Statutory reference:

Related provisions,

see M.C.L.A. §§ 323.1301 et seq.

§ 5.304 ADMINISTRATION.

(A) *Zoning compliance permit required.* Development, including the erection of structures, within a flood hazard area shall not occur except upon issuance of a zoning compliance permit in accord with the requirements of the zoning chapter and the following standards.

(1) The requirements of the underlying zoning district and applicable provisions of this chapter must be met.

(2) 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's Department of Natural Resources under authority of Public Act 451 of 1994, being M.C.L.A. §§ 324.1301 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.

(B) *Development permit.* A development permit shall be obtained before construction or development begins within any area of special flood hazard established in § 5.303(B). Application for a development permit shall be made on forms furnished by the local administrator and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

(1) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;

(2) Elevation in relation to mean sea level to which any structure has been floodproofed;

(3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in § 5.305(B)(2); and

(4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(C) *Designation of the local administrator.* The local administrator is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

(D) *Duties and responsibilities of the local administrator.* Duties of the local administrator shall include, but not be limited to, the following.

(1) *Permit review.*

(a) Review all development permits to determine that the permit requirements of this chapter have been satisfied.

(b) Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

(2) *Information to be obtained and maintained.*

(a) Obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

(b) For all new substantially improved floodproofed structures:

1. Verify and record the actual elevation (in relation to mean sea level); and

2. Maintain the floodproofing certifications required in division (B)(3) above.

(c) Maintain for public inspection all records pertaining to the provisions of this chapter.

(3) *Interpretation of FIRM boundaries.* Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in division (E) below.

(E) *Variance procedure.*

(1) *Appeal Board.*

(a) The Zoning Board of Appeals as established by the city shall constitute the Appeal Board under this chapter and hear and decide appeals and requests for variances from the requirements of this chapter.

(b) The Appeal Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the local administrator in the enforcement or administration of this chapter.

(c) Those aggrieved by the decision of the Appeal Board, or any taxpayer, may appeal such decision to the appropriate court.

(d) In passing upon such applications, the Appeal Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the master plan and floodplain management program of that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(e) Upon consideration of the factors of division (E)(1)(d) above and the purposes of this chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(f) The local administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

(2) *Conditions for variances.*

(a) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing divisions (E)(1)(d)1. through (E)(1)(d)11. above have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(b) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.

(c) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(d) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(e) Variances shall only be issued upon:

1. A showing of good and sufficient cause;
2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public as identified in division (E)(1)(d) above, or conflict with existing local laws or ordinances.

(f) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(Prior Code, § 5.304)

Cross-reference:

Zoning, see Chapter 50

Statutory reference:

Related provisions, see M.C.L.A. §§ 323.1301 et seq.

§ 5.305 PROVISIONS FOR FLOOD HAZARD REDUCTION.

(A) *General standards.* In all areas of special flood hazards, the following standards are required.

(1) *Anchoring.* All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(2) *Construction material and methods.*

(a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(3) *Utilities.*

(a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

(b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and

(c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(4) *Subdivision proposals.*

(a) All subdivision proposals shall be consistent with the need to minimize flood damage;

(b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

(c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

(d) Base flood elevation data shall be provided for subdivision proposals and other proposed developments which contain at least 50 lots or five acres (whichever is less).

(B) *Specific standards.* In all areas of special flood hazards where base flood elevation data have been provided as set forth in § 5.303(B), basis for establishing the areas of special flood hazard, the following standards are required.

(1) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.

(2) *Nonresidential construction.* New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

(a) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

(b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

(c) Be certified by a registered professional engineer or architect that the standards of this division (B) are satisfied. Such certifications shall be provided to the official as set forth in § 5.304(D)(2)(b).

(Prior Code, § 5.305)

CHAPTER 54: SUBDIVISION CONTROL

Section

5.401 Title and purpose

5.402 Platting procedure

5.403 Requirements for lots

5.404 Requirements for utilities

5.405 Requirements for streets and sidewalks

5.406 Municipal review of all land divisions

§ 5.401 TITLE AND PURPOSE.

(A) This chapter shall be known as the "East Grand Rapids Subdivision Control Ordinance".

(B) The purpose of this chapter is to regulate and control the division and subdivision of land, including the creation of plats and unplatted land divisions by metes and bounds legal descriptions, within the city in order to promote the safety, public health and general welfare of the community.

(Prior Code, § 5.401) (Ord. effective 6-28-1991; Ord. effective 5-16-1997)

§ 5.402 PLATTING PROCEDURE.

(A) *Preliminary plats.* Preliminary plats shall be submitted and filed for approval under §§ 112 to 120 of the state's Subdivision Control Act, Public Act 288 of 1967, being M.C.L.A. §§ 560.101 to 560.293, as amended. The City Commission shall either reject the preliminary plat and give its reasons or set forth in writing the conditions for granting of approval within the time frame required by the Subdivision Control Act, as amended.

(B) *Final plats.*

(1) Final plats shall be prepared and submitted as provided for in the Subdivision Control Act, as amended.

(2) The subdivider shall submit proof of ownership of the land included in the final plat.

(3) The City Commission may require such other information as it deems necessary to establish whether the proper parties have signed the plat.

(4) The City Commission shall review the final plat at its next regular meeting or at a meeting to be called within 20 days of receipt of the plat. The City Commission shall either approve the plat or disapprove the plat. If disapproved, the City Commission shall give the subdivider its reasons in writing.

(Prior Code, § 5.402) (Ord. effective 6-28-1991)

Statutory reference:

Related provisions,

see M.C.L.A. §§ 560.111 to 560.120

§ 5.403 REQUIREMENTS FOR LOTS.

All lots, whether shown in a proposed plat or resulting from any type of land division, shall comply with all the requirements (including, but not limited to, minimum width requirements and lot size for a conforming lot in the zone district in which the lots are located) of Chapter 50 of this title, as amended. Furthermore, even if the proposed resulting lots from a land division meet the requirements of Chapter 50 of this title for a conforming lot in the zone district in which the lots are located, the procedures of § 5.406 of this chapter shall apply.

(Prior Code, § 5.403) (Ord. effective 6-28-1991; Ord. effective 5-16-1997; Ord. effective 1-26-2001)

§ 5.404 REQUIREMENTS FOR UTILITIES.

All public utility lines and easements shall be shown on the plat. Extensions of public utilities shall be consistent with the system already in place.

(Prior Code, § 5.404) (Ord. effective 6-28-1991)

§ 5.405 REQUIREMENTS FOR STREETS AND SIDEWALKS.

All streets and sidewalks shall be shown on the plat. Streets and sidewalks shall complement the existing streets and sidewalks in the city.

(Prior Code, § 5.405) (Ord. effective 6-28-1991)

§ 5.406 MUNICIPAL REVIEW OF ALL LAND DIVISIONS.

(A) *Platted lots.* No platted lot shall be split or divided or combined with another lot, nor shall the boundary line of a platted lot be altered, unless approved beforehand by the City Commission pursuant to the following standards:

(1) Each resulting lot must have an area not less than required by Chapter 50 of this title, as amended, for a conforming lot in the zone district in which the lot is located.

(2) Each proposed resulting lot must have adequate easements for public utilities from the lot to existing public utility facilities.

(3) The proposed land division will not adversely affect adjacent uses or properties and will be consistent and harmonious with the character of adjacent properties in the surrounding area. The City Commission's review will include consideration of the following:

(a) The conformity of the resultant parcels with zoning ordinance standards and the creation of parcels consistent and in harmony with parcels within 500 feet of the proposed split;

(b) The location and size of the resultant parcels in relation to the size, shape and area of lots in the surrounding area of the proposed split. For these purposes, parcels within 500 feet of the proposed split may be reviewed. In reviewing conformity with properties in the surrounding area, factors which should be considered are total size of the parcels created, the width of such parcels, and the width-to-depth ratio of the parcels;

(c) The existence of and effect upon floodplain areas, wetlands, drainage courses, and terrain and the ability to develop building sites on each parcel without unreasonable disturbance of such features; and

(d) The relationship of front, side, and rear yards to yards and orientation of buildings on other existing parcels adjoining the proposed parcels. For these purposes, parcels within 500 feet of the proposed split will be reviewed.

(4) The proposed land division will not place demands on public services, roads and facilities in excess of their current capacities.

(5) The City Commission may attach reasonable conditions to the approval of the platted land division.

(B) *Unplatted lots.* No land division (apart from platted lots as governed by division (A) of this section) shall occur until and unless the proposed land division has been approved by the City Commission or such city official as may be designated by the City Commission from time to time.

(1) Land division requests shall be approved or denied within 30 days after the filing of a complete application and the required supporting documents, all applicable fees have been paid, and the requirements of this chapter have been met.

(2) In addition to a complete application and payment of any applicable fees, the applicant must file an adequate and accurate legal description and a tentative parcel map for each proposed resulting parcel or lot showing area, parcel lines, public utility easements and accessibility. The tentative parcel map shall be a scale drawing showing the approximate dimensions of the proposed lots or parcels.

(3) Each resulting parcel or lot must have an area not less than required by Chapter 50 of this title, as amended, for a conforming lot in the zone district in which the lot is located.

(4) Each proposed resulting lot or parcel must have adequate easements for public utilities from the parcel or lot to existing public utility facilities.

(C) *Effect of approval under this section.* Municipal approval under this section confers land division approval only and the ability to record the land division with the County Register of Deeds Records. Municipal approval hereunder does not infer, imply or guarantee that the resulting lots or parcels are buildable or meet all city ordinance or code requirements. If discretionary city approvals are required either pursuant to Chapter 50 of this title, as amended, or other city ordinances, the property owner is still responsible for obtaining any such approvals and ensuring compliance with all applicable laws and ordinances.

(D) *Application and fee for municipal review.* The City Commission shall establish by resolution the fee for consideration of a proposed land division. A request for approval of a land division shall not be considered until the required fee is paid. In addition, an application for a division of land shall be filed. The application shall be signed by all owners of the subject land and delivered to the City Clerk. The following information shall be provided in or with the application:

(1) The names of all owners of any legal or equitable interest in the land and their signatures;

(2) The legal description of the parcel and a description of all buildings thereon;

(3) A survey prepared by a registered surveyor of the parcel as it exists, including all buildings located on the parcel, and showing the proposed lot division or partition, including the minimum building setback lines as required for the zoning district in which the property is located for each resulting parcel. In addition, the city will provide a drawing showing all adjoining properties and existing buildings within 500 feet of the subject property;

(4) Any restrictions or covenants which currently exist that impact the proposed resulting parcels and any restrictions or covenants which the owner intends to place on the resulting parcels should the proposed land division be approved. The applicant shall provide a copy of a title search showing restrictions applicable to the parcel;

(5) The applicant's statement of impact on properties in the surrounding area resulting from the proposed submission. This statement shall include, but not be limited to, a review of the standards set forth in § 5.406(A)(3) of this section; and

(6) Such other information as is requested by city staff, such as information regarding the location of drainage courses.

(E) *Public hearing.* When an application for land division has been filed in proper form with the required information, the City Clerk shall place the application on an agenda of the City Commission for consideration following a public hearing and shall have notices served personally or by mail at least 15 days prior to the day of such hearing upon the applicant and owners of record of property within 500 feet of the premises in question, which notices, if by mail, shall be addressed to the respective property owners of record at the address given in the last assessment roll. A notice of public hearing shall also be published in a newspaper of general circulation in the city at least 15 days prior to the day of such hearing.

(Prior Code, § 5.406) (Ord. effective 5-16-1997; Ord. effective 7-7-1998; Ord. effective 1-26-2001; Ord. effective 2-16-2007)

CHAPTER 55: REGULATION OF ADULT BUSINESSES

Section

5.501 Uses subject to controls

5.502 Definitions

5.503 Requirements

Cross-reference:

Adult-oriented businesses, see Chapter 75

§ 5.501 USES SUBJECT TO CONTROLS.

Uses subject to the controls of this chapter are as follows:

- (A) Adult-oriented businesses; and
- (B) Massage establishments.

(Prior Code, § 5.501) (Ord. effective 3-30-2001)

§ 5.502 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADULT-ORIENTED BUSINESS. A business or commercial establishment engaging in one or more of the following enterprises (as such enterprises are defined in the adult-oriented businesses ordinance, Chapter 75 of this code):

- (1) Adult cabaret;
- (2) Adult merchandise store;
- (3) Escort agency;
- (4) Nude model studio; and
- (5) Sexual encounter center.

MASSAGE. Any method of applying pressure on, friction against, stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating the external parts of the body, for remedial or hygienic or other purposes, with the hands, with or without the aid of any mechanical, magnetic or electrical apparatus or appliances, with or without supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations.

MASSAGE ESTABLISHMENT. Any building, room, place or establishment where body massage is regularly practiced on the human body, to club members or to the general public for a charge. The term **MASSAGE ESTABLISHMENT** shall not include:

- (1) Hospitals, nursing homes or medical clinics;
- (2) The office of a state-licensed physician, surgeon, osteopath or chiropractor;
- (3) The establishment of a barber, manicurist, beautician or cosmetologist who is duly licensed under the laws of this state, or another state within the United States, or the federal government, and who practices within the established limits of his or her license, and who administers a massage in the normal course of his or her duties in which massages are administered only to the scalp, face, neck, hands, feet or shoulder; or
- (4) The establishment of a myomassaologist who is a current member of the American Massage Therapy Association or other national massage therapy organization with comparable prerequisites for certification.

SPECIFIED ANATOMICAL AREA and **SPECIFIED SEXUAL ACTIVITIES.** Have the same meaning for the purposes of this chapter as those terms have in the adult-oriented businesses ordinance (Chapter 75 of this code).

(Prior Code, § 5.502) (Ord. effective 3-30-2001)

§ 5.503 REQUIREMENTS.

Any of the regulated uses listed in §5.501 of this chapter is permitted if each of the following requirements is satisfied.

- (A) A regulated use may be located only within a zone district where the use is normally permitted.
- (B) A regulated use shall not be located within a 500-foot radius of any lot zoned or occupied for residential purposes, or upon which is located a school, public park, library, childcare facility, or church or place of worship.
- (C) A regulated use shall not be located within a 500-foot radius of any other regulated use.
- (D) For the purpose of this section, the measurement of a radius shall be measured in a straight line from the property line of the use to the nearest property line of the residential property, public park, school, childcare facility, church or place of worship, or other regulated use.
- (E) A regulated use shall not be located in the same structure or on the same parcel as another regulated use.
- (F) All on-site parking areas shall comply with the requirements of this chapter and additionally shall be illuminated on any days the business is open from sunset until closing.

(Prior Code, § 5.503) (Ord. effective 3-30-2001)