

## Appendix A - ZONING

*Footnotes:*

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**Editor's note**— Printed herein is the zoning ordinance of the city, Ordinance Number 87, adopted on March 1, 1982. Amendments are indicated by a history note in parentheses following the amended section. Obvious misspellings have been corrected. Subsequently, Ord. No. 95-06, § 1, adopted Dec. 27, 1995 amended App. A, in its entirety, to read as herein set out. See the Code Comparative Table.

**Charter reference**— Zoning, § 7.10.

## CHAPTER 1. - TITLE AND PURPOSE

## Section 1.01. - Short title.

This appendix shall be known as the "City of Lowell Zoning Ordinance."

(Ord. No. 95-06, § 1, 12-27-95)

## Section 1.02. - Purpose.

This ordinance, enacted under the authority of the city or village zoning act, is intended to insure 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; to facilitate adequate and efficient provision of transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility needs; and to promote public health, safety, and welfare.

(Ord. No. 95-06, § 1, 12-27-95)

## Section 1.03. - Scope.

- A. *Interpretation and application.* In its interpretation and application, the provisions of this ordinance 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 ordinance to impair or interfere with any other existing provision of law or ordinance. However, where this ordinance imposes a greater restriction than is required by existing ordinance or by rules, regulations, or permits, the provisions of this ordinance shall control.
- B. *Vested rights.* Nothing in this ordinance 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. No. 95-06, § 1, 12-27-95)

## Section 1.04. - Severability.

Sections of this ordinance shall be deemed to be severable and should any section, paragraph, or provision hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

(Ord. No. 95-06, § 1, 12-27-95)

## CHAPTER 2. - DEFINITIONS

## Section 2.01. - Construction of language.

The following rules apply to the text of this ordinance:

- A. The particular shall control the general.
- B. In the case of any difference in meaning or implication between the text of this ordinance and any caption or illustration, the text shall control.
- C. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- D. Words used in the present tense shall include the future; and words used in the singular number shall include the plural; and the plural the singular, unless the context clearly indicates the contrary.
- E. A "building" or "structure" includes any part thereof.
- F. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
- G. Unless the context clearly indicates the contrary, the conjunctions noted below shall be interpreted as follows.
  - 1. "And" indicates that all connected items, conditions, provisions, or events shall apply.
  - 2. "Or," indicates that the connected items, conditions, provisions or events may apply singularly or in any combination.
  - 3. "Either..or" indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.
- H. Terms not herein defined shall have the meaning customarily assigned to them. Defined terms are indicated in bold print in this ordinance.

(Ord. No. 95-06, § 1, 12-27-95)

## Section 2.02. - Definitions - A.

*Abutting.* The sharing of a lot line or boundary.

*Accessory building.* A subordinate building on the same premises with a main building or portion of a main building and occupied or devoted to an accessory use; for example, a private garage.

*Accessory use, or accessory.* A use of a zoning lot which is clearly incidental to the principal use of the lot and customarily found in connection with the principal use. When "accessory" is used in this text, it shall have the same meaning as accessory use.

*Adjacent.* Lying near, but not necessarily sharing a lot line or boundary.

*Adult arcade.* Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

*Adult bookstore or adult video store.* A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- A. Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or
- B. Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult bookstore or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas. A principal business purpose need not be a primary or majority use of an establishment so long as it is a significant use based upon the visible inventory or commercial activity of the establishment.

*Adult cabaret.* A nightclub, bar, restaurant or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features one or more of the following:

- A. Persons who appear nude or in a state of nudity or semi-nudity;
- B. Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities;
- C. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas;
- D. Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

*Adult entertainment.* Any exhibition, display or dance which involves exposure to view of specified anatomical areas or specified sexual activities.

*Adult live entertainment theater.* An enclosed building for presenting live entertainment involving the use of strip dancers, naked individuals, individuals who wear see through clothing which permits the view of "specified anatomical areas," individuals who are partially clothed and partially unclothed so as to permit the view of "specified anatomical areas," or individuals conducting "specified sexual activities."

*Adult motel.* A hotel, motel or similar commercial establishment which:

- A. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;
- B. Offers a sleeping room for rent for a period of time that is less than twenty-four (24) hours; or
- C. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twenty-four (24) hours.

*Adult motion picture theater.* An enclosed building used for presenting motion picture films, video cassettes, cable television, or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined in this ordinance, for observation by patrons therein.

*Airport.* An area of land designated, used, or intended for use, for the landing and take-off of aircraft, and any areas designated, set aside, used, or intended for use, for airport buildings or other airport facilities, rights-of-way, or approach zones, together with all airport buildings and facilities located thereon.

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

*Alterations.* Any change, addition, or modification in construction or type of occupancy, or in the structural members of a building, such as walls or partitions, columns, beams or girders.

*Arterial.* An arterial roadway as designated in the City of Lowell Comprehensive Plan.

*Average grade.* The average finished ground elevation at the center of all walls of a building established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building or structure being measured.

*Awning.* A roof-like structure not requiring a foundation attached to a building that serves as a shelter, as over a storefront, window, door, deck or installed equipment.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 97-2, § 1, 11-17-97; Ord. No. 06-01, § 1, 2-21-06; Ord. No. 17-04, § 1, 9-18-17)

#### Section 2.03. - Definitions - B.

*Banks, credit unions, savings and loan associations.* A financial institution that is generally open to the public and engaged in deposit banking, and that performs closely related functions such as making loans, investments, and similar fiduciary activities.

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

*Bed and breakfast establishment.* A house, or portion thereof, containing the principal residence of the operator, where short-term lodging rooms and meals are provided as a commercial operation, but this definition does not include short-term rentals as defined by this ordinance.

*Berm.* A mound of earth graded, shaped and improved with landscaping in such a fashion as to be used for visual or audible screening purposes.

*Boarding house or lodging house.* A dwelling having one (1) or more kitchens and primarily used for the purpose of providing meals or lodging or both meals and lodging for compensation of any kind.

*Board of zoning appeals, or board, or board of appeals.* The Board of Zoning Appeals of the City of Lowell.

*Body shop.* Any building, premises, or land in which or upon which the primary use is: collision servicing, including body, frame and fender straightening or repair; vehicle painting; or provision of wrecker service with storage of vehicles included.

*Brewery/winery.* A facility that engages in the production of beers, meads, wine, ciders, distilled spirits and similar beverages for off-premise consumption. A brewery/winery may include retail sale of beer, wine, spirits, and similar products made on-site and related items, but shall not include a restaurant.

*Buffer strip.* A strip of land required between certain zoning districts reserved for plant material, berms, walls, or fencing to serve as a visual barrier.

*Building.* A structure erected on-site, pre-manufactured or pre-cut structure, above or below ground, designed primarily for the shelter, support or enclosure of persons, animals or property of any kind.

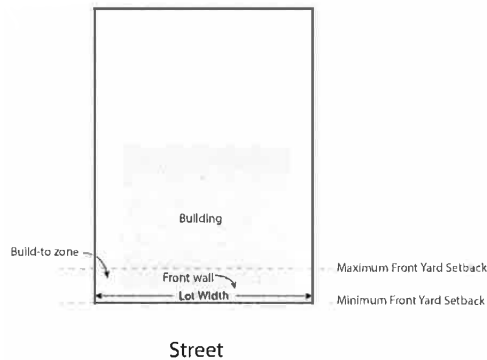
*Building code.* The code or codes governing the erection and maintenance of buildings as currently adopted by the City of Lowell.

*Building frontage.* A percentage expressed as the width of that part of a building wall which faces the public street and occupies the build-to zone divided by the total lot width.

*Building line.* A line formed by the eaves of the building, or the most horizontal appendage of the building, and for the purposes of this section, a minimum building line is the same as the front setback.

*Building inspector.* The person designated by the city council to administer the provisions of the adopted building codes for the city.

*Build-to zone.* The area located between the required minimum and maximum front yard setback as illustrated below.



(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 99-11, § 1, 12-20-99; Ord. No. 99-10, § 1, 12-20-99; Ord. No. 15-01, § 1, 2-17-15; Ord. No. 16-01, § 1, 1-19-16; Ord. No. 17-04, § 1, 9-18-17; Ord. No. 18-02, § 1, 2-20-18)

#### Section 2.04. - Definitions - C.

*Campground.* An area that is occupied or intended for occupancy by transients using recreational vehicles, motor homes, or tents for temporary dwelling, lodging, and/or sleeping purposes. A manufactured housing community shall not be considered a campground.

*Canopy.* A protective roof-like covering not requiring a foundation mounted independently on a frame over a walkway, door or installed equipment.

*Certificate of occupancy.* A document signed by an authorized city official as a condition precedent to the commencement of a use or the construction of a structure or building which acknowledges that such use, structure or building complies with the provisions of the zoning ordinance.

*Child care center.* A facility other than a private residence, licensed by the Michigan Department of Social Services, in which one (1) or more children are given care and supervision for periods of less than twenty-four (24) hours per day, and where a parent or legal guardian is not immediately available to the child. Child care center includes a facility which provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day.

Child care center does not include a Sunday school, a vacation Bible school, or a religious class that is conducted by a religious organization where children are in attendance for not greater than four (4) hours per day for an indefinite period, or not greater than eight (8) hours per day for a period not to exceed four (4) weeks, during a twelve (12) month period, or a facility operated by a religious organization where children are cared for not greater than four (4) hours, while persons responsible for the children are attending religious classes or services.

*City.* City of Lowell, Michigan.

*City council, or council.* The City Council of the City of Lowell.

*City or Village Zoning Act.* Act 207 of the Michigan Public Acts of 1921, as amended.

*Club.* An organization or persons for special purposes such as sports, arts, sciences, literature, politics, or the like, but not operated for profit.

*Commercial greenhouse or nursery.* A retail business whose principal activity is the selling of plants grown on the site and having outside storage, growing, or display or such plants and related landscape materials or products.

*Commercial storage warehouse.* A building or buildings used primarily as a commercial business for the storage of goods and materials.

*Commercial wireless communication tower.* A structure designed and constructed to support one (1) or more antennas used for licensed telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public. The term commercial wireless communication tower does not include amateur radio antennas.

*Community center.* A facility used for and providing religious, fraternal, social, or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.

*Comprehensive plan.* The Comprehensive Community Plan currently adopted by the City of Lowell, including graphic and written proposals, indicating the general location for streets, parks, schools, public buildings, and all physical development of the municipality, and includes any unit or part of such plan and any amendment to such plan.

*Convalescent or nursing home.* A structure with sleeping rooms, where persons are housed or lodged and are furnished with meals, nursing and medical care.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 97-2, § 2, 11-17-97; Ord. No. 00-4, § 1, 9-18-00; Ord. No. 06-01, § 2, 2-21-06; Ord. No. 17-04, § 1, 9-18-17)

#### Section 2.05. - Definitions - D.

*Drive-through.* A business establishment so developed that its retail or service character provides a driveway approach or parking spaces for motor vehicles to serve patrons while in the motor vehicle either exclusively or in addition to service within a building or structure, or to provide self-service for patrons and food carry-out.

*Dwelling, multiple-family.* A dwelling, or a portion of a building, designed exclusively for occupancy by three (3) or more families living independently of each other.

*Dwelling, single-family.* A dwelling designed exclusively for and occupied exclusively by one (1) family.

*Dwelling, two-family.* A dwelling designed exclusively for occupancy by two (2) families living independently of each other.

(Ord. No. 95-06, § 1, 12-27-95)

#### Section 2.06. - Definitions - E.

*Employee.* For purposes of Chapter 17A hereof, means a person who works or performs in and/or for a sexually oriented business, including the manager, regardless of whether or not said person is paid a salary, wage or other compensation by the manager or owner of said business.

*Entertainer.* Any person who performs any entertainment, exhibition or dance of any type within an adult cabaret, whether or not such person or anyone else charges or accepts a fee for such entertainment, exhibition, or dance.

*Erected.* Built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction, excavation, fill, drainage, etc.

*Escort.* A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie, to privately perform a striptease for another person, or to otherwise display specified sexual activities or specified anatomical areas.

*Escort agency.* A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

*Essential public services.* The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface, or overhead gas, electrical, steam, fuel, or water transmission, distribution, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment, but not including buildings and storage yards, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety or welfare. Essential public services shall not include commercial wireless communications towers.

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

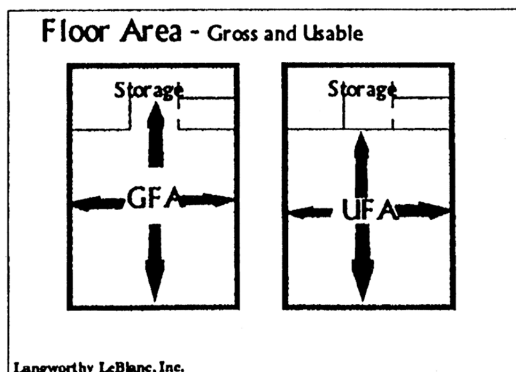
(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 97-2, § 3, 11-17-97; Ord. No. 00-4, § 2, 9-18-00)

#### Section 2.07. - Definitions - F.

*Family.* One person residing in a household; or two (2) or more persons related by blood, marriage, adoption or legal arrangement, including foster children and servants residing together; or unrelated persons residing together as one housekeeping unit in a dwelling unit.

*Family day care home.* A private residence in which the operator permanently resides as a member of the household, registered with the Michigan Department of Social Services, in which one (1) but less than seven (7) minor children are given care and supervision for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

*Farm.* A contiguous parcel of land of not less than ten (10) acres in area, directly farmed or used for commercial agriculture by the owner-operator, manager, or tenant farmer by his own labor or with assistance of members of his household or hired employees. A farm includes a farm dwelling and accessory buildings necessary for the storage or housing of farm implements, products, or animals, or used for the operation of the farm. Farms may include greenhouses, nurseries, orchards, hatcheries, dairy farms, poultry farms, piggeries, commercial feedlots, apiaries, truck farms, and forestry operations. Fish hatcheries, stockyards, recreation parks, stone quarries, gravel, dirt or sand pits, keeping furbearing animals or game, kennels, stables, riding academies, or mineral extraction, are not considered farm uses.



#### Floor Area

*Fence.* A barrier intended to prevent escape or intrusion or to mark a boundary. Such barriers are made typically of posts and wire or boards.

*Floor area, dwelling (DFA).* That area used for living, sleeping, eating or cooking as measured to the outside surfaces of the exterior walls. DFA does not include a garage, open porch, balcony, terrace, court, deck, storage space and other similar space not used for living, sleeping, eating or cooking.

*Foot candle.* A measure of illumination on a surface that is everywhere one (1) foot from a uniform point source of light of one (1) candle and equal to one (1) lumen per square foot.

*Funeral home or mortuary.* A building or part thereof used for human funeral services and related activities such as embalming and the performance of other services used in the preparation of the deceased for burial; the storage of caskets, funeral urns, and other related funeral supplies; the storage of funeral vehicles; and facilities for cremation.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 03-5, § 1, 8-18-03; Ord. No. 04-1, § 1, 3-15-04; Ord. No. 11-01, § 1, 1-3-11; Ord. No. 17-04, § 1, 9-18-17)

#### Section 2.08. - Definitions - G.

*Grade.* The gradient, the rate of incline or decline expressed as a percent. For example, a rise of twenty-five (25) feet in a horizontal distance of one hundred (100) feet would be expressed as a grade of twenty-five (25) percent.

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

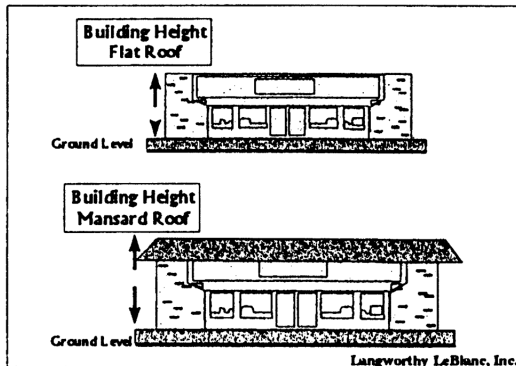
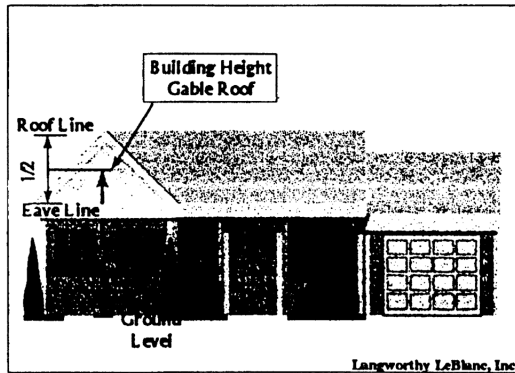
*Group day care home.* A private residence in which the operator permanently resides as a member of the household, licensed by the Michigan Department of Social Services, in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to unrelated minor children for more than four (4) weeks during a calendar year.

(Ord. No. 95-06, § 1, 12-27-95)

#### Section 2.09. - Definitions - H.

*Height.* The vertical distance measured from the average grade to the highest point of a structure. In the case of a building, height shall be measured from the average grade to the highest point of the roof surface for a flat roof; to the deck line of mansard roofs; and to the midpoint between the eaves and ridge for gable, hip, and gambrel roofs.





### Building Height

*Home occupation.* An occupation or profession that is clearly a customary, incidental, and secondary use of a residential dwelling unit. Without limiting the foregoing, a single-family residence used by an occupant of that residence to give instruction in a craft or fine art within the residence shall be considered a home occupation.

*Hotel/motel.* A facility offering lodging accommodations for automobile travelers on a daily rate to the general public and which may or may not provide additional services, such as restaurants, meeting rooms, and recreational facilities.

(Ord. No. 95-06, § 1, 12-27-95)

#### Section 2.10. - Definitions - I.

*Industrial hemp.* A plant of the genus cannabis and any part of that plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration that does not exceed 0.3% on a dry-weight basis, or per volume or weight of marijuana-infused product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus cannabis regardless of moisture content.

*Inoperable vehicle.* A motor vehicle which can no longer propel itself.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 19-06, § 1, 10-21-19)

#### Section 2.11. - Definitions - J.

*Junk.* Any worn out or discarded materials including, but not necessarily limited to, scrap metal, inoperable motor vehicles and parts, construction material, household wastes, including garbage and discarded appliances, and yard debris.

*Junkyard.* An open area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled. These materials include, but are not limited to: scrap iron and other metals, paper, rags, rubber tires, and bottles. A "junk yard" includes automobile wrecking yards and includes any area of more than two hundred (200) square feet

for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings.

(Ord. No. 95-06, § 1, 12-27-95)

#### Section 2.12. - Definitions - K.

*Kennel, commercial.* Any lot or premises on which three (3) or more dogs, cats, or other household pets, six (6) months of age or older, are either permanently or temporarily boarded for commercial purposes. A kennel shall also include any lot or premises where household pets are bred or sold for commercial purposes.

(Ord. No. 95-06, § 1, 12-27-95)

#### Section 2.13. - Definitions - L.

*Landing or take-off areas for rotorcraft.* An area designed to be used for the landing or takeoff of helicopters including operations facilities, such as maintenance, loading and unloading, storage, fueling, or terminal facilities.

*Licensee.* A person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license. It also means the general partners of a partnership, the partners of a limited liability partnership and the members of a limited liability company that is a licensee.

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

*Lot.* A parcel, vacant land, occupied land, or land intended to be occupied by a building and accessory buildings, or utilized for the principal accessory use(s) together with yards and open spaces required under the provisions of this ordinance. A lot may or may not be specifically designated as such on public records. A lot may also mean a portion of a condominium project, as regulated by Public Act 59 of the Michigan Public Acts of 1978, as amended, designed and intended for separate ownership and use.

*Lot area.* The total horizontal area within the lot lines.

*Lot, corner.* Any lot having at least two (2) contiguous sides abutting upon a street, provided that the interior angle at the intersection of such two sides is less than one hundred thirty-five (135) degrees. A lot abutting upon a curved street or streets shall be considered a corner lot if the tangents to the curve, at its points of beginning within the lot or at the points of intersection of the side lot lines with the street line, intersect at an interior angle of less than one hundred thirty-five (135) degrees.

*Lot coverage.* The percentage of the lot occupied by any building or structure, including accessory buildings.

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

*Lot, interior.* A lot other than a corner lot, flag lot, or through lot.

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

- A. *Front lot lines.* In the case of an interior lot, it is the line separating the lot from the street. In the case of a through lot, it is that line separating said lot from either street.

A corner lot shall have two (2) front lot lines: a principal front lot line and a secondary front lot line. The principal front lot line shall be the shorter of the two (2) lot lines. Where the lot lines are of equal length, and/or the principal front lot line is not evident, then the zoning administrator shall determine the principal front lot line.

*General provisions.*

1. The secondary front lot setback shall be one-half (½) of the principal front lot setback.
2. The required front setback shall be measured from both the principal and secondary front lot lines. For a corner

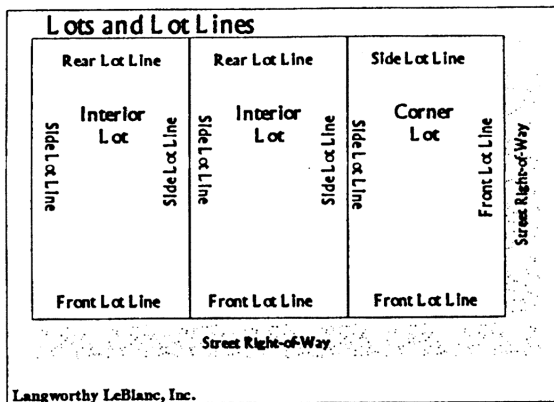
lot with three (3) front setbacks, the remaining setback shall be a rear setback.

3. The remaining setbacks shall be a rear and a side setback. The rear setback shall be measured from the rear lot line, which in the case of a corner lot, shall be the lot line opposite the principal front lot line.
4. The width of a corner lot shall be determined by the entire length of that front lot line which is opposite the rear lot line.

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

*Lot, through.* Any interior lot having frontage on two (2) parallel streets.

*Lot width.* The horizontal straight line distance between the side lot lines, measured between the two (2) points where the front setback line intersects the side lot lines.



Lots and Lot Lines

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 97-2, § 4, 11-17-97; Ord. No. 02-1, § 1, 3-18-02; Ord. No. 17-04, § 1, 9-18-17)

Section 2.14. - Definitions - M.

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

*Manager.* An employee, other than the licensee, who is employed by a sexually oriented business to act as a manager or supervisor of employees or who is otherwise responsible for the operation of, or in charge of, a licensed sexually oriented business.

*Manufactured home.* A transportable, factory-built home, designed to be used as a year-round residential dwelling.

*Manufactured home park.* A parcel or tract of land under the control of a person upon which three (3) or more manufactured homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a manufactured home and which is not intended for use as a temporary trailer park.

*Marihuana.* All parts of the plant of the genus cannabis, growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including marihuana concentrate and marihuana-infused products. For purposes of this ordinance, marihuana does not include:

- A. The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination;

- B. Industrial hemp; or
- C. Any other ingredient combined with marihuana to prepare topical or oral administrations, food, drink, or other products.

*Marihuana accessories.* Any equipment, product, material, or combination of equipment, products, or materials, which is specifically designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing marihuana into the human body.

*Marihuana concentrate.* The resin extracted from any part of the plant of the genus cannabis.

*Marihuana establishment or adult use marihuana establishment.* A marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by the city.

*Marihuana grower.* A person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

*Marihuana-infused product.* A topical formulation, tincture, beverage, edible substance, or similar product containing marihuana and other ingredients and that is intended for human consumption.

*Marihuana licensee.* A person holding a valid license for an adult use marihuana establishment issued by the State of Michigan.

*Marihuana microbusiness.* A person licensed to cultivate not more than one hundred fifty (150) marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are twenty-one (21) years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.

*Marihuana processor.* A person licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.

*Marihuana retailer.* A person licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are twenty-one (21) years of age or older.

*Marihuana secure transporter.* A person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.

*Marihuana safety compliance facility.* A person licensed to test marihuana, including certification for potency and the presence of contaminants.

*Massage parlor.* Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths, and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulder. This definition shall not be construed to include a nonprofit organization operating a community center, swimming pool, tennis court, or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area, nor practices of massage therapists who meet one or more of the following criteria:

- A. Proof of graduation from a school of massage licensed by the State of Michigan;
- B. Official transcripts verifying completion of at least three hundred (300) hours of massage training from an American community college or university; plus three references from massage therapists who are professional members of a massage association referred to in this section;
- C. Certificate of professional membership in the American Massage Therapy Association, International Myomassethics Federation, or any other recognized massage association with equivalent professional membership standards; or

D. A current occupational license from another state.

*Mixed use development.* A development consisting of one (1) or more buildings that contain a mix of commercial, office, retail, residential, recreational or similar land uses, or any combination of such uses.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 97-2, § 5, 11-17-97; Ord. No. 15-01, § 2, 2-17-15; Ord. No. 19-06, § 2, 10-21-19)

#### Section 2.15. - Definitions - N.

*Nonconforming building.* A building or portion thereof lawfully existing at the effective date of this ordinance or amendments thereto and not conforming to the provisions of the zoning ordinance in the district in which it is located.

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

*Nonresidential district.* The C-1, C-2, C-3, I, and PF Zone Districts.

*Nude model studio.* Any place where a person who appears nude or in a state of nudity or displays specified anatomical areas or specified sexual activities is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by other persons.

*Nudity or a state of nudity.* The display of any specified anatomical areas.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 97-2, § 6, 11-17-97)

#### Section 2.16. - Definitions - O.

*Off-street parking lot.* A facility providing parking spaces, along with adequate drives, maneuvering areas, and aisles, for the parking of more than three (3) vehicles.

*Open air business.* Retail sales establishments operated substantially in the open air, including, but not necessarily limited to:

- A. Bicycle, utility truck or trailer, motor vehicle, boats, or home equipment sales, repair or rental services.
- B. Outdoor display area and sale of garages, motor homes, recreation vehicles, manufactured homes, snowmobiles, swimming pools and similar activities, but not including farm implements or commercial construction equipment.
- C. Retail sales of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment and other home garden supplies and equipment, but not including lumberyards.
- D. Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving range, children's amusement parks or similar recreational uses (transient or permanent).

*Operator.* All persons who own, operate, direct, oversee, conduct, maintain, or effectively exert management control or authority over a sexually oriented business or its affairs, without regard to whether such person(s) owns the premises in which the sexually oriented business does business. An operator effectively exerts management control or authority when he or she actually does, or is in a position to, participate in the management, direction or oversight of a sexually oriented business or its affairs, whether or not such person's name appears on any public record filed with any government agency in connection with a sexually oriented business or any parent company or affiliate.

*Outdoor furnace.* Any device, appliance, facility, apparatus or structure that is designed, intended and/or used to provide hot water heat and/or hot water to any associated structure, operates by burning solid fuel and is not located within the structure to be heated.

*Owner.* A person owning, directly or beneficially, any interest or part interest, however identified, in a sexually oriented business.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 97-2, § 7, 11-17-97; Ord. No. 11-05, § 1, 4-18-11)

Section 2.17. - Definitions - P.

*Parking facility.* Any portion of a parking space, access drives, aisles, or any other land used for the purpose of parking a motor vehicle.

*Parking space.* An area of definite length and width, exclusive of drives, aisles or entrances giving access thereto, and fully accessible for the parking of permitted motor vehicles.

*Peep booth.* A viewing room, other than a private room not authorized for admittance by patrons, of less than one hundred fifty (150) square feet of floor space upon the premises of a sexually oriented business where there is exhibited photographs, films, motion pictures, video cassettes, or other video reproductions, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas.

*Person.* An individual, proprietorship, partnership, corporation, limited liability company, limited liability partnership, association or other legal entity.

*Personal service establishment.* A commercial business conducting services that are performed primarily on the premises.

*Petroleum storage.* A building, structure or facility used for the storage of fuels or other volatile products.

*Planned unit development (PUD).* A development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages.

*Planning commission, or commission.* The City of Lowell Planning Commission.

*Premises.* All lands, structures, places and also the equipment and appurtenances connected or used therewith in any business, and also any personal property which is either affixed to, or is otherwise used in connection with any such business conducted on such premises.

*Primary accessory building.* That building which has as its main purpose the housing of the daily driven vehicles of the residents of a premises.

*Principal use.* The main use to which the premises are devoted.

*Privacy screen.* A structure designed to serve as a partial barrier to views of or from contact with others.

*Private room.* A room in an adult motel that is not a peep booth, has a bed in the room, has a bath in the room or adjacent to the room, and is used primarily for lodging.

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

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 97-2, § 8, 11-17-97; Ord. No. 04-1, § 2, 3-15-04; Ord. No. 17-04, § 1, 9-18-17)

Section 2.18. - Definitions - R.

*Radio and television transmitting buildings or towers.* A tower, pole, or similar structure and related buildings or structures that supports a radio and/or television antenna operated for commercial purpose above ground in a fixed location, freestanding, guyed, or on a building or other structures.

*Recreational vehicle or equipment.* Vehicles or equipment used primarily for recreational purposes. For the purpose of this ordinance, recreational vehicle shall mean: 1) A vehicle primarily designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle such as a motor home or camper; 2) Boats and trailers designed to transport boats; 3) Snowmobiles and trailers designed to transport snowmobiles; 4) Off-road vehicles and trailers designed to transport off-road vehicles; 5) Pop-up tent and camper trailers; 6) Other similar vehicles deemed by the zoning enforcement officer to be a recreational vehicle. This term shall not include motorcycles or motorbikes or other similar means of transportation intended primarily for on-street use.

*Removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources.* The removal, loading, processing and/or transporting of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources on, to, or from a lot, and including the incidental maintenance of machinery or equipment used in connection with such removal and processing. Minor alterations of the grade elevation by cutting or filling earth for noncommercial purposes, such as preparing a lot for construction, shall not constitute removal and processing of mineral resources for the purposes of this Ordinance.

*Residential district.* The RS, R-1, R-2, R-3, MPH, and PUD Districts.

*Restaurant.* A retail establishment selling food and drink primarily for consumption on the premises, and including establishments selling prepared foods and drinks for immediate on-site consumption or for take-out. A restaurant may also include a brewery/winery as an accessory use.

*Retail building supplies.* A facility where building materials such as lumber, plywood, drywall, paneling, cement blocks and other cement products, and other building and related products are stored and sold at retail. Retail building supplies may also process lumber by performing millwork, planing, cutting, and other customizing processes.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 16-01, § 2, 1-19-16; Ord. No. 17-04, § 1, 9-18-17)

#### Section 2.19. - Definitions - S.

*Satellite dish antenna.* An apparatus capable of receiving communications from a transmitter or a transmitter relay located in planetary orbit.

*Semi-nudity.* A state of dress in which clothing covers no more than the human bare buttock, anus, male genitals, female genitals, or female breast without a fully opaque complete covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernible turgid state even if completely and opaquely covered.

*Sexual encounter center.* A business or commercial establishment that, as one of its primary business purposes, offers, for any form of consideration, a place where two or more persons may congregate, associate or consort for the purpose of specified sexual activities or the exposure of specified anatomical areas or activities when one or more of the persons is in a state of nudity or semi-nudity. This definition does not apply to any actions otherwise authorized by law or the examination of another person for a bona fide medical purpose consistent with reasonable medical practices.

*Sexually oriented business.* An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult live entertainment theater, escort agency, nude model studio, or sexual encounter center and includes:

- A. The opening or commencement of any sexually oriented business as a new business;
- B. The conversion of an existing business, whether or not a sexually oriented business, to a sexually oriented business;
- C. The addition of any sexually oriented business to any other existing sexually oriented business;
- D. The relocation of any sexually oriented business;
- E. The substantial enlargement of an existing sexually oriented business; or
- F. The continuation of any sexually oriented business in existence on the effective date of this ordinance.

*Setback.* The distance required to obtain minimum front, side or rear yard open space provisions of this ordinance.

*Short-term rental.* The rental or subletting of any dwelling for a term of thirty (30) days or less, but the definition does not include the use of campgrounds, hotel rooms, bed and breakfast establishments, transitional housing operated by a non-profit entity, group homes such as nursing homes and adult foster care homes, hospitals, or housing provided by a substance abuse rehabilitation clinic, mental-health facility, or other health-care related clinic.

*Sign.* A lettered board, or other notice advertising an individual, firm, profession, business or other thing and visible to the general public.

*Significant natural feature.* A natural area as designated by the planning commission, city council, or the Michigan Department of Natural Resources or Department of Environmental Quality, or other applicable agency which exhibits unique topographic, ecological, hydrological, or historical characteristics such as a wetland, floodplain, water features, or other unique natural features.

*Specified anatomical areas.* The male genitals in a state of sexual arousal even if completely and opaquely covered, any portion of female breast below the top of the areola, or any portion of the pubic hair, anus, cleft of buttocks, vulva or genitals of any person.

*Specified sexual activities.* Includes any of the following:

- A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- C. Masturbation, actual or simulated; or
- D. Excretory functions as part of or in connection with any of the activities set forth in (A) through (B) above.

*Story.* That part of a building included between the surface of any floor above the average grade or ground at the foundation and the surface of the next floor, or if there is no floor above, then the ceiling next above.

*Story, half.* An uppermost story lying under a sloping roof having an area of at least two hundred (200) square feet with a clear height of seven (7) feet six (6) inches. For the purpose of this ordinance, the usable floor area is only that area having at least five (5) feet clear height between floor and ceiling.

*Street, private.* An undedicated, privately controlled and maintained right-of-way or other interest in land which affords the principal means of access to three (3) or more lots or parcels.

*Street, public.* A public dedicated right-of-way other than an alley, which affords the principal means of access to abutting property.

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

*Substantial enlargement of a sexually oriented business.* The increase in floor areas occupied by the business by more than twenty-five (25) percent, as the floor areas exist on the effective date of this ordinance.

*Substantial improvement.* Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either, before improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either 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 any alteration of a structure listed on the National Register of Historic Places or the Michigan Register of Historic Places.



(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 97-2, § 9, 11-17-97; Ord. No. 18-02, § 2, 2-20-18)

Section 2.19A. - Definitions - T.

*Temporary storage unit.* A transportable unit, container or structure designed primarily for temporary storage of personal property, household goods and other such materials for use on a temporary basis. Such unit shall not be considered an accessory building as provided in section 4.08 of chapter 4 of this zoning ordinance.

*Theater or concert hall.* A building or part thereof devoted to showing motion pictures, or for dramatic, dance, musical, or other live performances.

(Ord. No. 07-10, § 1, 11-5-07; Ord. No. 17-04, § 1, 9-18-17)

Section 2.19B. - Definitions - U.

*Utility and public service buildings.* Public buildings used for the provision of services traditionally provided by local government, such as including water and sewer, roads, parks, schools, and police and fire protection.

( Ord. No. 17-04, § 1, 9-18-17)

Section 2.20. - Definitions - V.

*Vehicle repair facilities.* Any building, premises or land where the primary use is the repair of motor vehicles, including body shops, provided all work is performed within an enclosed building and the storage of motor vehicles is within a completely secure area.

*Vehicle service station.* Building and premises where the primary use is the supply and dispensing at retail of motor fuels, lubricants, batteries, tires and other similar motor vehicle accessories.

*Vehicle towing service.* The dispatching, towing and transporting of motor vehicles for service, repair, salvage and the temporary storage of motor vehicles not more than thirty (30) days on the site of the vehicle towing service within a completely secure area.

*Vehicle wash establishment.* A building or structure used for washing and cleaning of passenger vehicles, recreational vehicles, or other light duty equipment. A vehicle wash establishment may be considered a principal use, or an accessory use when located on the same lot as a vehicle service station or similar uses.

*Veterinary hospital.* An establishment where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Use as a kennel shall be limited to short-time boarding and shall be only incidental to such hospital use.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 99-11, § 2, 12-20-99; Ord. No. 04-5, § 1, 11-15-04; Ord. No. 12-03, § 1, 6-4-12; Ord. No. 17-04, § 1, 9-18-17)

Section 2.21. - Definitions - W.

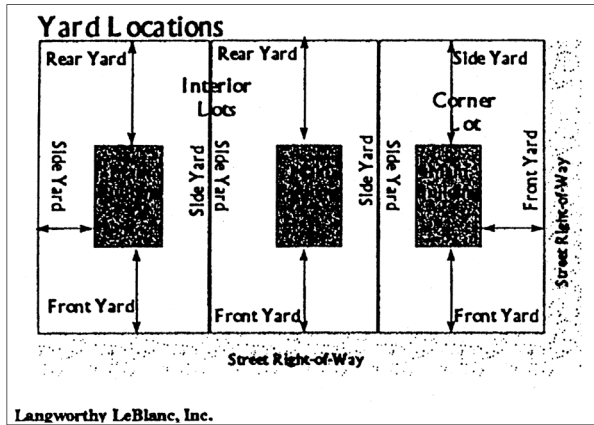
*Wall.* A structure designed to serve as a full barrier to views of or from contact with others.

*Waste dumpster.* A container used for the temporary storage of rubbish and/or materials to be recycled pending collection, having capacity of at least one (1) cubic yard.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 04-1, § 3, 3-15-04)

Section 2.23. - Definitions - Y.

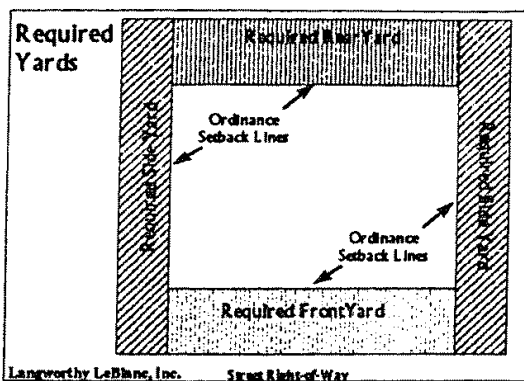
*Yards.* The open spaces on the same lot with a main building that are unoccupied and unobstructed from the ground upward except as otherwise provided in this ordinance, and as defined herein.



Yard Locations

- A. *Frontyard.* An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the building line of the main building.
- B. *Rearyard.* An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the building line of the main building. In the case of a corner lot, the rear yard may be opposite either street frontage.
- C. *Side yard.* An open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot line to the building line of the main building.

*Yard, required.* The required yard shall be that set forth in the zoning ordinance as the minimum yard requirement for each district.



Required Yards

(Ord. No. 95-06, § 1, 12-27-95)

Section 2.24. - Definitions - Z.

*Zoning Act.* Act 207 of the Michigan Public Acts of 1921, as amended.

*Zoning enforcement officer.* The person designated by the city council to administer the provisions of this zoning ordinance.

(Ord. No. 95-06, § 1, 12-27-95)

## CHAPTER 3. - ZONING DISTRICTS - GENERAL

## Section 3.01. - Districts established.

For the purposes of this chapter, the City of Lowell is hereby divided into the following zoning districts:

SR	Suburban Residential District
R-1	Single-Family Residential District
R-2	Single- and Two-Family Residential District
R-3	Multiple-Family District
RE	River's Edge District
MHP	Manufactured Home Park District
C-1	Neighborhood Business District
C-2	Central Business District
C-3	General Business District
I	Industrial District
I-L	Light Industrial District
F-1	Floodplain District
PUD	Planned Unit Development District
PF	Public Facilities District
MU	Mixed Use District

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 98-2, § 1, 2-17-98; Ord. No. 15-01, § 3, 2-17-15; Ord. No. 16-02, § 1, 5-16-16)

## Section 3.02. - District boundaries.

- A. *Boundaries.* The boundaries of the districts listed in section 2.01 are hereby established as shown on the City of Lowell Zoning Ordinance Map, which is part of this ordinance.
- B. *Interpretation of district boundaries.* Where uncertainty exists with respect to the boundaries of the various districts as

shown on the zoning map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following platted lot lines or city limits shall be construed as following such lot lines or city limits.
3. Boundaries indicated as following railroad lines shall be construed to be the midpoint between the main tracks.
4. Boundaries indicated as parallel to or extensions of features indicated in section 2.02, B., 1—3, shall be so construed. Distances not specifically indicated on the zoning map shall be determined by the scale of the map.
5. Where physical or natural features existing on the ground differ from those shown on the zoning map, or in other circumstances not covered by this section, the zoning enforcement officer shall interpret the district boundaries.
6. For the sake of map clarity, various districts may not cover public rights-of-way. It is intended that such district boundaries extend to the center of any public right-of-way.
7. The F-1 Floodplain District boundaries shall follow the officially delineated 100 year floodplain line as identified in "The Flood Insurance Study, City of Lowell," dated May 16, 1983 with accompanying flood insurance rate maps and flood boundary and floodway maps.
8. Where a district boundary line, as established in this chapter or as shown on the zoning map divides a lot or lots in single ownership and of record at the time of enactment of this ordinance, the least restricted use shall not extend beyond said line.

(Ord. No. 95-06, § 1, 12-27-95)

#### Section 3.03. - Zoning of annexed areas.

Whenever any area is annexed to the City of Lowell, one (1) of the following rules shall apply:

- A. Land zoned previous to annexation shall be a district of the class to which it most nearly conforms under this ordinance. The planning commission shall recommend the classification to the city council, who shall determine by resolution the zoning classification into which the property will be placed.
- B. Land not zoned prior to annexation shall be automatically classified as an R-1 District until a zoning map for the area has been adopted by the city council. The planning commission shall recommend the appropriate zoning districts for such area within three (3) months after the city council shall have referred the matter to the commission.

(Ord. No. 95-06, § 1, 12-27-95)

#### Section 3.04. - Zoning of vacated areas.

Whenever all or part of a street, alley or other public way is vacated, it shall automatically become a part of the district to which it attaches. If a vacated area is bordered by two (2) different districts, the area is divided along a line halfway between them according to the abutting zone, unless the city council shall otherwise designate.

(Ord. No. 95-06, § 1, 12-27-95)

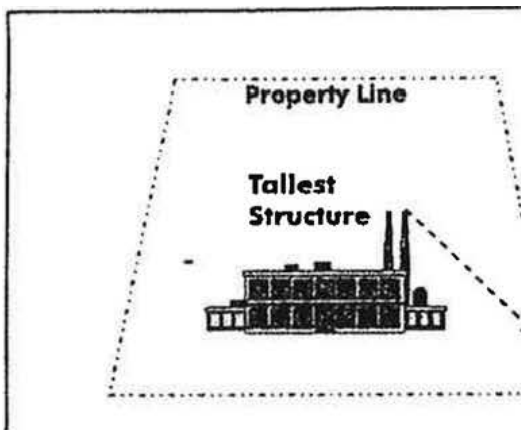
### CHAPTER 4. - GENERAL PROVISIONS

#### Section 4.01. - Required area, space, height, and use conditions and exceptions.

- A. No lots or lots in common ownership and no yard, parking area or other space shall be so divided, altered or reduced as

to make such area or dimension less than the minimum required under this ordinance. If already less than the minimum required under this ordinance, said area or dimension shall not be further divided or reduced.

- B. A lot which is platted, or otherwise lawfully of record as of the effective date of this ordinance, may be used as specified in the district in which it is located. The side yards of such lots may be reduced by the same percentage the area of such lot bears to its zoning district requirements, provided that no side yard shall be less than five (5) feet. In all cases, the minimum front and rear yard requirements of this ordinance shall be met.
- C. Height exceptions.
1. The following buildings and structures shall be exempt from height regulations in all districts: parapet walls not exceeding four (4) feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, grain elevators and bins, silos, stacks, elevated water towers, stage towers, scenery lofts, monuments, cupolas, domes, spires, penthouses housing necessary mechanical appurtenances, wind-powered electrical generator, wireless communication antenna, and television and radio reception and transmission antennas and towers which do not exceed one hundred (100) feet in height.
  2. Additions to existing buildings and structures which now exceed the height limitations of their district may be constructed to the height of the existing to which the addition is attached if the lot is large enough to encompass a circular area with a radius at least equal to the height of the tallest structure or building.
  3. In the industrial districts stack chimneys, cooling and fire towers, elevator building and bulkheads, storage tanks and other necessary structures are permitted, provided the lot is large enough to encompass a circular area with a radius at least equal to the height of the tallest structure or building.



(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 17-03, § 1, 9-18-17)

#### Section 4.02. - Principal use.

- A. No lot or parcel of land shall contain more than one (1) main building or one (1) principal use, except as may be permitted otherwise in this ordinance.
- B. Multiple buildings and/or multiple uses of land on a parcel may be considered a principal building or use collectively if the following conditions are met:
  1. The land and buildings are planned and designed as a single integral development, including joint parking, compatible architecture, shared driveways, shared signs, and other similar features.
  2. All uses, if not the same, shall be similar in function and/or operation.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 17-03, § 1, 9-18-17)

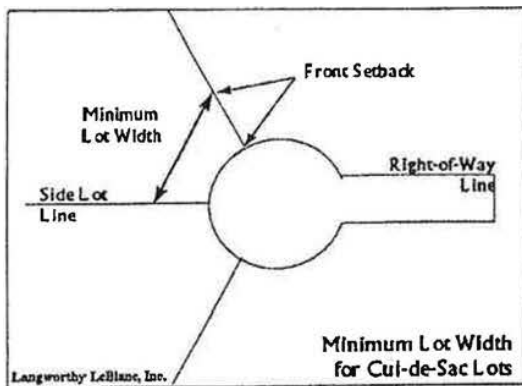
#### Section 4.03. - Street access.

Any lot of record created after the effective date of this ordinance shall front upon a public or private street right-of-way for the minimum lot width required by this ordinance.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 17-03, § 1, 9-18-17)

Section 4.04. - Basis of determining yard and lot requirements.

- A. The minimum lot width for a lot on a cul-de-sac or other irregularly shaped lot shall be measured at the required front yard setback line and shall not be diminished throughout the rest of the lot. Such lots shall have a minimum width of forty (40) feet from the front property line to the required front yard setback line.



- B. The required front yard setback line shall be measured from the right-of-way line or property line, to an imaginary line across the width of the lot drawn at the minimum required front setback distance for that district, excepted as noted in C., below.
- C. Where an average setback line which is less than that required by this ordinance has been established by existing buildings located within three hundred (300) feet of the proposed building, such average setback shall apply.
- D. Corner and through lots. On corner and through lots, the front yard requirements shall apply on both streets. In such cases, the remaining yards shall be side yards, with no rear yard. In the case of a row of through lots, all yards of said lots adjacent to streets shall be considered frontage, and through yard setbacks shall be provided as required.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 17-03, § 1, 9-18-17)

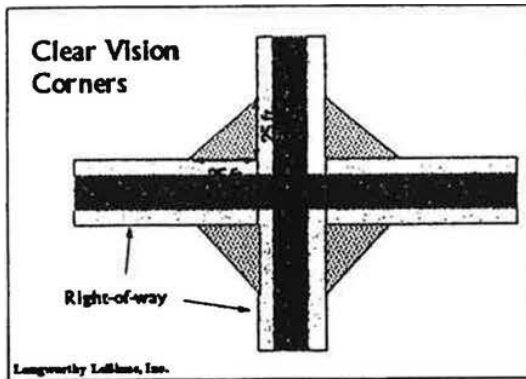
Section 4.05. - Projections into yards.

- A. Certain architectural features, such as cornices, bay windows (or windows without foundations), gutters, chimneys, pilasters and similar features:
1. May project a maximum of four (4) feet into a required front or rear yard; and
  2. Shall not project into the required side yard.
- B. Porches, terraces, decks, balconies, window awnings, and similar structures which are open on all sides, unenclosed, and uncovered:
1. May project a maximum of ten (10) feet into a required front yard;
  2. May project a maximum of fifteen (15) feet into a required rear yard;
  3. Shall not project into a required side yard; and
  4. Shall not be placed closer than ten (10) feet to any front or rear lot line.
  5. If such structures enclosed on any side or covered in any manner they shall be considered part of and subject to the same setbacks as the main building.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 17-03, § 1, 9-18-17)

## Section 4.06. - Clear vision.

- A. Except for lots within the C-2 or MU districts, no plantings, fencing, or other obstruction shall be established or maintained on any corner lot which will obstruct the view of a vehicle driver approaching the intersection. Such unobstructed corner shall mean a triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines or in the case of a rounded property corner from the intersection of the street property lines extended. This shall not prohibit the planting of shrubbery which will not achieve a height at maturity of more than thirty (30) inches.



- B. No plantings shall be established in any required front yard which, in the opinion of the zoning enforcement officer, will obstruct the view from of vehicles entering or leaving the site from driveways or adjacent roadways.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 17-03, § 1, 9-18-17)

## Section 4.07. - Fences and walls.

- A. Fences or walls shall be located on the same property as the use to which they apply.
- B. No fences or walls may be erected or maintained within the right-of-way of any public street, alley or other public way or in a clear vision area required by section 4.06 hereof.
- C. The height of a fence shall be measured from the average grade elevation within thirty (30) inches of each side of the proposed fence. The artificial raising of the land on which a fence is located in order to increase the height of a fence is prohibited.
- D. Unless specifically provided for elsewhere in this ordinance, a fence or wall or that portion of a fence or wall that is greater than fifty (50) percent solid may not exceed a height of thirty-six (36) inches within any required primary front yard. A fence that is less than fifty (50) percent solid may not exceed a height of forty-eight (48) inches within any required primary front yard.
- E. Fences shall not exceed a height of seventy-two (72) inches in any other area, except as noted in F. below. Fences shall be measured from the finished grade to the top of the fence. Posts will not be considered a part of fence height unless in the opinion of the zoning enforcement officer they obstruct vision.
- F. No fence or wall shall contain any exposed spike, nail, barb, other pointed instrument or electrification unless necessary for security in a nonresidential district, or for the protection of public utility buildings or improvements, or for livestock containment in agricultural areas. The exposed spike, nail, barb or other pointed instrument portion of the fence or wall shall be at least six (6) feet from the finished grade, in which case the height of the fence or wall may extend to a maximum of seven (7) feet above the finished grade.
- G. Fences in residential districts shall be residential in appearance and intent. Farm type fences are allowed on farmland in residential districts.
- H. In an industrial district, an open, wire protective fence may be constructed in the required front yard, where necessary,

to enclose secure areas or to prevent access to potentially hazardous areas.

- I. All fences located along a property line shall have exposed posts and/or bracing of the fence located so as to face the interior of the property, and the finished side shall face the outside of the property.
- J. Any fence or wall erected or maintained along or near a lot line or other property boundary line shall be located and maintained so that no part of the fence or wall is located upon or encroaches on or above any other adjacent lot or parcel of property.
- K. All fences and walls shall be kept in good repair and condition: Both sides of a fence or wall, including a fence erected along a property line, shall be maintained in good repair and condition to maintain the original aesthetic of the fence including but not limited to finish, shape and style. If not maintained as prescribed, the city may be require that the fence be repaired or removed.
- L. A zoning permit shall be obtained from the zoning enforcement officer prior to the installation of a fence or wall and the design of all fences and walls, including openings for vehicular traffic or other purpose, shall only be as permitted in this section and the permit issued by the zoning enforcement officer.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 04-1, § 4, 3-15-04; Ord. No. 17-03, § 1, 9-18-17)

#### Section 4.08. - Accessory building and uses.

- A. Accessory buildings attached to dwellings or other main buildings, including enclosed porches and garages, shall be deemed a part of such buildings and must conform to all regulations of this ordinance applicable to such main buildings.
- B. An accessory building or use shall only be permitted on lot which contains a principal use or main building.
- C. No part of an accessory building shall be used as a dwelling for residential purposes.
- D. On corner lots, where the side lot line is a continuation of the front lot line of the lot to its rear, the accessory building or use shall be located no nearer than the required front yard setback line on the lot behind the corner lot.
- E. No more than two (2) detached accessory buildings may be permitted on any lot or parcel.
- F. Detached accessory buildings shall be located:
  1. A minimum of ten (10) feet from any main building;
  2. A minimum of three (3) feet to any side or rear lot line, as measured to the eave of the building;
  3. No nearer than the front yard setback required for the main building.
- G. Detached accessory buildings- Maximum total floor areas for all such buildings:
  1. For single- and two-family dwellings, including a garage:
    - a. On lots of less than nine thousand (9,000) square feet, nine hundred and sixty (960) square feet; and
    - b. On lots of nine thousand (9,000) square feet or more: one thousand two hundred (1,200) square feet.
  2. Other uses:
    - a. Multiple-family developments: nine hundred sixty (960) square feet, excluding garages for the use of residents.
    - b. Manufactured home parks: as permitted by chapter 9 hereof;
    - c. For uses in the C-3 zoning districts: not to exceed the floor area of the main building(s); and
    - d. For uses in all other nonresidential zoning districts other than the C-3 zoning districts: not to exceed twenty-five (25) percent the floor area of the main building(s).
- H. No detached accessory building in a residential district shall exceed the height of the main building located on the same lot.
- I. Any accessory building with a floor area greater than six hundred (600) square feet shall be permanently constructed on a concrete foundation and shall conform to all applicable building codes and other similar codes and regulations that



apply to such structures.

- J. Accessory buildings with a floor area greater than two hundred (200) square feet shall (i) comply with applicable building codes and other similar codes and regulations that apply to such structures and (ii) be compatible in design and similar to the main building with respect to exterior finish materials, color, overall design and aesthetic quality. The following additional standards shall apply to such accessory buildings:
1. Accessory buildings covered with vinyl, canvas, nylon or other similar membrane materials shall not exceed two hundred (200) square feet in ground coverage and shall be securely attached or anchored to the ground.
  2. Bright contrasting stripe or patterned covers and orange tarp covers shall not be permitted.
  3. An accessory building shall be well maintained and kept in a clean and safe condition; rips in the cover, hanging cover material, leaning frames and other visual detriments that present an unkept image shall not be permitted.
  4. An accessory building shall not detract from or undermine the character or quality of the surrounding neighborhood.
  5. Gazebos, pergolas or other accessory buildings erected and used by a retail and commercial business for no more than one hundred eighty (180) days during any consecutive 12-month period and accessory buildings erected for no more than three (3) consecutive days during any consecutive three-month period for social events such as weddings, graduations and family reunions shall be exempt from the requirements of this subsection.
- K. Accessory buildings not meeting the requirements of subsection J. of this section may be permitted as a special land use in an I-L Light Industrial District and an I-Industrial District as regulated by chapter 17.
- L. Upon construction of a primary accessory building or the construction of an additional bay(s) to the primary accessory building, a hard surfaced driveway must be constructed from the public street or alley to the primary accessory building. The intent of this section of the ordinance is to create a dustless surface, minimize maintenance and establish an attractive pathway to garages.
- M. A minimum width of ten (10) feet for a driveway and a minimum of twelve (12) feet for a new curb cut shall be established.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 99-6, § 1, 8-16-99; Ord. No. 04-1, § 5, 3-15-04; Ord. No. 11-02, §§ 1—4, 1-3-11; Ord. No. 14-02, § 1, 11-17-14; Ord. No. 17-03, § 1, 9-18-17)

#### Section 4.08A. - Requirements for placement of temporary storage units.

The following shall apply to the placement of temporary storage units within the city:

- A. Temporary storage units may only be placed upon or within a driveway or parking area, or, if access exists at the side or rear of a lot, the side or rear yard.
- B. No temporary storage unit shall be placed upon or within public property or a public place including without limitation a street, sidewalk or out-lawn between a public street and sidewalk.
- C. A limit of one (1) temporary storage unit may be located upon or within a lot for a maximum of thirty (30) consecutive days, including the day of delivery and removal, within any six-month period.
- D. A temporary storage unit may not exceed eight (8) feet in height, eight (8) feet six (6) inches in width or sixteen (16) feet in length.
- E. A temporary storage unit shall be secured in a manner that does not endanger the safety of persons or property.
- F. A temporary storage unit shall at all times, be maintained in good condition, free from evidence of deterioration, graffiti, rust, ripping, tearing, holes or breaks.
- G. 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 temporary storage unit is located, or any illegal or hazardous material. Upon reasonable notice, the city may inspect

the contents of any temporary storage unit at any reasonable time to confirm that it is not being used to store said materials.

- H. A 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, without notice, and the cost of such removal shall be a lien upon the property on which such unit was located which costs may be collected by the city in the same manner as the city collects delinquent and ad valorem property taxes.
- I. A sign advertising the company or vendor supplying a temporary storage unit located on a temporary storage unit shall not be subject to the provisions of chapter 20 hereof provided the temporary storage unit is in compliance with this section 4.08A.

(Ord. No. 07-10, § 2, 11-5-07; Ord. No. 17-03, § 1, 9-18-17)

#### Section 4.09. - Regulations applicable to all single-family dwellings.

It is the intent of this section to establish minimum standards of appearance and construction for all single-family dwellings placed in the city, whether constructed on a lot or a manufactured home. Construction and/or placement of a single-family dwelling on any lot or parcel shall be permitted only if the dwelling complies with all of the following standards:

- A. If the dwelling unit is a manufactured home, the manufactured home must either be:
  - 1. New and certified by the manufacturer and/or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development, as amended, or any similar successor or replacement standards which may be promulgated; or
  - 2. Used and certified by the manufacturer and/or appropriate inspection agency as meeting the standards referenced in subsection (1) above, and found, on inspection by the building inspector or his designee, to be in excellent condition and safe and fit for residential occupancy.
- B. The dwelling unit shall comply with all applicable building, electrical, plumbing, fire energy and other similar codes which are or may be adopted by the city, and with applicable federal or state standards or regulations for construction. Appropriate evidence of compliance with such standards or regulations shall be provided to the building inspector.
- C. The dwelling unit shall comply with all restrictions and requirements of this ordinance, including, without limitation, the lot area, lot width, residential floor area, yard, and building height requirements of the district in which it is located.
- D. The dwelling unit shall be firmly attached to a permanent continuous foundation which complies with applicable provisions of the building code adopted by the city.
- E. If the dwelling unit is a manufactured home, the manufactured home shall be installed with the wheels and towing mechanism removed.
- F. The dwelling unit shall have a minimum horizontal dimension across any front, side or rear elevation of twenty (20) feet at time of manufacture, placement or construction.
- G. The dwelling shall be provided with one (1) accessory building or garage, either attached to the dwelling unit or detached on the same lot, having minimum dimensions of ten (10) feet in width by twenty (20) feet in length.
- H. The dwelling unit shall be connected to public sewer and water supply systems approved by the City of Lowell.
- I. The foregoing standards shall not apply to a manufactured home located in a manufactured home park licensed by the Michigan Mobile Home Commission and approved by the city according to the provisions contained in chapter 12 of this ordinance except to the extent required by state or federal law.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 17-03, § 1, 9-18-17)

Section 4.10. - Temporary uses or buildings requiring zoning enforcement officer authorization.

- A. Upon application, the zoning enforcement officer may issue a permit for the following temporary buildings or uses. Each permit shall specify a location for such building or use and shall be valid for a period of not more than six (6) calendar months. Permits may be renewed by the zoning enforcement officer for one (1) additional successive period of six (6) calendar months or less at the same location and for the same purpose.
1. Temporary office building or construction yard incidental and necessary to construction at the site where located.
  2. Temporary sales office or model home incidental and necessary for the sale or rental of real property in a new subdivision or housing project. In any case, such temporary office or model home shall be removed when fifty (50) percent or more of the lots or units have been sold or leased.
- B. In considering authorization for all temporary uses or buildings, the zoning enforcement officer shall consider the following standards and may attach reasonable conditions to temporary uses or structures to ensure that the standards of this section are met. The zoning enforcement officer shall determine that:
1. The use or structure will not have an unreasonable detrimental effect upon adjacent properties;
  2. The use or structure is reasonably necessary for the convenience and safety of the construction proposed;
  3. The use or structure does not adversely impact the character of the surrounding neighborhood;
  4. Access to the use area or structure is located at a safe location.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 17-03, § 1, 9-18-17)

Section 4.11. - Home occupations.

- A. No person other than members of the resident family shall be engaged in the home occupation.
- B. 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, and not more than a total of twenty-five (25) percent of the floor area of the dwelling unit and/or accessory building shall be used in the conduct of the home occupation.
- C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding two (2) square feet in area, non-illuminated, and mounted flat against the wall of the main building.
- D. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood. Parking areas for such home occupation shall be located off the street and other than in a required front yard.
- E. No merchandise or articles for sale shall be displayed for advertising purposes and no sign or device relative to the sale of such merchandise shall be displayed on the premises. Only those materials produced on the premises as a result of such home occupation may be submitted for sale.
- F. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the premises, if the occupation is conducted in a single-family dwelling, or outside the dwelling unit if conducted in other than a single-family dwelling. In case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or cause fluctuation in line voltage off the premises.
- G. Nothing in this section shall be construed to prohibit the instruction of a fine art or craft in a single-family residence in the city pursuant to MCL 125.3204, provided that the provisions of this section are met.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 17-03, § 1, 9-18-17)

## Section 4.12. - Satellite dish antennas.

- A. In any nonresidential district, the following restrictions shall apply:
1. The dish antenna shall be permitted in the side and rear yard or mounted on top of a building, and securely anchored.
  2. The nearest part of the antenna shall be at least five (5) feet from any property line.
  3. The height shall not exceed the height restrictions in the district in which the proposed device is to be located.
  4. No portion of the dish antenna shall contain any name, message, symbol, or other graphic representation.
  5. A site plan shall be prepared and submitted to the building inspector for approval prior to issuance of a building permit. The site plan shall include the proposed location and an elevation drawing showing the proposed height and foundation details.
- B. In any residential district, the following restrictions shall apply:
1. The dish antenna shall be permitted in the rear yard only, unless such location prohibits the antenna from receiving signals in which case the zoning enforcement officer may approve another location on the lot.
  2. The nearest part of the antenna shall be at least five (5) feet from any property line.
  3. The unit shall be securely anchored as determined by the building inspector.
  4. The maximum height measured from the ground to the top edge of the dish shall be fifteen (15) feet.
  5. The antenna shall be an unobtrusive color, as approved by the building inspector. Nor shall any portion of the dish antenna contain any name, message, symbol, or other graphic representation.
  6. A site plan shall be submitted to the building inspector for approval prior to the issuance of a building permit. The site plan shall include the proposed location of the antenna and an elevation drawing showing the proposed height, color, and foundation details.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 17-03, § 1, 9-18-17)

## Section 4.13. - Nonconformities.

It is recognized that within the zoning districts established by this ordinance or amendments thereto, there exist uses, buildings, structures and/or parcels and characteristics of use which were lawful before this ordinance was passed or amended, but which would be prohibited, regulated or restricted under the terms of this ordinance or an amendment thereto.

A. *General provisions for nonconformities.*

1. Except where specifically provided to the contrary, and subject to the provisions of this section, a lawful building or structure, or the lawful use of any building or structure or of any land or premises which is existing and lawful on the effective date of this ordinance, or in the case of an amendment of this ordinance, then on the effective date of such amendment, may be continued even though such use does not conform with the provisions of this ordinance or any amendment thereto.
2. Any lot, use of land, building or structure which has been established in violation of the provisions of a previous zoning ordinance having jurisdiction at the time the use of land or structure was established, and any lot, use of land, building or structure which has been lawfully established under a previous zoning ordinance and subsequently violates the terms of the permit under which it was established, shall continue to be in violation of this ordinance.
3. An existing lot, use of land, building or structure which does not fully comply with the provisions of this ordinance, as amended, and either was lawfully established under a previous zoning ordinance, created or commenced during a period of time when no valid zoning ordinance was in effect, or was lawfully established

under the jurisdiction of this ordinance (before amendment), and remains in compliance with the terms of a permit issued at that time, shall be permitted to continue provided that such lot, use of land, building or structure is in compliance with this section.

4. Any building, structure or use shall be considered existing and lawful and for purposes of this section if on the effective date of this ordinance, a building permit has been obtained therefor, if required, or, if no building permit is required, a substantial start has been made toward construction and construction is thereafter pursued diligently to conclusion.
5. On any nonconforming building or structure, or on any building or structure located on a nonconforming lot or devoted in whole or in part to any nonconforming use, work may be done in on ordinary repairs or on repair or replacement of walls, fixtures, wiring or plumbing, provided that the building or structure as it existed on the effective date or amendment of this ordinance, shall not be altered or increased except in compliance with this section.
6. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition any building or part thereof, or parcel declared to be unsafe by any official charged with protecting the public safety, upon order of such official.
7. The change of tenancy, ownership or management of any existing nonconforming lots, uses of land, buildings or structures, or of lots, uses of land, buildings or structures in combination, shall be permitted
8. Structures, buildings or uses nonconforming by reason of height, area and/or parking and loading space provisions may be extended, enlarged, altered, remodeled or modernized only when the following conditions are met:
  - a. The building or structure shall comply with all height, area, and/or parking and loading provisions with respect to such extension, enlargement, alteration, remodeling or modernization.
  - b. The zoning enforcement officer shall determine that such alteration, remodeling, or modernization will not substantially extend the life of any nonconforming building or structure.
  - c. Any use of a building or structure which is nonconforming by reason of parking and loading provisions and which is thereafter made conforming or less nonconforming by the addition of parking and/or loading space shall not thereafter be permitted to use such additionally acquired parking and/or loading space to meet requirements for any extension, enlargement, or change of use which requires greater areas for parking and/or loading space.
  - d. Legal nonconforming buildings and structures in the MU District may be extended, enlarged, remodeled or modernized only if the extension, enlargement, remodeling or modernization does not increase the degree of the nonconformity.

B. *Nonconforming uses.*

1. No nonconforming use of any land or structure shall hereafter be moved, enlarged or extended unless such movement, enlargement or extension does not increase the degree of the nonconformity.
2. The nonconforming use of a building or structure or of any land or premises shall not be:
  - a. Changed to any other nonconforming use.
  - b. Re-established after it has been changed to a conforming use.
  - c. Re-established after abandoned or discontinued for a continuous period of twelve (12) months. A nonconforming use shall be determined to be abandoned if one (1) 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 (1) 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) Removal of equipment or fixtures which are necessary for the operation of the nonconforming use;
  - (5) Other actions, which in the opinion of the zoning enforcement officer, constitute an intention of the part of the property owner or lessee to abandon the nonconforming use
3. In the event any non-residential nonconforming use is damaged by fire, wind, Act of God or public enemy such that the cost of restoration or repair would exceed sixty (60) percent of the true cash value of the improvements prior to its damage or destruction, a substantial improvement, rebuilding or restoration of the nonconforming use shall only be permitted if first authorized by the board of zoning appeals. In considering such authorization, the board of zoning appeals shall consider the following standards:
- a. Whether such substantial improvement will significantly extend the probable duration of the nonconforming use.
  - b. Whether or not the land previously occupied by the nonconforming use can be reasonably used for a use permitted in the applicable district.
- C. *Nonconforming buildings and structures.*
1. In the event any nonconforming building or structure is damaged by fire, wind, Act of God or public enemy, it may be rebuilt or restored to its original nonconforming condition if the cost thereof does not exceed sixty (60) percent of the true cash value of the nonconforming building or structure prior to its damage or destruction. If its replacement cost would exceed sixty (60) percent of the true cash value of the nonconforming building or structure prior to its damage or destruction, it may be rebuilt or restored only in compliance with all provisions of this ordinance.
  2. If a building or structure that is considered an historic resource pursuant to chapter 11.5 of the Code of Ordinances by the historic district commission is damaged by fire, wind, act of God or public enemy, such building or structure may be rebuilt or restored to its original nonconforming condition, regardless of the extent of the damage.
  3. A nonconforming residential structure may be enlarged or increased as long as such enlargement does not increase the degree of nonconformance.
- D. *Nonconforming lots of record.*
1. In any district in which residential dwellings are permitted, notwithstanding other limitations imposed by the provisions of this zoning ordinance, a residential dwelling and permitted accessory building may be constructed or located on a single lot of record in existence at the effective date of the adoption of or applicable amendment to this zoning ordinance, provided, the lot meets at least eighty (80) percent of the required lot area, lot width and side yard setback required by that district and, further, provided, that any building or structure constructed or located on the lot complies with all other yard setback requirements.
  2. Except as noted in (3) below, if two (2) or more lots of record or combination of lots and portions of lots of record, in existence at the time of the passage of this ordinance, or an amendment thereto, are:
    - a. In common ownership;
    - b. Abutting each other or have continuous frontage, and;
    - c. Individually do not meet the lot width or lot area requirements of this ordinance, then the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance. Such parcels shall be combined into such lot or lots meeting the lot width and lot size requirements of this ordinance. No portion of such parcel shall be used or divided in a manner which diminishes compliance with lot width and area requirements of this ordinance.

3. The planning commission may permit use of abutting nonconforming lots of record in common ownership provided commission finds that:
  - a. The nonconforming lots of record were not created by the owner of the properties; and
  - b. There is not a substantial number of vacant, nonconforming lots of record in a similar situation within the vicinity of the lot(s) proposed for use that, if used, would alter the character of the neighborhood.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 01-4, § 1, 10-15-01; Ord. No. 15-01, §§ 4, 5, 2-17-15; Ord. No. 17-03, § 1, 9-18-17)

Section 4.13A. - Reserved.

**Editor's note**— Ord. No. 17-03, § 1, adopted September 18, 2017, repealed § 4.13A in its entirety, which pertained to nonconforming lots of record, and derived from Ord. No. 07-03, § 1, adopted April 2, 2007.

Section 4.14. - Essential services.

The erection, construction, alteration or maintenance of essential services, shall be permitted as authorized or regulated by law and other ordinances in any use district, it being the intention hereof to exempt such erection, construction, alteration, and maintenance from the application of this ordinance, except those which may be considered a danger to the community health, safety and welfare.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 17-03, § 1, 9-18-17)

Section 4.15. - Excavations or holes.

- A. The construction, maintenance, or existence within the city of any unprotected, unbarricaded, open, or dangerous excavations, holes, pits, or wells, which constitute or are likely to constitute a danger or menace to the public health, safety, or welfare, are hereby prohibited.
- B. This section shall not prevent any excavation under a permit issued by the zoning enforcement officer, planning commission and/or building inspector where such excavations are properly protected and warning signs posted in such manner as approved by the building inspector.
- C. This section shall not apply to streams, natural bodies of water, or to ditches, reservoirs, and other such bodies of water created or existing by authority of governmental units or agencies.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 17-03, § 1, 9-18-17)

Section 4.16. - Recreational vehicle storage in residential districts.

Licensed and operable recreational vehicles may be stored or parked in residential districts, provided the following regulations are complied with:

- A. Recreational vehicles may be stored or parked to the rear of the front building line of the primary structure.
- B. Recreational vehicles may be stored or parked in a driveway not less than ten (10) feet from the front lot line.
- C. Recreational vehicles may be used for temporary occupancy for one (1) period not to exceed nine (9) consecutive days during any six (6) consecutive calendar months as long as they are otherwise in compliance with this section.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 02-3, § 1, 7-16-02; Ord. No. 17-03, § 1, 9-18-17)

Section 4.17. - Swimming pools.

- A. Pools used for swimming or bathing shall conform with the requirements of this section; provided, however, these regulations shall not be applicable to any such pool less than twenty-four (24) inches deep or having a surface area less

than two hundred fifty (250) square feet, except where such pools are permanently equipped with a water recirculating system or involve structural materials.

- B. A swimming pool or appurtenances thereto shall not be constructed, installed, enlarged or altered until a permit has been obtained from the zoning enforcement officer.
- C. The outside edge of the pool wall shall not be located closer than six (6) feet from any rear or side lot line; provided, that if any part of the pool walls are more than two (2) feet above the surrounding grade level, such pool shall be placed or erected not less than ten (10) feet from any lot line. No pool shall be located under any electrical wiring or in a front yard. In the case of a waterfront lot, a pool may be located between the water's edge and the dwelling, but shall not be located within a required yard.
- D. Unless otherwise permitted by the State Construction Code, each pool shall be enclosed by a fence or wall with a height of at least four (4) feet, sufficient to make such body of water inaccessible to small children. Such enclosure, including gates therein, must be not less than four (4) feet above the underlying ground; all gates must be self-latching with latches placed four (4) feet above the underlying ground or otherwise made inaccessible from the outside to small children.
- E. All swimming pool installations shall comply with the State Construction Code and all standard codes referred to therein.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 17-03, § 1, 9-18-17)

#### Section 4.18. - Mechanical work.

- A. Mechanical work on trucks over one (1) ton or more, or race cars, stock cars or otherwise, owned by the occupant of a dwelling, or on any vehicles not owned by an occupant of the premises is prohibited in residential districts. Any permitted work on vehicles must be performed entirely within a building, and no parts or vehicles not in a legally operable condition shall be stored outside.
- B. In all residential districts, motor vehicles not intended for private passenger use shall be garaged at all times.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 17-03, § 1, 9-18-17)

#### Section 4.19. - Keeping of pets and other animals.

- A. No more than three (3) adult dogs or cats in combination shall be kept or housed in one (1) residential unit in any residential district.
- B. One (1) horse may be kept on a lot of not less than one and one-half (1½) acres, providing the structure containing such use is located not less than one hundred (100) feet from all adjoining residential district lot lines or residential use. An additional horse may be permitted for each one-half (½) acre over one and one-half (1½) acres.
- C. As long as applicable public health standards are met, fowl (excluding roosters), rabbits or similar animals may be kept within the living space of a residential unit in all residential zone districts. Fowl (excluding roosters), rabbits or similar animals kept outside or in an outside enclosure in any residential zone districts is (i) permitted by right if the lot is at least an acre in size and (ii) permitted by special use permit if the lot is less than an acre, but at least one-half (½) acre. Two (2) such animals are permitted for each one-half (½) acre in lot size. Roosters may not be kept either inside or outside in any residential zone district. Any outside structure housing such animals shall be located not less than fifty (50) feet from all adjoining lot lines. Setback requirements do not, however, apply to such animals housed within the living space of a residential unit.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 07-08, § 1, 6-4-07; Ord. No. 17-03, § 1, 9-18-17)

#### Section 4.20. - Private streets.



- A. *Purpose.* The city determines that it is in the best interest of the public health, safety, and welfare to regulate the construction, improvement, extension, relocation, and use of private streets. These provisions have been enacted to assure that private streets:
1. Will not be detrimental to the public health, safety, or general welfare;
  2. Will not adversely affect the long term development policies of the city;
  3. Will be designed and constructed with width, surface, and grade to assure safe passage and maneuverability of private vehicles, police, fire, ambulance, and other safety vehicles.
  4. Will be constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands, and natural-environment of the city.
- B. *Definitions.* As used in this section, "safe and unimpeded route of travel" shall mean a roadway of adequate width to accommodate the safe, two-way passage of vehicles, and of sufficient construction to accommodate any fire, police, rescue, or other emergency vehicle which may be utilized by the city.
- C. *Frontage and access.*
1. Any lot not having frontage on a public street shall have frontage upon a private street.
  2. All parcels utilizing a private street shall have frontage on the private street for a distance equal to or greater than the minimum lot width required for the district in which the parcel is located.
  3. All private streets shall have direct access to a public street.
- D. *Permits.*
1. No individual, association, corporation, or entity, either public or private, shall construct a private street without first having obtained a private street permit from the city council.
  2. The building inspector shall not issue building permits for construction of any building or structure on lots served by a private street until construction of the private street as approved by the city council has been completed.
  3. A driveway permit shall be obtained from the Michigan Department of Transportation, where applicable, or from the City of Lowell.
  4. A soil erosion and sedimentation control permit shall be obtained, as may be required by the Soil Erosion and Sedimentation Control Act of 1972, as amended.
  5. All other required State of Michigan permits shall be obtained.
  6. The city council may elect to have all design and construction plans reviewed by the city's attorney, fire chief, engineer, or planner prior to consideration of the application for the private street permit.
- E. *Application.* An application for a private street permit shall contain the following:
1. A completed private street permit application, provided by the city.
  2. A detailed written description of the development to be served by the private street.
  3. Seven (7) copies of a plan, drawn to scale, prepared by a registered engineer, showing the precise location, grade, route, elevation, dimensions, and design of the private street and any proposed extensions thereto, existing and proposed curb cuts, and the location and distance to any public streets which the private street is to intersect. However, the plan may be prepared by a registered surveyor, rather than a registered engineer, if the proposed private street is to serve five (5) or fewer parcels or main buildings, and if the zoning enforcement officer waives in writing the requirement for the plan to be prepared by a registered engineer.
  4. A survey of the right-of-way by a registered land surveyor, together with surveys for each parcel to be served by the private street.
  5. The location of all public utilities, including, but not limited to, water, sewer, telephone, gas, electricity, and television cable to be located within the private street right-of-way or within twenty (20) feet of either side thereof. Copies of the instruments describing and granting such easements shall be submitted with the application.

6. The location of any lakes, streams, wetlands, and drains within the proposed right-of-way or within one hundred (100) feet thereof.
7. The location of any other buildings and structures located, or to be located, within one hundred (100) feet of the private street right-of-way.

F. *Design requirements.*

1. The specifications for width, surface and base materials, curbing, drainage utility locations and method of construction of a private street shall conform to the standards set forth in subsections 2. and 3. below based on the number of dwelling units served by such private streets as well as the other provisions of this subsection F.
2. Private streets serving three (3) to five (5) dwelling units shall:
  - a. Have a minimum sixty-six (66) foot right-of-way easement granted to adjacent properties principally served by such private street.
  - b. Be constructed in a good and workmanlike manner upon and parallel to the centerline of the right-of-way easement.
  - c. Be constructed so as to control storm water runoff and permit effective storm water drainage by such means as ditches and valley gutters constructed parallel to and on either side of the street, sloping the sides of the street from the center thereof or other effective methods.
  - d. Have a driving surface of either asphalt or concrete with a firmly compacted base consisting of the following cross sections:
    - 1) Asphalt:
      - i. Six (6) inches of sand in accordance with specifications as established from time to time by the city.
      - ii. Six (6) inches of gravel in accordance with specifications as established from time to time by the city.
      - iii. Three (3) inches of asphalt placed as two (2) layers in accordance with specifications as established from time to time by the city.
    - 2) Concrete:
      - i. Six (6) inches of sand in accordance with specifications as established from time to time by the city.
      - ii. Six (6) inches of concrete in accordance with specifications as established from time to time by the City.
  - e. Have a finished driving surface width of not less than sixteen (16) feet with a six (6) inch thick by two (2) feet wide gravel shoulder on each side of the driving surface.
  - f. Be constructed, when and where necessary, over adequate culverts.
  - g. If ending with a cul-de-sac, have a minimum turnaround radius of forty-five (45) feet.
  - h. Not be expanded to serve more than five (5) dwelling units without meeting the requirements of subsection 3 immediately below.
    - i. If in the future a determination is made to convert the private street to a public street, conform to public street specifications.
3. Private streets serving six (6) or more dwelling units shall:
  - a. Have a minimum sixty-six (66) foot right-of-way easement granted to adjacent properties principally served by such private street.
  - b. Be constructed in a good and workmanlike manner upon and parallel to the centerline of the right-of-way easement.
  - c. Have culverts placed at all natural drainage courses or other waterways; sizes and grades shall be determined using the appropriate stormwater runoff formula calculations and culvert materials shall conform to city

- engineer specifications.
- d. Receive the approval of the engineer designated by the city of all designs, materials and methods of installation where the placement of underground storm sewers and valley gutters is determined necessary by the city engineer.
  - e. Shall receive the approval of the engineer designated by the city of the layout including their location, intersections, cul-de-sacs, vertical street alignment, street grades, street signs, horizontal curves, curb openings at or near intersections and other aspects as determined by the engineer designated by the city.
  - f. Have a driving surface of either asphalt or concrete with a firmly compacted base consisting of the following cross sections:
    - 1) Asphalt:
      - i. Twelve (12) inches of sand in accordance with specifications as established from time to time by the city.
      - ii. Six (6) inches of gravel in accordance with specifications as established from time to time by the city.
      - iii. Three (3) inches of asphalt placed as two (2) layers in accordance with specifications as established from time to time by the city.
    - 2) Concrete:
      - i. Twelve (12) inches of sand in accordance with specifications as established from time to time by the city.
      - ii. Six (6) inches of concrete in accordance with specifications as established from time to time by the city.
  - g. Have a finished driving surface width of not less than twenty-four (24) feet with a six (6) inch thick by two (2) feet wide gravel shoulder on each side of the driving surface.
  - h. If ending with a cul-de-sac, have a minimum turnaround radius of forty-five (45) feet.
    - i. If in the future a determination is made to convert the private street to a public street, conform to public street specifications.
4. Length of private streets.
- a. No private street shall extend for a distance of more than eight hundred (800) feet in length from the nearest public street right-of-way from which access is gained, as measured along the centerline of the private street to the furthest point of any private street, except as otherwise noted, without a private street access complying with this section being provided to another public street.
  - b. The maximum length of a proposed private street may be exceeded if the city council, after recommendation of the planning commission, finds that at least one (1) of the following conditions exists:
    - 1) That topography or other significant natural features preclude access to any other public street or adjoining property on which a public street may be constructed. Such significant natural features shall be clearly identified and marked on the proposed private street plans.
    - 2) That not allowing a longer private street would result in inefficient use of land. Alternate development plans demonstrating that no other development is feasible shall be submitted by the applicant and reviewed by the city council prior to confirming this finding.
    - 3) That other methods of access are available such that emergency vehicles are assured a safe and unimpeded route of travel to the properties served by the private street. Such access shall be reviewed by the fire chief and the recommendation forwarded to the planning commission.
  - c. The city council, upon a finding that at least one (1) of the above conditions exists, shall establish the maximum length of the proposed private street.
5. Right-of-way/easement width.
- a. All private streets constructed after the effective date of this ordinance shall have a recorded permanent right-of-

way and easement with a minimum width of at least sixty-six (66) feet. The right-of-way shall also expressly permit public or private utilities to be installed within the right-of-way.

- b. Private streets in existence as of the effective date of this ordinance whose right-of-way or easement width is less than sixty-six (66) feet need not provide additional right-of-way or easement width, but such width shall not be subsequently reduced so as to increase its noncompliance with these requirements.
6. The layout of the private street and the intersections of the private street with either a public or private street shall be such that clear vision, safe turning and travel in all directions at the posted speed limit is assured, as determined by the city engineer. The minimum distance between intersections of public and/or private street rights-of-way shall not be less than one hundred fifty (150) feet, as measured along the right-of-way line thereof.
  7. Existing private streets.
    - a. A private street existing on the effective date of this ordinance may continue in existence and be maintained and used, though it may not comply with the provisions of this section. Such private streets shall be continuously maintained so as to provide a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.
    - b. Any private street existing on the effective date of this ordinance to which one (1) or more additional lots or parcels are created or otherwise permitted access, shall have the entire length of the existing private street upgraded to comply with the applicable requirements of this subsection F.
    - c. If a private street existing on the effective date of this ordinance is extended by the construction and use of an additional length of private street the entire private street, including the existing portion and the additional portion, shall comply with the applicable requirements of this subsection F.

*G. Review standards; modification of certain requirements.*

1. Prior to approving a private street permit application, the city council shall determine the following:
  - a. The proposed private street will not be detrimental to the public health, safety, or general welfare.
  - b. The proposed private street will not adversely affect the use of land.
  - c. The private street is constructed to assure a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.
  - d. The private street is constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands, and natural environment of the city.
  - e. The construction of the private street will conform to the requirements of this section.
2. The city council may require that the applicant comply with reasonable conditions relative to the design and construction of the private street.
3. Upon application the city council may modify any of the private street requirements of this section after finding that all of the following conditions exist:
  - a. Topography, soils, and/or other significant natural features physically preclude or prevent compliance with the requirements of this section without substantial alteration of such natural features. Such natural features shall be clearly identified and described in the application for any such modification;
  - b. The justification of any modification is not due solely to financial considerations which, upon approval of the requested modification would provide a financial benefit;
  - c. That no other reasonable private street design alternatives are available that would comply with the requirements of this section; and
  - d. That the request for modification was reviewed by the fire chief and/or city engineer, and/or any other person or official designated by the city council and a recommendation submitted to the council.

H. *Maintenance and repairs.*

1. Private streets shall be maintained in a manner that complies with the provisions of this section.
2. All private streets shall be continuously maintained in such a way that they will not constitute a danger to the health, safety, and welfare of the inhabitants of the city. All private streets shall be continuously maintained in such a way that they assure a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.
3. All costs for maintenance and repair of the private street shall be the responsibility of the property owners or any property owners association served by the private street.
4. Private street maintenance or restrictive covenant agreements.
  - a. The applicant(s)/owner(s) of the proposed private street right-of-way or private street shall provide the city council with a recordable private street maintenance or restrictive covenant agreement between the owner(s) of the private street right-of-way and any other parties having any interest therein, or other documentation satisfactory to the city council which shall provide for and assure that the private street shall be regularly maintained, repaired, and snow plowed so as to assure that the private street is safe for travel at all times and the cost thereof paid.
  - b. The applicant(s) agree, by filing an application for and receiving a permit under this ordinance, that they will assure that any building(s) or parcels thereafter created or constructed on the private street shall also be subject to the street maintenance or restrictive covenant agreement and that said agreement shall be recorded and shall run with the land. A copy of said agreement shall be furnished to the city council prior to the issuance of the permit.

- I. *Performance guarantee.* The city council may, as a condition of the private street construction permit, require that the applicant provide a performance guarantee, in accordance with the provisions of Act 207 of the Public Acts of Michigan of 1921, as amended.

J. *Inspections/certificate of compliance.*

1. Upon completion of construction of the private street, the city engineer shall inspect the completed construction to determine whether it complies with the approved plans, specifications, permit, and this ordinance.
2. The applicant(s), at the applicant(s)'s expense, shall provide the city with a set of "as built" drawings bearing a certificate and statement from a registered engineer certifying that the private street has been completed in accordance with the requirements of the permit and the City of Lowell.
3. If the completed private street does not satisfy the requirements of the permit or this ordinance, the applicant(s) shall be notified of the noncompliance in writing and shall be given a reasonable period of time within which to correct the deficiencies. Failure to correct the deficiencies within the time provided shall subject the applicant(s) to the penalties provided for in this ordinance.

- K. Fees for the permits required hereunder shall be set by the city council from time to time by resolution. Additionally, the city council may require that the applicant(s) put sufficient funds in escrow to cover the costs of having the city attorney, engineer, planner, or other professional review the private street plans, specifications, and maintenance agreements, and to do the necessary inspections.

- L. The applicant(s)/owner(s) of the private street agree that by applying for or securing a permit to construct the private street that they shall indemnify and hold the city harmless from any and all claims for personal injury and/or property damage arising out of the use of the private street or of the failure to properly construct, maintain, use, repair, and replace the private street.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 04-3, § 1, 7-19-04; Ord. No. 17-03, § 1, 9-18-17)

## Section 4.21. - Wireless communication towers.

- A. A different use of an existing structure on the same lot shall not preclude the installation of a commercial wireless communication tower on such lot when such tower is approved in accordance with the provisions hereof.
- B. Commercial wireless communication antennas and related equipment may be permitted within any zone district if mounted on an existing commercial wireless communication tower, publicly-owned tower or other structure and provided the conditions in section 17.04BB have been met, and provided the height of the tower or other structure will not be increased, and provided the footprint of the related buildings, structures and supports will not be increased. If these conditions have not been met, the applicant must obtain site plan review and approval from the planning commission. The planning commission shall have the discretion of holding a public hearing on the review of the site plan.

(Ord. No. 00-4, § 7, 9-18-00; Ord. No. 17-03, § 1, 9-18-17)

## Section 4.22. - Amateur radio antennas.

Amateur radio antennas (being antennas operating for the purpose of receiving or transmitting communications by a radio station described in section 153(q) of title 42 of the United States Code and licensed by the federal communications commission) may be approved by the planning commission as a special land use in any zone district if it is reasonably demonstrated that the application of any of the provisions of this article would be to preclude or prevent the operation of such amateur radio antenna. In granting such special land use, the planning commission may impose reasonable conditions upon such approval, but such conditions shall not interfere with the reasonable accommodation of amateur radio communications. Such conditions, if any, shall not be more than the minimum practicable regulations necessary to accomplish the city's legitimate purposes in regulating such amateur radio antennas.

(Ord. No. 00-4, § 8, 9-18-00; Ord. No. 17-03, § 1, 9-18-17)

## Section 4.23. - Canopies and awnings.

Canopies and awnings are permitted in C-1, C-2, C-3 and PF Districts to be placed around door or window openings in buildings and structures without limitation as to number. The height of such canopies and awnings from the lowest point on canopies and awnings shall not encroach beyond the public sidewalk into the public street. In addition, canopies and awnings are permitted over installed equipment attached to a building or structure. Such awnings shall be compatible with the building or structure. In addition to the provisions of this section, chapter 11.5 of the Code shall apply to awnings and canopies located in a historic district. Signage located on a canopy or awning shall comply with chapter 20 of this ordinance.

(Ord. No. 06-01, § 3, 2-21-06; Ord. No. 17-03, § 1, 9-18-17)

## Section 4.24. - Outdoor lighting requirements and restrictions.

- A. *Purpose.* The purpose of this section 4.24 is to allow for nighttime use of property through proper illumination while creating and maintaining safety for pedestrians and motorists by minimizing glare directed onto public rights-of-way. In addition, the requirements of this section 4.24 are meant to preserve the restful quality of nighttime by eliminating intrusive, artificial light and illumination that unnecessarily contributes to "sky glow," and to reduce light pollution and light trespass onto adjacent properties.
- B. *Exempted lighting.* Lighting commonly associated with single-family or two-family dwellings, including porch lights, low-level lawn lights, soffit-mounted facade illumination and special seasonal lights, such as holiday decorations, shall be exempted from the requirements of this section 4.24, provided, however, that flood lights, spot lights or yard lights

mounted higher than ten (10) feet above grade shall be subject to the standards of section 4.24E hereof. Lighting associated with temporary or special events, may be exempted from the requirements of this section 4.24 hereof upon prior request and approval of the city manager or his or her designee.

C. *Scope and application.*

1. The requirements of this section 4.24 shall apply to any new development or renovation requiring a site plan pursuant to chapter 18 of this ordinance and to the installation of any new regulated lighting as provided under section 4.24D. New developments shall comply with this section 4.24, as shall existing developments under consideration for an other than minor changes in a site plan as described in section 18.09 hereof.
2. Any new development or renovation requiring a site plan pursuant to chapter 18 of this ordinance shall include detail on the design and location of all exterior lighting, including light poles, wall-mounted fixtures and illuminated signs. The planning commission or zoning enforcement officer may require submission of additional details, including lighting output, bulb type, planned lighting coverage and other elements to determine the extent of proposed lighting on the site and any potential impacts off the property subject to site plan approval.

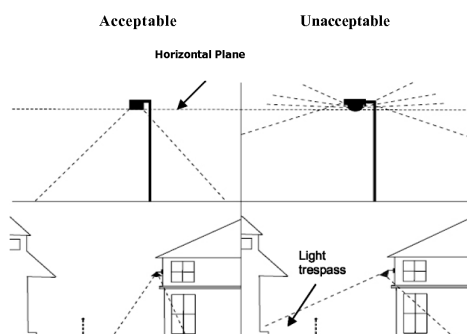
D. *Regulated lighting.* The following types of outdoor lighting shall be regulated by this section:

1. Lighting intended to illuminate a site, facade and/or parking area for commercial, industrial, institutional and multiple family residential uses.
2. Private street lighting and public street lighting, including that installed by a municipality or power company.
3. All forms of neon lighting.
4. Lighting of signs.
5. Lighting not exempted under section 4.24B hereof.

E. *General standards.* Outdoor lighting shall be designed, constructed and maintained in compliance with the following standards:

1. Direct light and directly-reflected light shall be confined to the subject property by screening, shielding, landscaping or other measures such that no lighting in excess of one-half (½) foot candle shall be cast on adjoining private property. This standard shall not apply to internally lit signs meant to be visible from the adjoining public right-of-way.
2. Lamps or bulbs, fixtures and other physical parts of the fixture assembly shall be shielded or hooded to prevent glare from traveling beyond the subject property and to ensure that the light source is not directly visible from beyond the boundary of the subject property.
3. Light fixture assemblies shall have one hundred (100) percent cut-off above the horizontal plane at the lowest part of the light source. The light rays may not be emitted by the installed fixture at angles above the horizontal plane as illustrated by figure 4.24.

Figure 4.24. Fully Cut-off, Downward Facing Fixtures



4. There shall be no lighting of a blinking, flashing or fluttering nature including changes in light intensity, brightness or

color. Beacon, strobe and search lights shall be prohibited. No colored lights shall be used at any location or in any manner which might be confused with or construed as traffic control devices.

5. In addition to the requirements of this section 4.24, parking area lighting shall comply with the standards of section 19.03C of this ordinance.
  6. The planning commission or zoning enforcement officer may impose additional conditions on site illumination to further the purpose of this section 4.24.
  7. Internally-lit signs, electronic message boards, back-lit changeable copy signs and signs incorporating light emitting diode (LED), liquid crystal, video or other types of internally-lit systems shall be designed, shielded and oriented so as not to interfere with adjacent public rights-of-way or adjacent property and such signs shall not emit light exceeding either ten (10) foot candles measured four (4) feet perpendicular to the sign face or one-half (½) foot candle measured at the property line of adjoining privately-owned property.
- F. *Departures.* Outdoor lighting shall comply with the requirements of this section 4.24, provided, the planning commission may, upon written application approve departures from the standards of this section 4.24 if the planning commission finds that the following standards are demonstrated by the applicant:
1. The use is a permitted or special land use in the zoning district.
  2. The applicant will undertake reasonable measures to assure that the public health, safety and welfare would not be undermined by approving the proposed departure.
  3. The proposed plan includes reasonable measures to mitigate any glare, annoyance, intrusion or distraction would be caused by the proposed lighting.
  4. The general public would benefit from the proposed lighting and the proposed lighting and related land use are consistent with the city master plan.

(Ord. No. 11-01, § 2, 1-3-11; Ord. No. 17-03, § 1, 9-18-17)

#### Section 4.25. - Outdoor furnaces.

- A. *Purpose.* The city desires to regulate the location and operation of outdoor furnaces to secure and promote the health, safety and welfare of the public. Outdoor furnaces are an alternative to traditional home-heating methods and have increased in popularity because of rising fuel costs. This increased usage has led to the recognition that outdoor furnaces can impact health, safety and welfare if not designed and used properly and these impacts are multiplied when used in densely populated areas. Outdoor furnaces shall only be permitted under certain circumstances and only when specific requirements are met in order to broaden home-heating options for city residents while insuring regulations are in place to protect residents from, health, safety and welfare impacts.
- B. *Application.* An outdoor furnace shall not be installed on any property unless a certificate of zoning compliance and any required mechanical and building permits have been issued by the city. A mechanical permit application along with the applicable fee shall be submitted to the city with descriptive information that is necessary to determine compliance with the requirements of this section and any applicable building codes. In addition, the applicant shall submit a signed acknowledgement indicating that combustion in the outdoor furnace of material prohibited by this section is grounds for revocation of the certificate of zoning compliance requiring immediate discontinuance of its use.
- C. *Eligibility.* Outdoor furnaces are permitted in side and rear yards as an accessory use to residential dwellings (i) on parcels in a SR-Suburban Residential District and (ii) on parcels in an R-1 Residential District with a parcel area of at least twenty thousand (20,000) square feet. In a R-1 Residential District the application for a mechanical permit shall include a recorded deed restriction in a form acceptable to the city signed by the property owner prohibiting the subdivision or splitting of the parcel in a manner which would result in the outdoor furnace being located on a parcel of less than twenty thousand (20,000) square feet or with isolation and setback dimensions less than those required by this section.



- D. *Isolation and setback.* An outdoor furnace shall be located a minimum of eighty (80) feet from any residential dwelling on a adjacent parcel and shall be located a minimum of forty (40) feet from the property line of the parcel where it is located.
- E. *Stack height.* Stack or chimney height of an outdoor furnace shall extend to an elevation at least two (2) feet above the roof peak of any residential dwelling within three hundred (300) feet of the outdoor furnace.
- F. *Combustion materials.* Only dry, seasoned wood or pellets manufactured for use in an outdoor furnace may be used in an outdoor furnace. The city may approve an alternative fuel if it is recommended by the outdoor furnace manufacturer and will result in air emissions no greater than that of dry, seasoned wood or pellets manufactured for outdoor furnace use. Combustion of toxic or other materials that generate offensive odors or excessive smoke or that are harmful to human health are prohibited. Such prohibited materials include, but are not limited to, trash, garbage, plastics of any kind, wood that is painted, varnished or treated, gasoline, oil, rubber, naphtha, materials treated with petroleum products, leaves and paper products including cardboard. Any use of prohibited construction materials shall result in the revocation of the zoning compliance certificate requiring the immediate discontinuance of use of the outdoor furnace.

(Ord. No. 11-05, § 2, 4-18-11; Ord. No. 17-03, § 1, 9-18-17)

#### Section 4.26. - Landscaping.

The intent of this section is to establish minimum standards for the design, installation, and maintenance of landscaping along public streets, between uses, on the interior of sites and within parking lots. Landscaping is viewed as a critical element contributing to the aesthetics and quality of development and redevelopment within the City of Lowell.

The standards of this section are also intended to screen headlights to reduce glare, integrate various elements of a site, help ensure compatibility between land uses, minimize negative impacts of storm-water runoff, minimize noise, air and visual pollution, and promote the preservation of healthy, desirable trees.

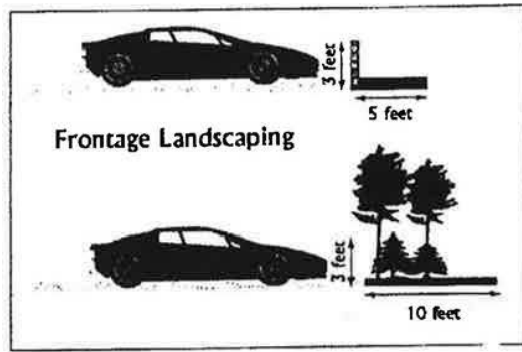
The landscape standards of this section are considered the minimum necessary to achieve the intent. In several instances, the standards are intentionally flexible to encourage creative design. Applicants are encouraged to provide additional landscaping to improve the function, appearance, and value of their property.

- A. *Exemptions.* Individual single-family dwellings, two-family dwellings, home occupations, agricultural uses and other uses not requiring site plan review are not subject to the provisions of this section. When a site plan is required pursuant to article 16, landscaping shall be incorporated into the site and a landscape plan shall be submitted in conjunction with the site plan. The landscape plan shall clearly describe the location, type, size, height, and spacing of plant materials.
- B. *Modification of requirements.* The city may modify requirements of this section when it finds circumstances that warrant a change in the requirements of this section, or in finding that existing landscaping or screening, or existing conditions on the site, will be preserved and would meet the intent of this section.
- C. *Installation.* Wherever this ordinance requires landscaping, it shall be planted within six (6) months from the date of issuance of a certificate of occupancy and shall thereafter be reasonably maintained with permanent plant materials which may be supplemented with other plantings. The zoning enforcement officer may allow a postponement of installation of up to six (6) months upon request of an applicant based on seasonal weather conditions, but all landscaping must be installed within one (1) year of issuance of a certificate of occupancy. Whenever possible, selection of plant and tree species and minimum installation sizes should be generally consistent with applicable guidelines and recommendations of the Lowell Arbor Board.
- D. *Maintenance.* Landscaped areas and plant materials required by this ordinance shall be kept free from refuse and debris. Plant materials, including lawn areas, shall be maintained in a healthy condition and be neat and orderly in appearance. If any plant material required by this ordinance dies or becomes diseased, it shall be replaced within six

(6) months of written notice from the zoning enforcement officer, or within an extended time period as specified in said notice.

E. *Specific landscaping requirements.*

1. *Buffers between uses.* For non-residential uses abutting or adjacent to a residential zoning district and/or a residential use, there shall be provided and maintained on those sides a wall or wooden privacy fence six (6) feet in height, or between six (6) feet and eight (8) feet in height in industrial districts, or a landscaped buffer or berm, at least partially comprised of evergreen trees, sufficient to provide adequate screening between uses for the purpose of protecting the quality and integrity of the residential district and/or use.
2. *Front yard landscaping.* In the C-1, C-3, I-L and I districts, front yard landscaping is required as specified below:
  - a. Landscaping shall consist of a minimum of one (1) canopy tree and three (3) deciduous shrubs for each thirty (30) feet of lot width.
  - b. Additional front yard landscaping is encouraged and may be required by the city where it is found that such additional landscaping would further the intent of this section.
3. *Parking lot landscaping.*
  - a. *Changes to existing parking lots.* The zoning enforcement officer shall review landscaping plans for major changes to an existing parking lot. Major changes to parking lots shall comply with the landscaping requirements of this section unless modifications are approved by the planning commission or zoning enforcement officer as permitted by this section. Major changes consist of the following:
    - 1) Replacement or alteration of existing drainage elevations or structures affecting more than fifty (50) percent of the existing parking lot.
    - 2) For any expansion or addition of a parking lot equal to or greater than twenty-five (25) percent of the area of the existing parking lot, the expanded area shall comply with the landscaping requirements of this section.
    - 3) Reconstruction of the parking lot, including the removal of existing pavement and drainage structures, which affects more than twenty-five (25) percent of the existing parking lot. Instances in which a parking lot is to be resurfaced and no other modifications to the parking lot or drainage patterns are proposed shall not constitute "reconstruction" for the purposes of this subsection.
    - 4) Any other change which, in the opinion of the zoning enforcement officer, constitutes a major change. The phased expansion or replacement of parking lots and/or surfaces in order to circumvent the requirements of this section is prohibited.
    - 5) The zoning enforcement officer may waive the requirements of this section if it is determined that the parking lot landscaping requirements of this section would unreasonably reduce the number of spaces within the parking lot. The zoning enforcement officer may refer any parking lot replacement or expansion to the planning commission for a decision.
  - b. *Frontage landscaping.* Where any parking area abuts or faces a public street, landscaping shall be required between the parking area and the street right-of-way. Such landscaping shall consist of, at a minimum, one (1) of the following:
    - 1) A strip of land at least five (5) feet in width as well as a solid screen of a hedge, fence or decorative wall, or any combination thereof, which measures at least three (3) feet in height; or



- 2) A strip of land at least ten (10) feet in width containing at least one (1) canopy tree for each thirty (30) feet of lot width.

The required strip of land specified in items 1 and 2 above shall also be covered with grass or other approved ground cover.

- c. Interior parking lot landscaping. In addition to frontage landscaping, parking lots shall also contain landscaping within the interior of the parking lots as specified below:
  - 1) Interior landscaping shall be provided for any parking area containing twenty (20) or more parking spaces.
  - 2) The interior of the parking lot shall be considered as any point from the outside boundary of the parking area.
  - 3) The interior area of any parking lot shall incorporate planting islands at a minimum ratio of one (1) island per each twenty (20) parking spaces, or part thereof.
  - 4) Each planting island shall be at least ninety (90) square feet in area with a minimum horizontal dimension of nine (9) feet.
  - 5) Landscaped islands shall be dispersed evenly throughout the entire area of the parking lot in order to break up large expanses of pavement and shall be used to separate pedestrian areas, maneuvering areas, and drives whenever possible.
  - 6) A minimum of one (1) approved canopy tree shall be provided for each planting island, with the balance of the island covered with grass, or approved shrubs or ground cover.
  - 7) Fifty (50) percent of the required trees shall be installed in the interior of the parking area and fifty (50) percent on the perimeter. The required trees shall be in addition to those which may otherwise be required by this section.

( Ord. No. 17-03, § 1, 9-18-17)

## CHAPTER 5. - SR - SUBURBAN RESIDENTIAL DISTRICT

### Section 5.01. - Description and purpose.

This district, compatible with the Low Density Single Family Future Land Use Category of the Master Plan, is intended for residential uses on lots that are generally larger than those found in more developed areas of the city. The purpose of this district is to foster an open space character of the lands within this district, minimizing public service costs, limiting urban influence, and preserving natural features. Certain compatible, nonresidential uses may also be permitted within the district.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 08-03, § 1, 4-7-08)

Section 5.02. - Uses permitted by right.

Land and/or buildings in the SR District may be used for the following purposes as uses permitted by right:

- A. Farms for both general and specialized farming, together with farm dwellings and buildings and other installations useful to such farms, including roadside stands with less than two hundred (200) square feet of sales area.
- B. Single-family dwellings.
- C. State licensed residential family care facilities, but not including state licensed residential facilities caring for four (4) or less minors.
- D. Family day care homes.
- E. Home occupations in accordance with the requirements of section 4.11.
- F. Public parks, playgrounds, fairgrounds, and cemeteries.
- G. Accessory buildings, structures and uses customarily incidental to any of the above uses permitted by right, or special land uses.
- H. Single-family dwellings otherwise meeting the requirements of this chapter permitted in accordance with the requirements of chapter 23 hereof.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 03-2, § 1, 2-18-03)

Section 5.03. - Special land uses.

Land and/or buildings in the SR District may be used for the following purposes following review by the planning commission as a special land use as regulated by Chapter 17:

- A. Country clubs, golf courses, riding stables, and private athletic grounds and parks, and other similar uses, including related uses, such as snack bars or small retail shops selling goods directly related to the primary use.
- B. Commercial greenhouses and nurseries, when operated primarily as wholesaling operations and limited retail sales.
- C. Removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources.
- D. Kennels.
- E. Radio and television transmitting buildings and towers.
- F. Bed and breakfast establishments.
- G. Schools, churches, libraries, and community center buildings.
- H. Funeral homes and mortuary establishments.
- I. Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires, and underground utility systems.
- J. Group and commercial day care homes and facilities.
- K. Short-term rental.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 09-06, § 1, 10-5-09); Ord. No. 18-02, § 3, 2-20-18)

Section 5.04. - District regulations.

No building or structure, nor the enlargement of any building or structure, shall be hereafter erected unless the following requirements are met and maintained in connection with such building, structure, or enlargement.

Front yard	30 feet
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Side yard	Residential Buildings - 20 feet total/8 feet minimum Non-residential Buildings - 30 feet
Rear yard	35 feet
Building height	35 feet or 2½ stories
Lot coverage	35%
Minimum lot area	23,000 square feet
Minimum lot width	125 feet
Minimum dwelling unit floor area	1,500 square feet DFA

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 03-03, § 1, 2-18-03; Ord. No. 03-5, § 2, 8-18-03)

#### CHAPTER 6. - R-1 RESIDENTIAL DISTRICT

##### Section 6.01. - Description and purpose.

This district, compatible with the Single Family 1 Future Land Use Category of the Master Plan, is primarily intended for residential uses on moderate sized lots. Its purpose is to foster stable neighborhoods and to minimize the encroachment of incompatible uses. Certain related non-residential uses are also provided.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 08-03, § 2, 4-7-08)

##### Section 6.02. - Uses permitted by right.

Land and/or buildings in the R-1 District may be used for the following purposes as uses permitted by right:

- A. Single-family dwellings.
- B. State licensed residential family care facilities, but not including state licensed residential facilities caring for four (4) or less minors.
- C. Family day care homes.
- D. Home occupations in accordance with the requirements of section 4.11.
- E. Public parks, playgrounds, fairgrounds, and cemeteries.
- F. Accessory buildings, structures and uses customarily incidental to any of the above uses permitted by right, or special land uses.

(Ord. No. 95-06, § 1, 12-27-95)

##### Section 6.03. - Special land uses.

Land and/or buildings in the R-1 District may be used for the following purposes following review by the planning commission as a special land use as regulated by Chapter 17:

- A. State licensed residential group care facilities.
- B. Group and commercial day care homes and facilities.
- C. Bed and breakfast establishments.
- D. Schools, churches, libraries, and community center buildings.
- E. Public or private campgrounds.
- F. Funeral homes and mortuary establishments.
- G. Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires, and underground utility systems.
- H. Short-term rental.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 18-02, § 4, 2-20-18)

#### Section 6.04. - District regulations.

No building or structure, nor the enlargement of any building or structure, shall be hereafter erected unless the following requirements are met and maintained in connection with such building, structure, or enlargement.

Front yard	30 feet
Side yard	Single-family dwellings - 20 feet total/8 feet minimum Non-residential buildings - 30 feet
Rearyard	25 feet
Building height	35 feet or 2½ stories
Lot coverage	35%
Minimum lot area	9,750 square feet
Minimum lot width	75 feet
Minimum dwelling unit floor area	1,500 square feet DFA

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 03-3, § 2, 2-18-03; Ord.No. 03-5, § 3, 8-18-03)

#### CHAPTER 7. - R-2 RESIDENTIAL DISTRICT

##### Section 7.01. - Description and purpose.

This district, compatible with the Single Family 2 Future Land Use Category of the Master Plan, is intended for residential uses, and related non-residential uses. The overall purpose of this district is to provide additional housing opportunities by providing a variety of housing options, including single- and two-family dwellings.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 08-03, § 3, 4-7-08)

Section 7.02. - Uses permitted by right.

Land and/or buildings in the R-2 District may be used for the following purposes as uses permitted by right:

- A. Single-family dwellings.
- B. Two-family dwellings.
- C. State licensed residential family care facilities, but not including state licensed residential facilities caring for four (4) or less minors.
- D. Family day care homes.
- E. Home occupations in accordance with the requirements of section 4.11.
- F. Public parks, playgrounds, and cemeteries.
- G. Accessory buildings, structures and uses customarily incidental to any of the above uses permitted by right, or special land uses.

(Ord. No. 95-06, § 1, 12-27-95)

Section 7.03. - Special land uses.

Land and/or buildings in a R-2 District may be used for the following purposes following review by the planning commission as a special land use as regulated by Chapter 17:

- A. Multiple-family dwellings.
- B. Public or private campgrounds.
- C. Schools, churches, libraries and community center buildings.
- D. Funeral homes and mortuary establishments.
- E. Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires and underground utility systems.
- F. Bed and breakfast establishments.
- G. Group and commercial day care homes and facilities.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 00-3, § 1, 7-17-00; Ord. No. 09-05, § 1, 10-5-09)

Section 7.04. - District regulations.

No building or structure, nor the enlargement of any building or structure, shall be hereafter erected unless the following requirements are met and maintained in connection with such building, structure, or enlargement.

Front yard	30 feet
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Side yard	Single- and two-family dwellings - 15 feet total/6 feet minimum Non-residential buildings - 20 feet Multiple-family dwellings - 20 feet or equal to the height of the building, whichever is greater
Rear yard	25 feet
Building height	35 feet or 2½ stories
Lot coverage	30%
Minimum lot area	Single- and two-family dwellings - 8,200 square feet Multiple-family dwelling - 12,000 square feet for the first 4 units plus 2,500 square feet for each unit over 4. Overall net density shall not exceed six (6) units per acre
Minimum lot width	Single-family dwellings - 66 feet Two-family and multiple-family dwellings - 100 feet
Minimum floor area	Single- and two-family dwellings - 1,000 square feet DFA per unit/700 square feet DFA per unit on the ground floor Multiple-family dwellings - 500 square feet + 150 square feet per bedroom DFA per unit

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 03-5, § 4, 8-13-03)

#### CHAPTER 8. - R-3 RESIDENTIAL DISTRICT

##### Section 8.01. - Description and purpose.

This district, compatible with the Multiple Family Residential Future Land Use Category and the Downtown Edge Future Land Use of the Master Plan, is intended for residential uses, and related non-residential uses. The overall purpose of this district is to provide additional housing opportunities by providing a variety of housing options, including single- and two-family dwellings.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 08-03, § 4, 4-7-08; Ord. No. 09-02, § 1, 4-6-09)

##### Section 8.02. - Uses permitted by right.

Land and/or buildings in the R-3 District may be used for the following purposes as uses permitted by right, subject to the approval of a site plan, in accordance with the requirements of Chapter 18:

- A. Single-family dwellings.
- B. Two-family dwellings.



- C. Multiple-family dwellings.
- D. State licensed residential family care facilities, but not including state licensed residential facilities caring for four (4) or less minors.
- E. Family day care homes.
- F. Home occupations in accordance with the requirements of section 4.11.
- G. Public parks, playgrounds, and cemeteries.
- H. Accessory buildings, structures and uses customarily incidental to any of the above uses permitted by right, or special land uses.

(Ord. No. 95-06, § 1, 12-27-95)

Section 8.03. - Special land uses.

Land and/or buildings in the R-3 District may be used for the following purposes following review by the planning commission as a special land use as regulated by Chapter 17:

- A. Public or private campgrounds.
- B. Schools, churches, libraries and community center buildings.
- C. Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires and underground utility system.
- D. Bed and breakfast establishments.
- E. Group and commercial day care homes and facilities.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 00-3, § 2, 7-17-00; Ord. No. 09-05, § 2, 10-5-09)

Section 8.04. - District regulations.

No building or structure, nor the enlargement of any building or structure, shall be hereafter erected unless the following requirements are met and maintained in connection with such building, structure, or enlargement.

Front yard	30 feet
Side yard	Single- and two-family dwellings - 13 feet total/5 feet minimum Multiple-family dwellings - 20 feet or equal to the height of the building whichever is greater Non-residential buildings - 30 feet
Rear yard	25 feet
Building height	35 feet or 2½ stories
Lot coverage	30%

Minimum lot area	Single-family dwellings - 8,200 square feet Two-family dwellings - 9,000 square feet Multiple-family dwellings - 12,000 square feet for the first 4 units plus 2,500 square feet for each unit over 4. Overall net density shall not exceed 10 units per acre
Minimum lot width	Single-family dwellings - 66 feet Two-family dwellings - 80 feet Multiple-family dwellings - 100 feet
Minimum floor area	Single- and two-family dwellings - 1,000 square feet DFA per unit/700 square feet DFA per unit on the ground floor Multiple-family dwellings - 500 square feet plus 150 square feet per bedroom DFA per unit

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 03-5, § 5, 8-18-03; Ord. No. 07-01, § 1, 1-2-07)

#### CHAPTER 9. - MHP - MANUFACTURED HOME PARK DISTRICT

##### Section 9.01. - Scope.

- A. This district shall be compatible with the Manufactured Housing Future Land Use Category of the Master Plan. For the preservation of the interests of various types of residential developments which should be permitted in every community and for the protection to the residents of any manufactured home park development, these regulations are considered to be minimum standards to be applied to all manufactured home park developments in the city.
- B. All manufactured home parks shall comply with the applicable requirements of Act 419 of the Public Acts of Michigan of 1976, as amended, provided further that said developments meet the standards, conditions and all other provisions herein.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 09-02, § 2, 4-6-09)

##### Section 9.02. - Installation and occupation of manufactured homes.

- A. No manufactured home shall be placed or parked or installed in a manufactured home park until such time as a building permit is obtained from the building inspector. Such permit shall be issued by the building inspector after making a finding that said manufactured home meets construction standards as approved by the Federal HUD Code, or has been certified by a manufacturer as constructed according to the requirements of the Federal HUD Code.
- B. No manufactured home shall be occupied by any person as a residence or for any other purpose until such time as said manufactured home park is placed or situated on a specific lot in the manufactured home park and has been inspected by the building inspector and issued an occupancy permit. Such inspection shall include the placement, the interconnection to utilities, and review compliance with all necessary state, city, or other ordinances and regulations. Such permit shall be issued by the building inspector on payment of inspection fee as may be authorized by resolution of

the city council from time to time. In the event said manufactured home is moved to another lot or another manufactured home is placed on the specific lot, a new certificate of occupancy must be obtained by the owner or resident from the building inspector.

(Ord. No. 95-06, § 1, 12-27-95)

Section 9.03. - Application procedures.

Preliminary approval shall not be issued by the city until application for the manufactured home park has been approved by the City of Lowell in accordance with the provisions of this chapter.

- A. *Site plan:* Any application for the extension, alteration, or construction of a manufactured home park shall be accompanied by a site plan of the proposed development and all permanent buildings indicating the proposed methods of compliance with these requirements. Said site plan shall be [in] conformance with the provisions and requirements of Chapter 18 of this ordinance.
- B. *Approval:* In reviewing the proposed development's acceptability the following shall be among the major considerations prior to official action being taken:
  1. Whether the proposal is in accordance with the comprehensive plan.
  2. Whether the proposal meets all the design standards of this ordinance and other applicable local codes, regulations, or ordinances.
  3. Whether the density of the proposed development could adversely affect adjacent properties and land uses.
  4. Whether the proposed development can be reasonably expected to constitute a health hazard or public nuisance to adjacent properties because of inappropriate in [or] inadequate sanitation and/or drainage facilities.
  5. Whether the proposed development produces an extreme or undue demand on available fire and police protection.
  6. Whether the traffic characteristics of the proposed development can be expected to place an extreme or undue burden on the adjacent publicly available vehicular and/or pedestrian circulation facilities.

(Ord. No. 95-06, § 1, 12-27-95)

Section 9.04. - Standards and regulations.

All manufactured home parks shall be designed and developed in accordance with the following standards and regulations.

- A. Minimum site size for a manufactured home park shall be ten (10) acres.
- B. Minimum number of manufactured home spaces shall be forty (40). Required streets and utilities shall be completed for at least twenty-five (25) manufactured home spaces along with related improvements before first occupancy.
- C. Each manufactured home park shall have direct access only to a major street or state trunkline highway.
- D. No access to the site shall be located closer than two hundred (200) feet from any public street intersection.  
Minimum street widths within the manufactured home park shall be accordance with the following schedule:

Parking	Direction	Minimum Street Width
No on-street parking	one (1) way	13 feet
	two (2) way	21 feet

Parallel parking one side	one (1) way	21 feet
	two (2) way	31 feet
Parallel parking both sides	one (1) way	34 feet
	two (2) way	40 feet

- E. No manufactured home or other building or structure for residential purposes shall be in excess of two and one-half (2½) stories, or in excess of a maximum height of thirty five (35) feet.
- F. Each manufactured home lot, exclusive of streets, shall have a minimum size of five thousand (5,000) square feet and a minimum width of forty (40) feet, as measured at the minimum building setback line. No more than one (1) manufactured home shall be parking on any one (1) lot, and no manufactured home shall be occupied by more than one (1) family.
- G. The minimum setback between any part of any manufactured home and/or structure permanently or temporarily attached thereto (excluding hitch), or used in conjunction therewith, including, but not by way of limitation, storage sheds, cabanas, and porches shall be:
1. Ten (10) feet from the inside of the sidewalk;
  2. Fourteen (14) feet from the rear lot line;
  3. Sixteen (16) feet from the side lot line on the entry side; and
  4. Ten (10) feet from the side yard on the non-entry side, except that a manufactured home may be placed on the side lot line, provided there is minimum of fifteen (15) feet open space between said lot line and any other structure or manufactured home, including but not by way of limitation storage sheds, cabanas or porches.
- H. Each lot shall front on sidewalks at least four (4) feet in width, located directly next to and parallel to the manufactured home park street.
- I. Each lot shall provide a minimum of two (2) off street parking spaces, each of which shall have a paved area of not less than one hundred and eighty (180) square feet (9 feet by 20 feet).
- J. The front, back and side yards of every lot shall be suitably landscaped and properly maintained with lawn area, and there shall be one (1) shade tree, at least ten (10) feet in height provided for each lot.
- K. The manufactured home park shall provide a buffer strip separating the manufactured home park from adjacent property. The buffer strip shall be properly planted with trees or shrubbery or other nursery stock of varying height, so as to provide a density sufficient to block the view of the manufactured home park and buildings up to a minimum of five (5) feet in height. No part of the buffer strip shall be used for any structure, board fences, right-of-way, or parking purposes. The buffer strip shall be maintained by the owner of the park.
1. In the event the back yard of any lot or lots within a manufactured home abuts adjacent property, the rear ten (10) feet of each back yard may be used as part of the buffer strip, provided further that no buildings, houses or other structure may be constructed with said strip.
  2. The width of the buffer strip shall be at least twenty (20) feet.

- L. The manufactured home park shall have minimum setback from any public street of fifty (50) feet, which shall be properly landscaped with grassed area and maintained by the owner and operator of the manufactured home park.
- M. All streets within the manufactured home park shall be of bituminous aggregate or similar surface meeting AASHTO public street construction specifications, and provided with proper curbing.
- N. The manufactured home park shall contain one (1) or more open space areas intended primarily for the use of park residents on a minimum ratio of two hundred and fifty (250) square feet for every manufactured home lot provided that buffer strip areas shall not be included as part of such requirement.
- O. The manufactured home park shall provide one (1) or more storm shelters of size and capacity so as to accommodate all the residents of the park.
- P. All street intersections and designated pedestrian crosswalks shall be illuminated by not less than .25 foot candles. All roads, parking bays and pedestrian walkways shall be illuminated by not less than .5 foot candles.

(Ord. No. 95-06, § 1, 12-27-95)

#### Section 9.05. - Utility standards.

The following utility standards shall apply to all manufactured home parks.

- A. All utilities shall be underground.
- B. All lots shall be provided with a public water and sanitary sewer service approved by the City of Lowell and other applicable agencies. All manufactured homes shall be connected thereto and all expenses of installation and connection shall be borne by the owner or operator of the manufactured home park, and no costs shall be applied or taxed against owners of any adjacent property or along any main extended from the manufactured home park to the present public sanitary sewer system, unless such adjacent owners shall install a sewer connection to such main.
- C. The manufactured home park shall provide sufficient storm sewer facilities, independent of sanitary sewers, to prevent flooding of either streets or lots within the park in accordance with the requirements of the City of Lowell. All storm drainage and surface drainage facilities flowing from the park to adjacent areas shall be approved by the City of Lowell.

(Ord. No. 95-06, § 1, 12-27-95)

#### Section 9.06. - Manufactured home standards.

- A. Every manufactured home shall be supported on a permanent concrete pad or foundation for at least the width and length of the manufactured home, and four (4) inches thick; and all areas between the trailer and ground shall be enclosed by a skirt, providing said skirting is constructed or installed and is fire resistant.
- B. In the event the soil or topographic conditions of the proposed manufactured home park are such that other foundations or support are appropriate, and the developer provides to the building inspector a report by a certified engineer that piers are equal to or superior to the specifications as set forth in section 9.06 A. of this chapter, such foundations may be approved by the building inspector, provided such construction includes provisions for proper drainage and covering ground under each manufactured home.
- C. Every manufactured home shall be at least twelve (12) feet in width and have a minimum of six hundred (600) square feet of living area exclusive of porches and cabanas.

(Ord. No. 95-06, § 1, 12-27-95)

#### Section 9.07. - Inspection and permits.

- A. The building inspector or such other person designated by the city council shall have the right to inspect the

manufactured home park to determine whether or not the park owners or operators, or any owners or person occupying manufactured homes within the park are in violation of this ordinance, or any other state ordinance or state or governmental regulations covering manufactured home parks affecting the health, safety and welfare of inhabitants, under the following conditions:

1. He has reasonable reason to believe that the owner, operator or resident or owner of manufactured home in the park is in violation of any part of this or other municipal ordinance.
  2. That notice has been sent to the owner or operator of the manufactured home park at its last known address, and to the owner or resident of the manufactured home park at their last known address as shown on the occupancy permit for said manufactured home, and that the city has not received satisfactory proof or indication that the purported violation is not a violation, or that the purported violation has been corrected within fifteen (15) days from the date of mailing said notice.
- B. All persons, including but not by limitation, city officials or police officers, whose entry upon the manufactured home park property is necessary, proper or advisable in the execution of their duties, or to the execution of work authorized by a governmental body, or for the preservation of the peace, shall have the right to enter upon and inspect the manufactured home park at all reasonable times.

(Ord. No. 95-06, § 1, 12-27-95)

#### Section 9.08. - Manufactured home sales.

- A. No person desiring to rent a dwelling unit site shall be required, as a condition to such rental, to purchase a manufactured home from the owner or operator of the park as long as the manufactured home intended to be located on such rented site conforms in size, style, shape, price, etc. as may be required by any reasonable rules and regulations governing the operation of the manufactured home park.
- B. Nothing contained in this ordinance shall be deemed as prohibiting the sale of a manufactured home lot by the individual owner or his agent, or those home occupations as permitted in the zoning ordinance. Provided such sales and occupations are permitted by the park regulations; provided further that a commercial manufactured home sales lot shall not be permitted in conjunction with any manufactured home park.

(Ord. No. 95-06, § 1, 12-27-95)

#### Section 9.09. - Severability.

The provisions of this ordinance shall be considered severable and the invalidation of any one or more of the provisions of this ordinance for any reason whatsoever shall in no way affect any of the other provisions thereof which shall remain in full force and effect.

(Ord. No. 95-06, § 1, 12-27-95)

### CHAPTER 10. - C-1 - NEIGHBORHOOD BUSINESS DISTRICT

#### Section 10.01. - Description and purpose.

This district is intended to permit local retail business and service uses which are desirable to serve the residential areas of the city. These areas are intended to serve the residents within the city's neighborhoods. Generally, neighborhood commercial uses should not exceed five thousand (5,000) to ten thousand (10,000) square feet of building area.

(Ord. No. 95-06, § 1, 12-27-95)

## Section 10.02. - Uses permitted by right.

Land and/or buildings in the C-1 District may be used for the following purposes as uses permitted by right, subject to the approval of a site plan, in accordance with the requirements of Chapter 18:

- A. Office buildings for any of the following occupations:
  - 1. Executive, administrative, professional, accounting, drafting, and other similar professional activities, as determined by the zoning enforcement officer.
  - 2. Medical and dental offices and clinics.
- B. Banks, credit unions, savings and loan associations, and other similar uses as determined by the zoning enforcement officer, including those with drive-through facilities.
- C. Personal service establishments conducting services on the premises, including barber and dry-cleaning service outlets, beauty shops, fitness centers, travel agencies, and other similar uses, as determined by the zoning enforcement officer.
- D. Retail stores.
- E. Drug stores and pharmacies.
- F. Private clubs, fraternal organizations, and lodge halls.
- G. Commercial child care centers.
- H. Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires and underground utility systems.
- I. Accessory buildings, structures, and uses customarily incidental to any of the above uses permitted by right, or special land uses.
- J. Outdoor merchandise display.
- K. Single-family dwellings.
- L. Two-family dwellings.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 00-2, §§ 1, 2, 4-24-00; Ord. No. 19-08, § 2, 11-18-19)

## Section 10.03. - Special land uses.

Land and/or buildings in the C-1 District may be used for the following purposes following review by the planning commission as a special land use as regulated by Chapter 17:

- A. Commercial greenhouses and nurseries.
- B. Funeral homes and mortuary establishments.
- C. Veterinary hospitals, animal clinics, and kennels.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 19-08, § 3, 11-18-19)

## Section 10.04. - Site development requirements.

No building or structure, nor the enlargement of any building or structure, shall be hereafter erected unless the following requirements are met and maintained in connection with such building, structure, or enlargement.

- A. The outdoor storage or display of goods or materials shall be prohibited in the required front yard. Goods or materials stored in the side or rear yard shall be screened from the view from the street or from abutting properties.
- B. Landscaping shall be provided as required in Section 4.26.

C. Entrance driveways shall be located as far as possible from any street intersection and from any other driveways.

Minimum front yard	25 feet
Minimum side yard	Side abutting Residential Districts or Uses - 25 feet Side abutting other Districts - 0 or 10 feet Street side of a corner lot - 35 feet
Minimum rear yard	35 feet
Maximum building height	35 feet or 2 ½ stories
Maximum Lot Coverage	60%
Minimum Lot Area	8,200 square feet for single-family and two-family dwellings 15,000 square feet for all other uses
Minimum Lot Width	66 feet for single-family and two-family dwellings 80 feet for all other uses

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 98-7, § 1, 6-15-98; Ord. No. 99-5, § 1, 8-16-99; Ord. No. 17-03, § 6, 9-18-17; Ord. No. 19-08, § 4, 11-18-19; Ord. No. 20-01, § 1, 3-2-20)

#### CHAPTER 11. - C-2 CENTRAL BUSINESS DISTRICT

##### Section 11.01. - Intent.

This district is intended to accommodate uses which can provide office, personal services, convenience (day-to-day), and comparison commercial goods for visitors to and residents of Lowell. Development in this district should be pedestrian-oriented and consistent with the established historic development pattern of downtown Lowell in terms of both building design and land use.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 20-01, § 2, 3-2-20)

##### Section 11.02. - Uses permitted by right.

Land and/or buildings in the C-2 District may be used for the following purposes as uses permitted by right:

###### A. Office buildings for any of the following occupations:

1. Executive, administrative, professional, accounting, drafting, and other similar professional activities, as determined by the zoning enforcement officer.
2. Medical and dental offices and clinics.

###### B. Banks, credit unions, savings and loan associations, and other similar uses as determined by the zoning enforcement officer, exclusive of drive-through facilities.



- C. Personal service establishments conducting services on the premises, including barber and dry-cleaning service outlets shops, fitness centers, travel agencies, and other similar uses, as determined by the zoning enforcement officer.
- D. Residential dwellings, in the same building with commercial uses.
- E. Mixed use developments.
- F. Art galleries and museums.
- G. Retail stores.
- H. Drug stores and pharmacies.
- I. Restaurants, without drive-through facilities.
- J. Private clubs, fraternal organizations, and lodge halls.
- K. Indoor recreational facilities, excluding bowling alleys.
- L. Child care centers.
- M. Accessory buildings, structures, and uses.
- N. Outdoor merchandise display.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 00-2, §§ 3, 4, 4-24-00; Ord. No. 20-01, § 3, 3-2-20)

Section 11.03. - Special land uses.

Land and/or buildings in the C-2 District may be used for the following purposes following review by the planning commission as a special land use as regulated by Chapter 17:

- A. Funeral homes and mortuary establishments.
- B. Banks, credit unions, savings and loan associations, and other similar uses as determined by the zoning enforcement officer, with drive-through facilities.
- C. Hotels and motels.
- D. Theaters, concert halls, or similar places of public assembly, as determined by the zoning enforcement officer.
- E. Multiple-family dwellings.
- F. Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires, and underground utility systems.
- G. Off-street parking lots.
- H. Short-term rental.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 18-02, § 5, 2-20-18; Ord. No. 20-01, § 4, 3-2-20)

Section 11.04. - Site development requirements.

No building or structure, nor the enlargement of any building or structure, shall be hereafter erected unless the following requirements are met and maintained in connection with such building, structure, or enlargement.

- A. There shall be no off-street parking located in the front yard of a lot; parking shall be located in the rear or side yard, or as otherwise permitted in chapter 19.
- B. Buildings must have the primary entrance facing a public sidewalk.

Minimum front yard	None
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Minimum side yard	Side abutting Residential Districts or Uses - 5 feet Side abutting other Districts - 0 or 10 feet
Minimum rear yard	Abutting Residential Districts or uses - 25 feet Abutting other Districts - None
Maximum lot coverage	100%
Maximum building height	40 feet
Minimum lot area	None
Minimum lot width	None

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 20-01, § 5, 3-2-20)

#### Section 11.05. - Outdoor merchandise display.

Outdoor merchandise displays shall meet the following requirements:

- A. No merchandise and related displays and fixtures shall be located closer than eight (8) feet from the curb line of a public street or a tree.
- B. No merchandise and related displays and fixtures shall be located so as to obstruct the visibility of vehicles on the public street.
- C. No merchandise and related displays shall be located so as to obstruct the sidewalk or otherwise impair the flow of pedestrians.
- D. All merchandise and related displays and fixtures shall be removed and stored indoors at all times when the related business is closed to the public.
- E. The area used for an outdoor merchandise display shall be maintained in a safe, clean, and sanitary manner.

(Ord. No. 99-9, § 1, 11-15-99; Ord. No. 00-2, § 5, 4-24-00; Ord. No. 20-01, § 6, 3-2-20)

#### CHAPTER 12. - C-3 - GENERAL BUSINESS DISTRICT

##### Section 12.01. - Description and purpose.

This district, compatible with the Mixed Use Future Land Use Category of the Master Plan, is intended to permit a mixture of residential, office and commercial land uses but not necessarily in downtown style buildings. This district is intended to accommodate users which can provide office, personal services and commercial goods for visitors to and residents of the city including automobile related uses which would ordinarily be incompatible with the character of residential districts. These uses are principally intended to serve the community and M-21 traffic. Areas proposed for this district will be reviewed with consideration toward traffic, impact on adjacent areas, size and access to the lot, and whether or not the proposed area helps prevent strip commercial development.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 09-02, § 3, 4-6-09)

Section 12.02. - Uses permitted by right.

Land and/or buildings in the C-3 District may be used for the following purposes as uses permitted by right, subject to the approval of a site plan, in accordance with the requirements of Chapter 18:

- A. Office buildings for any of the following occupations:
  - 1. Executive, administrative, professional, accounting, drafting, and other similar professional activities, as determined by the zoning enforcement officer.
  - 2. Medical and dental offices and clinics.
- B. Banks, credit unions, savings and loan associations, and other similar uses as determined by the zoning enforcement officer, including those with drive-through facilities.
- C. Personal service establishments conducting services on the premises, including barber and dry-cleaning service outlets, beauty shops, fitness centers, travel agencies, and other similar uses, as determined by the zoning enforcement officer.
- D. Retail stores.
- E. Drug stores and pharmacies.
- F. Restaurants, exclusive of drive-through facilities.
- G. Private clubs, fraternal organizations, and lodge halls.
- H. Dry-cleaning and laundry establishments performing cleaning operations on the premises, including retail/service operations.
- I. Indoor recreational facilities, including bowling alleys.
- J. Commercial child care centers.
- K. Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires, and underground utility systems.
- L. Accessory buildings, structures, and uses customarily incidental to any of the above uses permitted by right, or special land uses.
- M. Outdoor merchandise display.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 00-2, §§ 6, 7, 4-24-00)

Section 12.03. - Special land uses.

Land and/or buildings in the C-3 District may be used for the following purposes following review by the planning commission as a special land use as regulated by Chapter 17:

- A. Boarding houses or lodging houses.
- B. Commercial greenhouses and nurseries.
- C. Commercial kennels.
- D. Commercial storage warehouses.
- E. Funeral homes and mortuary establishments.
- F. Hotels and motels.
- G. Open air business.
- H. Theaters or similar places of public assembly as determined by the zoning enforcement officer.

- I. Restaurants and drive-through facilities.
- J. Retail business supplies.
- K. Sexually oriented businesses (as further regulated by Chapter 17A).
- L. Vehicle repair facilities, including body shops.
- M. Vehicle service stations, excluding body shops.
- N. Vehicle towing service.
- O. Vehicle wash establishments, either self-service or automatic.
- P. Veterinary hospitals and animal clinics.
- Q. Brewery/winery.
- R. Adult use marihuana establishments.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 97-2, § 10, 11-17-97; Ord. No. 99-10, § 2, 12-20-99; Ord. No. 99-11, § 3, 12-20-99; Ord. No. 04-5, § 2, 11-15-05; Ord. No. 12-03, § 2, 6-4-12; Ord. No. 16-01, § 3, 1-19-16; Ord. No. 19-06, § 3, 10-21-19)

Section 12.04. - Site development requirements.

No building or structure, nor the enlargement of any building or structure, shall be hereafter erected unless the following requirements are met and maintained in connection with such building, structure, or enlargement.

- A. Landscaping shall be provided as required in section 4.26.
- B. Entrance driveways shall be located as far as practicable from two (2) intersecting streets and shall be at least one hundred (100) feet from an intersection or from any other driveway.
- C. Only one (1) driveway per principal use, or collective principal use, per street shall be permitted. A second driveway may be permitted provided that such drive is constructed and permitted to share access with an abutting or adjacent principal use or existing lot. The planning commission may permit additional driveways, if justified by a professional traffic study indicating the need for such additional driveways.

Minimum front yard	35 feet
Minimum side yard	Side abutting Residential Districts or Uses - 25 feet Side abutting other Districts - 0 or 10 feet Street side of a corner lot - 35 feet
Minimum rear yard	35 feet
Maximum lot coverage	60%
Maximum building height	40 feet or 3 stories
Minimum lot area	20,000 square feet
Minimum lot width	100 feet

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 99-5, § 2, 8-16-99; Ord. No. 20-01, § 7, 3-2-20)

## Section 12.05. - Outdoor merchandise display.

Outdoor merchandise displays shall meet the following requirements:

- A. The outdoor storage or display of goods or materials shall be prohibited in the required front yard. Goods or materials stored in the side or rear yard shall be screened from the view from the street or from abutting properties.
- B. No merchandise and related displays and fixtures shall be located so as to obstruct the movement of pedestrians along the public sidewalk or obstruct the visibility of vehicles on the public street.
- C. The area used for an outdoor merchandise display shall be maintained in a safe, clean and sanitary manner.

(Ord. No. 00-2, § 8, 4-24-00; Ord. No. 05-4, § 1, 7-5-05; Ord. No. 20-01, § 8, 3-2-20)

## CHAPTER 12A. - I-L LIGHT INDUSTRIAL DISTRICT

## Section 12A.01. - Description and purpose.

This district is intended to permit light industrial and related uses which are desirable to serve the employment needs of the city, but which are lower intensity uses than those permitted in the I-Industrial district. The uses permitted in this district vary in intensity of use, but in no case is it intended that these uses negatively affect residential and other uses in the city. Rather, it is intended to allow these uses to operate as freely as possible while insuring that the natural and residential areas of the city are protected. This district may act as a buffer between an I-Industrial District and less intensive uses. As such, this district permits the compounding, assembling, or treatment of articles or materials, but does not permit heavy manufacturing or the processing of raw materials. This district also provides for certain other services and uses that are compatible with light industrial uses.

(Ord. No. 98-2, § 2, 2-17-98)

## Section 12A.02. - Uses permitted by right.

Land and/or buildings in the I-L Light Industrial District may be used for the following purposes as uses permitted by right, subject to the approval of a site plan, in accordance with the requirements of Chapter 18:

- A. Office buildings for any of the following occupations:
  1. Executive, administrative, professional, accounting, drafting, and other similar professional activities as determined by the zoning enforcement officer.
  2. Medical and dental offices and clinics.
- B. Banks, credit unions, savings and loan associations, and other similar uses as determined by the zoning enforcement officer, including those with drive-through facilities.
- C. The manufacture, compounding, processing, packing, or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceuticals, toiletries, and food products, except the rendering or refining of fats and oils.
- D. The manufacture, compounding, assembly, or treatment of articles from the following previously prepared materials: aluminum, bone cellophane, canvas, cloth, cork, feathers, felt, fibers, fur, glass, hair, horn, leather, paint, paper, plastics, precious or semi-precious metals or stones, shell, rubber, tin, iron, steel, tobacco, wood, and yarn.
- E. Vehicle service stations.
- F. Bulk printing shops with or without retail outlets.
- G. Warehouses and storage, including commercial storage warehouses.
- H. Wholesale sales outlets.

- I. Off-street parking lots.
- J. Utility and public services buildings, including storage yards, but not including essential public services such as poles, wires, and underground utility systems.
- K. Accessory buildings, structures, and uses customarily incidental to any of the above uses permitted by right, or special land uses.
- L. Off-site parking lots not associated with another principal use.
- M. Commercial kennels.

(Ord. No. 98-2, § 2, 2-17-98; Ord. No. 16-03, § 1, 8-1-16)

#### Section 12A.03. - Special land uses.

Land and/or building in the I-L District may be used for the following purposes following review by the Planning Commission as a special land use as regulated by chapter 17:

- A. Radio and television transmitting buildings and towers.
- B. Retail building supplies, including outside storage yards.
- C. Dismantling or disassembling of used motor vehicles or parts thereof.
- D. Machine shops.
- E. Other light industrial uses not included in section 12A.02 that involved the compounding, assembly, treatment of goods, articles, or materials, but which do not involve heavy manufacturing or the processing of raw materials, provided any environmental effects such as noise, smoke, dust, vibration, odor or other similar effects shall not be substantially greater than that from the uses permitted in this district.
- F. Vehicle repair facilities, excluding body shops.
- G. Vehicle service stations, excluding body shops.
- H. Accessory buildings not meeting the requirements of section 4.08.J.
- I. Adult use marihuana establishments.

(Ord. No. 98-2, § 2, 2-17-98; Ord. No. 00-6, § 1, 10-16-00; Ord. No. 11-02, § 5, 1-3-11; Ord. No. 19-06, § 4, 10-21-19)

#### Section 12A.04. - Site development requirements.

No building or structure, nor the enlargement of any building or structure, shall be hereafter erected unless the following requirements are met and maintained in connection with such building, structure, or enlargement.

- A. Permitted and special land uses in this chapter shall be conducted within a completely enclosed building or within an area enclosed on all sides by a solid noncombustible fence or wall at least six (6) feet in height; provided further that no goods, materials, or objects shall be stacked higher than the fence or wall.
- B. The outdoor storage of goods or materials shall be prohibited in the required front yard or within any yard abutting a residential district or use.
- C. The first twenty-five (25) feet of the front yard area, except for necessary entrance drives, shall be landscaped. Such landscaping shall consist of a minimum of one (1) canopy tree and three (3) deciduous shrubs for each twenty (20) feet of lot width. Upon approval of the planning commission, the equivalent landscaping may be located in areas other than the front yard.
- D. Any side yard or rear yard adjoining any lot or parcel of land abutting a residential district or residential use shall be screened by a compact hedge of deciduous or evergreen trees, having such minimum height as determined by the planning commission in its review and approval of the site plan under the terms of Chapter 18.

- E. No use permitted in this chapter shall create or cause to be created fire and explosion hazards, smoke, fumes, odors, g liquid or solid waste, vibration, noise, or glare which shall affect adjoining properties adversely.
- F. Refuse and service areas shall be designed and used so as to maximize motor vehicle and pedestrian safety and convenience, promote ease of traffic flow and to minimize the effects, if any, of smoke, noise, dust, vibration, or odor on adjacent or nearby lands.

Minimum front yard	50 feet
Minimum side yard	Side abutting Residential Districts or Uses - 50 feet Side abutting other Districts - 20 feet Street side of a corner lot- 50 feet
Minimum rear yard	Side abutting a Residential Districts or uses- 50 feet Side abutting other Districts- 25 feet
Maximum lot coverage	60%
Maximum building height	40 feet
Minimum lot area	20,000 square feet
Minimum lot width	100 feet

(Ord. No 98-2, § 2, 2-17-98; Ord. No. 98-7, § 2, 6-15-98; Ord. No. 99-5, § 3, 8-16-99; Ord. No. 20-01, § 9, 3-2-20)

## CHAPTER 13. - I - INDUSTRIAL DISTRICT

### Section 13.01. - Description and purpose.

This district is intended to permit industrial and related uses which are desirable to serve the employment needs for the residents of the city. The uses permitted in this district vary in intensity of use, but in no case is it intended that these uses negatively affect residential and other uses in the city. Rather it is intended to allow these uses to operate as freely as possible while ensuring that the natural and residential areas of the city are protected.

(Ord. No. 95-06, § 1, 12-27-95)

### Section 13.02. - Uses permitted by right.

Land and/or buildings in the I District may be used for the following purposes as uses permitted by right, subject to the approval of a site plan, in accordance with the requirements of Chapter 18:

- A. Office buildings for any of the following occupations:
1. Executive, administrative, professional, accounting, drafting and other similar professional activities, as determined by the zoning enforcement officer.
  2. Medical and dental offices and clinics.

- B. Banks, credit unions, savings and loan associations and other similar uses as determined by the zoning enforcement of including those with drive-through facilities.
- C. The manufacture, compounding, assembly or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceuticals, toiletries and food products except the rendering or refining of fats and oils.
- D. The manufacture, compounding, assembly or treatment of articles from the previously prepared materials: aluminum, bone, cellophane, canvas, cloth, cork, feathers, felt, fibers, fur, glass, hair, horn, leather, paint, paper, plastics, precious or semi-precious metals or stones, shell, rubber, tin, iron, steel, tobacco, wood and yarn.
- E. Vehicle repair facilities, including body shops, provided, if a body shop includes a towing or wrecker service, the site design standards of section 17.04.CC. must be met.
- F. Vehicle service stations.
- G. Bulk printing shops without retail outlets.
- H. Warehouse and storage, including commercial storage warehouses.
- I. Wholesale sales outlets.
- J. Off-street parking lots.
- K. Utility and public service buildings, including storage yards, but not including essential public services such as poles, wires and underground utility systems.
- L. Vehicle towing service.
- M. Accessory buildings, structures and uses customarily incidental to any of the above uses permitted by right; or special land uses.
- N. Brewery/wine.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 00-6, § 2, 10-16-00; Ord. No. 04-5, § 3, 11-15-04; Ord. No. 12-03, § 3, 6-4-12; Ord. No. 16-01, § 3, 1-19-16; Ord. No. 20-01, § 10, 3-2-20)

#### Section 13.03. - Special land uses.

Land and/or buildings in the I District may be used for the following purposes following review by the planning commission as a special land use as regulated by Chapter 17:

- A. Landing and take-off areas for rotocraft, and airports.
- B. Petroleum storage located at least five hundred (500) feet from any residentially zoned property.
- C. Radio and television transmitting buildings and towers.
- D. Retail building supplies including outside storage yards.
- E. Commercial wireless communication towers.
- F. Accessory buildings not meeting the requirements of subsection 4.08.j.
- G. Removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources.
- H. Adult use marihuana establishments.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 97-2, § 11, 11-17-97; Ord. No. 00-4, § 4, 9-18-00; Ord. No. 11-02, § 6, 1-3-11; Ord. No. 16-02, § 2, 5-16-16; Ord. No. 19-06, § 5, 10-21-19)

#### Section 13.04. - Site development requirements.

No building or structure, nor the enlargement of any building or structure, shall be hereafter erected unless the following requirements are met and maintained in connection with such building, structure, or enlargement.



- A. Permitted and special land uses in this chapter shall be conducted within a completely enclosed building or within an enclosed on all sides by a solid non-combustible fence or wall at least six (6) feet in height; provided further that no goods materials, or objects shall be stacked higher than the fence or wall.
- B. The outdoor storage of goods or materials shall be prohibited in the required front yard or within any yard abutting a residential district or use.
- C. Any side yard or rear yard adjoining any lot or parcel of land abutting a residential district or residential use shall be screened by a compact hedge of deciduous or evergreen trees, having such minimum height as determined by the planning commission in its review and approval of the site plan under the terms of chapter 18.
- D. Landscaping shall be provided as required in section 4.26.
- E. No use permitted in this chapter shall create or cause to be created fire and explosion hazards, smoke, fumes, odors, gases, dust, fumes, liquid or solid waste, vibration, noise, or glare shall exist to affect adjoining residential properties adversely.

Minimum front yard	50 feet
Minimum side yard	Side abutting Residential Districts or Uses - 50 feet Side abutting other Districts - 20 feet Street side of a corner lot- 50 feet
Minimum rear yard	Side abutting Residential Districts or uses- 50 feet Side abutting other Districts- 25 feet
Maximum lot coverage	60%
Maximum building height	40 feet
Minimum lot area	20,000 square feet
Minimum lot width	100 feet

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 98-07, § 3, 6-15-98; Ord. No. 99-5, § 4, 8-16-99; Ord. No. 20-01, § 11, 3-2-20)

CHAPTER 14. - F-1 FLOODPLAIN OVERLAY DISTRICT

*Footnotes:*

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**Editor's note**— Ord. No. 16-02, § 3, adopted May 16, 2016, amended the title of Chapter 14 from "F-1 Floodplain District" to "F-1 Floodplain Overlay District".

Section 14.01. - Purpose.

This district is intended primarily to protect those undeveloped areas of the city which are subject to predictable flooding in the floodplain area of the Grand River so that the reservoir capacity will not be reduced or to impede, retard, accelerate or change the direction of flow or carrying capacity of the river valley or to otherwise increase the possibility of flood. Said regulations, while permitting reasonable use of such properties, will help to protect human life, prevent or minimize material and economic losses and reduce the cost to the public in time of emergency through public aid or relief efforts occasioned by the unwise occupancy of such flood areas.

(Ord. No. 95-06, § 1, 12-27-95)

Section 14.02. - Delineation of the flood hazard overlay zone.

- A. The flood hazard area zone shall overlay existing zoning districts delineated on the official City of Lowell Zoning Map. The boundaries of the flood hazard area zone shall coincide with the boundaries of the areas indicated as within the limits of the 100-year flood in the report entitled "The Flood Insurance Study, City of Lowell," dated May 16, 1983 with accompanying flood insurance rate maps and flood boundary and floodway maps. Within the flood hazard area zone a regulatory floodway shall be designated. The boundaries of the regulatory floodway shall coincide with the floodway boundaries indicated on the flood boundary and floodway map. The study and accompanying maps are adopted by reference, appended, and declared to be part of this ordinance. The term flood hazard area as used in this ordinance shall mean the flood hazard area zone and the term floodway shall mean the designated regulatory floodway.
- B. Where there are disputes as to the location of a flood hazard area zone boundary, the zoning board of appeals shall resolve the dispute.
- C. In addition to other requirements of this ordinance applicable to development in the underlying zoning district, compliance with the requirements of this chapter shall be necessary for all development occurring within the flood hazard area zone.

(Ord. No. 95-06, § 1, 12-27-95)

Section 14.03 - Uses permitted.

- A. Any use permitted in the underlying zoning district, whether by right or by special land use, shall be permitted within the Floodplain Overlay district in accordance with the standards and regulations of the underlying zoning district.
- B. The standards and regulations of this chapter shall also apply to any use proposed in the Floodplain Overlay district. Where there is a conflict between the provisions of this chapter and another applicable section of this ordinance, the more restrictive provisions shall control.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 16-02, § 4, 5-16-16)

Section 14.04 - Additional standards for development.

- A. Development, including the erection of structures and placement of manufactured homes, within the floodplain overlay district shall not occur except in accordance with the requirements of this ordinance and the following standards:
  1. The requirements of this chapter shall be met.
  2. The requirements of the underlying zoning district and applicable general provisions of this ordinance shall be met;
  3. All necessary permits shall have been issued by the appropriate local, state, and federal authorities, including a floodplain permit, or letter of no authority from the Michigan Department of Natural Resources under authority of Act 451, of the Public Acts of 1994, as amended. Where a permit cannot be issued prior to the issuance of zoning compliance permit, a letter from the issuing agency indicating intent to issue contingent only upon proof of zoning compliance shall be acceptable.

4. The proposed use and/or structure(s) shall be so designed as not to reduce the water impoundment capacity of the flood significantly change the volume or speed of the flow of water.
  5. Utilities, streets, off-street parking, railroads, structures, and buildings for public or recreational uses shall be designed so as not to increase the possibility of flood or be otherwise detrimental to the public health, safety, and welfare.
- B. Specific base flood elevation standards:
1. On the basis of the most recent available base flood elevation data all new construction and substantial improvements shall have the lowest floor, including basements, elevated at least one (1) foot above the flood level; or for nonresidential structures, be constructed such that at or below base flood level, together with attendant utility and sanitary facilities, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that these standards are met and that the floodproofing methods employed are adequate to withstand the flood depths, pressures, velocities, impact, and uplift forces and other factors associated with the base flood in the location of the structure. Such certification shall be submitted as provided in this ordinance and shall indicate the elevation to which the structure is floodproofed.
  2. The most recent flood elevation data received from the Federal Insurance and Mitigation Administration (FIMA) shall take precedence over data from other sources.

(Ord. No. 95-06, § 1, 12-27-95 Ord. No. 16-02, § 4, 5-16-16)

#### Section 14.05. - Data submission.

Prior to the issuance of building permit for structures on or adjacent floodplain areas, the city manager shall require the applicant for such permit to submit an approved permit by the Michigan Department of Natural Resources, topographic data, engineering studies, proposed site plan and/or other similar data needed to determine the possible effects of flooding on a proposed structure and/or the effect of the structure on the flow of water. All such required data shall be prepared by a registered professional civil engineer.

(Ord. No. 95-06, § 1, 12-27-95)

#### Section 14.06. - City liability.

The City of Lowell shall incur no liability whatsoever by permitting any use of building within the floodplain within the city.

(Ord. No. 95-06, § 1, 12-27-95)

#### Section 14.07. - General standards for flood hazard reduction.

- A. All new construction and substantial improvements within a flood hazard area, including the placement of prefabricated buildings and manufactured homes, shall:
  1. Be designed and anchored to prevent flotation, collapse, or lateral movement of the structure;
  2. Be constructed with materials and utility equipment resistance to flood damage; and
  3. Be constructed by methods and practices that minimize flood damage.
- B. All new and replacement water supply systems shall minimize or eliminate infiltration of flood waters into the systems.
- C. All new and replacement sanitary sewage systems shall minimize or eliminate infiltration of flood waters into the systems and discharges from systems into flood waters. On-site waste disposal systems shall be located to avoid impairment to the system or contamination from the system during flooding.

- D. All public utilities and facilities shall be designed, constructed and located to minimize or eliminate flood damage.
- E. Adequate drainage shall be provided to reduce exposure to flood hazards.
- F. The zoning enforcement officer or his representative shall review development proposals to determine compliance with the standards of this section.
- G. Land shall not be divided in a manner creating parcels or lots which cannot be used in conformance with the requirements of this chapter.
- H. The flood carrying capacity of any altered or relocated watercourses not subject to state or federal regulations designed to ensure flood carrying capacity shall be maintained.
- I. Available flood hazard data from federal, state, or other sources shall be reasonably utilized in meeting the standards of this chapter. Data furnished by the Federal Insurance Administration shall take precedence over data from other sources.

(Ord. No. 95-06, § 1, 12-27-95)

Section 14.08. - Manufactured home standards.

- A. All manufactured homes shall be anchored to resist floatation, collapse, or lateral movement by meeting the following specifications:
  - 1. Over the top ties shall be provided at each of the four (4) corners of the manufactured home, with two (2) additional ties per side at intermediate locations, except that on manufactured homes less than fifty (50) feet in length one (1) tie per side shall be required.
  - 2. Frame ties shall be provided at each corner of the home with five (5) additional ties per side at intermediate points, except that on manufactured homes less than fifty (50) feet in length four (4) ties per side shall be required.
  - 3. All components of the anchoring systems shall be capable of carrying a force of four thousand eight hundred (4,800) pounds.
  - 4. All additions to a manufactured home shall be similarly anchored.
- B. An evacuation plan indicating alternate vehicular access and escape routes shall be filed with the City of Lowell for manufactured home parks and subdivisions.
- C. Manufactured homes within zones A1—30 on the flood insurance rate map shall be located in accordance with the following standards:
  - 1. All manufactured homes shall be placed on stands or lots which are elevated on compacted fill or on pilings so that the lowest floor of the manufactured home will be one (1) foot above the base flood level.
  - 2. Adequate surface drainage away from all structures and access for a manufactured home hauler shall be provided.
  - 3. In the instance of elevation on pilings, lots shall be large enough to permit steps, piling foundations shall be placed in stable soil no more than ten (10) feet apart; and reinforcement shall be provided for piers more than six feet above ground level.
  - 4. In manufactured home parks and subdivisions which exist at the time of the adoption of this chapter is adopted, where repair, reconstruction or improvement of streets, utilities and pads equals or exceeds fifty (50) percent of the value of the streets, utilities, and pads before the repair, the standards of this chapter shall be met.

(Ord. No. 95-06, § 1, 12-27-95)

CHAPTER 14A. - RIVER'S EDGE DISTRICT

## Section 14A.01. - Purpose.

This district is intended primarily to protect those undeveloped areas in the city that are subject to predictable and regular flooding, and therefore are generally unsuitable for permanent development. These areas are within the 100-year floodplain and are generally adjacent to the Grand River. It is the intent of this district to allow for limited activities and development that does not require the placement of buildings intended for human habitation. It is further the intent of this chapter to discourage development that would reduce reservoir capacity or would otherwise impede, retard, accelerate or change the direction of the flow of water.

( Ord. No. 16-02, § 6, 5-16-16)

## Section 14A.02. - Uses permitted.

Land in the River's Edge district may be used for the following purposes as uses permitted by right:

- A. Open space uses such as farms, nurseries, parks, playgrounds, golf courses, nature preserves, horse trails, natural trails, and recreational uses, provided no alteration is made to the existing level of the floodplain or the erection of a structure which may interfere with the flow of the river or floodplain capacity.
- B. Accessory buildings and uses, provided that the standards of section 4.08 are met.

( Ord. No. 16-02, § 6, 5-16-16)

## Section 14A.03 - Special land uses.

- A. Removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources.
- B. Adult use marihuana establishments.

( Ord. No. 16-02, § 6, 5-16-16; Ord. No. 19-06, § 6, 10-21-19)

## Section 14A.04 - District regulations.

Front yard	30 feet
Side yard	20 feet
Rear yard	35 feet
Building height	35 feet or 2½ stories
Minimum lot area	20,000 square feet
Minimum lot width	125 feet

( Ord. No. 16-02, § 6, 5-16-16)

## Section 14A.05 - Additional standards for development.

- A. Development permitted by sections 14B.02 and 14B.03 above shall only be permitted in accordance with the

requirements of this chapter, including all applicable overlay districts, and the following standards:

1. 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 Michigan Department of Natural Resources under authority of Act 451, of the Public Acts of 1994, as amended. Where a development permit cannot be issued prior to the issuance of zoning compliance permit, a letter from the issuing agency indicating intent to issue contingent only upon proof of zoning compliance may be acceptable.
2. Utilities, streets, off-street parking, structures, and buildings for public or recreational uses and any other proposed uses and/or structure(s) shall be designed as not to reduce the water impoundment capacity of the floodplain, significantly change the volume or speed of the flow of water or be otherwise detrimental to the public health, safety and welfare.

( Ord. No. 16-02, § 6, 5-16-16)

## CHAPTER 15. - PUD - PLANNED UNIT DEVELOPMENT DISTRICT

### Footnotes:

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**Editor's note—** Ord. No. 18-06, § 1, adopted November 19, 2018, amended chapter 15 in its entirety to read as set out herein. Former chapter 15, §§ 15.01—15.07, pertained to similar subject matter and derived from Ord. No. 95-06, § 1, adopted December 27, 1995 and Ord. No. 03-2, § 2, adopted February 18, 2003.

### Section 15.01. - Description and purpose.

*Description.* This chapter offers an alternative to conventional development and traditional zoning standards by permitting flexibility in the regulations for development through the authorization of Planned Unit Development (PUD) districts. The standards in this chapter are intended to promote and encourage development on parcels of land that are suitable in size, location, and character for the uses proposed, and are further intended to ensure compatibility with adjacent land uses, the city's master plan and, where applicable, the existing natural features of the area.

*Purpose.* The use, area, height, bulk, and placement regulations of this chapter are primarily applicable to the usual situation of one (1) principal building on a lot. In certain developments, these requirements might result in situations less in the interest of public health, safety, and welfare than if a controlled degree of flexibility were allowed. The purpose of a PUD is to permit and control the development of planned areas for various compatible uses allowed by the zoning ordinance and for other uses not so provided. It is intended that uses in a PUD afford each type of land use reasonable protection from encroachment or interference by other incompatible land uses, and that reasonable protection be afforded to uses adjacent to a PUD.

( Ord. No. 18-06, § 1, 11-19-18)

### Section 15.02. - Objectives and qualifying conditions.

- A. The degree to which the following objectives are satisfied shall be considered by the planning commission and city council in its review of a PUD in order to realize the inherent advantages of coordinated, flexible, comprehensive, long-range planning and development of such planned development:
  1. To encourage the provision and protection of open spaces, cultural/historic resources, the development of recreational amenities, and, where included in the plan, other support facilities in a generally central location within reasonable distance of all dwelling units.
  2. To encourage developers to use a more creative and imaginative approach in the development of property.

3. To allow for market-driven development or redevelopment in places that are most conducive to accommodating additional activity.
  4. To facilitate economic development through the creation of a mix of uses and/or building types.
  5. To create walkable developments with pedestrian-oriented buildings and open space that connects to nearby destinations or neighborhoods.
  6. To provide for the adaptive re-use of significant or historic buildings.
  7. To allow phased construction with the knowledge that subsequent phases will be approved as originally planned and approved by the city.
  8. To promote flexibility in design and to permit planned diversification in the location of structures.
  9. To promote the efficient use of land to facilitate a more economic arrangement of buildings, circulation systems, land use, and utilities.
  10. To minimize adverse traffic impacts and to accommodate safe and efficient pedestrian access and circulation.
  11. To provide for redevelopment of sites and/or buildings that are under-developed or have fallen into disrepair.
  12. To combine and coordinate architectural styles, building forms, and building relationships within the PUD; and
  13. To ensure a quality of construction commensurate with other developments within the city.
- B. Qualifying conditions.
1. Ownership. The tract of land for which a PUD application is received must be either in one (1) ownership or with written approval of the owners of all affected properties.
  2. Conditions. To be considered as a PUD, the proposed development must fulfill at least one (1) of the following conditions:
    - a. The PUD contains two (2) or more separate and distinct uses, for example, residential dwellings and office or commercial uses;
    - b. The PUD site exhibits significant natural features encompassing at least twenty-five (25) percent of the land area of the PUD which will be preserved as a result of the PUD plan.
    - c. The PUD is designed to preserve, in perpetuity, at least sixty (60) percent of the total area of the site as open space.
    - d. The PUD constitutes a significant redevelopment of an underutilized or vacant property where conventional development may not be feasible.
  3. Master Plan. The applicant shall demonstrate that the proposed PUD is consistent with the adopted master plan.

( Ord. No. 18-06, § 1, 11-19-18)

#### Section 15.03 - Uses permitted by right and residential density.

- A. The following uses may be permitted in a PUD:
  1. Uses permitted by right or by special land use in the underlying zoning district;
  2. Any use that is determined to be consistent with the master plan;
  3. A combination of residential, commercial, and public uses which are compatible with existing and adjacent land uses;
- B. Only those uses approved for the PUD shall thereafter be permitted within the PUD.
- C. For PUDs located in non-residential or mixed use districts, the maximum number of dwelling units permitted in a PUD shall be determined by the planning commission in consideration of the master plan, existing and future surrounding land uses, capacity of public utilities and services, and other applicable factors.
- D. For PUDs located in residential zoning districts, the permitted density shall not be greater than that permitted by the

zone district in which the proposed uses are permitted. If the PUD lies in more than one (1) zone district, then the number of dwelling units shall be calculated on a proportionate basis.

- E. The total amount of land to be used for the calculation of the permitted density in a PUD in subsection D above shall be determined by using the net developable area, which shall be determined by taking the total site area and subtracting lands used or dedicated for existing public easements and existing public or private street rights-of-way.
- F. Land not proposed for development and not used or dedicated existing public or private street rights-of-way or other infrastructure, but used for the calculation of overall density, shall be considered open space and subject to the requirements of section 15.06.

( Ord. No. 18-06, § 1, 11-19-18)

Section 15.04. - Non-residential and mixed use PUDS.

- A. All uses shall be integrated into the design of the project with similar architectural and site development elements, such as signs, landscaping, etc.
- B. Mixed uses may be permitted only if they will not materially alter the character of the neighborhood and/or the PUD.
- C. All merchandise for display, sale, or lease shall be entirely within an enclosed building(s).
- D. Buildings designed for non-residential uses shall be constructed according to the following requirements:
  - 1. If the entire PUD contains fewer than twenty (20) dwelling units, seventy-five (75) percent of these units must be constructed prior to construction of any non-residential use.
  - 2. If the PUD contains more than twenty (20) dwelling units, fifty (50) percent of these units shall be constructed prior to the construction of any non-residential use.

( Ord. No. 18-06, § 1, 11-19-18)

Section 15.05. - Design standards.

- A. *Deviations from minimum requirements.* In approving a PUD, the city may permit deviations from the lot area and width requirements, parking requirements, required buffers, building setback requirements, height limitations, and other requirements of the zoning ordinance provided that such deviations are consistent with all other requirements of this chapter and the following standards:
  - 1. The applicant shall identify, in writing, all proposed deviations from the underlying zoning district. Deviations may be approved by the city council after the planning commission recommendation. These adjustments may be permitted if they will result in a higher quality of development or better integration of the proposed use(s) within the vicinity.
  - 2. Deviations from the minimum requirements shall also satisfy at least one (1) of the following criteria:
    - a. The proposed deviations shall preserve the best natural features of the site;
    - b. The proposed deviations shall create, maintain, or improve habitat for wildlife;
    - c. The proposed deviations shall create, maintain, or improve open space for the residents;
    - d. The proposed deviations shall enhance the views into the site as well as the view from dwellings to be built on site;
    - e. The proposed deviations shall constitute an adaptive re-use or redevelopment of buildings and/or property, and/or;
    - f. The proposed deviations shall be necessary for the development or redevelopment of property that would not be feasible without the deviations.

- B. *Other requirements.*



1. All electric, cable, internet, and telephone transmission wires within the PUD shall be placed underground.
  2. Signs are permitted in accordance with the zone district in which the proposed uses are permitted.
- C. *Conditions.* The city council may impose conditions with the approval of a PUD which are necessary to insure compliance with the standards for approval stated in this section and any other applicable standards contained in this chapter. Such conditions shall be considered an integral part of the PUD approval and shall be enforceable by the zoning enforcement officer.

( Ord. No. 18-06, § 1, 11-19-18)

Section 15.06. - Open space.

If open space is provided in the PUD, it shall meet the following considerations and requirements:

- A. Open space may be established to separate uses within the PUD.
- B. Open space areas shall be large enough and of proper dimensions so as to constitute a useable area, with adequate access, through easements or other similar arrangements, such that all properties within the entire PUD may reasonably utilize the available open space.
- C. Evidence shall be given that satisfactory arrangements will be made for the maintenance of open space to relieve the city of the future maintenance thereof.
- D. Open space may be provided where significant natural features may be preserved and/or be used for passive or active recreation.
- E. All land set aside as open space shall be deed restricted to ensure that the open space remains undeveloped in perpetuity. Land set aside for agriculture may, at the discretion of the property owner(s), be converted to open space, but shall not be used as land for the construction of additional dwellings, nor used for any other development.
- F. All open space shall be in joint ownership of the property owners within the PUD. A property owner's association or similar entity approved by the city shall be formed to take responsibility for the maintenance of the open space.
- G. The maintenance requirements of dedicated open space may include regular clearing and mowing or other active maintenance. Maintenance shall also include the removal of any accumulation of trash or waste material within the dedicated open space, clean up of storm damage, or removal of diseased plant materials, and similar improvements.
- H. To the extent possible, dedicated open space areas shall be continuous and contiguous throughout the PUD. Open space areas shall be large enough and of proper dimensions so as to contribute significantly to the purpose and objectives of the PUD.

( Ord. No. 18-06, § 1, 11-19-18)

Section 15.07. - General application procedures.

- A. The following steps, which are outlined in sections 15.08—15.11, shall apply to all applications for PUD approval, whether residential, non-residential, or mixed use:
  1. *Preliminary planning commission review (optional).* A preliminary plan may be submitted to the planning commission for initial review. The applicant may attend a pre-application review of the proposed PUD Plan with the planning commission.
  2. *PUD plan and PUD rezoning.*
    - a. The planning commission shall review the PUD plan and PUD rezoning application, hold a public hearing (if desired), and make a written recommendation to the city council.

b. The city council shall review the PUD plan and PUD rezoning application, and the written recommendation and findi planning commission, hold a public hearing, and make a final decision.

3. *PUD final site plan review.* The zoning enforcement officer and other applicable city personnel shall review the PUD final site plan in accordance with section 15.11 of this chapter.

B. An application for PUD shall be accompanied by a statement with regard to compliance with the standards required for approval in section 15.10, and other standards imposed by the zoning ordinance affecting the PUD under consideration.

C. Either concurrently with the PUD plan application, or upon approval by the city council (with or without conditions), the applicant may apply for preliminary plat approval, condominium approval, and private road approval, as applicable.

D. Approval of a PUD pursuant to this chapter shall constitute an amendment to the Lowell zoning ordinance and map.

( Ord. No. 18-06, § 1, 11-19-18)

#### Section 15.08. - Preliminary planning commission review (optional).

A. Preliminary plans of the proposed PUD may, at the applicant's option, be submitted for review to the planning commission prior to submission of an application for a PUD. The purpose of the meeting is to allow discussion between an applicant and the planning commission, and to inform the applicant of the acceptability of proposed plans prior to incurring extensive engineering and other costs which will be necessary for PUD review.

B. As part of the pre-application review, the applicant shall submit a copy of a conceptual plan for the proposed PUD that shows the property location, boundaries, significant natural features, vehicular and pedestrian circulation, the proposed number and arrangement of lots or units with building envelopes, proposed open spaces, location of proposed buildings, and proposed land use(s) for the entire site.

C. The planning commission shall advise the applicant regarding whether the proposed conceptual plan complies with the purpose and intent of this chapter, and if it qualifies for PUD rezoning pursuant to the qualifying conditions of section 15.02 of this chapter.

D. Formal action shall not be taken at a preliminary planning commission review. Statements made at the pre-application conference or review by the planning commission shall not be considered binding commitments or an approval of the PUD plan.

( Ord. No. 18-06, § 1, 11-19-18)

#### Section 15.09. - Procedures for PUD plan and PUD rezoning.

A. *Required information.* Following the preliminary review (if conducted), the applicant shall submit a completed application form for PUD rezoning, the required application fee, and ten (10) copies and a PDF of the PUD plan to the planning commission at least twenty-one (21) days prior the next planning commission meeting.

The PUD plan shall be professionally prepared by a licensed engineer, architect, and/or landscape architect and shall be drawn to a scale of not less than one (1) inch = one hundred (100) feet. The PUD plan shall, at a minimum, contain the following information, unless specific items are determined to be not pertinent to the application by the zoning enforcement officer:

##### 1. *General information.*

a. Name and firm address of the professional individual responsible for preparing site plan and his/her professional seal.

b. Name and address of the property owner or petitioner.

c. Scale, north arrow, and date.

d. Acreage (gross and net).

- e. Zoning of adjacent properties.
- f. Legal property description.
- g. Existing site conditions:
  - 1) Boundary survey lines and setbacks.
  - 2) Location sketch showing site, adjacent streets and properties within two hundred (200) feet or as directed by the city.
  - 3) Location, width, and purpose of all existing easements and lease areas, including cross-access.
  - 4) Abutting street right(s)-of-way and width.
  - 5) Topography with contour intervals of no more than two (2) feet.
  - 6) Natural features such as wooded areas, surface water feature, floodplains or floodways, wetlands, slopes exceeding fifteen (15) percent, lakes, rivers, creeks, county drains, and other significant site features, including the area of such features.
  - 7) Existing buildings, structures, paved surfaces and areas, installed landscaping, and other significant physical infrastructure.
  - 8) Size and location of existing utilities and status, where applicable.
- h. Proposed development:
  - 1) Layout of proposed buildings, structures, driveways, parking lots, streets, landscaped areas, and other physical infrastructure, as applicable, including the area of these improvements.
  - 2) Recreation areas, common use areas, dedicated open space, and areas to be conveyed for public use.
  - 3) Layout of sidewalks and/or pathways, both internal to the development and along the main road frontage.
  - 4) Layout and typical dimensions of building envelopes, proposed parcels, and lots.
  - 5) Parking, stacking, and loading calculations, if applicable.
  - 6) Phasing plan, if applicable.
  - 7) Conceptual plan for provision of public water and public sanitary sewer services.
  - 8) Conceptual grading plan.
  - 9) Conceptual stormwater plan.
  - 10) Conceptual building types, including building elevations and footprints.
- i. Additional information:
  - 1) A narrative, which shall describe the proposed PUD, the proposed timeframe of development, the zoning district(s) in which it will be located, the overall residential density of the project, and documentation indicating how the qualifying conditions in section 15.02 and the standards of section 15.10 are met.
  - 2) A table detailing all requested deviations identified in the PUD plan compared to the requirements of the zoning district in which the proposed PUD is located. This table shall clearly identify the requirement in comparison to the requested deviation.
  - 3) The planning commission may require additional information from the applicant 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. Planning commission review and optional public hearing.*

- 1. The planning commission shall review the PUD Plan at a regular or special meeting and may hold a public hearing, though it is not required. Notice of the public hearing (if held) shall be provided in accordance with the Michigan Zoning Enabling Act, as amended.

2. The planning commission shall review the PUD plan in consideration of public comments, technical reviews from city staff, consultants, and other applicable standards and requirements. Within a reasonable timeframe, the planning commission shall recommend approval, approval with conditions, or denial of the PUD plan and PUD rezoning to the city council. The planning commission's recommendation shall be documented with findings to justify its recommendation.
3. In order to recommend approval of the PUD plan and PUD rezoning, the planning commission shall find that the standards of section 15.10 are satisfied.

C. *City council review and required public hearing.*

1. Following receipt of a recommendation from the planning commission on the PUD plan and PUD rezoning, a public hearing of the city council shall be scheduled in accordance with the Michigan Zoning Enabling Act, as amended.
2. After the public hearing, the city council shall review the application in consideration of the planning commission's written recommendation, public hearing comments, technical reviews from city staff and consultants, and other applicable standards and requirements. Within a reasonable time, the city council shall approve, approve with conditions, or deny the PUD plan and PUD rezoning. The city council's decision shall be documented with written findings to justify its decision.
3. In accordance with the Michigan Zoning Enabling Act, as amended, the city council may place reasonable conditions on the approval of a PUD plan, including a performance guarantee pursuant to section 15.13(E). Conditions attached to the approval shall be incorporated into the ordinance adopting the PUD plan and PUD rezoning.
4. Approval of the PUD plan and PUD rezoning by the city council shall be incorporated into a rezoning amendment to the zoning ordinance and map. Such rezoning and PUD plan approval shall become effective after notification and publication as required by the Michigan Zoning Enabling Act, as amended.

( Ord. No. 18-06, § 1, 11-19-18)

Section 15.10. - PUD plan and rezoning standards for approval.

In order to approve a PUD plan and PUD rezoning, the planning commission and city council shall find that all of the following standards are met:

- A. The proposed PUD complies with the purpose and qualifying conditions of sections 15.01 and 15.02.
- B. The uses conducted within the proposed PUD, the PUD's impact on the community, and other aspects of the PUD are consistent with, and further implement the policies of, the adopted 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 proposed PUD shall not be hazardous to adjacent property or involve uses, activities, materials, or equipment that will be detrimental to the health, safety, or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, or glare.
- E. The proposed PUD shall not place demands on public services and facilities more than current or anticipated future capacity.
- F. The proposed PUD shall satisfy all applicable local, state, and federal laws, rules and, regulations.

( Ord. No. 18-06, § 1, 11-19-18)

Section 15.11. - PUD final site plan—Administrative review.

1. Within one (1) year after PUD plan and PUD rezoning approval by the city council, a minimum of four (4) copies and a PDF of the PUD final site plan for the entire PUD (or at least one (1) phase of the PUD) shall be submitted by the applicant

- in accordance with chapter 18 of the zoning ordinance to the city clerk.
2. All PUD final site plans subsequently submitted shall conform to the approved PUD plan subject to minor revisions and all conditions attached to its approval, the ordinance adopting the PUD plan and PUD rezoning, and the requirements of this chapter.
  3. If the PUD final site plan substantially conforms to the approved PUD plan subject to minor revisions and all conditions attached to its approval, the PUD adoption ordinance, and the requirements of this chapter, then the city shall approve the PUD final site plan.
  4. Unless otherwise required by subsection 6 below, PUD final site plans shall be reviewed administratively by the zoning enforcement officer and any other applicable city personnel. In cases where it is unclear whether or not a site plan substantially conforms to the approved PUD plan and/or any conditions attached to its approval, the zoning enforcement officer shall refer the PUD final site plan to the planning commission for review.
  5. For land uses within the PUD subject to additional special land use requirements, such uses shall comply with all such required conditions unless deviations were approved pursuant to this chapter.
  6. For land uses within the PUD that require special land use approval, or for PUDs that contain private roads, subdivisions, and/or site condominiums, such uses shall be reviewed and approved in accordance with all other applicable sections of the zoning ordinance and other provisions of the city code. These reviews may occur concurrently with the application for PUD plan review and PUD rezoning.

( Ord. No. 18-06, § 1, 11-19-18)

Section 15.13. - Approved PUDS.

- A. *Phased projects.* Where a project is proposed for construction in phases, the project shall be designed so that each phase, when completed, shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to ensure protection of natural resources and the health, safety and welfare of the users of the PUD and residents of the community. Each phase of a PUD shall require the submittal of a site plan pursuant to section 15.11.
- B. *Amendments to an approved PUD.* An amendment to an approved PUD shall be reviewed and approved by the planning commission and city council pursuant to section 15.09 B and C, except that the zoning enforcement officer may review and approve minor amendments to the PUD, or refer minor amendments to the planning commission for a determination with or without a public hearing. Minor amendments include, but are not limited to, the following:
  1. Reduction of the size of any building, building envelope, or sign.
  2. Movement of buildings or signs by no more than ten (10) feet.
  3. Changes requested by the city for safety reasons.
  4. Changes which will preserve natural features of the land without changing the basic site layout.
  5. Changes in the boundary lines of lots or condominium units which do not change the overall density of the development, do not reduce the width of the lot by more than ten (10) percent or which do not change the average lot or unit width throughout the development.
  6. Additions or modifications of the landscape plan or landscape materials, or replacement of plantings approved in the landscaping plan
  7. Alterations to the internal parking layout of a parking lot, provided that the total number of spaces or means of ingress and egress do not change.
  8. Other non-substantive changes proposed to be made to the configuration, design, layout or topography of the site plan which are deemed by the city to be not material or significant in relation to the entire site and which the

department determines would not have a significant adverse effect on the development on adjacent or nearby lands or the public health, safety and welfare.

C. *Expiration.*

1. A PUD (or at least the first phase of a PUD) shall be under meaningful construction of proposed improvements consistent with the approved PUD final site plan within one (1) year after the date of approval of the PUD final site plan, which shall proceed diligently to completion. For the purposes of this subsection, "meaningful construction" means substantial completion of improvements such as utilities, roads, buildings, and similar improvements.
2. Upon expiration of the time period for submission of either the (a) PUD plan and rezoning, or (b) the PUD final site plan, such approvals shall automatically become null and void and all rights of development based on the plan shall terminate.
3. The city council may approve extensions of up to two (2) years at a time, if requested in writing by the applicant prior to the expiration date of the original PUD plan approval or PUD final site plan approval. In requesting an extension, the applicant shall provide the reason(s) it is requesting the proposed extension.
4. Upon expiration of a PUD plan or PUD final site plan, the planning commission may conduct a public hearing and make a recommendation to rezone the property to its original designation or other district as deemed appropriate.

D. *Appeals and variances.* The board of zoning appeals shall not have jurisdiction to consider variances from the requirements of this chapter, nor may decisions related to a PUD be appealed to board of zoning appeals.

E. *Performance guarantees.* The city council may, to ensure strict compliance with any requirement contained in this chapter, require the applicant for PUD rezoning to furnish a performance guarantee such as a cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the city attorney, executed by a company authorized to do business in the state of Michigan in an amount determined by the city council to be reasonably necessary to ensure compliance with the requirements of this chapter. In fixing the amount of guarantee, the city council shall take into account the size and scope of the proposed project, the phasing of the project, the probable cost of rehabilitating the property upon default by the applicant, the estimated expenses to compel compliance by court decree, and such other factors and conditions as might be relevant in the light of all facts and circumstances surrounding the application.

( Ord. No. 18-06, § 1, 11-19-18)

## CHAPTER 16. - PF PUBLIC FACILITIES DISTRICT

### Section 16.01. - Intent.

This district is compatible with the Parks and Recreation Future Land Use Category of the Master Plan and is established to achieve the following purposes:

- A. To provide a proper zoning classification for governmental, civic, welfare and recreational facilities in proper locations and extent to promote the general safety, convenience, comfort and welfare;
- B. To protect the public and semi-public facilities and institutions from the encroachment of certain other uses and to make such uses compatible with adjoining residential uses; and
- C. To provide an environment for the proper functioning of public facilities in relation to the comprehensive plan and other plans for community facilities.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 09-02, § 4, 4-6-09)

### Section 16.02. - Uses permitted by right.

Land and/or buildings in the PF District may be used for the following purposes as uses permitted by right, subject to the approval of a site plan, in accordance with the requirements of Chapter 18:

- A. Municipal, county, state, and federal buildings and uses.
- B. Civic uses, including:
  - 1. Churches;
  - 2. Public art galleries;
  - 3. Libraries;
  - 4. Museums;
  - 5. Places for public assembly;
  - 6. Memorials and monuments;
  - 7. Cemeteries.
- C. Primary and secondary public, private, or parochial schools and institutions of higher education.
- D. General and psychiatric hospitals.
- E. Medical clinics.
- F. Institutions for children and the aged, including family day care homes and group day care homes.
- G. Child care centers.
- H. Parks, recreation fields and playgrounds, lakes, beaches, pools, public gardens, and publicly-owned golf courses.
- I. Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires, and underground utility systems.
- J. Accessory buildings, structures, and uses.

(Ord. No. 95-06, § 1, 12-27-95)

#### Section 16.03. - Special land uses.

Land and/or buildings in the PF District shall be used for the following purposes following review by the planning commission as a special land use as regulated by chapter 17:

- A. Outside storage yards which are accessory to a permitted use as listed in section 16.02.
- B. Incinerators which are accessory to a permitted use as listed in section 16.02.
- C. Indoor police small arms firing ranges.
- D. Commercial wireless communication towers.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 00-4, § 5, 9-18-00)

#### Section 16.04. - Site development requirements.

All uses permitted by right and special land uses are subject to the following site development requirements:

- A. Setbacks, height, area, and lot dimensions are required as noted below.
  - 1. Area requirements.
    - a. The area or parcel of land for a permitted public facility shall not be less than required to provide a site adequate for the main and accessory buildings, off-street parking, and other accessory uses, yards, and open spaces to accommodate the facility and maintain the character of the neighborhood. The area or parcel of land for a permitted public facility shall be approved by the planning commission.

- b. Building site coverage shall not exceed forty (40) percent of the total area devoted to the public facility.
- 2. Yard regulations.
  - a. Where two (2) districts are adjacent to the use, the average of the two (2) setbacks shall be used. The yard requirements for each public facility building shall not be less than the requirements set forth in the following schedule:

Use	Abutting Zone	
	Residential	Non-Residential
Non-Assembly Buildings	50 ft.	25 ft.
Assembly Buildings	75 ft.	25 ft.
Churches	50 ft.	25 ft.
Public, Private and Parochial Schools	50 ft.	25 ft.
General Hospitals and Clinics	75 ft.	25 ft.
Psychiatric Hospitals	200 ft.	50 ft.
Institutions for Children and the Aged	50 ft.	25 ft.
Recreational	75 ft.	25 ft.

- b. Driveways and parking areas serving the public facility may be located within the side or rear yard setback, except that driveways and parking areas shall be located at least ten (10) feet from any adjacent lot lines and shall be landscaped. Play areas may be constructed up to an abutting property line except that all playground equipment shall be located at least twenty (20) feet from the abutting property line.
  - 3. Building heights for public facilities shall not exceed the height of the taller of any adjacent building, or where no adjacent building exists, the nearest building, in either a residential or nonresidential district by more than twenty-five (25) percent.
  - 4. In the case of a rear yard abutting a side yard, the side yard setback abutting a street shall not be less than the minimum front yard setback of the district in which located and all regulations applicable to the front yard shall apply.
- B. Sidewalks shall be constructed on all sides of the property abutting a public street, in accordance with city standards. The planning commission may waive the requirement for a sidewalk when, in the opinion of the commission, no good purpose would be served by the sidewalk.

(Ord. No. 95-06, § 1, 12-27-95)



Section 16A.01. - Description and purpose.

This district is intended to encourage pedestrian-oriented mixed-uses which are desirable to both nearby residential neighborhoods and the central business district. This district permits a mix of commercial and residential uses within the same building or on the same lot.

(Ord. No. 15-01, § 6, 2-17-15)

Section 16A.02. - Uses permitted by right.

Land and/or buildings in the MU District may be used for the following purposes as uses permitted by right:

- A. Mixed use developments.
- B. Retail stores.
- C. Drug stores and pharmacies.
- D. Art galleries and museums.
- E. Restaurants, without drive-through facilities.
- F. Personal service establishments conducting services on premises, including barber and dry-cleaning service outlets, beauty shops and fitness centers.
- G. Office buildings for executive, administrative, professional, accounting, drafting and other similar professional activities.
- H. Medical and dental offices.
- I. Banks, credit unions, savings and loan associations and similar financial institutions.
- J. Multiple-family dwellings.
- K. Outdoor merchandise display in accordance with section 11.05.
- L. Accessory buildings, structures and uses customarily incidental to any of the above uses permitted by right or as a special land use.

(Ord. No. 15-01, § 6, 2-17-15)

Section 16A.03. - Special land uses.

Land and/or buildings in the MU District may be used for the following purposes following review by the planning commission as a special land use regulated by appendix A, chapter 17:

- A. Theaters, concert halls or similar places of public assembly.
- B. Private clubs, fraternal organizations and lodge halls.
- C. Hotels and motels.
- D. Single-family dwellings.
- E. Two-family dwellings.

(Ord. No. 15-01, § 6, 2-17-15)

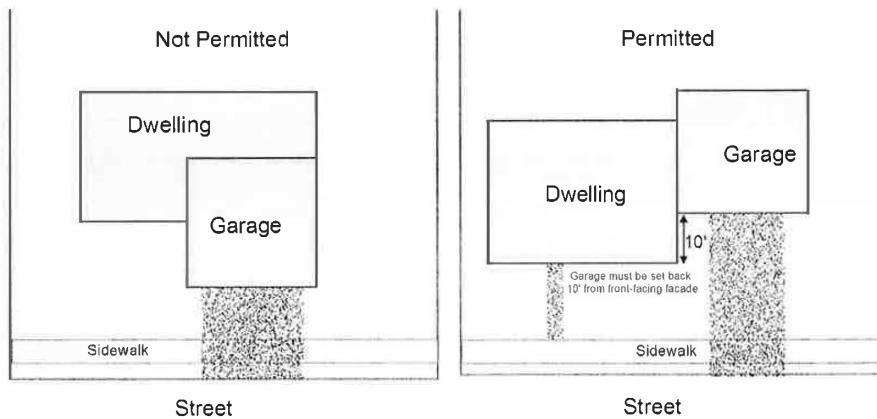
Section 16A.04. - Site development requirements.

No building or structure, nor the enlargement of any building or structure, shall be erected unless the following requirements are met and maintained in connection with such building, structure or enlargement:

- A. There shall be no off-street parking located in the front yard of a lot; parking shall be located in the rear or side yard.
- B. Buildings must have the primary entrance facing a public sidewalk.
- C. For all development adjacent to key frontages as illustrated on the zoning map, except single-family, two-family and multi-family dwellings, a minimum of fifty (50) percent of the street-facing principal building façade between two (2) feet and eight (8) feet above grade must be comprised of clear windows that allow views of indoor space or product display areas.

Minimum front yard setback	0 feet
Maximum front yard setback	10 feet, except as provided in section 16A.04D.
Minimum required side yard	Side abutting residential districts or uses - 10 feet Side abutting other districts - 0 feet
Minimum required rear yard	Side abutting residential districts or uses - 25 feet Side abutting other districts - 0 feet
Maximum lot coverage	100%
Maximum building height	40 feet
Minimum lot area	None
Minimum lot width	None
Minimum building frontage	80% in primary front yards, except as provided in section 16A.04D. 50% in secondary front yards where applicable, except as provided in section 16A.04D.

- D. Single-family dwellings and two-family dwellings proposed in the MU District shall meet the following standards:
  - 1. Minimum front yard setback shall be zero (0) feet.
  - 2. Maximum front yard setback shall be twenty-five (25) feet.
  - 3. If an attached garage is proposed, such garage shall be offset such that it is set back at least ten (10) feet from the front-facing building façade.
  - 4. Minimum building frontage is not required.



(Ord. No. 15-01, § 6, 2-17-15)

## CHAPTER 17. - SPECIAL LAND USES

### Footnotes:

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**Editor's note—** Ord. No. 17-04, § 2, adopted September 18, 2017, amended chapter 17 in its entirety to read as set out herein. Former chapter 17 pertained to similar subject matter and derived from Ord. No. 95-06, § 1, adopted December 17, 1995; Ord. No. 96-6, § 1, adopted October 21, 1996; Ord. No. 97-2, § 12, adopted November 17, 1997; Ord. No. 00-4, § 6, adopted September 18, 2000; Ord. No. 12-03, § 4, adopted June 4, 2012; and Ord. No. 15-06, § 1, adopted September 21, 2015; Ord. No. 16-01, § 5, adopted January 19, 2016; Ord. No. 16-02, § 7, adopted May 16, 2016.

### Section 17.01. - Scope.

This section provides a set of procedures and standards for special uses of land or structures which, because of their unique characteristics, require special consideration in relation to the welfare of adjacent properties and the community as a whole. The regulations and standards, herein, are designed to allow, on one hand, practical latitude for the applicant, but at the same time maintain adequate provision for the protection of the health, safety, convenience, and general welfare of the city. For purposes of this ordinance, all special land uses within the various districts are subject to the conditions and standards of this chapter. In addition, the following uses shall conform to the specific standards cited in section 17.04, as applicable.

( Ord. No. 17-04, § 2, 9-18-17)

### Section 17.02. - Application and review procedures.

- A. *Required information.* An application for special land use approval shall be submitted to the zoning enforcement officer. Each application shall be accompanied by:
  1. The payment of a fee as established by the city council;
  2. A completed application form, as provided by the city;
  3. Complete site plans pursuant to chapter 18; and
  4. A written statement indicating compliance with section 17.03(A), and the applicable provisions of section 17.04.
- B. *Applications.* Applications for a special land use shall be submitted to the zoning enforcement officer at least twenty-one (21) days prior to the next regular planning commission meeting. Upon receiving all materials required in section 17.02(A), the application and accompanying materials shall be forwarded to the planning commission at its next scheduled meeting for a public hearing.
- C. *Public hearing required.* The planning commission shall hold a public hearing on the application, providing the notice of such hearing in accordance with the Michigan Zoning Enabling Act, Act 110 of 2006, as amended.

- D. *Planning commission review and decision.* Following the public hearing, the planning commission shall review the application materials, comments received at the public hearing and any other information related to the application, including recommendations or reports from the city planner, engineer, or other party, and shall approve, approve with conditions, or the request for special land use approval. In arriving at its decision, the planning commission shall refer to and be guided by standards set forth in this Chapter and any other standards in this ordinance that are applicable to the proposed special land use. The planning commission shall incorporate the basis for the decision and any conditions to be imposed into its decision.
- E. *Issuance of a special land use permit.* A special land use permit shall be issued by the zoning enforcement officer upon approval of the special land use by the planning commission. The special land use permit shall list all the conditions of approval stipulated by the planning commission. The zoning enforcement officer shall forward a copy of the special land use permit to the applicant and the city clerk. A site plan submitted as an attachment to a special land use application may be considered and reviewed in conjunction with said special land use application and shall be processed according to the procedures of chapter 18.
- F. *Appeals.* No decision or condition related to a special land use application shall be taken to the board of zoning appeals.
- G. *Amendments.* Amendments to a special land use permit shall be handled in the same manner as the initial special land use application. Minor non-substantive changes to a site plan may be made to an existing special land use permit with the approval of the zoning administrator.
- H. *Transfers.* The special land use permit, with any and all associated benefits, conditions and required security shall run with the land and may be transferred to a new owner upon the sale or transfer of the property in question. The prior owner, upon transferring the special land use permit, shall advise the zoning enforcement officer of said transfer in order to insure the continued validity of the permit and compliance with the terms and conditions of the approved permit.
- I. *Reapplication.* No petition for special land use approval, which has been disapproved, shall be resubmitted for a period of one (1) year from the date of disapproval, except as may be permitted after learning of new and significant facts or conditions which might result in favorable action upon resubmission.
- J. *Expiration.* A special land use approved pursuant to this chapter shall be valid for one (1) year from the date of approval. Each development shall be under construction and proceeding meaningfully toward completion within one (1) year after the date of approval of the special land use, except as noted below.
1. The planning commission may grant one (1) six (6) month extension of such time period, provided the applicant requests the extension prior to the date of the expiration of the special land use approval.
  2. The extension shall be approved if the applicant presents reasonable evidence to the effect that said development has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed within the extension period.
  3. If neither of the above provisions are fulfilled or the six (6) month extension has expired prior to construction, the special land use approval shall be null and void.
- K. *Abandonment.* Any permitted special land use shall be considered abandoned, and such use shall not be resumed thereafter, if the zoning enforcement officer finds that any of the following conditions apply:
1. The owner declares or otherwise makes evident an intent to discontinue such use.
  2. When the use has been replaced by a different use.
  3. If the use has been abandoned for more than one (1) year, and the zoning enforcement officer finds that one (1) or more of the following conditions exist:
    - a. Utilities, such as water, gas and electricity to the property, have been disconnected.
    - b. The property, buildings, and grounds, have fallen into disrepair.
    - c. Signs or other indications of the existence of the use have been removed.

- d. Removal of equipment or fixtures that are necessary for the operation of the special land use.
  - e. Other actions, which in the opinion of the zoning enforcement officer constitute an intention of the part of the property owner or lessee to abandon the use.
- L. *Violations.* The planning commission shall have the authority to suspend or revoke any special land use approval after it has been shown that the holder of the approval has failed to comply with any of the applicable requirements of this chapter, other applicable sections of this ordinance, or conditions of the special land use approval. Prior to any action, the planning commission shall conduct a public hearing as required by this chapter. The planning commission may provide the permit holder with an additional opportunity to correct the violation(s).
- M. *Conditions of approval.* The planning commission may stipulate such additional conditions and safeguards deemed necessary to accomplish the following purposes. Failure to comply with such conditions may result in the revocation of the special land use approval, pursuant to section 17.02(L). Conditions imposed shall be those necessary to:
- 1. Meet the intent and purpose of the zoning ordinance;
  - 2. Relate to the standards established in the ordinance for the land use or activity under consideration;
  - 3. Insure compliance with those standards;
  - 4. Protect the general welfare;
  - 5. Protect individual property rights; and
  - 6. Ensure that the intent and objectives of this ordinance will be observed.
- N. *Performance guarantees.* As a condition of approval of a special land use, the planning commission may require a financial guarantee of sufficient sum to assure the installation of those 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. Such features or components may include, but shall not be limited to, roadways, curbing, landscaping, fencing, walls, screening, lighting, drainage facilities, sidewalks, driveways, utilities, and similar items. Performance guarantees shall be processed as required in section 22.03(C).

( Ord. No. 17-04, § 2, 9-18-17)

#### Section 17.03. - Special land use review standards.

The planning commission shall approve a special land use upon finding that the proposed special land use meets all applicable regulations of this ordinance and complies with each of the of the following standards, in addition to those specific standards in this chapter that are established for certain uses:

- A. Each application shall be reviewed for the purpose of determining that the proposed special land use meets the following standards:
  - 1. The proposed special land use shall be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance, with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed;
  - 2. The proposed special land use shall be generally consistent with the City of Lowell Master Plan;
  - 3. The proposed special land use shall be served adequately by essential public facilities and services such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities;
  - 4. The proposed special land use shall not create excessive additional requirements at public cost for public facilities and services; and
  - 5. The proposed special land use shall not involve uses, 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.

6. The proposed special land use shall comply with all applicable federal, state, and local requirements, and copies of permits shall be submitted to the city.

( Ord. No. 17-04, § 2, 9-18-17)

Section 17.04. - Site design standards.

The general standards and requirements of sections 17.01—17.03 apply to all special land uses. The specific and detailed requirements set forth in this section relate to particular uses and are requirements which must be met by those uses in addition to the foregoing general standards and requirements.

Those uses specified in this ordinance as permitted by right or as special land uses shall be subject to the requirements of the district in which the use is located. In addition, all applicable conditions, standards, and regulations shall apply as set forth below:

- A. *Country clubs, golf courses, riding stables, and public and private athletic grounds and parks, and other similar uses, including related uses, such as snack bars or small retail shops selling goods directly related to the primary use.*
  1. The use shall be located on property with direct access to a public street.
  2. Any outdoor activity areas shall be set back a minimum of fifty (50) feet from any residential district or use.
  3. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any residential district or use.
  4. Access driveways shall be located no less than fifty (50) feet from the nearest part of the intersection of any street or any other driveway.
  5. Buildings housing animals, storage equipment, or other similar buildings shall be located at least fifty (50) feet from any lot line.
- B. *Commercial greenhouses and nurseries, when operated primarily as wholesaling operations and limited retail sales.*
  1. Minimum lot area shall be one (1) acre.
  2. Minimum lot width shall be two hundred (200) feet.
  3. The planning commission may require a six (6) foot fence or wall to be constructed along the rear and/or sides of the lot to keep trash, paper, and other debris from blowing off the premises.
  4. All open air businesses shall comply with all applicable health department regulations regarding sanitation and general health conditions.
  5. The lot area used for parking for customers shall be hard-surfaced and the display or storage areas shall be provided with a permanent, durable, and dustless surface, and shall be graded and drained so as to dispose of all surface water.
  6. Ingress and egress shall be provided as far as practicable from two (2) intersecting streets and shall be at least one hundred (100) feet from an intersection.
  7. The storage or materials display areas shall meet all the yard setback requirements applicable to any building in the district.
  8. All loading activities and parking areas shall be provided on the same premises (off-street).
  9. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties.
  10. No display area shall be located within ten (10) feet of a street right-of-way line.
- C. *Removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources.*
  1. *Exceptions.* No soil, sand, gravel, or other earth material shall be removed from any land within the city without special land use approval, with the following exceptions:

- a. When the earth removal is incidental to an operation for which a building or other permit has been issued by th
  - b. When the earth removal involves any normal landscaping, driveway installation and repairs, or other minor projects;
  - c. The earth removal involves less than one hundred (100) cubic yards;
  - d. The earth removal is for the purpose of construction of a swimming pool.
  - e. The soil removal will not be in violation of any other section of this ordinance, other city ordinance, Soil Erosion and Sedimentation Control Act of 1972, or any other applicable state or federal law.
2. *Application requirements.* A site plan conforming to the requirements of Chapter 18 of this Ordinance, and also containing the following:
- a. The location and construction details of proposed access drives and service roads on the parcel, together with proposed scrub pads;
  - b. The boundaries of the area proposed for the mining activities. If such activities are to be conducted in phases or in separate mining cells, such phases or cells shall be numbered and the phase or cell boundaries shall be depicted with the acreage of each indicated. Each phase or cell shall be labeled as completed, active or future as the case may be;
  - c. The location and details of proposed fences, berms, landscaping, gates, signs and parking areas;
  - d. The location of proposed structures and fixed equipment to be placed on the site for mining and related activities;
  - e. Setback lines as required by this section;
  - f. The boundaries, surface areas and bottom contours of any lake or pond to be created or modified by the mining activity.
  - g. A written plan narrative containing the following information:
    - 1) The time period proposed for the mining activity;
    - 2) A description of the type of natural resources and the quantity (in cubic yards) involved in the proposed mining;
    - 3) Methods of mining, moving, storing, processing, loading and transporting of the natural resources on and from the site;
    - 4) Identification of and proposed sequence of which phases or cells will be mined and restored, including projected dates for completion of restoration and reuse of each phase or cell;
  - h. Measures to be taken to:
    - 1) Control noise and vibration beyond the boundaries of the parcel;
    - 2) Control erosion and wind-blown sand, dust, dirt or other materials;
    - 3) Control access and prevent trespass on the site;
    - 4) Prevent waste accumulation;
    - 5) Prevent stagnant water and control surface water erosion;
    - 6) Preserve existing vegetation and topsoil.
  - i. A description of the proposed hours of operation;
  - j. If natural resources are to be removed from the parcel:
    - 1) A description of the type and the loaded weight of trucks to be used;
    - 2) The proposed number of trucks leaving the site per day;
    - 3) The proposed route through the city to be used by such trucks.

- k. A description of ancillary activities proposed for the site;
  - l. Identification of wells on adjacent properties and the area water tables and a description of the impact of the proposed removal of mineral resources on such wells and water table.
  - m. A current wetland identification and/or delineation reports detailing the presence of wetland conditions on the parcel and their status as regulated or unregulated, together with copies of any permits or applications for permits issued by or filed with the Michigan Department of Environmental Quality (MDEQ).
  - n. Copies of all other federal, state or county permits or approvals that relate to and are required for the proposed earth change.
  - o. A preliminary sketch plan of the proposed end use of the property to inform the planning commission of the intended long-term use of the site. Such sketch plan shall contain the information required in section 18.04(A)(2) of this ordinance. Planning commission approval of the special land use request for the earth removal shall not constitute approval of the proposed end use.
  - p. The planning commission may require an environmental impact statement, engineering data, or other such justification supporting the need for and consequences of such extraction if it is believed that the extraction may have an adverse impact on natural topography, drainage, water bodies, floodplains, or other natural features.
  - q. If the planning commission determines that the mining may have an effect on adjacent wells and/or on the water table in the area, it may require the applicant to submit a current hydrogeological report, prepared and certified by a registered professional engineer and/or environmental consultant
3. In reviewing an application for mining, the planning commission shall also determine whether or not the applicant has satisfied its burden in demonstrating that no very serious consequences would result from the extraction. In making this determination, the planning commission may consider the following factors in accordance with MCL 125.3205:
- a. The relationship of extraction and associated activities with existing land uses.
  - b. The impact on existing land uses in the vicinity of the property.
  - c. The impact on property values in the vicinity of the property and along the proposed hauling route serving the property, based on credible evidence.
  - d. The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property.
  - e. The impact on other identifiable health, safety, and welfare interests in the local unit of government.
  - f. The overall public interest in the extraction of the specific natural resource on the property.
4. *Operational requirements.* All mining activities shall comply with the following operational requirements:
- a. All uses shall be established and maintained in accordance with all applicable State of Michigan, County or City statutes, ordinances and regulations. In cases where there is a conflict between state and local statutes, the more restrictive regulations shall control.
  - b. All earth removal operations shall be conducted in a manner such that the earth removal will not alter predominate drainage patterns or cause drainage impacts to adjoining properties.
  - c. No machinery shall be erected or maintained within fifty (50) feet of any property or street right-of-way. Further, no cut or excavation shall be made closer than fifty (50) feet to any street right-of-way line or property line in order to ensure sublaterals support to surrounding property. The planning commission may require greater distances for the location of machinery, storage or parking of equipment, or limits of excavation where the site is located within two hundred (200) feet of any residential district or use.



- d. Where it is determined by the planning commission to be a public hazard, all uses shall be enclosed by a fence, acceptable screening at least six (6) feet or more in height for the entire periphery of the property or portion thereof. The screening shall be adequate to prevent trespass, and shall be placed no closer than fifty (50) feet to the top or bottom of any slope.
  - e. No building shall be erected on the premises except as may otherwise be permitted in this ordinance or except as temporary shelter for machinery or for a field office, subject to approval by the planning commission.
  - f. The planning commission shall establish routes for truck movement to and from the site in order to minimize the wear on public streets and to prevent hazards and damage to properties in the community. Access roads within the area of operation shall be provided with a dustless surface and the entry road within the site shall be hard surfaced for a distance established by the planning commission to minimize dust, mud, and debris being carried onto the public street.
  - g. All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to property, individuals, or to the community in general.
  - h. The conduct and operations of the mining shall not result in:
    - 1) Wind-blown sand, dust or soil that would migrate off-site;
    - 2) The collection of surface water or the run-off of water onto adjoining lands contrary to normal and natural drainage patterns;
    - 3) The removal or disturbance of existing trees and vegetation on the site in areas on which the natural resource extraction for a specific phase or cell is not commenced or continuing or that is not used for drives or ancillary activities;
    - 4) The failure to promptly reclaim any area of a phase or cell when the mining for that phase or cell is completed.
  - i. When excavation and removal operations or either of them are completed, the excavated area shall be graded so that no gradients in disturbed earth shall be steeper than a slope of 3:1 (horizontal-vertical). A layer of arable topsoil, of a quality approved by the zoning enforcement officer, shall be spread over the excavated area, except exposed rock surfaces or areas lying below natural water level, to a minimum depth of four (4) inches in accordance with the approved contour plan. The area shall be seeded with a perennial rye grass and maintained until the area is stabilized and approved by the planning commission.
  - j. Where excavation operation results in a body of water five (5) feet deep or greater, the owner or operator shall place appropriate "Keep Out Danger" signs around said premises not more than one hundred fifty (150) feet apart.
  - k. The planning commission may require, as a condition of approval, the annual review of a mining project and/or an annual report to be presented to the planning commission by the applicant. Such report would summarize progress on the site, the amount of material removed, any complaints received and their resolution, and other items deemed necessary by the planning commission.
- D. *Veterinary hospitals, animal clinics, and kennels.*
- 1. The minimum lot size shall be one (1) acre.
  - 2. Buildings wherein animals are kept, dog runs, and/or exercise areas shall not be located nearer than one hundred (100) feet to any adjacent occupied dwelling or any adjacent building used by the public, and shall not be located in any required front, rear or side yard setback area.
  - 3. All principal use activities shall be conducted within a totally enclosed main building.
- E. *Radio and television transmitting buildings and towers.*

1. Minimum site size shall be two (2) acres.
2. Individual setbacks for any tower or other similar structure shall be equal to one-half (½) the height of any such structure.

F. *Bed and breakfast establishments.*

1. The establishment shall be serviced by approved water and sanitary sewer services.
2. The establishment shall be located on property with direct access to a paved public street.
3. Such uses shall only be established in a single-family dwelling.
4. Parking shall be located to minimize negative impacts on adjacent properties.
5. The lot on which the establishment is located shall meet the minimum lot area requirements of the zone district.
6. The total number of guest rooms in the establishment shall not exceed three (3), plus one (1) additional guest room for each ten thousand (10,000) square feet or fraction thereof by which the lot area of the use exceeds one (1) acre, not to exceed a total of seven (7) guest rooms in any case.
7. Exterior refuse storage facilities beyond what might normally be expected for a single-family dwelling shall be prohibited.
8. One (1) sign shall be allowed for identification purposes. Such sign shall be non-illuminated and un-animated, be mounted flat against the wall of the principal building and not exceed four (4) square feet in area.
9. The establishment shall contain the principal residence of the operator.
10. Accessory retail or service uses to a bed and breakfast establishment shall be prohibited, including but not limited to gift shops, antique shops, restaurants, bakeries, and other similar uses.
11. Breakfast may be served only to the operator's family, employees, and overnight guests.

G. *Schools, churches, libraries, and community center buildings.*

1. Main buildings shall be set back a minimum of fifty (50) feet from the nearest property line of any residential district or use.
2. For uses exceeding a seating capacity of two hundred fifty (250) persons, a traffic impact study shall be required to be submitted by the applicant which describes internal circulation and projected impacts on traffic operations, capacity, and access on adjacent and nearby streets which are likely to provide access to the site.
3. Access driveways shall be located no less than fifty (50) feet from the nearest part of the intersection of any street or any other driveway.

H. *Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires, and underground utility systems.*

1. Any such buildings shall be generally compatible, with respect to materials and color, with the surrounding neighborhood.
2. Any such building shall comply with the yard setback requirements of the district in which it is located.

I. *State licensed residential group care facilities.*

1. Required off-street parking, as well as off-street pick-up and drop-off areas shall be provided.
2. The applicant shall provide evidence of the ability to comply with all applicable state licensing requirements.

J. *Group and commercial day care homes and facilities.*

1. There shall be provided, equipped and maintained, on the premises, a minimum of one hundred fifty (150) square feet of usable outdoor recreation area for each client of the facility.
2. The outdoor recreation area shall be fenced and screened from any abutting residential district or use by a decorative fence or wall, or a landscaped equivalent.

3. Required off-street parking, as well as off-street pick-up and drop-off areas shall be provided.
4. The applicant shall provide evidence of the ability to comply with all applicable state licensing requirements.

K. *Multiple-family dwellings.*

1. All dwelling units in the building shall have a minimum of seven hundred fifty (750) square feet per unit.
2. Parking areas shall have a front yard setback of twenty (20) feet and side and rear yard setbacks of ten (10) feet.
3. Access driveways shall be located no less than fifty (50) feet from the nearest part of the intersection of any street or any other driveway.

L. *Public or private campgrounds.*

1. Minimum lot area shall be three (3) acres. The lot shall provide direct vehicular access to a public street. The term lot shall mean a campground or travel trailer park.
2. Public stations containing adequate water outlet, waste container, toilet and shower facilities shall be provided.
3. No commercial enterprise shall be permitted to operate on the lot, except that a convenience shopping/service facility, campground office, or building containing similar accessory uses intended primarily for use by guests may be provided. Such buildings shall not exceed a maximum floor area of one thousand (1,000) square feet.
4. Each lot shall provide hard-surfaced, dust-free vehicle parking areas for site occupant and guest parking. Such parking area shall be located within four hundred (400) feet of the site it is intended to serve (except in the case of sites specifically designated only for tent camping).
5. Each site shall contain a minimum of one thousand five hundred (1,500) square feet. Each site shall be set back at least seventy five (75) feet from any public or private street right-of-way or property line.
6. Each travel trailer site shall have direct access to a hard-surfaced, dust-free roadway of at least twenty four (24) feet in width for two-way traffic and twelve (12) feet in width for one-way traffic. Parking shall not be allowed on any roadway. Sites specifically designated for, and only used for, tent camping, need not have direct vehicular access to any roadway.
7. Any open drainage ways must have seeded banks sloped at least 3:1 (horizontal-vertical) and designed to properly drain all surface waters into a public drainage system, subject to approval by the Drain Commission of Kent County and the City of Lowell.
8. All sanitary facilities shall be designed and constructed in strict conformance to all applicable county health regulations.
9. A minimum distance of fifteen (15) feet shall be provided between all travel trailers and tents.

M. *Funeral homes and mortuary establishments.*

1. Minimum lot area shall be one (1) acre with a minimum width of one hundred fifty (150) feet.
2. A well designed and landscaped off-street vehicle assembly area shall be provided to be used in support of funeral procession activity. This area shall not obstruct internal circulation within the required off-street parking area or its related maneuvering space.
3. A caretaker's residence may be provided within the principal building.

N. *Commercial storage warehouses.*

1. Minimum lot area shall be one (1) acre.
2. A residence may be permitted on the premises for security personnel or on-site operator. The residence shall conform to the minimum requirements for a single-family dwelling in the R-2 District.
3. Parking and circulation:
  - a. One (1) parking space shall be provided for each ten (10) storage cubicles, equally distributed throughout the

- storage area. The parking requirement may be met with the parking lanes required for the storage area. The parking lanes may be eliminated when the access aisle does not serve storage cubicles.
- b. Two (2) parking spaces shall also be required for the residence of security personnel or on-site operator employed on the premises.
  - c. One (1) parking space shall also be required for every twenty (20) storage cubicles, up to a maximum of ten (10) spaces, to be located adjacent the rental office, for the use of customers.
  - d. All driveways, parking, loading, storage, and vehicular circulation areas shall be paved.
4. A ten-foot wide buffer strip along the side and rear lot lines shall be provided.
- O. *Banks, credit unions, savings and loan associations, and other similar uses as determined by the zoning enforcement officer, with drive-through facilities.*
1. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public street right-of-way. A minimum of five (5) stacking spaces for each outdoor teller or automatic teller device shall be provided. Stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the property by vehicles not using the drive-through portion of the facility.
  2. Public access to the site shall be located at least fifty (50) feet from any intersection as measured from the nearest street right-of-way line to the nearest edge of said access.
  3. The parking and maneuvering areas of the site shall be fenced and screened from the view of any abutting residential district or use by a decorative fence or wall, or a landscaped equivalent.
  4. Outdoor speakers for the drive-through facility shall be located in a way that minimizes sound transmission toward neighboring properties and uses.
- P. *Hotels and motels.*
- Q. *Theaters, concert halls, or similar places of public assembly, as determined by the zoning enforcement officer.*
1. Main buildings shall be set back a minimum of one hundred (100) feet from any residential district or use.
  2. For uses exceeding a seating capacity of two hundred fifty (250) persons, a traffic impact study may be required to be submitted by the applicant which describes internal circulation and projected impacts on traffic operations, capacity, and access on abutting and nearby streets which are likely to provide access to the site.
  3. Access driveways shall be located no less than fifty (50) feet from the nearest part of the intersection of any street or any other driveway.
- R. *Residential dwellings, in the same building with commercial uses.*
1. All commercial uses, excluding storage, shall not be located on the same story of the building as the dwelling unit.
  2. Dwelling units shall comply with the applicable requirements of the R-3 District for multiple-family dwellings.
- S. *Off-street parking lots.*
1. The lot area used for parking shall be hard-surfaced and the display or storage areas shall be provided with a permanent, paved surface, and shall be graded and drained so as to dispose of all surface water.
  2. Ingress and egress shall be provided as far as practicable from two (2) intersecting streets and shall be at least fifty (50) feet from an intersection.
  3. Public access to the site shall be located as far as practicable any intersection as measured from the nearest street right-of-way line to the nearest edge of said access.
  4. The parking and maneuvering areas of the site shall be fenced and screened from the view of any abutting residential district or use by a decorative fence or wall, or a landscaped equivalent.

T. *Restaurants with drive-through facilities.*

1. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public street right-of-way. A minimum of ten (10) stacking spaces for the service ordering station shall be provided. Stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the property by vehicles not using the drive-through portion of the facility.
2. In addition to parking space requirements, at least three (3) parking spaces shall be provided, in close proximity to the exit of the drive-through portion of the operation, to allow for customers waiting for delivery of orders.
3. Public access to the site shall be located at least fifty (50) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of said access.
4. The parking and maneuvering areas of the site shall be fenced and screened from the view of any abutting residential district or use by a decorative fence or wall, or a landscaped equivalent.
5. Outdoor speakers for the drive through facility shall be located in a way that minimizes sound transmission toward neighboring property and uses.

U. *Vehicle service stations, excluding body shops.*

1. Minimum lot area shall be thirty-two thousand (32,000) square feet.
2. Minimum lot width shall be one hundred fifty (150) feet.
3. All buildings, structures, and equipment shall be located not less than fifty (50) feet from any street right-of-way line and not less than fifty (50) feet from any side or rear lot line abutting a residential district.
4. No more than one (1) curb opening shall be permitted for every seventy-five (75) feet of frontage along any street, with a maximum of one (1) per street when located on a corner lot.
5. No driveway or curb opening shall be located nearer than seventy-five (75) feet to any intersection nor more than twenty-five (25) feet to any adjacent residential district property line. No driveway shall be located nearer than fifty (50) feet, as measured along the property line, to any other driveway. A driveway shall not be permitted where, in the opinion of the planning commission, it may produce a safety hazard to adjacent pedestrian or vehicular traffic.
6. A raised curb of six (6) inches in height shall be constructed along the perimeter of all paved and landscaped areas.
7. The entire lot used for vehicular activities, excluding the area occupied by a building, shall be hard-surfaced with a concrete or bituminous surface. All areas not paved or occupied by buildings or structures shall be landscaped.
8. All lubrication equipment, hydraulic hoists, and pits shall be enclosed entirely within a building. All gasoline pumps shall be located not less than fifteen (15) feet from any lot line, and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or over-hanging any public sidewalk, street or right-of-way.
9. When adjoining residentially zoned property parking and storage areas shall be fenced and screened from the view of any abutting residential district or use by a decorative fence or wall, or a landscaped equivalent.
10. All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed on all sides by a six (6) foot sight-obscuring wall or fence. No such outside storage area shall exceed an area of two hundred (200) square feet. Outside parking of disabled, wrecked, or partially dismantled vehicles (not to exceed a maximum of five (5) such vehicles) shall not be permitted for a period exceeding three (3) days (seventy-two (72) hours).
11. The rental of trucks, trailers, and any other vehicles on the premises is expressly prohibited without specific approval by the planning commission. If such use is permitted, proper screening, landscaping, and additional parking area shall be provided in accordance with the requirements set forth by the planning commission.

12. All exterior lighting, including signs, shall be erected and hooded so as to shield the glare of such lights from view by property.
  13. Where applicable, vehicle queuing space shall be provided in front of each service bay for at least two (2) vehicles.
- V. *Vehicle wash establishments, either self-serve or automatic.*
1. All washing activities must be carried on within a building.
  2. Vacuuming activities may not be conducted within any required yard.
  3. Sufficient space shall be provided to accommodate all vehicle queuing on the property, so no vehicles are required to wait on an adjoining street to enter the site.
- W. *Open air businesses.*
1. Minimum lot area shall be one (1) acre.
  2. Minimum lot width shall be two hundred (200) feet.
  3. The planning commission may require a six (6) foot fence or wall to be constructed along the rear and/or sides of the lot to keep trash, paper, and other debris from blowing off the premises.
  4. All open air businesses shall comply with all applicable city and county regulations regarding sanitation and general health conditions.
  5. The lot area used for parking and the display or storage areas shall be provided with a permanent, paved surface, and shall be graded and drained so as to dispose of all surface water.
  6. Ingress and egress shall be provided as far as practicable from two (2) intersecting streets and shall be at least fifty (50) feet from an intersection.
  7. All lighting shall be shielded from adjacent residential districts or uses.
  8. In the case of a plant materials nursery:
    - a. The storage or materials display areas shall meet all the yard setback requirements applicable to any building in the district.
    - b. All loading activities and parking areas shall be provided on the same premises (off-street).
    - c. The storage of any soil, fertilizer, or similar loosely packaged materials shall be contained to prevent any adverse effect upon adjacent properties.
  5. No display area shall be located within twenty (20) feet of a street right-of-way line.
- X. *Retail building supplies.*
1. Minimum lot area shall be one (1) acre.
  2. Minimum lot width shall be two hundred (200) feet.
  3. The planning commission may require a six (6) foot fence or wall to be constructed along the rear and/or sides of the lot to keep trash, paper, and other debris from blowing off the premises.
  4. Ingress and egress shall be provided as far as practicable from two (2) intersecting streets and shall be at least one hundred (100) feet from an intersection.
  5. The storage or materials display areas shall meet all the yard setback requirements applicable to any principal building in the district.
- Y. *Landing and take-off areas for rotorcraft, and airports.*
1. The lot area used for vehicle and aircraft parking shall be hard-surfaced and the display or storage areas shall be provided with a permanent, paved surface, and shall be graded and drained so as to dispose of all surface water.
  2. Public access to the site shall be located at least fifty (50) feet from any intersection as measured from the

nearest right-of-way line to the nearest edge of said access.

3. Vehicle and aircraft parking areas and any landing area shall have setback a minimum of fifty (50) feet from any lot line, or as required by appropriate federal or state regulations, whichever is greater.

Z. *Petroleum storage located at least five hundred (500) feet from any residentially zoned property.*

1. The minimum lot area shall be five (5) acres.
2. The lot shall be located so that at least one (1) side abuts an arterial street and all access shall be from such arterial street.
3. The main and accessory buildings and any storage facilities shall not be located nearer than three hundred (300) feet to any adjacent residential district or use.
4. Proper containment facilities shall be constructed to ensure that accidental spills or ruptures are contained on the site and will not cause the contamination of any water source.

AA. *Sexually oriented business.* Sexually oriented businesses shall comply with the requirements of chapter 17A.

BB. *Commercial wireless communication towers.*

In addition to the standards of section 17.03, the planning commission shall find that a proposed commercial wireless communication tower meets the following specific special land use standards.

1. *Purpose and intent.* The Telecommunications Act of 1996, as amended, sets forth provisions concerning placement, location and construction of towers and related facilities for communication. The purpose of this section is to establish general guidelines for the siting of commercial wireless communication towers, which include antenna structures. In order that such towers not cause visual pollution or create a safety hazard on adjacent properties, reasonable regulations for the location, use of existing structures, and design of new structures and towers, are appropriate. Commercial wireless communication towers are specifically determined to NOT be essential services as defined in this ordinance. The intent of these provisions is to encourage users of towers to:
  - a. Protect land uses from potential adverse impacts of towers.
  - b. Place the location of new towers in appropriately-zoned areas.
  - c. Minimize the total number of towers throughout the community.
  - d. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers.
  - e. Locate and configure towers in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques.
  - f. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.
  - g. Consider the public health and safety of personal wireless service facilities.
  - h. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.
  - i. It is not the intent to regulate ham radio antennae under this section.
2. *Administratively approved uses.* The following uses may be approved by the zoning administrator after conducting an administrative review:
  - a. Antennas on existing structures: Compact platform-type, omni directional, or singular-type antenna which is not attached to a new commercial wireless communication tower may be approved by the zoning administrator as a co-location or as an accessory use to any commercial, industrial, professional,

institutional, or multi-family structure, provided:

- 1) The antenna does not extend more than ten (10) feet above the highest point of the structure;
  - 2) The antenna complies with all applicable FCC and FAA regulations;
  - 3) The equipment building for such co-located equipment can be incorporated into an existing structure or cabinet, and
  - 4) The antenna complies with all applicable building codes.
- b. Microcell networks: Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.
3. *Additional information required for review.* In addition to the requirements of chapter 17 and section 17.03, commercial wireless communication tower applications shall include:
- a. Name and address of the proposed operator of the site.
  - b. Name and address, including phone number of the person responsible for determining feasibility of co-location as provided in this section.
  - c. Preliminary design of all proposed structures, including elevations and renderings showing the proposed facility from four (4) vantage points located not less than two hundred (200) feet nor more than five hundred (500) feet from the proposed tower location.
  - d. A statement by a registered professional engineer licensed to practice in Michigan that the proposed commercial wireless communications tower will be installed in accordance with the manufacturer's specifications and all applicable city codes. A set of drawings sealed by a professional engineer for the installation of the wireless communications equipment and wireless communications support structure shall also be provided. Such statement shall set forth the fall zone area for the proposed tower. If the fall zone area is less than that of a circle whose radius is equivalent to the height of the proposed tower, such statement shall provide structural calculations and detail sufficient to demonstrate the accuracy of such lesser fall zone area determination.
  - e. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
  - f. A statement signed by the applicant indicating the number and type of additional antennae the proposed tower will accommodate through co-location.
  - g. Each applicant shall provide an inventory of existing towers, tall structures, antennas, or sites approved for towers or antennas, that are either within the City of Lowell or within one (1) mile of the border thereof, including specific information about the location, height, and design of each tower or tall structure.
  - h. The separation distance from other towers described in the inventory of existing sites shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known. The applicant shall also demonstrate the reasons such existing towers or tall structures cannot be used in lieu of the proposed communication tower.
4. *Planning commission review.* Once all required materials are submitted, the planning commission shall review the application in accordance with the standards of chapter 17 and shall either approve, approve with conditions, or deny the application within ninety (90) days of receipt of all required information, as determined by the zoning enforcement officer. If the planning commission does not approve, approve with conditions, or deny the application within ninety (90) days, the application shall be considered approved and the planning commission shall be considered to have made any determination required for approval.
5. *Availability of suitable existing towers, other structures, or alternative technology.* No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the planning commission that no



existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna.

6. *General provisions.* Commercial wireless communication towers, including their accessory equipment may be permitted, subject to the following provisions:
  - a. A commercial wireless communication towers is permitted in the PF and I zoning districts only. Such towers shall be placed on parcels (whether the land is owned or leased by the tower owner) which have an area no less than the minimum parcel area and width for the district.
  - b. All setbacks for the zoning district shall be met and in addition, no tower shall be placed closer to any property line than the radius of the certified fall zone as provided in section 17.04(BB)(3)(d) hereof, and in no case less than two hundred (200) feet from any residence or two hundred (200) feet from a zoning district which does not permit commercial wireless communication towers as a special use.
  - c. All proposed towers of a height greater than the maximum height permitted in the zone district in which it is located shall be submitted to the Michigan Aeronautics Commission and FAA for review and approval prior to approval by the city. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
  - d. The service building shall be aesthetically and architecturally compatible with buildings within three hundred (300) feet of the property on which it is located.
  - e. All connecting wires from towers to accessory buildings and all electrical and other service wires to the facility shall be underground.
  - f. Monopole tower design shall be required. Guyed towers are prohibited.
  - g. The planning commission may require landscape screening of the service building and fencing.
  - h. Strobe lights shall not be allowed except as required by FAA or other applicable agency.
  - i. No signs shall be allowed on an antenna or tower. The service building or fence surrounding the service building and tower may contain not more than two (2) signs of not more than two (2) square feet, listing the name, address and contact telephone number of the operator. Additionally, not more than two (2) signs not to exceed two (2) square feet signaling "danger" or "no trespassing" may also be placed on the fence or service building.
  - j. Towers shall be enclosed by a locked gate and security fencing six (6) feet in height, and shall be equipped with an appropriate anti-climbing device.
  - k. The applicant shall certify its intent to lease excess space on the proposed tower for co-located antennae of other operators. Such certification shall include a commitment to respond to any requests for information from another potential shared use applicant; to negotiate in good faith and allow for leased shared use if an applicant demonstrates that it is technically practicable, and; to make no more than a reasonable charge for a shared use lease.
  - l. Notwithstanding the provisions of this section, the maximum height for a commercial wireless communication towers in the City of Lowell shall be one hundred ninety-nine (199) feet.
  - m. Proposed towers shall be at least one-half (½) mile from existing towers except for towers dedicated to

essential municipal services.

7. *Removal of abandoned antennas and towers.* A telecommunication tower that is unused for a period of twelve (12) months shall be removed. The applicant or owner is responsible for the removal of an unused tower. Failure to do so shall be sufficient cause for the city to cause the removal of the tower at the owner's expense.
8. *Bonds.* The owner of a telecommunications tower; including equipment/accessory buildings, shall post an unconditional and irrevocable letter of credit or bond acceptable to the city attorney, to cover the reasonable estimated costs and expenses of dismantling and removing the communication tower. The amount of the bond shall be established by the planning commission, and may be adjusted from time to time to reflect changing costs and expenses of dismantling and removing the facility.
9. *Nonconforming uses.*
  - a. Pre-existing towers that do not meet the requirements of this section shall be allowed to continue in use as they presently exist. Routine maintenance shall be permitted on such preexisting towers. New construction, other than routine maintenance on a pre-existing tower shall comply with the requirements of this ordinance. Modifications to height and type of construction of pre-existing towers shall not be permitted, except in conformance with this section.
  - b. Rebuilding damaged or destroyed nonconforming towers. Nonconforming towers that are damaged or destroyed may not be rebuilt except in conformance with the requirements of this subsection.

CC. *Vehicle towing service.*

1. All buildings, structures and parking areas shall be arranged so as to allow all maneuvering of tow trucks, flatbed trucks and other equipment transporting or towing motor vehicles to conduct operations entirely on the site of the vehicle towing service property without encroaching onto the public right-of-way except when entering and exiting the site.
2. A vehicle towing service shall not engage in salvage operations, sale of parts or dismantling of motor vehicles.
3. A vehicle towing service shall not engage in motor vehicle repair activities unless it is also approved as a vehicle repair facility.
4. Motor vehicles stored at a vehicle towing service site shall (a) be kept within an enclosed building or structure or outdoors in a secure fenced-in area screened from view with appropriate approved landscaping and (b) not be stored outdoors for more than thirty (30) days.
5. All surfaces for maneuvering and storage of motor vehicles shall be paved with asphalt or concrete and shall be graded to conduct stormwater to a collection system approved by the city.
6. Motor vehicles stored on a vehicle towing service site shall be stored within or upon containment equipment intended to capture any fluids which may leak from the motor vehicles.
7. All hazardous or toxic wastes accumulated on a vehicle towing service site shall be stored and disposed of in accordance with applicable state and federal requirements. No hazardous or toxic substances shall be discharged to the public sanitary sewer or stormwater systems or to groundwater or surface water features.
8. Any outdoor storage area shall be illuminated and comply with the standards of section 4.24.

DD. *Brewery/winery.*

1. A brewery/winery shall be located on a parcel at least two hundred (200) feet from any residentially zoned property.
2. Sites shall be designed and operated to minimize potential negative impacts on adjacent properties, such as odors, vibration, smoke, dust, fumes, and similar potential impacts.
3. The applicant shall demonstrate that all trucks and delivery vehicles be provided with adequate maneuvering

areas on the lot. Maneuvering shall not be permitted on adjacent property or in a public right-of-way.

4. Approval may include the establishment of hours of operation for a brewery/winery.
5. A brewery/winery shall obtain and maintain all applicable federal, state, and local permits and upon request, furnish copies of applicable permits to the city.
6. The applicant shall demonstrate that adequate parking and loading areas are provided on the site.

EE. *Short-term rental.*

1. Exemptions: Any member of a family, as well as that family member's guests, may occupy a dwelling as long as that family member's family owns the dwelling. Also exempted are family guests, exchange students, visitors, medical caregivers, and child caregivers, without remuneration to the owner.
2. A short-term rental is permitted with special land use approval only in the SR, R-1 and C-2 districts.
3. A short-term rental shall require a minimum stay of three (3) days and the duration of a stay shall not exceed thirty (30) days.
4. A short-term rental shall meet the dimensional requirements for the zone district in which it is located.
5. The maximum occupancy for a short-term rental is two (2) guests per bedroom, but in no case shall occupancy exceed fifteen (15) guests per dwelling. The planning commission may permit additional occupancy, up to two (2) additional guests per finished floor, if all of the following requirements are determined to be met:
  - a. The short-term rental affords sufficient visual privacy and/or screening from adjacent residential properties;
  - b. The short-term rental is located on a lot of two (2) or more acres; and
  - c. The short-term rental provides sufficient off-street parking to accommodate the additional vehicles.
6. One (1) off-street parking space shall be provided for each bedroom. Except for short-term rentals in the C-2 zone district, all parking shall be off-street and provided on the lot where the short-term rental is located.
7. A host shall notify, in writing, the fire department and police department of the dates and number of guests for each unique stay.
8. A host shall provide the city with a 24-hour telephone number with which the host or host's agent can be reached in case of emergency and/or an enforcement matter.
9. A host shall provide an in-unit notice in a conspicuous place that includes the property address, a 24-hour telephone number with which the host or host's agent can be reached, all applicable rules and ordinances related to the short-term rental, and the maximum occupancy of the dwelling unit as permitted by this subsection.
10. Short-term rentals shall be conducted in a manner that is consistent with the customary use of a single-family dwelling. The unit shall provide safe, reasonable, and adequate sleeping arrangements in traditional bedrooms with proper egress or as consistent with law. The use of campers, tents or similar arrangements to provide additional occupancy on the premises is prohibited.
11. Occupants shall not encroach on neighboring properties.
12. The host shall provide sufficient waste receptacles substantially screened from view; and the premises shall be maintained free of debris and unwholesome substances. Garbage must be kept in a closed container and disposed of on a regular weekly schedule.
13. The appearance of the short-term rental shall not conflict with the residential character of the neighborhood. The dwelling shall be properly maintained pursuant to all applicable laws rules and regulations, and kept in good repair so that the use in no way detracts from the general appearance of the neighborhood.
14. The host or host's agent must be available to accept telephone calls at all times that the short-term rental is rented. The host or host's agent must have a key to the unit and be capable of being physically present at the

unit within sixty (60) minutes to address issues, unless arrangements are made for a substitute person to address issues within the same timeframe.

FF. *Adult use marihuana establishment.*

1. *Purpose and intent.* The purpose of this section is to protect the public health, safety, and welfare, protect neighborhood character, minimize negative community impacts, and enact effective regulatory and enforcement controls through minimum land use requirements for adult use marihuana establishments in the city of Lowell. Marihuana establishments, as defined pursuant to Section 3(h) of the Michigan Regulation and Taxation of Marihuana Act (MTRMA), include a marihuana grower, safety compliance facility, processor, microbusiness, retailer, or a secure transporter, or other establishment types permitted by applicable Rules for Adult Use Marihuana Establishments, as amended, promulgated by the State of Michigan Department Licensing and Regulatory Affairs (LARA).
2. *License required.*
  - a. In addition to the special land use permit required by this section, a license issued by the City of Lowell pursuant to chapter 28 of the City of Lowell Code of Ordinances shall be required prior to operating any marihuana establishment in the City of Lowell, along with any other licenses or permits required by any other federal, state, or local agency having jurisdiction.
  - b. The issuance of a special land use permit pursuant to this section does not create an exception, defense, or immunity to any person in regard to any potential civil or criminal liability.
  - c. It shall be unlawful for any person to operate a marihuana establishment in the city without obtaining both a license to operate pursuant to the requirements of chapter 28 of the city of Lowell Code of Ordinances, and a special land use permit pursuant to the requirements of this section.
  - d. A separate special land use permit shall be required for each geographic location.
  - e. The planning commission may approve a special land use permit for multiple marihuana establishments at the same geographic location and/or in one building, provided that all appropriate licenses are obtained from (LARA and the City of Lowell).
3. *Application requirements.* An application for an adult use marihuana establishment special land use shall be accompanied by a site plan pursuant to section 18.05, along with any additional information necessary to describe the proposed establishment. At a minimum, the following materials shall be submitted as part of an application, in addition to the special land use application requirements of section 17.02(A).
  - a. *Verification.* A signed statement by the applicant indicating the proposed establishment type, including any requested special licenses, provided that such special licenses are authorized by the city of Lowell and by applicable Rules for Adult Use Marihuana Establishments, as amended, promulgated by LARA.
  - b. *Consent.* A notarized statement by the property owner that acknowledges use of the property for a marihuana establishment and agreement to indemnify, defend and hold harmless the city, its officers, elected officials, employees, and insurers, against all liability, claims or demands arising out of, or in connection to, the operation of a marihuana establishment. Written consent shall also include approval of the owner and operator for the city to inspect the establishment at any time during normal business hours to ensure compliance with applicable laws and regulations.
  - c. *State license.* A copy of official paperwork issued by LARA indicating that the applicant has successfully completed the application for a state operating license. Copies of all documents submitted to LARA in connection with the initial license application, subsequent renewal applications, or investigations conducted by LARA shall be provided to the city.
  - d. A provisional license issued by the City of Lowell pursuant to chapter 28 of the City of Lowell Code of

Ordinances is not required in order to apply for special land use approval for a marihuana establishment. When a license from the city has not yet been obtained prior to applying for a special land use, the planning commission shall require a license from the City of Lowell as a condition of special land use approval.

4. *Additional site plan requirements.* In addition to the site plan requirements in section 18.04, the following information shall also be submitted:
  - a. A map, drawn to scale, containing all preschools and K-12 public or private schools near the proposed marihuana establishment location and a one thousand (1,000) foot isolation radius drawn around the proposed location to show an appropriate setback distance.
  - b. A narrative describing how the enclosed areas with marihuana have been secured and how permitted individuals will be given access.
  - c. A detailed security plan that addresses all security measures of the marihuana establishment in compliance with all applicable Rules for Adult Use Marihuana Establishments, as amended, promulgated by LARA.
  - d. A lighting plan showing the lighting outside of the marihuana establishment for security purposes and compliance with section 4.24 and any other applicable city requirements.
  - e. Existing and proposed building elevations, including building materials, window calculations, descriptions of glass to be used, and other pertinent information that describes building construction or structural alterations.
  - f. A floor plan of the marihuana establishment detailing the locations of the following:
    - i. All entrances and exits to the establishment;
    - ii. The location of any windows, skylights, and roof hatches;
    - iii. The location of all cameras, and their field of view;
    - iv. The location of all alarm inputs (door contacts, motion detectors, duress/hold up devices) and alarm sirens;
    - v. The location of the digital video recorder and alarm control panel, including the location of the off-site storage or network service provider for storage of the required copies of surveillance recordings; and
    - vi. Restricted and public areas.
    - vii. Any proposed outdoor growing areas
  - g. The applicant's procedures for accepting delivery of marihuana at the establishment, including procedures for how and where it is received, where it is stored, and how the transaction is recorded.
5. *General provisions.* Adult use marihuana establishments shall be subject to the following requirements:
  - a. *Security.* The marihuana establishment shall comply with all applicable security requirements contained in applicable Rules for Adult Use Marihuana Establishments, as amended, promulgated by LARA.
    - i. All marihuana and marihuana accessories shall be located within an enclosed, locked area, inaccessible on all sides, and equipped with locks that permit access only by the licensed operator or their employees, agents of LARA, law enforcement officers, emergency personnel, and other authorized individuals, as reviewed and approved by the city.
    - ii. Marihuana establishments shall use commercial-grade, nonresidential door locks on all points of entry and exit to the permitted premises.
    - iii. Security cameras are required to be installed and operated in marihuana establishments twenty-four (24) hours per day, three hundred sixty-five (365) days per year, and shall be directed to record only the subject property. Required security cameras may not be directed to public rights-of-way as applicable,

except as required to comply with applicable Rules for Adult Use Marihuana Establishments, as amended, promulgated by LARA.

- b. Separation distances. The distances described in this subsection shall be computed by measuring a straight line from the nearest property line of the land used for the purposes stated in this subsection to the nearest property line of the parcel used as a marihuana establishment. The following minimum-distancing regulations shall apply to all marihuana establishments. A marihuana establishment shall not be located within:
- i. One thousand (1,000) feet of a preschool or child care center, whether or not it is within the City of Lowell;
  - ii. One thousand (1,000) feet of a public or private K-12 school, whether or not it is within the City of Lowell;
  - iii. Five hundred (500) feet of a property within the C-2, Central Business District as illustrated on the City of Lowell Zoning Map.

Exception. The requirements above do not apply if the marihuana establishment was lawfully established prior to the location of an establishment or zoning district specified in items i—iii above.

- c. Odors. The marihuana establishment shall be designed to provide sufficient odor absorbing ventilation and exhaust systems so that any odor generated inside the establishment is not detected outside the building in which it operates, on adjacent public rights-of-way, private road easements, or within other units located within the same building as the establishment if it occupies only a portion of the building. Odors must be controlled and eliminated by the following methods:
- i. The building must be equipped with an activated air scrubbing and carbon filtration system that eliminates all odors prior to leaving the building. Fan(s) must be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three (3). The filter(s) shall be rated for the applicable CFM.
  - ii. Air scrubbing and filtration systems must be maintained in working order and must be in use at all times. Filters must be changed per manufacturers' recommendation to ensure optimal performance.
  - iii. Negative air pressure must be maintained inside the building.
    1. At a ratio of 1:4 between the air intake (CFM) and exhaust fan (CFM), or a similar ratio as approved by the planning commission.
    2. A minimum negative pressure of 0.01" water column relative to the building exterior and to adjacent spaces without product.
    3. A minimum exhaust rate of 0.2 CFM per square foot of floor area or greater.
  - iv. Doors and windows must remain closed, except for the minimum time length needed to allow people to ingress or egress the building.
  - v. The planning commission may approve an alternative odor control system if a mechanical engineer licensed in the State of Michigan submits a report that sufficiently demonstrates the alternative system will be equal or superior to the air scrubbing and carbon filtration system otherwise required above.
- d. The marihuana establishment shall be operated and maintained at all times so that any by-products or waste of any kind shall be properly and lawfully kept and disposed of so as to preclude any risk of harm to the public health, safety, or welfare.
- e. The marihuana establishment shall not be operated out of a residence or any building used wholly or partially for residential purposes.
- f. Any portion of the structure where energy usage and heat exceed typical residential use, such as a grow

- room, and the storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the fire department to insure compliance with applicable fire codes. Any fuel, fertilizer, pesticide, fungicide, rodenticide, herbicide, or other substance toxic to wildlife, children, or pets shall be stored in a secured and locked area and be in compliance with state pesticide laws and regulations.
- g. A marihuana establishment shall not be operated from a business which also sells alcoholic beverages or tobacco products.
  - h. No drive-through facilities shall be permitted.
  - i. The marihuana establishment shall comply at all times and in all circumstances with the MTRMA and the Rules for Adult Use Marihuana Establishments, as amended, promulgated by LARA.
  - j. The planning commission may require additional landscape buffers or screening beyond what is required in section 4.26 of the zoning ordinance.
  - k. The owner and/or licensee shall maintain clear and adequate records and documentation demonstrating that all cannabis or cannabis products have been obtained from and are provided to other permitted and licensed cannabis operations. The city shall have the right to examine, monitor, and audit such records and documentation, which shall be made available to the city upon request.
  - l. All necessary building, electrical, plumbing, and mechanical permits shall be obtained for any portion of the structure which contains electrical wiring, lighting, and/or watering devices that support the cultivation growing or harvesting of marihuana.
  - m. In the event of any conflict, the terms of this ordinance are preempted and the controlling authority shall be the statutory regulations set forth by the MRTMA or the adopted Rules for Adult Use Marihuana Establishments, as amended, promulgated by LARA.
6. *Effect of permit.*
- a. A special land use permit for a marihuana establishment is valid only for the location identified on the license and cannot be transferred to another location within the city without a new special land use permit.
  - b. A special land use permit does not prohibit prosecution by the federal government of its laws or prosecution by state authorities for violations of the act or other violations not protected by the MTRMA.
  - c. Compliance with city ordinances and state statutes is a condition of maintenance of a special land use permit, and a license may be suspended or revoked pursuant to section 17.02(L) if such ordinances and statutes are violated.
  - d. Nothing contained herein is intended to limit the city's ability to prosecute code violations that may have been the cause of the suspension or any other code violations not protected by MTRMA.
7. *Violations.* Failure to comply with the requirements of this section shall be considered a violation of the zoning ordinance.
- a. Request for revocation of state operating license. If at any time an authorized establishment violates this section or any other applicable city ordinance, the city may request that LARA revoke or refrain from renewing the establishment's state operating license.
  - b. Any approval granted for a marihuana establishment may be revoked or suspended automatically for either of the following reasons:
    - i. Revocation or suspension of the licensee's authorization to operate by LARA.
    - ii. A finding by LARA that a rule or regulation has been violated by the licensee. After an automatic revocation of a special land use approval, a new special land use application shall be required for an establishment to commence operation at the same location.

iii. Other violations of the zoning ordinance, special land use permit, or conditions imposed thereon by the plan ( Ord. No. 17-04, § 2, 9-18-17; Ord. No. 18-02, § 6, 2-20-18; Ord. No. 19-06, § 7, 10-21-19)

## CHAPTER 17A. - SEXUALLY ORIENTED BUSINESSES

### Section 17A.01. - Purpose and intent.

The purpose and intent of this chapter is to regulate sexually oriented businesses, to promote the health, safety and general welfare of the residents of the city, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the city, thereby reducing or eliminating the adverse secondary effects on the community from such sexually oriented businesses.

The provisions of this chapter are not intended to impose a limitation or restriction on the content of any communicative materials, including sexually oriented materials. It is not the intent of this chapter to restrict or deny access by adults to sexually oriented materials protected by the United States or Michigan Constitutions, or to deny access by the distributors and exhibitors of sexually oriented entertainment in their intended market.

Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.

(Ord. No. 97-2, § 13, 11-17-97)

### Section 17A.02. - Location restrictions.

- A. A sexually oriented business shall only be operated within areas zoned as C-3 - General Business District.
- B. A sexually oriented business may not be operated within four hundred (400) feet of:
  1. A church, synagogue or regular place of religious worship;
  2. A public or private elementary or secondary school or public school academy;
  3. A boundary of any residential zoned district or any residential structure within or without a zoned area;
  4. A public park;
  5. A public library; or
  6. A child care center, family day care home, or group day care home.
- C. A sexually oriented business may not be operated within one thousand (1,000) feet of another sexually oriented business.
- D. A sexually oriented business may not be operated in the same building, structure, or portion thereof, containing another sexually oriented business.
- E. For the purpose of this chapter, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church, synagogue, regular place of worship, public or private elementary or secondary school, public school academy, public park or library, child care center, family day care home, group day care home, residential lot, or another sexually oriented business, or to the nearest boundary of a residential district.

(Ord. No. 97-2, § 13, 11-17-97)

### Section 17A.03. - License required.



It shall be unlawful to operate or cause to be operated a sexually oriented business in the city without a valid license issued pursuant to the provisions of this chapter.

(Ord. No. 97-2, § 13, 11-17-97)

Section 17A.04. - License application.

- A. All applicants for a sexually oriented business license shall file an application for such license with the zoning enforcement officer. Each individual applicant, partner of a partnership, member of a limited liability company, partner of a limited liability partnership, officer and director of a corporation and all managers shall be named in each application form and each of them shall be photographed and fingerprinted by the city police department.
- B. An application for a license must be made on a form provided by the city.
- C. The applicant must be qualified according to the provisions of this chapter and the premises must be inspected and found to be in compliance with the law by the building inspector and zoning enforcement officer.
- D. If a person who wishes to operate a sexually oriented business is an individual, he or she must sign the application for a license as applicant. If a corporation is listed as owner of a sexually oriented business or as the entity which wishes to operate such a business, each individual having a ten (10) percent or greater interest in the corporation must sign the application for a license as applicant, along with each officer and director of the corporation. If the applicant is a partnership, each partner must sign the application. If the applicant is a limited liability company each member must sign the application. If the applicant is a limited liability partnership each partner must sign the application.
- E. The fact that a person possesses other types of permits and/or licenses does not exempt him or her from the requirement of obtaining a sexually oriented business license.
- F. Applications for a license, whether original or renewal, must be made to the zoning enforcement officer by the intended operator of the sexually oriented business. Applications must be submitted by hand delivery to the office of the zoning enforcement officer during regular working hours. Applications forms shall be supplied by the zoning enforcement officer. The intended operator shall be required to give the following information on the application form:
  1. If the applicant is:
    - a. An individual, the individual shall state his legal name and address and any aliases;
    - b. A partnership, the partnership shall state its complete name, and the names and addresses of all partners and whether the partnership is general or limited;
    - c. A limited liability company, the limited liability company shall state its complete name and the names and addresses of all of its members;
    - d. A limited liability partnership, the limited liability partnership shall state its complete name and the names and addresses of all of its partners; or
    - e. A legal entity other than a partnership, limited liability company or limited liability partnership, the application shall state its complete name, the date and place of its organization, the names, addresses and capacity of all officers and directors of a corporation and of the chief executive officer and manager for any other legal entity, and the name of the resident agent and the address of the registered office for service of process.
  2. The name under which the sexually oriented business is to be operated and a general description of the services to be provided.
  3. The telephone number of the sexually oriented business.
  4. The address and legal description of the real property on which the sexually oriented business is to be located.
  5. If the sexually oriented business is in operation, the date on which the owner(s) acquired the sexually oriented

business for which the license is sought, and the date on which the sexually oriented business began operations as a sexually oriented business at the location for which the license is sought.

6. If the sexually oriented business is not in operation, the expected start-up date (which shall be expressed in number of days from the date of the application). If the expected start-up date is to be more than ten (10) days following the date of the application, then a detailed explanation of the construction, repair or remodeling work or other cause of the expected delay and a statement of the owner's time schedule and plan for accomplishing the same is also required.
- G. Whether the applicant or any other individual identified in the application had a previous sexually oriented business license under this chapter or other adult business ordinance from another city, village, township or county denied, suspended or revoked, including the name and location of the sexually oriented or adult business for which the license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation.
- H. Whether the applicant or any other individuals identified in the application has been partner in a partnership, a member of a limited liability company or partnership or an officer, director, chief executive officer or manager of any other legal entity that is permitted under this chapter whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented or adult business for which the license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation.
- I. Whether the applicant or any other individual identified in the application holds any other licenses under this chapter or other similar sexually oriented or adult business ordinance from another city, village, township or county and, if so, the names and locations of such other permitted business.
- J. The location of the proposed sexually oriented business, including a legal description of the property, street address and telephone number(s), if any.
- K. The applicant's mailing address and residential address.
- L. The applicant's driver license number, social security number and/or federally issued tax identification number.
- M. The application shall be accompanied by the following:
  1. Payment of the application, investigation and license fees;
  2. If the applicant is an individual, satisfactory proof that he or she is at least eighteen (18) years of age;
  3. If the applicant is a Michigan corporation, a certified copy of the articles of incorporation, together with all amendments thereto, and a current good standing certificate;
  4. If the applicant is a corporation incorporated in another state, a certified copy of the certificate of authority to transact business in Michigan;
  5. If the applicant is a partnership, a copy of the partnership agreement, together with all amendments thereto;
  6. If the applicant is a Michigan limited partnership, a certified copy of the certificate of limited partnership, together with all amendments thereto;
  7. If the applicant is a limited partnership formed under the laws of another state, a certified copy of the Michigan certificate of registration;
  8. If the applicant is a Michigan limited liability company, a certified copy of the articles of organization, together with all amendments thereto;
  9. If the applicant is a limited liability company formed under the laws of another state, a certified copy of the Michigan certificate of authority;
  10. If the applicant is a Michigan limited liability partnership, a certified copy of the registration of limited liability partnership, together with all amendments thereto;
  11. If the applicant is a limited liability partnership formed under the laws of another state, a certified copy of the

Michigan registration;

12. Documentation identifying the owner(s) of the real property on which the sexually oriented business is to be situated;
13. If the person(s) identified as the owner(s) of the real property identified above is not also the owner(s) of the sexually oriented business, then the lease, purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the owner(s) or proposed owner(s) of the sexually oriented business to have or obtain the use and possession of the real property thereof that is to be used for the purpose of the operation of the sexually oriented business;
14. A floor plan of the licensed premises with the following requirements:
  - a. Location and dimensions of any manager's station, demonstrating that there is an unobstructed view from at least one (1) of the manager's stations of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms;
  - b. Location of all overhead lighting fixtures;
  - c. Identification of any portion of the premises in which patrons will not be permitted;
  - d. Location of the place at which the license will be conspicuously posted, if granted;
  - e. The location of any stage;
  - f. Identification of the use of each room or other area of the premises; or
  - g. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus one (1) foot; and
15. A current certificate and straight-line drawing, prepared within thirty (30) days prior to the application, by a land surveyor depicting the property lines and the structures containing any sexually oriented business within one thousand (1,000) feet of the closest exterior wall of the structure in which the applicant business will be located and depicting the property line of any church, synagogue, regular place of worship, public or private elementary or secondary school, public school academy, child care center, family day care home, group day care home, public park or library, residential district, or residential lot within 400 feet from the closest exterior wall of the structure in which the applicant business will be located.

Any of items 2. through 15. above shall not be required for a renewal application if the applicant states that the documents previously furnished the zoning enforcement officer with the original application or previous renewals thereof remain correct and current.

N. The application shall contain a statement under oath that:

1. The applicant has personal knowledge of the information contained in the application and that the information contained therein and furnished therewith is true and correct; and
2. The applicant has read the provisions of this chapter.

O. A separate application and license shall be required for each sexually oriented business.

P. The zoning enforcement officer shall not accept any application that is not complete in every detail. In the event that the zoning enforcement officer determines that the applicant has improperly completed the application, the applicant shall be promptly notified of such fact and permitted ten (10) days to properly complete the application. The time period for granting or denying a license shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application.

Q. Applicants for a license under this chapter shall have a continuing duty to promptly supplement application information

required by this chapter in the event that said information changes in any way from what is stated on the application. The failure to comply with said continuing duty within thirty (30) days from the date of such change by supplementing the application on file with the zoning enforcement officer shall be grounds for suspension of the license.

(Ord. No. 97-2, § 13, 11-17-97)

Section 17A.05. - Approval of license application.

- A. The zoning enforcement officer shall approve the issuance of a license to an applicant within thirty (30) days after receipt of an application unless he or she finds one (1) or more of the following to be true:
1. An applicant is under eighteen (18) years of age;
  2. An applicant is overdue in payment to the city of taxes, fees, fines or penalties assessed against the applicant or imposed upon the applicant in relation to a sexually oriented business;
  3. An applicant has failed to provide information reasonably necessary for issuance of the license or has knowingly answered falsely a question or request for information on the application form;
  4. The premises to be used for the sexually oriented business has not been approved by the building inspector and the zoning enforcement officer as being in compliance with applicable laws and ordinances;
  5. The applicant or a director, officer, partner, member, principal manager or chief executive officer of the applicant has had a sexually oriented business license or adult business license revoked or suspended within one (1) year prior to the date of application;
  6. The applicant or a director, officer, partner, member, principal manager or chief executive officer of the applicant has operated a sexually oriented business or adult business which was determined to be a public nuisance under laws of any state, county, city, village or township within one (1) year prior to the date of application;
  7. The applicant is not in good standing or authorized to do business in Michigan;
  8. The application, investigation and license fees have not been paid;
  9. An application of the proposed sexually oriented business is in violation of or is not in compliance with, any of the provisions of this chapter;
  10. Applicant has been convicted of any of the following criminal offenses in any jurisdiction within the last ten (10) years:
    - a. Prostitution, procuring a prostitute, or solicitation of a prostitute;
    - b. Sale, distribution or display of obscene material;
    - c. Sale, distribution or display of material which is harmful to minors;
    - d. Soliciting, procuring or aiding and abetting an unlawful sexual performance by a minor;
    - e. Possession, sale or distribution of child pornography;
    - f. Public lewdness;
    - g. Indecent exposure;
    - h. Indecent conduct with a child;
    - i. Sexual assault or rape;
    - j. Incest;
    - k. Sexual solicitation of a child;
    - l. Contributing to the delinquency of a minor; or
    - m. Harboring a runaway child.
- B. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration

date, and the address of the sexually oriented business. The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

- C. The building inspector and zoning enforcement officer shall complete their certification that the premises is in compliance or not in compliance within twenty (20) days of receipt of the application.
- D. In the event that the zoning enforcement officer determines that an applicant is not eligible for a license, the applicant shall be given notice in writing of the reasons for the denial within forty-five (45) days of the receipt of the application by the zoning enforcement officer, provided that the applicant may request, in writing, that such period be extended for an additional period of not more than ten (10) days at any time before the notice is issued in order to make modifications necessary to comply with this chapter.
- E. An applicant may appeal the decision of the zoning enforcement officer regarding a denial to the board of zoning appeals by filing a written notice of appeal within fifteen (15) days after the applicant is given notice of the zoning enforcement officer's decision. The notice of appeal shall be accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof. The zoning enforcement officer may submit a memorandum in response to the memorandum filed by the applicant on appeal. After reviewing the relevant information the board of zoning appeals shall vote to either uphold or overrule the zoning enforcement officer's decision. Such vote shall be taken within forty-five (45) calendar days after the date on which the board of zoning appeals receives the notice of appeal. However, applicant shall be required to comply with the zoning enforcement officer's decision during the pendency of the appeal.

(Ord. No. 97-2, § 13, 11-17-97)

#### Section 17A.06. - Investigation.

Upon receipt of a properly completed application, together with all information required in connection therewith, fingerprints and photographs, and the payment of the application, investigation and license fee, the zoning enforcement officer shall transmit the application to the city police department for investigation of the background of each individual applicant, the partners of a partnership, the members of a limited liability company, the partners of a limited liability partnership, or the officers and directors of a corporation and manager of the proposed sexually oriented business. Each applicant shall pay a non-refundable investigation fee at the time the application is filed in an amount established from time to time by resolution of the city council to cover the cost of such investigation. The investigation conducted by the city police department shall be sufficient to verify the accuracy of all the information required by this chapter and shall be non-refundable.

(Ord. No. 97-2, § 13, 11-17-97)

#### Section 17A.07. - Inspection.

An applicant or licensee shall permit representatives of the city police department, or other city, Kent County, or State of Michigan departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with applicable law.

(Ord. No. 97-2, § 13, 11-17-97)

#### Section 17A.08. - Application fee.

Each applicant shall pay an application fee at the time of filing an application in an amount as established from time to time by resolution of the city council. Such application fee shall be non-refundable.

(Ord. No. 97-2, § 13, 11-17-97)

## Section 17A.09. - License fee.

- A. Each licensee issued a license pursuant to this chapter shall pay an annual license fee at the time of application for the license as herein provided. The annual license fee shall be established from time to time by resolution of the city council. The license fee shall be refunded if the license is not approved.
- B. In the event of suspension or revocation of a license, or termination of business for any reason whatsoever, no portion of the license fee shall be refunded.

(Ord. No. 97-2, § 13, 11-17-97)

## Section 17A.10. - License renewal.

Any application for renewal of a license shall be filed with the zoning enforcement officer not less than forty-five (45) days prior to the date of expiration. The zoning enforcement officer may, for a good cause shown, waive the requirement for timely filing of a renewal application.

(Ord. No. 97-2, § 13, 11-17-97)

## Section 17A.11. - Term of license.

- A. All licenses issued pursuant to this chapter shall be for a term of one (1) year. Said term shall commence on January 1 of each year and terminate upon December 31 of the same year. Applications for a license filed at any other time during the year shall be treated the same as if they were filed January 1 of that year and shall terminate on December 31 of that same year, and no pro-ration fees shall be permitted.
- B. When the zoning enforcement officer denies renewal of a license, the applicant shall not be issued a license for one (1) year from the date of denial. If, subsequent to denial, the zoning enforcement officer finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date denial became final.

(Ord. No. 97-2, § 13, 11-17-97)

## Section 17A.12. - Suspension.

The zoning enforcement officer shall suspend a license for a period not to exceed thirty (30) days if he or she determines that the licensee or an employee of a licensee has: (a) violated or is not in compliance with any section of this chapter; (b) become impaired or intoxicated through the use of alcoholic beverages or illegal drugs while on the sexually oriented business premises; (c) refused to allow an inspection of the sexually oriented business premises as authorized by this chapter; or (d) knowingly permitted gambling by any person on the sexually oriented business premises.

(Ord. No. 97-2, § 13, 11-17-97)

## Section 17A.13. - Revocation of license.

- A. The zoning enforcement officer shall revoke a license if a cause of suspension occurs and the license has been suspended within the preceding twelve (12) months.
- B. The zoning enforcement officer shall also revoke a license if he or she determines that any of the following has occurred:
  - 1. Any condition exists that would warrant disapproval of a license as set forth in this chapter;
  - 2. The licensee, manager or employee has engaged or has allowed patrons or employees to engage in acts of misconduct on the licensed premises in violation of City Code, the laws of the State of Michigan or of the United States when the licensee, manager or employee knew or should have known such acts were taking place; or

3. Repeated disturbances of public peace have occurred within the licensed sexually oriented business or upon any parking sidewalks, access ways or grounds of the licensed sexually oriented business involving patrons, employees, or the licensee.
- C. When the zoning enforcement officer revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a sexually oriented license for one (1) year from the date revocation became effective. If, subsequent to revocation, the zoning enforcement officer finds that the basis for the revocation has been corrected or abated, a license may be reinstated if at least ninety (90) days have elapsed since the date the revocation became effective.

(Ord. No. 97-2, § 13, 11-17-97)

#### Section 17A.14. - Transfer of license.

A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated on the license.

(Ord. No. 97-2, § 13, 11-17-97)

#### Section 17A.15. - Registration of managers, entertainers and employees.

- A. No person shall work as a manager at a sexually oriented business without a current manager's registration under this section. No person shall work as an entertainer at a sexually oriented business in the city without a current entertainer's registration under this section. The registration form for each shall require the applicant to provide his/her legal name and any aliases, home address, telephone number, date of birth and satisfactory proof that he/she is eighteen (18) years of age or older.
- B. The registration year for a manager's registration or an entertainer's registration shall be from January 1 to December 31 of each year. Each such registration shall expire at close of business or midnight, whichever is earlier, on December 31 of each year.
- C. The registration fee for a manager's registration or entertainer's registration shall be as established from time to time by resolution of the city council. The registration fee for each such registration is payable for a full year only and is not refundable.
- D. A manager's registration or entertainer's registration under this section shall not be assigned or transferred.
- E. No person under eighteen (18) years of age may obtain a manager's registration or entertainer's registration.
- F. In order to obtain renewal of a current manager's registration or entertainer's registration, a registration holder must file an application for renewal with the zoning enforcement officer. The renewal fee for each year shall be as established from time to time by resolution of the city council.
- G. In the event a licensee changes the manager of a sexually oriented business, the licensee shall immediately report such change to the zoning enforcement officer and register the new manager within five (5) days of such change.
- H. Each licensee will provide to the zoning enforcement officer the full name, address, telephone number and date of birth of any employee of the sexually oriented business within five (5) days of employment.

(Ord. No. 97-2, § 13, 11-17-97)

#### Section 17A.16. - Exterior structural requirements.

- A. It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the sexually oriented business to be visible from a point outside the sexually oriented business.
- B. It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this chapter.

- C. It shall be unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the sexually oriented business to be painted any color other than a single achromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:
1. The sexually oriented business is a part of a commercial multi-unit center; and
  2. The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.
- D. Nothing in this chapter shall be construed to require the painting of an otherwise unpainted exterior portion of a sexually oriented business.

(Ord. No. 97-2, § 13, 11-17-97)

Section 17A.17. - Interior structural requirements.

- A. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose excluding restrooms from at least one (1) of the manager's station. The view required in this subsection must be by direct line of sight from the manager's station.
- B. A manager's station may not exceed thirty-two (32) square feet of floor area.
- C. No alteration to the configuration or location of a manager's station may be made without the prior approval of the zoning enforcement officer.
- D. Viewing rooms or peep booths must be separated from other viewing rooms or peep booths by a solid, opaque, uninterrupted physical divider which is a minimum one (1) inch thick and serves to prevent physical contact between patrons.
- E. No private viewing rooms or booths shall be constructed unless one (1) side is always open to a central public area. No door shall be placed on any viewing room or peep booth, and no holes or openings shall be placed or allowed to remain in the wall between any two (2) adjacent viewing rooms or peep booths.

(Ord. No. 97-2, § 13, 11-17-97)

Section 17A.18. - Sign regulations.

- A. It shall be unlawful for the owner or operator of any sexually oriented business or any other person to erect, construct, or maintain any sign for the sexually oriented business other than the one (1) primary sign and one (1) secondary sign, as provided herein.
- B. Primary and secondary signs shall contain no photographs, silhouettes, drawings or pictorial representations of any manner, and may contain only the name of the enterprise.
- C. Each letter forming a word on a primary or secondary sign shall be of solid color, and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary or secondary sign shall be of a uniform and solid color.
- D. Primary signs shall have no more than two (2) display surfaces. Each such display surface shall be a flat plane, rectangular in shape.
- E. Secondary signs shall have only one (1) display surface. Such display surface shall:



1. Be a flat plane, rectangular in shape;
  2. Not exceed twenty (20) square feet in area;
  3. Not exceed five (5) feet in height and four (4) feet in width; and
  4. Be affixed or attached to a wall or door of the enterprise.
- F. The requirements of this section are intended to supplement the requirements and limitations of Chapter 20 hereof. In the event of contradictions or inconsistencies, the stricter requirement shall govern.

(Ord. No. 97-2, § 13, 11-17-97)

Section 17A.19. - Lighting requirements.

- A. All off-street parking areas and premises entries of sexually oriented businesses shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one (1) foot-candle of light on the parking surface and/or walkways. This required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the sexually oriented business to help ensure the personal safety of patrons and employees and to reduce the incidence of vandalism and other criminal conduct.
- B. The premises of all sexually oriented businesses, except adult motion picture theaters, shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access to provide an illumination of not less than two (2) foot-candle of light as measured at the floor level.
- C. Adult motion picture theaters shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access to provide an illumination of not less than one (1) foot-candle of light as measured at the floor level.

(Ord. No. 97-2, § 13, 11-17-97)

Section 17A.20. - Age requirement regulations.

- A. It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of a sexually oriented business at any time that the sexually oriented business is open for business.
- B. It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented business' regular business hours. It shall be the duty of the attendant to not allow any person under the age of eighteen (18) years to enter the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished a valid operator's, commercial operator's, or chauffeur's driver's license; or a valid personal identification certificate issued by the State of Michigan verifying that such person is eighteen (18) years of age or older.

(Ord. No. 97-2, § 13, 11-17-97)

Section 17A.21. - Hours of operation.

No sexually oriented business, except for an adult motel, shall operate between the hours of 2:00 a.m. and 8:00 a.m.

(Ord. No. 97-2, § 13, 11-17-97)

Section 17A.22. - Standards of conduct.

- A. The following standards of conduct must be adhered to on the licensed premises by the licensee and all employees, managers, officers and agents of any sexually oriented business:

1. No employee or entertainer mingling with the patrons or serving food or drinks shall be unclothed or in such attire, costume or clothing so as to expose to view any specified anatomical areas.
2. No employee or entertainer shall engage in, encourage or knowingly permit any specified sexual activities on the premises of the sexually oriented business.
3. No employee or entertainer while in view of the patrons on the licensed premises shall be unclothed or in such attire, costume or clothing so as to expose any specified anatomical areas, except upon a stage which shall be fixed and immovable at least eighteen (18) inches above the immediate floor level and removed at least six (6) feet from the nearest patron or behind a solid, uninterrupted physical barrier which completely separates the entertainer from any patrons. This barrier must be a minimum of one-quarter ( $\frac{1}{4}$ ) inch thick and have no openings between the entertainer and any patrons.
4. There shall be posted and conspicuously displayed in the common areas of each place offering adult entertainment a list of food and drink prices.
5. Any tips for entertainers shall be placed by a patron into a tip box which is permanently affixed in the sexually oriented business and no tip may be handed directly to an entertainer. A licensee that desires to provide for such tips from its patrons shall establish one (1) or more containers to receive tips. Any physical contact between a patron and an entertainer is strictly prohibited.
6. A sexually oriented business that provides tip boxes shall conspicuously display in the common area of the premises one (1) or more signs in letters at least one (1) inch high to read as follows:  
ADULT ENTERTAINMENT IS REGULATED BY THE CITY OF LOWELL. ALL TIPS SHALL BE PLACED IN TIP BOX AND NOT HANDED DIRECTLY TO THE ENTERTAINER. ANY PHYSICAL CONTACT BETWEEN THE PATRON AND THE ENTERTAINER IS STRICTLY PROHIBITED
7. No adult entertainment occurring on the premises shall be visible at any time from the outside of the premises.
8. A licensee, manager, or an employee shall not knowingly allow the possession, use, or sale of controlled substances on the premises.
9. A licensee, manager, or an employee shall not knowingly allow prostitution on the premises.
10. A licensee, manager, or an employee shall not knowingly operate the sexually oriented business during a period of time when the licensee's license was suspended.
11. A licensee, manager, or an employee shall not knowingly allow any live specified sexual act to occur in or on the licensed premises.
12. A licensee, manager, or an employee shall not illegally offer for sale or illegally allow to be consumed or possessed upon the licensed premises, or upon any parking areas, sidewalks, walkways, access ways or grounds of the licensed premises, narcotics or dangerous drugs or fermented malt, malt, vinous or spirituous beverages.
13. At least one (1) registered manager or licensee must be on duty and situated in each manager's station at all times that the business is open to the public.
14. All doors to public areas on the premises must remain unlocked during business hours.
15. It shall be the duty of the licensee, and it shall also be the duty of any agents and employees present in the premises to ensure that any view area or peep booth remain unobstructed by any doors, curtain, drapes, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the license application filed pursuant to this chapter.
16. No viewing room or peep booth may be occupied by more than one (1) person at any one (1) time.

## Section 17A.23. - Adult motels.

- A. Evidence that a sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated two (2) or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this chapter.
- B. It is unlawful if a person, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented business license, rents or sub-rents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he or she rents or sub-rents the same sleeping room again.
- C. For purposes of B. above, the terms "rent" or "sub-rent" mean the act of permitting a room to be occupied for any form of consideration.

(Ord. No. 97-2, § 13, 11-17-97)

## Section 17A.24. - Massage business.

- A. It shall be unlawful for any establishment, regardless of whether it is a public or private facility, to operate as a massage salon, massage parlor or any similar type business where any physical contact with the recipient of such services is provided by a person of the opposite sex unless persons massaging any client or customer is certified as a massage therapist by the American Massage Therapy Association or is a graduate of a school of massage therapy that is certified by the State of Michigan or have other similar qualifications which must be submitted to and approved by the zoning enforcement officer.

(Ord. No. 97-2, § 13, 11-17-97)

## Section 17A.25. - Nonconforming uses.

- A. Any business lawfully operating on the effective date of this ordinance that is in violation of the location or structural configuration requirements of this chapter shall be deemed a nonconforming use. Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two (2) or more sexually oriented businesses are within one thousand (1,000) feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later established business(es) is nonconforming.
- B. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a church, synagogue, regular place of religious worship, public or private elementary or secondary school, public school academy, child care center, family day care home, group day care home, public park or library, residential district or residential structure, within four hundred (400) feet of the sexually oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application for a license is submitted after a license has expired or has been revoked.

(Ord. No. 97-2, § 13, 11-17-97)

## Section 17A.26. - Exemptions from enforcement.

- A. It is a defense to prosecution under this chapter that a person appearing in a state of nudity or semi-nudity did so in a modeling class operated:
  - 1. By a proprietary school, licensed by the State of Michigan or a college, junior college, or university supported entirely or partly by taxation; or
  - 2. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

(Ord. No. 97-2, § 13, 11-17-97)

Section 17A.27. - Reporting of violations.

Any licensee, manager or employee shall immediately report to the city police department any violation of this chapter or any breach of the peace or unlawful or disorderly act, conduct or disturbance committed on the licensed premises, including any parking area or adjoining area under the control or management of the licensee, provided that the licensee, manager or employee knew or should have known of such violation of law.

(Ord. No. 97-2, § 13, 11-17-97)

Section 17A.28. - Notices.

- A. Any notice required or permitted to be given by the zoning enforcement officer or any other office, department or other agency pursuant to this chapter to any applicant, operator or owner of a sexually oriented business may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the license which has been received by the zoning enforcement officer, or any notice of address change which has been received by the zoning enforcement officer. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the zoning enforcement officer or his designee shall cause it to be posted at the principal entrance to the sexually oriented business.
- B. Any notice required or permitted to be given to the zoning enforcement officer by any person pursuant to this chapter shall not be deemed given until and unless it is received in the office of the zoning enforcement officer.
- C. It shall be the duty of each owner who is designated on the license application and each operator to furnish notice to the zoning enforcement officer in writing of any change of residence or mailing address.

(Ord. No. 97-2, § 13, 11-17-97)

Section 17A.29. - Penalties and civil remedies.

- A. Any person who operates or causes to be operated a sexually oriented business without a license issued pursuant to the provisions of this chapter, shall be subject to a suit for injunction and any other applicable civil remedy, as well as criminal prosecution for violation of this chapter.
- B. It shall be unlawful for any person to violate, disobey, omit, neglect, refuse or fail to comply with or resist enforcement of any provision of this chapter, and any such violation of any provision of this chapter shall be punishable as a criminal misdemeanor.
- C. Each day, or portion thereof, during which any violation of any provision of this chapter shall continue shall constitute a separate offense.
- D. In case of any violation, failure or omission under this chapter, the city or any person affected by any such violation, failure or omission, may, in addition to other remedies provided by law, initiate a civil action for injunction, mandamus, abatement, or other appropriate relief to prevent, enjoin, abate, or remove such violation, failure or omission and in addition, initiate an action for a money demand to recover any damages or any lawful costs or charges incurred in abating the violation.

(Ord. No. 97-2, § 13, 11-17-97)

CHAPTER 18. - SITE PLAN REVIEW

## Section 18.01. - Purpose.

The purpose of this chapter is to provide for consultation and cooperation between the applicant and the planning commission in order that the applicant may accomplish planned objectives in the utilization of land within the regulations of this zoning ordinance. It is also intended to ensure that the development may be completed with minimum adverse effect on the use of adjacent streets and highways, and on existing and future uses and environment in the immediate area and general vicinity.

(Ord. No. 95-06, § 1, 12-27-95)

## Section 18.02. - Regulation.

In accordance with the provisions of this chapter, the planning commission shall be finished a site plan of the proposed development prior to the creation of a use or the erection of a building in the districts and conditions cited below:

A. Uses permitted by right in the following zoning districts, except as noted in section 18.03:

1. R-3 Multiple-Family District;
2. MHP Manufactured Home Park District;
3. C-1 Neighborhood Business District;
4. C-2 Central Business District;
5. C-3 General Business District;
6. I Industrial District;
7. PUD Planned Unit Development;
8. PF Public Facilities District;
9. MU Mixed Use District;
10. RE River's Edge District.

B. Special land uses in all zoning districts.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 15-01, § 7, 2-17-15; Ord. No. 16-02, § 8, 5-16-16)

## Section 18.03. - Exceptions.

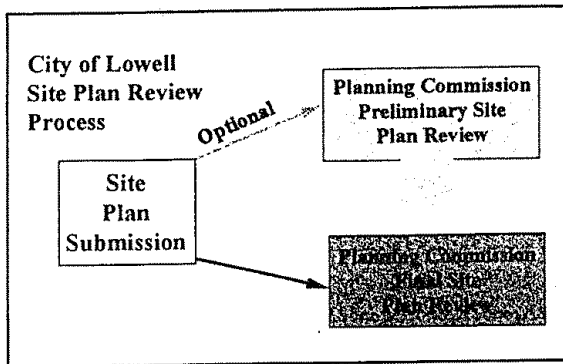
- A. A site plan shall not be required for a single- or two-family dwelling, state licensed residential, family care facilities, family day care homes and home occupations.
- B. The zoning enforcement officer shall review site plans meeting the following conditions:
  1. The proposed use is permitted by right in the zoning district; and
  2. No additions, alterations or exterior changes will be made to the existing building(s) and structure(s).
- C. Where the conditions of subsection B. above are met, the zoning enforcement officer shall have the authority to:
  1. Establish conditions of approval to ensure compliance with this section;
  2. Request additional information to assist in determining if the site plan meets the requirements of this section; and
  3. Where it is not clear if a site plan meets the conditions of this section, refer the site plan to the planning commission for review and action pursuant to the requirements of this chapter.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 15-03, § 1, 6-15-15)

## Section 18.04. - Site plan requirements.

- A. *Preliminary site plan review.*

1. A preliminary site plan may be submitted to the planning commission for review prior to final site plan review. The purpose of preliminary site plan review is to allow discussion between the applicant and the planning commission to inform the applicant of the general acceptability of the proposed plans prior to incurring extensive engineering and other costs which may be required for the review of the final site plan.



2. Preliminary site plans shall include the following, unless deemed unnecessary by the zoning enforcement officer.
  - a. Small scale sketch of properties, streets and use of land within one quarter (1/4) mile of the subject property.
  - b. Twelve (12) copies of a site plan at a scale of not more than one (1) inch equals one hundred (100) feet (1" = 100') showing any existing or proposed arrangement of:
    - (1) Existing adjacent streets and proposed streets and existing curb cuts within one hundred (100) feet of the property.
    - (2) All lot lines with dimensions.
    - (3) Parking lots and access points.
    - (4) Proposed buffer strips or screening.
    - (5) Significant natural features; and other natural characteristics, including but not limited to open space, stands of trees, brooks, ponds, floodplains, hills, and similar natural assets.
    - (6) Location of any signs not attached to the building.
    - (7) Existing and proposed buildings, including existing buildings or structures within one hundred (100) feet of the boundaries of the property.
    - (8) General topographical features including contour intervals no greater than ten (10) feet.
    - (9) Number of acres allocated to each proposed use and gross area in building, structures, parking, public and/or private streets and drives, and open space.
    - (10) Dwelling unit densities by type, if applicable.
    - (11) Proposed method of providing sewer and water service, as well as other public and private utilities.
    - (12) Proposed method of providing storm drainage.
    - (13) Written description of the computation for required parking.
    - (14) Exterior lighting.
  - c. The planning commission shall review the preliminary site plan and make such recommendations to the applicant that will cause the plan to be in conformance with the review standards required by this section and this ordinance. To this end, the commission may request from the applicant any additional graphics or written materials, prepared by a qualified person or persons, to assist in determining the appropriateness of the site plan. Such material may include, but need not be limited to, aerial photography, photographs; traffic impacts; impact on significant natural features and drainage; soil tests; and other pertinent information.

B. *Final site plan review.*

1. Each site plan submitted shall contain the following information, unless waived by the zoning enforcement officer.
  - a. The date, north arrow, and scale. The scale shall be not less than one (1) inch equals twenty (20) feet for property under three (3) acres and at least one (1) inch equals one hundred (100) feet for those three (3) acres or more.
  - b. The name and firm address of the professional individual responsible for the preparation of the site plan.
  - c. The name and address of the property owner or petitioner.
  - d. A location sketch.
  - e. Legal description of the subject property.
  - f. The size (in acres) of the subject property.
  - g. Property lines and required setbacks shown and dimensioned.
  - h. The location of all existing structures, driveways, and parking areas within one hundred (100) feet of the subject property's boundary.
  - i. The location and dimensions of all existing and proposed structures on the subject property.
  - j. The location of all existing and proposed drives (including dimensions and radii), acceleration/deceleration lanes, sidewalks, signs, exterior lighting, curbing, parking areas (including the dimensions of a typical parking space and the total number of parking spaces to be provided), and unloading areas.
  - k. The location, pavement width and right-of-way width of all streets, and access easements within one hundred (100) feet of the subject property.
  - l. The existing zoning and use of all properties abutting the subject property.
  - m. The location of all existing vegetation and the location, type, and size of all proposed landscaping, and the location, height and type of existing and proposed fences and walls.
  - n. Size and location of existing and proposed utilities, including any proposed connections to public sewer or water supply systems.
  - o. The location and size of all surface water drainage facilities.
  - p. Existing and proposed topographic contours at a minimum of five (5) foot intervals.
  - q. Recreation areas, common use areas, floodplain areas and areas to be conveyed for public use and purpose.
  - r. Cost estimates for all public improvements included as part of any performance guarantee.
2. The planning commission may request from the applicant any additional graphics or written materials, prepared by a qualified person or persons, to assist in determining the appropriateness of the site plan. Such material may include, but need not be limited to, aerial photography, photographs; traffic impacts; impact on significant natural features and drainage; soil tests; building elevations; and any other pertinent information.
3. The planning commission shall approve, deny, or approve with conditions the final site plan based on the requirements of this ordinance, and specifically, the standards of section 18.10.

(Ord. No. 95-06, § 1, 12-27-95)

Section 18.05. - Application and review.

- A. Twelve (12) copies of a site plan, a completed application form, and an application fee shall be submitted to the zoning enforcement officer by the petitioner or his designated agent, at least twenty one (21) days prior to the next regular planning commission meeting, or as prescribed by the planning commission. The zoning enforcement officer shall cause the submittal to be placed on the agenda of the next regular planning commission meeting.
- B. The planning commission shall have the responsibility and authorization to approve, disapprove, or approve subject to

conditions, the final site plan, in accordance with this chapter and the purpose of this ordinance.

- C. Any conditions or modifications desired by the planning commission shall be recorded in the minutes of the appropriate planning commission meeting.
- D. Three (3) copies of the approved final site plan shall be signed and dated by the applicant and by the secretary of the planning commission, or such other member acting in the place of the secretary. One (1) of these approved copies shall be kept on file by the city clerk as part of the records of the planning commission, one (1) shall be kept on file by the zoning enforcement officer for use in the building permit review process, and the other shall be returned to the petitioner or his designated representative.
- E. As a condition of approval of a site plan review the planning commission or zoning enforcement officer, whichever is designated as the approving authority, may require a financial guarantee of sufficient sum to assure the installation of those 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. Such 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. Performance guarantees shall be processed as required in section 22.03, B.
- F. Each development shall be under construction within one (1) year after the date of approval of the final site plan, except as noted below.
  - 1. The planning commission may grant one (1) six (6) month extension of such time period, provided the applicant requests, in writing, an extension prior to the date of the expiration of the final site plan.
  - 2. The extension shall be approved if the applicant presents reasonable evidence to the effect that said development has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed within the extension period.
  - 3. If neither of the above provisions are fulfilled or the six (6) month extension has expired prior to construction, the final site plan approval shall be null and void.

(Ord. No. 95-06, § 1, 12-27-95)

#### Section 18.06. - Review standards.

The following standards shall be utilized by the planning commission in reviewing all site plans. These standards are intended to provide a frame of reference for the applicant in the preparation of site plans as well as for the reviewing authority in making judgment concerning them. These standards shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention, or innovation.

- A. The uses proposed will not adversely affect the public health, safety, or welfare. Uses and structures located on the site shall be planned to take into account topography, size of the property, the uses on adjoining property and the relationship and size of buildings to the site. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this ordinance.
- B. Safe, convenient, uncongested, and well-defined vehicular and pedestrian circulation shall be provided for ingress/egress points and within the site. Drives, streets and other circulation routes shall be designed to promote safe and efficient traffic operations within the site and at ingress/egress points.
- C. The arrangement of public or private vehicular and pedestrian connections to existing or planned streets in the area shall be planned to provide a safe and efficient circulation system for traffic within the City of Lowell.
- D. Removal or alteration of significant natural features shall be restricted to those areas, which are reasonably necessary to develop the site in accordance with the requirements of this ordinance. The planning commission requires that approved landscaping, buffers, and/or greenbelts be continuously maintained to ensure that proposed



uses will be adequately buffered from one another and from surrounding public and private property.

- E. Satisfactory assurance shall be provided that the requirements of all other applicable ordinances, codes, and requirements of the City of Lowell will be met.
- F. The general purposes and spirit of this ordinance and the Comprehensive Plan of the City of Lowell shall be maintained.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 01-3, § 1, 8-20-01)

#### Section 18.07. - Plat requirements.

In those instances in which Act 288, Public Acts of 1967, as amended, the Subdivision Control Act, is involved, the owner shall, after site plan approval, submit the preliminary and final plats to the proper officer in conformance with Act 288, and in accordance with all other applicable codes, acts and ordinances. Such plats shall remain in conformance with the approved site plan.

(Ord. No. 95-06, § 1, 12-27-95)

#### Section 18.08. - Administrative fees.

Any site plan application shall be accompanied by a fee, in an amount to be established by the city council. Such fee shall be for the purpose of payment for the administrative costs and services expended by the city in the implementation of this chapter and the processing of the application. Such fee may be used to reimburse another party retained by the city to provide expert consultation and advice regarding the application. No part of such fee shall be returnable.

(Ord. No. 95-06, § 1, 12-27-95)

#### Section 18.09. - Changes in the approved site plan.

Changes to the approved site plan shall be permitted only under the following circumstances:

- A. The holder of an approved site plan shall notify the zoning enforcement officer of any proposed change to an approved site plan.
- B. Minor changes may be approved by the zoning enforcement officer upon determining that the proposed revision(s) will not alter the basic design nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:
  1. Change in the building size, up to five (5) percent in total floor area.
  2. Movement of buildings or other structures by no more than ten (10) 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. Changes in floor plans which do not alter the character of the use.
  6. Changes required or requested by the city, the Kent County Road Commission, or other county, state or federal regulatory agency in order to conform to other laws or regulations.
- C. A proposed change not determined by the zoning enforcement officer to be minor shall be submitted to the planning commission as a site plan amendment and shall be reviewed in the same manner as the original application.

(Ord. No. 95-06, § 1, 12-27-95)

#### Section 18.10. - Appeal.

If any person shall be aggrieved by the action of the planning commission, appeal in writing to the board of appeals may be taken within ten (10) days after the date of such action. The board of appeals shall fix a time and place for a public hearing to be published in a newspaper prior to the hearing. All interested parties shall be afforded the opportunity to be heard. After such hearing the board of appeals shall affirm or reverse the action of the planning commission, stating its findings and the reasons for its action and a written copy of such findings, reasons, and action shall be given to the appellant.

(Ord. No. 95-06, § 1, 12-27-95)

## CHAPTER 19. - OFF-STREET PARKING AND LOADING

### Section 19.01. - Scope.

In all zoning districts, off-street parking facilities for the storage and parking of self-propelled motor vehicles for the use of occupants, employees and patrons of the buildings hereafter erected, altered or extended after the effective date of this ordinance, shall be provided as herein prescribed. Such space shall be maintained and shall not be encroached upon so long as said main building or structure remains, unless an equivalent number of such spaces are provided elsewhere in conformance with this ordinance.

(Ord. No. 95-06, § 1, 12-27-95)

### Section 19.02. - Location of parking.

#### A. *Residential districts and uses.*

1. Unless otherwise permitted herein, the off-street parking facilities required for single- and two-family dwellings shall be located on the same lot or plot of ground as the building they are intended to serve, but shall not be considered a parking lot under the provisions of this chapter. Such parking shall only be permitted in a driveway apron in the front yard or in an enclosed garage. Parking on any other portion of the front yard is not permitted.
2. Parking areas and driveways shall be hard surfaced and be constructed from the street or alley to the dwelling or accessory building to create a dustless surface, minimize maintenance, and establish an attractive pathway to homes or buildings.
3. Unless otherwise permitted herein, the off-street parking facilities for multiple-family dwellings shall be located on the same lot or plot of ground as the dwellings they are intended to serve, and shall consist of a parking lot as defined in this chapter.
4. The off-street parking required for manufactured home parks may be located on each site or in parking lots conveniently located and readily accessible to each site. Each parking space must meet the minimum area requirements of this ordinance.

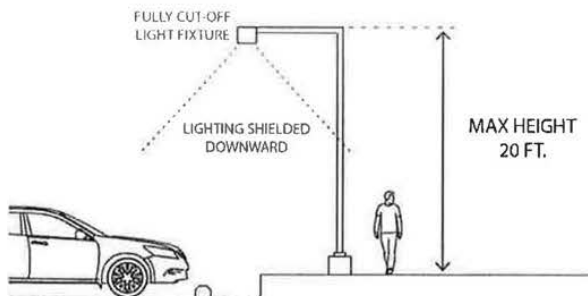
#### B. *Nonresidential districts and uses.*

1. Off-street parking required for nonresidential districts and uses shall be located on each site or in parking lots within four hundred (400) feet of and readily accessible to each site.
2. In the C-2 District and the MU District, on-street or off-street public parking within four hundred (400) feet of the use may be counted toward the minimum parking requirement.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 15-01, § 8, 2-17-15; Ord. No. 18-04, § 1, 8-20-18)

### Section 19.03. - Parking area application and design.

- A. Plan submission and approval.
1. The construction of any parking lot shall be in accordance with the requirements of the provisions of this ordinance and such construction shall be completed and approved by the zoning enforcement officer and building inspector before actual use of the property as a parking lot and before a certificate of occupancy is issued.
  2. Plans for the development of any parking lot must be submitted to the zoning enforcement officer, prepared at a scale of not less than one (1) inch equals fifty (50) feet and indicating existing and proposed grades, drainage, pipe sizes, dimensions of typical parking spaces, type of curbing, drive and aisle dimensions, lighting, adjacent main buildings, sidewalks, landscaping, surfacing and base materials to be used, and the layout of the proposed parking lot. The plans are to be prepared in a presentable form by person or persons competent in such work and shall conform to the provisions of this ordinance.
- B. All parking facilities, access driveways, and commercial storage areas shall be hard surfaced with a pavement of poured cement or rolled asphalt. The planning commission may approve alternative surfaces of similar durability, provided that they form a dustless surface, and are graded and drained so as to dispose of surface water which might accumulate within or upon such area. All parking facilities shall be completely constructed prior to a certificate of occupancy being issued.
- C. All illumination for all parking lots in nonresidential districts shall be deflected away from adjacent residential areas and shall be installed in such a manner as to allow the reduction of the amount of light on other than normal parking hours each day.
1. The source of illumination in all parking lots abutting a residential district or use shall not be higher than twenty (20) feet above the parking lot surface.
  2. All light fixtures shall be of a cutoff design, so as to maximize the direction of the light toward the ground, and comply with chapter 4, [section 4.24](#) of the zoning ordinance.



- D. When a required nonresidential parking lot is situated on a parcel which adjoins a residential district, either abutting directly or across a street, the respective parking area shall be setback a minimum of ten (10) feet, excluding any parking or drives, from any lot line unless a greater setback is required by the planning commission or any other provision of the zoning ordinance.
- E. Nonresidential parking lots abutting a residential district or use shall be effectively screened from neighboring residential districts and uses by a decorative fence or wall, or a landscaped equivalent. All parking lots shall contain landscaping in accordance with chapter 4, [section 4.26\(E\)\(3\)](#) of the zoning ordinance.
- F. Adequate ingress and egress to the parking lot, by means of limited and clearly defined drives, shall be provided for all vehicles. Such drives shall be located so as to minimize traffic conflicts with adjoining uses and streets, but in no case shall be located nearer than twenty-five (25) feet to any public street intersection, as measured from the nearest edge of the driveway to the nearest edge of the public street pavement.
- G. Wheel stops shall be provided and so located as to prevent any vehicle from projecting over the lot or setback lines. Such devices shall be securely anchored into the parking lot to ensure that they remain stationary.
- H. Plans for the layout of off-street parking facilities shall be in accordance with the following minimum regulations. The

minimum parking space dimensions for a layout not provided for in the regulations shall be nine (9) feet in width, eighteen (18) feet in length, and one hundred and sixty-two (162) square feet in area.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 04-1, § 6, 3-15-04; Ord. No. 18-04, § 2, 8-20-18)

Section 19.04. - Parking restrictions.

- A. Off-street parking existing at the effective date of this ordinance which serves an existing building or use, shall not be reduced in size to less than that required under the terms of this ordinance.
- B. When units or measurements determining number of required parking spaces result in requirement of a fractional space, the fraction shall be considered one (1) required parking space.
- C. Requirements for a use not mentioned shall be the same for that use which is most similar to the use not listed, as determined by the zoning enforcement officer.
- D. Additional parking shall be provided and maintained in proper ratio to any increase in floor area or building use capacity or change of use.
- E. It shall be unlawful for any person to park or store any motor vehicle without the express written consent of the owner, holder, occupant, lessee, agent, or trustee of such property. However, in no case shall vehicles be parked in any required off-street parking lot for the sole purpose of displaying such vehicle for sale, except in approved and licensed vehicle sales lots. It shall be unlawful to use any of the off-street parking or loading area established to meet the requirements of this ordinance for any purpose other than the parking of licensed vehicles or the loading or unloading of necessary service vehicles.
- F. After the effective date of this ordinance it shall be unlawful for the owner, holder, occupant, lessee, agent, or trustee of any lot in a residential district to permit or allow the open storage or parking, either day or night, thereon of all vehicles (over one (1) ton rated capacity), semi-trucks and trailers, manufactured homes, construction equipment, and/or any other similar equipment or machinery used for commercial purposes.
- G. No vehicle parking, storage, or display shall be permitted within any street right-of-way, except that on-street parking is permitted in locations specifically designated by public authority for on-street parking. On-street parking spaces shall not be counted toward the required parking for any use, unless authorized elsewhere in this chapter.
- H. In hospitals, bassinets shall not be counted as beds.
- I. Where benches, pews, or other similar seating facilities are used as seats, each twenty (20) inches of such seating facilities shall be counted as one (1) seat.
- J. Joint or collective provision of off-street parking for mixed uses in the same building or buildings or uses on two (2) or more properties shall not be less than the sum of the requirements for the participating individual uses computed separately. However, for buildings or uses where the peak parking demand does not overlap, the planning commission may authorize up to fifty (50) percent reduction in the collective number of off-street parking spaces required.
- K. Where parking requirements are determined by usable floor area, such area may be calculated exactly or may be calculated by subtracting twenty (20) percent from the gross floor area.
- L. For buildings and uses requiring twenty (20) or more off-street parking spaces, up to five (5) off-street parking spaces may be replaced with bicycle parking or bicycle racks equal to at least the number of off-street parking spaces being replaced.
- M. The planning commission may authorize an increase or decrease in off-street parking requirements when it is demonstrated that parking demand is expected to be lower or greater than the requirements of section 19.07. In making this determination, the planning commission must be provided with satisfactory evidence by the applicant justifying the proposed deviation.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 00-7, § 1, 12-18-00; Ord. No. 18-04, §§ 3—5, 8-20-18)

Section 19.05. - Parking deferment.

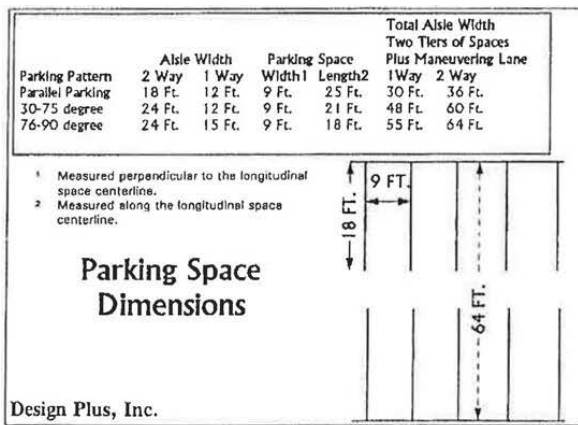
The planning commission may allow an applicant to defer construction of the required number of parking spaces for permitted or special land uses if the following conditions are met:

- A. Areas proposed for deferred parking shall be shown on the site plan, and shall be sufficient for construction of the total number of parking spaces required in accordance with the standards of this ordinance.
- B. Alterations to the deferred parking area may be initiated by the owner or required by the zoning enforcement officer, and shall require the approval of an amended site plan, submitted by the applicant and accompanied by evidence documenting the justification for the alteration.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 18-04, § 6, 8-20-18)

Section 19.06. - Landscaping and design.

- A. Parking lot landscaping shall be installed in accordance with section 4.26 of the zoning ordinance.
- B. Parking spaces and drive aisles shall be designed in accordance with the requirements contained in the graphic [below]:



(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 17-03, § 6, 9-18-17; Ord. No. 18-04, § 7, 8-20-18)

Section 19.07. - Table of off-street parking requirements.

Use	Parking Space per Unit of Measurement as Follows:	
<b>Residential</b>		
Single and Two-family	2	Dwelling Unit
Multiple-Family		
Manufactured Home Parks		
<b>Community Facilities</b>		
Child Care Center, day nurseries, or nursery schools	1	four (4) persons based on licensed capacity, plus
	6	off-street queuing spaces

Churches	1	three (3) seats based on maximum seating capacity in the main place of assembly therein.
Convalescent homes, nursing homes, children's homes	1	two (2) beds
Elementary and junior high schools	1.5	classroom, plus
		amount required for auditorium or assembly hall therein
High Schools, Colleges and trade schools	1.5	classroom, plus
		each eight (8) students, based on maximum occupancy load established by local, county, state, fire, health, or building codes, plus
		requirements of the auditorium or assembly hall therein
Hospitals	2	each bed
Libraries	1	500 square feet UFA
Private clubs and lodges	1	two (2) persons allowed within the maximum occupancy load as established by local, county, state, fire, health, or building codes
Private tennis club, swim club, golf club or other similar uses	1	two (2) persons allowed within the maximum occupancy load as established by local, state, fire, health, or building codes, plus
		amount required for accessory uses
Senior independent living units	2	living unit
Senior "interim care" units, homes for the aged, retirement community housing, etc.	1	bed
Stadiums and sports arenas with fixed seating	1	four (4) seats
Theaters, auditoriums, and assembly halls	1	four (4) seats based on maximum seating capacity in the main place of assembly therein
<b>Commercial</b>		

Animal hospitals and kennels	1	400 square feet GFA
Barber shops	2	chair
Beauty shops	3	chair
Bed and breakfast	1	room rented, provided on-site, plus
	2	for operator's dwelling unit
Bowling lanes	5	bowling lane, plus
		amount required for accessory uses
Convenience stores	1	200 square feet UFA
Furniture, appliances, and household equipment repair shops, hardware stores, and other similar uses	1	800 square feet of UFA
Laundromats, coin operated dry cleaning establishment	1	two (2) washing or dry cleaning machines
Miniature or "Par 3" golf courses	3	hole, plus
		amount required for accessory uses
Mortuary establishments, funeral homes, undertaking parlors	1	200 square feet of GFA, plus
		forty (40) spaces
Motels, hotels, tourist homes	3	two (2) guest bedrooms plus
		amount required for accessory uses
Open air businesses (not otherwise provided for herein)	1	800 square feet of lot area used for said business
Personal service establishment (not otherwise provided for herein)	1	300 square feet of UFA
Restaurants and other establishments (other than drive-in restaurants) in which is conducted the sale and consumption	1	two (2) persons allowed within the maximum occupancy load as established by local, county, state, fire, health, or building code OR

on the premises of food, beverages, or refreshments		100 square feet UFA (whichever is greater)
Restaurants (drive-in) or similar drive-in uses for the sale of food, beverages, or refreshments	1	100 square feet GFA
Retail stores except as otherwise specified herein	1	each 200 square feet of GFA
Vehicle repair shops, including body shops, and other similar uses	1	800 square feet GFA, plus
	3	stall or service area
Vehicle salesrooms, machinery sales and other similar uses	1	200 square feet for accessory uses
		amount required for accessory uses
Vehicle service stations	3	service stall
	1	service vehicle, plus
		amount required for convenience store, car wash, or other applicable accessory use
Vehicle wash establishment	5	unit which represents the establishment's maximum capacity as computed by dividing the length of the mechanical wash/dry area by twenty (20) feet
Wholesale stores	1	200 square feet of GFA
<b>Offices</b>		
Banks (drive-in)	4	drive-in window, plus requirement for bank
Banks, post offices	1	250 square feet GFA, plus
Business and professional offices	1	300 square feet GFA
Medical clinic and dental clinic	3	examining room
<b>Industrial</b>		



Industrial or manufacturing establishing, research establishments	1	2,000 square feet GFA, plus amount required for accessory uses, with a minimum of five (5) spaces
Warehouses and storage buildings	1	2,000 square feet GFA, with a minimum of four (4) spaces

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 18-04, § 8, 8-20-18)

Section 19.08. - Off-street loading requirements.

On the same premises with every building or part thereof, erected and occupied for manufacturing, storage, warehouse, goods display, department store, wholesale, market, hotel, hospital, laundry, dry cleaning, or others similarly involving the receipt or distribution of vehicles, material, or merchandise there shall be provided and maintained on the lot adequate space for standing, loading, and unloading services in order to avoid undue interference with street or parking areas.

- A. Such loading and unloading space, unless completely and adequately provided for within a building, shall be a minimum area of twelve (12) feet by forty (40) feet, with fourteen (14) foot height clearance, and shall be provided according to the following schedule.

Gross Floor Area (Sq. Ft.)	Loading and Unloading Spaces Required
0—2,000	None
2,000—20,000	One (1) space
20,000—100,000	One (1) space plus one (1) space for each 20,000 square feet in excess of 20,000 square feet
100,000—500,000	Five (5) spaces plus one (1) space for each 40,000 square feet in excess of 100,000 square feet
Over 500,000	Fifteen (15) spaces plus one (1) space for each 80,000 square feet in excess of 500,000 square feet

- B. Off-street loading space areas shall not be construed as, or counted towards, the area required as off-street parking space area.
- C. Unless fully enclosed, a required loading space shall not face, or be visible from the frontage street, and shall not be located in a required front yard, or a side or rear yard adjoining a residential district.
- D. All maneuvering areas for loading spaces shall be located off-street and shall be designed such that no vehicle maneuvering takes place on any public street.

(Ord. No. 95-06, § 1, 12-27-95)

## CHAPTER 20. - SIGNS

*Footnotes:*

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**Editor's note**— Ord. No. 13-03, § 1, adopted August 5, 2013, repealed former ch. 20, §§ 20.01—20.11, and enacted a new ch. 20 as set out herein. Former ch. 20, §§ 20.01—20.11, pertained to similar subject matter and derived from Ord. No. 95-06, adopted December 27, 1995; Ord. No. 97-1, adopted October 20, 1997; Ord. No. 02-5, adopted October 21, 2002; Ord. No. 05-3, adopted May 16, 2005; Ord. No. 06-02, adopted May 15, 2006; Ord. No. 07-09, adopted October 1, 2007; Ord. No. 08-02, adopted April 7, 2008; and Ord. No. 11-01, adopted January 3, 2011.

## Section 20.01. - Intent and purpose.

The purpose of this chapter is to regulate the size, number, location and manner of construction and display of signs in the city. This chapter is further intended to protect all zoning districts from visual chaos and clutter, eliminate distractions hazardous to motorists, protect uses from excessive signage, provide the ability for the public to identify premises and establishments, encourage the preservation of the city's historic and small-town character through sign design and enhance the aesthetics of the community.

(Ord. 13-03, § 1, 8-5-13)

## Section 20.02. - Scope.

- A. *Compliance.* It shall be unlawful for any person to erect, place, or maintain a sign in the city except in accordance with the provisions of this chapter.
- B. *Permit required.* Unless otherwise provided by this chapter, all signs shall require permits and payment of fees as determined from time to time by the city council. No permit is required for the maintenance of a sign or for a change of copy on painted, printed, or changeable copy signs. A building permit application shall be submitted along with the supplementary material noted below.
- C. *Plan required.* When a site plan is required pursuant to appendix A, chapter 18, proposed signage shall be illustrated on the site plan showing the sign area, sign height, clearance between the ground and the bottom of the sign, sign illumination, sign location and setbacks from property lines, and other applicable information to enable the city to determine compliance with the requirements of this chapter. When a site plan is not required, a scaled drawing clearly depicting this information shall accompany the building permit application. The zoning enforcement officer may require that additional information be illustrated on a plan or drawing to determine compliance with this chapter.
- D. *Additional provisions.* In addition to the provisions of this chapter, provisions of section 11.5-6 of chapter 11.5 of appendix A shall apply to signs located in a historic district. Sponsorship signs are permitted and governed by article IV of chapter 14 of the Code.

(Ord. 13-03, § 1, 8-5-13)

## Section 20.03. - Definitions.

The following words shall have the meanings set forth in this section:

- A. *Changeable copy sign:* A sign that consists, in whole or in part, of a message or image that can be changed periodically, whether manually or by automatic or technical means.
- B. *Construction sign:* A sign which identifies the owners, financiers, contractors, architects, and engineers as well as the name of a project under construction.
- C. *Development sign:* A ground sign which identifies the name of a residential development and which is located at an

- entrance to the development for the purpose of assisting the public in determining the location of the development.
- D. *Directional sign*: A sign which gives directions, instructions, identifying logos without text, or facility information related to the use on the property on which the sign is located, such as parking or exit and entrance signs and which sets forth no other advertisement.
- E. *Freestanding sign*: A sign supported by one (1) or more up-rights, poles or braces placed in or upon the ground and not attached to any building and having a clear space of at least eight (8) feet from the ground to the bottom of the sign.
- F. *Government sign*: A temporary or permanent sign erected by the city, the state or the federal government for the purpose of street direction or traffic control; to designate hours of activity or use of parking lots, recreational areas, governmental buildings or other public space; to recognize a historic landmark; or for other public purposes.
- G. *Ground sign*: A sign supported by a foundation or base which is at least half as wide as the sign which it supports when looking at the sign face, with no more than thirty (30) inches clearance from the bottom of the sign to the ground below.
- H. *Human sign*: A sign which is held by or attached to a human for the purpose of advertising any goods, services, functions or specific business locations.
- I. *Incidental sign*: A sign that, when visible from the street, identifies a street address, entrances and exits, safety precautions, identifying logos, without text, and other such incidental information, and which sets forth no other advertisement. It may also refer to a sign which is not intended to be viewed from the street.
- J. *Marquee*: A permanent structure that projects from the exterior wall of a building.
- K. *Marquee sign*: A sign attached to a marquee, canopy, or awning projecting from and supported by a building.
- L. *Mean grade*: A reference plane representing that arithmetic mean of the lowest and highest grade elevations in an area within five (5) feet of the foundation line of a sign structure, or in the area between the sign structure foundation line and the lot line, in the case where the sign structure foundation line is less than five (5) feet from the lot line.
- M. *Memorial sign*: A sign, tablet, or plaque memorializing a person, event, structure or site.
- N. *Mural*: A graphic displayed on the exterior of a building, generally for the purposes of decoration or artistic expression, including but not limited to painting, fresco or mosaic, but not including any commercial message or advertising.
- O. *Off-premise sign or billboard*: An outdoor sign advertising services, products, activities, persons or events which are not made, produced, assembled, stored, distributed, leased, sold or conducted upon the premises upon which the sign is located.
- P. *Placard*: A sign which provides notice of a public nature, such as "No Trespassing" or "No Hunting" signs.
- Q. *Political sign*: A temporary sign used in connection with a local, state or federal election, political topic or opinion, or referendum.
- R. *Portable sign*: A sign, usually of a temporary nature, not permanently anchored to the ground or to a building or structure, typically containing manually changeable copy, and which obtains some or all of its structural stability with respect to wind or other normally applied forces by means of its geometry or character.
- S. *Projecting sign*: A sign which projects from and is supported by the wall of a building.
- T. *Real estate sign*: A sign located on premises containing land or buildings for sale, rent or lease, or buildings under construction and intended for sale, rent or lease.
- U. *Roof line*: That line which represents the highest portion of any part of the roof structure, excepting gables, chimneys or other incidental architectural features.

- V. *Roof signs*: Any sign erected, constructed and maintained wholly upon or over the roof of any building with its principal the roof structure of such building.
- W. *Sandwich board sign*: A movable sign not secured or attached to the ground surface, constructed in such a manner as to form an "A" or tent-like shape.
- X. *Sign*: Any device or structure, part thereof, or device attached thereto or painted or represented thereon, or any material or thing which displays numerals, letters, words, trademarks, or any other representational use for direction or designation of any person, firm, organization, place, product, service, business, establishment, activity or industry, which is located upon any land or building, in or upon a window, or indoors in such a manner as to attract attention from outside the building.
- Y. *Sign area*: The entire area within a regular geometric form, or combination of regular geometric forms, comprising all of the display area of the sign and including all of the elements of the matter displayed.
- Z. *Street frontage*: The distance for which the front boundary line of the lot and the street line are coincident.
- AA. *Temporary sign*: A display, informational sign, banner or other advertising device with or without a structural frame and intended for a limited period of display.
- BB. *Vehicle sign*: A sign shall be considered a vehicle sign when the vehicle or trailer upon which the sign is painted or attached is parked or placed primarily for advertising purposes. Currently licensed commercial vehicles in general daily off-site use are not included as part of this definition.
- CC. *Wall sign*: A sign which is attached directly to or painted upon a building wall and which does not extend more than eighteen (18) inches therefrom with the exposed face of the sign in a plane parallel to the building wall.
- DD. *Window sign*: A sign attached to, or in close proximity to, the window surface so as to be clearly and comprehensively visible from the outside.

(Ord. 13-03, § 1, 8-5-13)

#### Section 20.04. - Signs prohibited.

The following types of signs are prohibited in all zoning districts:

- A. Abandoned signs, or signs in disrepair.
- B. Air-filled or gas-filled balloon signs.
- C. Signs with moving parts, audible signs, and/or flashing signs (except traffic control devices).
- D. Roof signs.
- E. Signs or illumination imitating or resembling official traffic or government signs or signals.
- F. Vehicle signs.
- G. Off-premise signs or billboards.
- H. Other signs not expressly permitted or which do not conform to the provisions of this chapter.

(Ord. 13-03, § 1, 8-5-13)

#### Section 20.05. - General sign provisions.

##### A. *Sign placement.*

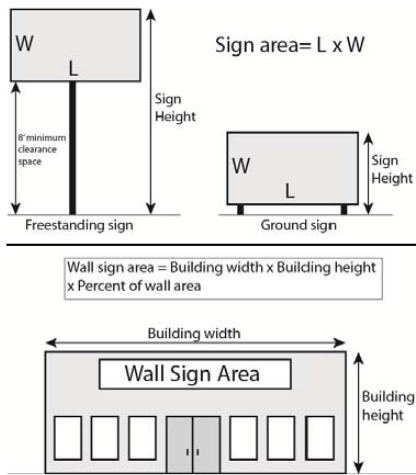
1. Unless otherwise permitted, all signs shall be located on the same parcel for which the sign is intended to serve. The provisions of this article are not intended to conflict with provisions controlling signs regulated under the authority of the Highway Advertising Act of 1972, Act 106 of the Public Acts of Michigan of 1972, as amended, MCL 252.301, et seq.

2. No sign shall be located closer than two (2) feet to a public road right-of-way or property line; provided that the zoning enforcement officer or planning commission may approve a lesser setback upon finding that the proposed sign will not with motorist or pedestrian visibility and safety. No sign shall overhang a public street right-of-way except as otherwise and all signs, including wall signs, shall have a minimum ground clearance of eight (8) feet above a sidewalk or walkway
3. The requirements of appendix A, section 4.06 apply and no sign shall be placed within a clear vision area as defined therein. No exterior sign shall be located or erected in such a manner as to interfere with traffic visibility.
4. A wall sign shall not extend beyond the edge of the wall to which it is affixed. A wall, marquee or projecting sign shall not extend above the roof line of the building to which it is attached.
5. No light pole, utility pole, or other supporting member thereof shall be used for the placement of any sign unless specifically designed and approved for such use.

B. *Sign illumination.*

1. Unless otherwise specified in this chapter, all signs may be illuminated, except temporary signs and signs for home occupations.
2. Illumination shall not be flashing, blinking, intermittent, oscillating, or an on-and-off type of lighting. No sign shall utilize a revolving beacon light.
3. Illumination shall be arranged so that light is deflected away from adjacent properties and no direct sources of light shall be visible to any motorist or pedestrian located in the public right-of-way or from any adjacent property. Any external lighting of signs shall be facing downward or otherwise directed to illuminate only the sign face.
4. No sign illumination shall be so placed or designed to be confused with, or appear similar to, a highway sign or traffic safety device.
5. All lighting on the underside of a vehicle service station canopy shall be fully recessed. A maximum of twenty-five (25) percent of each canopy façade area may be internally illuminated. No portion of any canopy façade may be externally illuminated.
6. Internally lighted signs, electronic message boards, back-lit changeable copy signs and signs incorporating light emitting diode (LED), liquid crystal, video or other types of internally lighted systems shall be designed, shielded and oriented so as not to interfere with adjacent public rights-of-way or private property and such signs shall not emit light exceeding either ten (10) foot candles measured four (4) feet perpendicular to the sign face or one-half (½) foot candle measured at the property line of the adjoining privately-owned property.

- C. *Sign area and height.* Where a sign has two (2) or more faces, the area of all faces shall be included in determining the area of the sign, except that where two (2) such faces are placed back to back and are at no point more than two (2) feet apart from one another, the area of the sign shall be taken as the area of one (1) face if the two (2) faces are of equal area, or the area of the larger face if the two (2) faces are of unequal area. In the case of a circle or sphere, the total area of the circle or sphere is divided by two (2) for purposes of determining the maximum permitted sign area. Framed and structural members not bearing advertising matter shall not be included in computation of surface area; provided, that the base of a ground sign cannot exceed two (2) feet in height and the base and structural members of a freestanding sign cannot exceed fifty (50) percent of the total area of the sign face.



The height of a sign shall be measured as the vertical distance from the highest point of the sign to the grade of the adjacent street or the mean grade of the ground immediately beneath the sign, whichever is less.

- D. *Most restrictive sign requirements.* Where a proposed sign appears to meet the definition of more than one (1) sign, the most restrictive requirements and limitations of the defined sign types shall apply, as determined by the zoning enforcement officer.
- E. *Multiple tenant building.* For buildings with multiple tenants, sign areas for wall signs, projecting signs, and marquee signs shall be determined by taking that portion of the front wall of the building applicable to each tenant and computing sign limits for that portion of the total wall. Where a wall sign, projecting sign or marquee sign is permitted in a multi-tenant building or site, each individual establishment is permitted one (1) such sign subject to standards applying in the applicable zone district, in which case, wall surface applies to the wall surface of the individual establishment.
- F. *Maintenance of signs.* All signs shall be maintained in a safe condition with proper bracing, anchorage and foundation and be subject to inspection by the building inspector or other person designated by the city. A sign which no longer serves the purpose for which it is intended or is abandoned or is not maintained in accordance with applicable regulations shall be removed by the owner of the sign or the owner of the property upon which the sign is located.

(Ord. 13-03, § 1, 8-5-13)

#### Section 20.06. - Signs not requiring permits.

- A. Signs shall not be erected without the issuance of a building permit, except for the following signs, provided that such signs comply with the provisions of this chapter:
1. Government signs.
  2. Signs erected by an essential public service establishment denoting utility lines, railroad lines, hazards, and precautions, including portable flashing signs.
  3. Real estate signs advertising premises for sale, rent, or lease when not more than thirty-two (32) square feet in area and eight (8) feet in height for a commercial or industrial zoned property, or six (6) square feet in area and four (4) feet in height for other zoned properties. A real estate sign shall be located on the property that is for sale, rent, or lease. One (1) sign per property street frontage shall be permitted.
  4. For non-residential projects, a construction sign not exceeding thirty-two (32) square feet in area and having a height not greater than eight (8) feet. There shall be only one (1) construction sign for a development or project. Construction signs shall not be erected until a building permit has been issued and the sign shall be removed immediately upon issuance of a certificate of occupancy. For residential projects, a construction sign not exceeding

twenty-four (24) feet in area and having a height not greater than six (6) feet, shall only be erected upon city approval of the project and shall be removed within one (1) year of issuance of the first building permit for a dwelling or structure, or upon the erection of a development sign, whichever occurs first.

5. Memorial signs not larger than twelve (12) square feet in area which are either (a) cut into the face of a masonry surface or (b) constructed of bronze or other incombustible material when located flat on the face of a building.
6. Holiday lights, murals, works of art, and decorations with no commercial message.
7. Placards not exceeding two (2) square feet in area.
8. Incidental signs or directional signs up to six (6) square feet in area. If intended to be viewed from the street, only those signs which, in the opinion of the zoning enforcement officer, are necessary to indicate entrances, exits, safety precautions, street addresses, including identifying logos without text, and other such incidental language shall be permitted. Incidental signs and directional signs shall not contain a commercial message.
9. A temporary sign used to advertise a garage sale or estate sale on residential property, graduation party or similar temporary event, not to exceed six (6) square feet in area. Such sign shall be removed immediately after the completion of the event. Such sign shall be placed within the property line of the premises on which said sale or event is conducted and shall be removed immediately after the completion of the sale or event.
10. Political signs shall be permitted in all zoning districts and there shall be no limit to the number of signs, provided that the cumulative square footage of signage shall not exceed thirty-two (32) square feet per lot in nonresidential districts and twelve (12) square feet per lot in residential districts. Political signs shall not be greater than six (6) feet in height in nonresidential zoning districts, or greater than four (4) feet in height in residential zoning districts, and signs shall not be located in a manner which may obstruct vision of vehicular or non-motorized traffic on any street. Political signs erected in connection with an election or referendum shall not be erected more than ninety (90) days prior to such event and must be removed within ten (10) days following such event.
11. A home occupation shall be permitted one (1) two (2) square foot wall sign.
12. Window signs, provided that window signs shall not cover more than fifty (50) percent of the windows on any building wall.
13. Flags or insignia of any nation, state, county, city, community organization, or educational institution, no larger than five (5) feet by eight (8) feet; provided that no more than one (1) such flag shall be permitted on each lot or parcel of land for every twenty (20) linear feet of street frontage. Flags shall not contain a commercial message. The maximum sign height of flagpoles shall be thirty-five (35) feet.
14. Notwithstanding any other conflicting provisions contained in this chapter, sandwich board signs shall be permitted, and only permitted, in C-2 - Central Business District zone districts. A sandwich board sign area shall not exceed (a) twelve (12) square feet per side, (b) a height of four (4) feet and (c) a width of three (3) feet and shall not in any way be illuminated. A sandwich board sign shall not be permanently moored or anchored to any other object or structure, but shall be designed or weighted to prevent instability or movement by wind or other natural forces. A sandwich board sign may only be placed in front of the façade of the building front of the business or establishment whose information the sign pertains during the hours the business or establishment is open to customers, patrons or the public. Only one (1) sandwich board sign shall be permitted for each business or establishment. All sandwich board signs shall be placed in alignment with city light poles and tree grates and so as not to block neighboring sandwich board signs or unreasonably interfere with pedestrian traffic.
15. One (1) human sign is permitted per lot at any given time, provided that the human sign does not block the sidewalk.

(Ord. 13-03, § 1, 8-5-13)

Section 20.07. - Supplementary signs.

In addition to the signs permitted and regulated in this chapter, the signs listed below shall be permitted in accordance with the following standards:

- A. *Temporary signs.* Temporary signs shall be permitted on land zoned C-1 - Neighborhood Business District, C-2 - Central Business District, C-3 - General Business District, PF - Public Facilities District, I-L - Light Industrial District and I - Industrial District, as follows:
1. Only one (1) temporary sign shall be permitted for each separate establishment located on a parcel of land.
  2. A temporary sign shall be displayed for not more than sixty (60) days (whether or not consecutive) in a calendar year.
  3. A temporary sign shall not be larger than thirty-five (35) square feet and shall not be illuminated.
  4. A temporary sign shall include any other or subsequent temporary sign of generally similar appearance, nature and purpose, as compared to the temporary sign initially permitted under the terms of this section 20.07. Accordingly, an applicant shall not seek to extend the time limitation of the display of a temporary sign by the attempted display of a different, though similar, temporary sign following the maximum permitted period of display of a permitted temporary sign.
  5. A permit for a temporary sign shall be required. An application for the permit, including an application fee as set by the city council from time to time, shall be submitted and include the following:
    - (a) An accurate sketch indicating the exact dimensions of the sign, its height, the structure upon which it will be placed, its location in relation to buildings, property lines, driveways and off-street parking areas, and such other information as may be required by the zoning enforcement officer in order to assure that the temporary sign shall comply with the applicable requirements of this chapter.
    - (b) A statement signed by the applicant listing specifically the days or the span of consecutive days during which the sign will be displayed and the date or dates on which the sign will be removed and, if applicable, the subsequent date or dates on which the sign will be re-installed and again removed, during the calendar year.
    - (c) A listing and description of the other temporary signs, if any, located on the property at the time of the application.
- B. *Portable signs.* In the C-3 - General Business District, I-L - Light Industrial District, I - Industrial District, and PF - Public Facilities District, one (1) portable sign may be erected in lieu of a temporary sign, subject to the provisions in subsection A above, provided, that only one (1) is permitted per lot at any given time, and, provided, further, that the portable sign shall not exceed thirty-five (35) square feet in area. In addition, notwithstanding the provisions of subsection A above, a portable sign shall not be displayed for more than seven (7) consecutive days and not more than three (3) times in any calendar year.
- C. *Changeable copy signs.* All or a portion of a ground or freestanding sign may be a changeable copy sign in compliance with all of the following requirements, provided, that a changeable copy sign is not permitted in any residential zoning district except when used to advertise a city, county, state or public school facility:
1. The area of a changeable copy sign shall be included in the applicable maximum ground or freestanding sign area limitation and the area of a changeable copy sign shall not exceed fifty (50) percent of the applicable maximum permitted ground or freestanding sign area.
  2. A changeable copy sign shall not change its message, image or other graphic material with such frequency as to be flashing or oscillating, whether in whole or in part. For purposes hereof, a flashing or oscillating sign shall include not only a sign having a message or image that changes with high rapidity, but shall also include a sign having a message or image that changes with a frequency such as to serve as a means of attracting attention to



the sign or the land use, rather than for the purpose of providing identification or information. The message, image or other graphic material of a changeable copy sign shall change no more frequently than six (6) seconds and each change shall occur in one (1) second or less.

3. The message, image or other graphic material of a changeable copy sign shall, when changing, appear only in its entirety or shall appear in successive letters, words or other graphic elements from left to right only. The message, image or other graphic material shall not appear to flash, move from the center of the sign outward, move from the corners of the sign inward or demonstrate any other unusual movement, oscillation or method of appearance.

(Ord. 13-03, § 1, 8-5-13)

Section 20.08. - Permitted signs by zoning district.

A. The following sign types shall be permitted in accord with the following regulations, in the SR, R-1, R-2, R-3, MHP and RE Districts:

1. The following sign is permitted identifying the name of a permitted residential development:

Type	Maximum Number	Maximum Sign Area	Height
Development	1 per lot or parcel	20 square feet	6 feet

2. The following sign is permitted identifying the name of a permitted non-residential use:

Type	Maximum Number	Maximum Sign Area	Height
Ground	1 per lot or parcel	20 square feet	6 feet

B. The following sign types shall be permitted in accord with the following regulations, in the C-1 - Neighborhood Business District, and PF - Public Facilities District:

Type	Maximum Number	Maximum Sign Area	Height
Ground	1 per lot or parcel	32 square feet	6 feet
Wall or Marquee	1 per building wall facing a parking lot or public street	15% of the wall surface or 30% of marquee face, as applicable, or 50 square feet, whichever is less	See section <u>20.05</u> . A. 4.

C. The following sign types shall be permitted in accord with the following regulations in the C-2 - Central Business District and the MU - Mixed Use District.

Type	Maximum Number	Maximum Sign Area	Height	Location
Projecting	1 per building wall facing a parking lot or public street	20 square feet	See section <u>20.05. A, 4</u>	Cannot extend more than 5 feet from building wall
Wall or Marquee	1 per building wall facing a parking lot or public street	20% of the wall surface or 30% of marquee face, as applicable, or 50 square feet, whichever is less	See section <u>20.05. A, 4</u>	

D. The following sign types shall be permitted in accord with the following regulations, in the C-3 - General Business District:

Type	Maximum Number	Maximum Sign Area	Height
Ground or Freestanding	1 per street frontage; provided, that a double-frontage lot is permitted only 1 freestanding sign	48 square feet, or 32 square feet if the lot has a street frontage of 66 feet or less	6 feet for a ground sign and 20 feet for a freestanding sign
Wall or Marquee	1 per building wall facing a parking lot or public street	20% of the wall surface or 30% of marquee face, as applicable, or 50 square feet, whichever is less	See section <u>20.05. A. 4.</u>

- Each individual establishment in a multi-tenant commercial building or development is not permitted a separate ground or freestanding sign; one (1) collective ground or freestanding sign may be used subject to the standards above, provided that a collective ground or freestanding sign shall be permitted a maximum sign area of seventy-two (72) square feet.

E. The following sign types shall be permitted in accord with the following regulations, in the I - Industrial District:

Type	Maximum Number	Maximum Sign Area	Height
Ground	1 per lot or parcel	32 square feet	6 feet

Wall	1 per building wall facing a public street	5% of the wall surface or 50 square feet, whichever is less	See section <u>20.05</u> . A. 4.
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(Ord. 13-03, § 1, 8-5-13; Ord. No. 15-01, § 9, 2-17-15; Ord. No. 16-02, § 9, 5-16-16)

Section 20.09. - Construction and maintenance.

- A. All signs shall be constructed and maintained in accordance with the latest version BOCA National Building Code adopted by the city.
- B. Signs shall be maintained free of peeling paint or paper, fading, staining, rust, or other conditions which impair legibility.
- C. All signs, sign supports, frames, braces, wiring, guys and anchors shall not be maintained in such a manner which, in the opinion of the zoning enforcement officer, has the potential to create a hazard for pedestrians and vehicles.
- D. Signs shall not become unsightly through disrepair or action of the elements. Internal framing, light fixtures and bulbs, and wiring shall not be exposed to the elements.
- E. All signs shall be designed to ensure a dead load and wind pressure in any direction of not less than thirty (30) pounds per square foot of area. All signs shall be securely anchored or otherwise made immobile. Temporary signs, portable signs, or signs made of cloth, fabric, lightweight plastic, or other easily combustible material, or which are produced or originally constructed to flutter in the wind, as determined by the zoning enforcement officer, shall not be placed or left as permanent signs.

(Ord. 13-03, § 1, 8-5-13)

Section 20.10. - Nonconforming signs.

- A. Signs lawfully erected prior to the adoption of this chapter or applicable amendment thereto which do not meet the standards of this chapter and any applicable amendment thereto may be continued, except as hereinafter provided. No nonconforming sign shall:
  1. Have any changes made in the words or symbols used or the message displayed on the sign, unless the sign is specifically designed for periodic change of message;
  2. Be structurally altered so as to change the shape, size, type or design of the sign; or
  3. Be reestablished or continued after the activity, business, or use to which it applied has been discontinued for at least ninety (90) days.
- B. Signs lawfully erected prior to the adoption of this chapter or applicable amendment thereto which do not meet the size limitations of this chapter and any applicable amendment thereto may be changed to another nonconforming sign, provided that the sign replacing the original nonconforming sign is at least thirty-three (33) percent smaller in area than the original nonconforming sign.
- C. No sign shall be required to be removed which was erected in compliance with this chapter if such sign becomes nonconforming due to a change occurring after the adoption of this chapter or applicable amendment thereto in the location of a building, streets, or other signs, and which change is beyond the control of the owner of the premises on which the sign is located.
- D. If the owner of the premises on which a sign is located changes the use of the building, or changes the location of any property line or sign, so that any sign is rendered nonconforming, such sign must be removed or made to conform to

this chapter and any applicable amendment thereto.

(Ord. 13-03, § 1, 8-5-13)

#### Section 20.11. - Discontinuance or abandonment.

Whenever the activity, business or use of a primary premises to which a sign is attached or related has been discontinued for a period of at least ninety (90) days, such discontinuance shall be considered conclusive evidence of an intention to abandon the sign attached or related thereto. At the end of this period of abandonment, the sign shall either be removed or altered to conform with the provisions of this chapter and any applicable amendment thereto. All costs of removal shall be at the property owner's expense.

(Ord. 13-03, § 1, 8-5-13)

### CHAPTER 21. - BOARD OF ZONING APPEALS

#### Section 21.01. - Membership and meetings.

- A. Composition and terms. The city council shall act as the board of zoning appeals, composed of five (5) members.
- B. Alternate members.
  - 1. Up to two (2) alternate members may be appointed by the city council for three (3) year terms. If two (2) alternate members have been appointed, they may be called on a rotating basis, as they are available to sit as regular members of the board of zoning appeals in the absence of a regular member which may exceed thirty (30) consecutive days. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest.
  - 2. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the board of zoning appeals.
- C. Any vacancies in the board of zoning appeals shall be filled by appointment by the council in the same manner as prescribed for filling council member vacancies.
- D. The board of zoning appeals shall annually elect its own chairman, vice chairman, and secretary.
- E. Meetings.
  - 1. All meetings of the board of zoning appeals shall be held at the call of the chairman and at such times as such board of zoning appeals may determine. All hearings conducted by the board of zoning appeals shall be open to the public.
  - 2. The zoning enforcement officer or his representatives, shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and shall also keep records of its hearings and other official action.
  - 3. Four (4) members of the board of zoning appeals shall constitute a quorum for the conduct of its business.
  - 4. The board of zoning appeals shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to the matters before it.
- F. Hearings. The board of zoning appeals shall make no decision regarding any application except after a public hearing is conducted by the board of zoning appeals. Notification of hearings shall be the same as those required for special land uses.

(Ord. No. 95-06, § 1, 12-27-95)

## Section 21.02. - Jurisdiction and powers.

- A. The board of zoning appeals shall not have the power to make any change in the terms of this ordinance, but does have power to act on those matters where this ordinance provides for an administrative review, interpretation, and to authorize a variance as defined in this section and the laws of the State of Michigan.
- B. The powers of the board of zoning appeals include:
  1. *Appeals*: To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the building inspector or any other administrative official in carrying out or enforcing any provisions of this ordinance.
  2. *Variations*: A variance from the strict requirements of the zoning ordinance may be granted by the board of zoning appeals in accordance with the standards, requirements and procedures of this chapter.
  3. *Zoning ordinance interpretation*: The board of zoning appeals may interpret the provisions of this ordinance to carry out the intent and purposes of the zoning ordinance where the meaning of the provisions is uncertain.
  4. Any other matters referred to them or upon which they are required to consider under the terms of this ordinance.
- C. The board of zoning appeals shall not be permitted to consider any request which would permit a use of land not otherwise permitted within the district in which the property in question is located.
- D. The board of appeals shall not be permitted to consider any requests for variances from the requirements and conditions of planned unit developments, as noted in Chapter 15.
- E. Variances to the site design standards of special land uses.
  1. The board of zoning appeals may grant a variance from the strict adherence to the requirements set forth for the site design standards for special land uses, in section 17.04 of this ordinance, provided the board of zoning appeals finds that the request meets all of the standards noted in section 21.04.
  2. However, this is not intended to permit the board of zoning appeals to hear appeals from the final decision made with respect to the special land use.
  3. Decisions by the board of zoning appeals on such requests shall be made prior to the planning commission's consideration of the special land use.

(Ord. No. 95-06, § 1, 12-27-95)

## Section 21.03. - Application and review procedures.

- A. Applications.
  1. An application for an appeal may be submitted by a person aggrieved, or by an officer, department, or board of the city. Such application shall be submitted within thirty (30) days of the action being appealed. The application shall be filed with the board of zoning appeals and shall specify the grounds for the appeal.
  2. Variances, and other actions requiring a decision of the board of zoning appeals shall be submitted to the city on a form provided for that purpose and shall include a fee, as may be determined by the city council from time to time.
  3. Applications shall immediately be transmitted to the board of zoning appeals, along with all the papers constituting the record upon which the action appealed was taken, and a hearing scheduled in accordance with the procedures of this chapter.
  4. Applications shall not be accepted unless all of the following information is included, unless deemed unnecessary by the zoning enforcement officer.
    - a. Application form (provided by the city).
    - b. An accurate, scaled site plan with enough information to clearly indicate the nature of the issue being

considered. The zoning enforcement officer shall determine the completeness of such plans.

- c. An application fee.
  - d. A written explanation of how the application meets the standards of section 21.04.
- B. An application for an appeal or variance, or any other action requiring board approval shall stay all proceedings in furtherance of the matter to which the application applies unless the zoning enforcement officer certifies to the board of zoning appeals, after the application of appeal is filed, that by reason of facts present a stay would, in the opinion of the zoning enforcement officer, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order. This restraining order may be granted by the board of zoning appeals or circuit court on application and with due cause shown.
- C. The board of zoning appeals shall render its decision within a reasonable time period.
- D. The concurring vote of a majority of the entire membership of the board of zoning appeals (three (3) votes) shall be necessary to decide in favor of the applicant for a matter upon which the board is required to pass.
- E. All decisions of the board of zoning appeals shall become final five (5) days after the date of entry of an order, unless the board of zoning appeals shall find, and so certify on the record, that it is necessary to cause such order to have immediate effect, in order to preserve property or personal rights.
- F. No variance request which has been decided by the board of zoning appeals shall be submitted for reconsideration within a one (1) year period from the date of the original application unless the board of zoning appeals finds that at least one (1) of the following conditions exist:
- 1. That the conditions involving all of the reasons for the original denial have been significantly altered; or
  - 2. That new conditions or circumstances exist which change the nature of the original request.
- G. For each decision of the board of zoning appeals, a record shall be prepared. Such record shall include, at a minimum, the following items:
- 1. Description of the applicant's request.
  - 2. The board of zoning appeals' motion and vote, including written justification for the decision, in accordance with the standards of section 21.04.
  - 3. A summary or transcription of all competent material and evidence presented at hearing; and,
  - 4. Any conditions attached to an affirmative decision.
- H. The decision of the board of zoning appeals shall be final. However, a person having an interest affected by the decision of the board of zoning appeals may appeal to the circuit court. Upon appeal, the circuit court shall review the record in accordance with the requirements of the City Or Village Zoning Act. The court may affirm, reverse, or modify the decision of the board of zoning appeals, or may remand the decision to the board of zoning appeals for further hearings or action.

(Ord. No. 95-06, § 1, 12-27-95)

#### Section 21.04. - Variance review standards.

- A. The board of zoning appeals, after public hearing, shall have the power to grant requests for variances from the provisions of this ordinance where it is proved by the applicant that there are practical difficulties in the way of carrying out the strict letter of the ordinance relating to the construction, equipment, or alteration of buildings or structures so that the spirit of the ordinance shall be observed, public safety secured and substantial justice done.
- B. A non-use variance may be allowed by the board of zoning appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that all of the following conditions are met:
  - 1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do

not apply generally to other properties in the same zoning district;

Exceptional or extraordinary circumstances include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this chapter, or by reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure or by reason of the use or development of the property immediately adjoining the property in question, the literal enforcement of the requirements of this ordinance would involve practical difficulties;

2. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.
  3. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
  4. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
  5. The variance will not impair the intent and purpose of this ordinance.
  6. That the immediate practical difficulty causing the need for the variance request was not created by any action of the applicant.
- C. Period of validity. No variance granted by the board of zoning appeals shall be valid for a period longer than three (3) months, from the date of its issuance. However the applicant may, upon request, request, at no cost, up to one (1) three (3) month extension of said variance from the board of zoning appeals. The board may grant such extension provided that the original circumstances authorizing the variance have not materially changed and that the circumstances creating the need for the extension were beyond the control of the applicant.

(Ord. No. 95-06, § 1, 12-27-95)

#### Section 21.05. - Conditions of approval.

- A. The board of zoning appeals may impose reasonable conditions in conjunction with approval of an appeal, variance, or any other decision which they are required to make.
- B. Conditions shall be imposed in a manner in accordance with the Zoning Act and related to the standards by which the decision is reached.

(Ord. No. 95-06, § 1, 12-27-95)

#### Section 21.06. - Fees and costs.

The city council may prescribe and amend by resolution a reasonable schedule of fees to be charged to applicants for appeals to the board of zoning appeals. The fee shall be paid to the city treasurer at the time the application for the appeal or variance is filed. Any extraordinary costs, such as stenographer's fees or other similar costs, shall be borne by the applicant.

(Ord. No. 95-06, § 1, 12-27-95)

### CHAPTER 22. - ADMINISTRATION AND ENFORCEMENT

#### Footnotes:

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**Editor's note—** Ord. No. 18-01, § 1, adopted February 20, 2018, amended chapter 22 in its entirety to read as set out herein. Former chapter 22, §§ 22.01—22.06 pertained to similar subject matter and derived from Ord. No. 95-06, § 1, adopted December 27, 1995.

## Section 22.01. - Zoning enforcement officer.

A. *Authority.* Except where herein otherwise stated, the provisions of this ordinance shall be administered by the zoning enforcement officer, or such other official or officials as may be designated by the city council. The zoning enforcement officer shall have the power to:

1. Issue certificates of occupancy;
2. Make inspections of buildings and premises necessary to carry out the duties of administration and enforcement of this ordinance;
3. Issue and serve appearance tickets on any person with respect to any violation of this ordinance where there is reasonable cause to believe that the person has committed such an offense;
4. Maintain and safely keep copies of all plans other than for single-family dwellings and fees submitted with such application, and the same shall form a part of the records of his office and shall be available to the council and all other officials of the city; and
5. Perform such other functions necessary and proper to enforce and administer the provisions of this ordinance.

( Ord. No. 18-01, § 1, 2-20-18)

## Section 22.02. - Permits.

A. *Building permits.*

1. No building, structure, or commercial sign shall be erected, altered, moved, or substantially repaired unless a building permit shall have been first issued for such work.
2. No building permit shall 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 ordinance.
3. The holder of every building permit for the construction, erection, alteration, repair, or moving of any building or structure shall notify the building inspector immediately upon completion of the work authorized by the permit for a final inspection.

B. *Certificate of occupancy.*

1. No vacant land shall be used and no existing use of land shall be changed to a different class of use unless a certificate of occupancy is first obtained for the new or different use.
2. No building or structure which is hereafter erected or altered shall be occupied or used unless and until a certificate of occupancy shall have been issued for such building or structure.
3. Certificates of occupancy, as required by the currently adopted Building Code for the city, 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 zoning enforcement officer and copies shall be furnished upon request to any person owning or renting the property which is the subject of the certificate.
5. Applications for certificates of occupancy shall be made in writing to the building inspector on a form furnished by the city. Certificates shall be issued within ten (10) days after receipt of such application if the building or structure or use of land is in accordance with the provisions of this ordinance and the other applicable ordinances of the city.

C. *Zoning compliance permits.*

1. No permit or approval shall be issued for any use, building, construction, work, alteration, addition, or improvement to land or land division, until a zoning compliance permit has been issued by the zoning enforcement officer under the terms and provisions of this ordinance.



2. The issuance of any other approval or certification of a site plan, variance, special land use permit, planned unit development, or other discretionary permit by any board or body under this ordinance, shall not supersede or lessen compliance with this ordinance and that any use, development, construction, improvement or work allowed under the discretionary permit, shall in all cases be further conditioned on compliance with this ordinance and shall not be allowed until the issuance of the zoning compliance permit in accordance with this chapter.
  3. An application for a zoning compliance permit shall be signed by the owner of the land, or the owner's duly authorized agent and be accompanied by a site plan, where required under other provisions of this ordinance, or a drawing, that provides the following information:
    - a. Scale, date and north point;
    - b. Location, shape and dimensions of the lot;
    - c. Legal description, tax parcel number and address of the lot;
    - d. Location, outline and dimensions of all existing and proposed structures and the location and extent of all uses not involving structures;
    - e. A clear description of existing and intended uses of all structures; and
    - f. Additional information as required by the zoning enforcement officer for purposes of determining compliance with this ordinance.
  4. A zoning compliance permit shall be signed and issued by the zoning enforcement officer.
    - a. The application and all supporting documentation shall be considered a part of the permit.
    - b. Any alteration, false statement, change or other variation between the application and its supporting documents, and the use, construction, work, development, alteration, addition, or improvement authorized by the permit, shall render the permit null and void.
    - c. Any change, variation or alteration of the application and supporting documents, shall require resubmission to the zoning enforcement officer and the re-issuance of a new zoning compliance permit.
  5. All fees due under this ordinance, or under other ordinances or policies of the city for municipal services and development of the work, must be paid in full prior to the issuance of the zoning compliance permit, unless exception is made by the appropriate board authorized to waive or delay the payment of the fees. The applicant shall furnish to the zoning enforcement officer, upon request, a title insurance policy or other acceptable evidence of ownership.
  6. The zoning enforcement officer is authorized to prepare and furnish to the public, from time to time forms for application for a zoning compliance permit.
  7. The zoning enforcement officer is authorized to affix to the face of any zoning compliance permit any condition authorized by this ordinance or under any discretionary permit issued by any board under this ordinance, or under other ordinances or promulgated policies of the city, pertaining to the use, work or occupancy of the land and premises. Failure to comply with any condition shall render the zoning compliance permit null and void.
  8. A zoning compliance permit shall not be required for ordinary repairs or maintenance to one- or two-family residential dwellings or any related accessory structure, including but not limited to roofing, siding and interior work, provided that such construction does not increase the gross ground floor area, height, or location of the building, and/or does not change the use of the structure.
- D. Fees for the inspection and issuance of building permits, certificates of occupancy, zoning compliance permits, or copies required or issued under the provisions of this ordinance, may be collected by the city in advance of issuance. The amount of such fees shall be established by resolution of the city council and shall cover the cost of inspection and supervision resulting from the enforcement of this ordinance.

## Section 22.03 - Enforcement.

## A. Violations.

1. A violation of this ordinance shall be a civil infraction subject to a fine. Increased civil fines will be imposed for repeated violations that occur within a six (6) month period. The civil fine for a first offense is fifty dollars (\$50.00). The civil fine for the first repeat offense is two hundred fifty dollars (\$250.00). The civil fine for the second repeat offense is five hundred dollars (\$500.00). The city shall also be entitled to equitable relief to abate the violation and to such other relief as may be available to the city pursuant to chapters 83 and 87 of the Michigan Revised Judicature Act, as amended.
2. Each day on which any violation of this ordinance occurs shall constitute a separate offense.

- B. Any building or structure which is erected, altered, or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this ordinance and is in violation of any of the provisions thereof, is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.

( Ord. No. 18-01, § 1, 2-20-18)

## Section 22.04. - Performance guarantees.

- A. As a condition of approval of a site plan review, special land use, or planned unit development, the planning commission or zoning enforcement officer, whichever is designated as the approving authority, may require a financial guarantee of sufficient sum to assure the installation of those 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. Such 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 which are subject to the performance guarantee, which shall then be reviewed by the zoning enforcement officer. The amount of the performance guarantee shall be one hundred (100) percent of the cost of purchasing of materials and installation of the required improvements, plus the cost of necessary engineering and a reasonable amount for contingencies.
  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 zoning enforcement officer shall issue a building permit for the subject development or activity, provided it is in compliance with all other applicable provisions of this ordinance and other applicable ordinances of the city.
  4. The zoning enforcement officer, upon the written request of the obliger, 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 obliger shall send written notice to the zoning enforcement officer of completion of said improvements. Thereupon, the zoning enforcement officer shall 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 obliger 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.

6. A record of authorized performance guarantees shall be maintained by the zoning enforcement officer.

( Ord. No. 18-01, § 1, 2-20-18)

#### Section 22.05. - Zoning amendments.

##### A. *Procedure.*

1. Written applications for the adoption of a rezoning or amendment to this ordinance may be initiated by:
  - a. Any public agency;
  - b. Any interested person;
  - c. The planning commission; or
  - d. The city council.
2. If said application is for a rezoning, an "interested person" shall either be the city or the owner of the property which will be considered for the rezoning, or, if not the owner of the property, the applicant shall submit a written statement from the property owner indicating his or her permission to submit such application.
3. Application for a zoning amendment shall consist of:
  - a. A written statement from the property owner indicating his or her permission to submit such application, if applicable;
  - b. Payment of a fee, as established from time to time by the city council;
  - c. A map clearly showing the property to be considered for the zoning change, including all properties within one quarter ( $\frac{1}{4}$ ) mile of the subject property and the current zoning of all such properties; and
  - d. A legal description of the property to be considered for the zoning change.
4. Following receipt of the completed application, the planning commission shall hold a public hearing. Notice of the public hearing shall be provided pursuant to section 22.05 of this ordinance and Act 110 of the Public Acts of Michigan of 2006, as amended.
5. Following the public hearing, the planning commission shall forward the application, along with its recommendation, to the city council for a final decision.
6. Review Criteria. In making a decision on a zoning amendment, the planning commission and city council shall consider the following standards:
  - a. If the proposed zoning amendment 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, if the zoning amendment is consistent with recent development trends in the area;
  - b. If the zoning amendment is compatible with existing or future land uses in the vicinity; and
  - c. If the site is capable of accommodating all uses allowed by the zoning change, considering existing or planned public infrastructure, including streets, sanitary sewers, storm water, water, sidewalks, and street lighting.
7. The city's decision of a zoning amendment may not be appealed to the board of zoning appeals.

( Ord. No. 18-01, § 1, 2-20-18)

#### Section 22.06. - Public hearing and notice requirements.

- A. Where this ordinance requires the city to provide notice of a public hearing for any decision or action permitted,

authorized or required by this ordinance or under Act 110 of the Public Acts of Michigan of 2006, as amended, notice of the public hearing shall be given as follows:

- B. The notice shall be published once, at least fifteen (15) days prior to the date of the public hearing, in a newspaper of general circulation in the city.
- C. Except as provided in subsection E below, a notice of public hearing shall also be mailed or personally delivered to the following persons, at least fifteen (15) days prior to the date of the public hearing:
  - 1. The applicant;
  - 2. The owner or owners of the subject property;
  - 3. All persons to whom real property is assessed within three hundred (300) feet of the property that is the subject to the application or request, even if the three hundred (300) feet extends outside of the city's boundaries; and
  - 4. the occupants of all structures within three hundred (300) feet of the property that is the subject of the application or request, even if the three hundred (300) feet extends outside of the city's boundaries. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.
- D. The notice of public hearing shall include the following information:
  - 1. A description of the nature of the proposed amendment, application or request.
  - 2. An identification of the property that is the subject of the application or request, if applicable. Except as provided in subsection E below, the notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property and another means of identification of the property shall be used.
  - 3. When and where the application or request will be considered.
  - 4. When and where written comments will be received concerning the application or request.
- E. When a proposed zoning amendment involves the text of the zoning ordinance or if a rezoning involves eleven (11) or more adjacent properties, or when a petition to the board of zoning appeals involves an interpretation of the zoning ordinance or an appeal of an administrative decision that does not involve a specific parcel, the mailing or delivery requirements of subsections C(2), C(3) and C(4), of this section are not required, and the listing of individual property addresses under subsection D(2) is not required.
- F. With respect to a zoning ordinance amendment, including rezoning of property, the notice shall be given by first-class mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the city for the purpose of receiving the notice of public hearing.
- G. After providing the notice required under this section and without further notice, except that as required under the Act 267 of the Public Acts of Michigan of 1976, as amended, the body holding the public hearing may adjourn from time to time a duly called public hearing by passing a motion specifying the time, date, and place of the continued public hearing.

( Ord. No. 18-01, § 1, 2-20-18)

#### Section 22.07. - Fees and applicant escrow accounts.

- A. The city council may establish, fees for appeals, application for amendments, special uses, site plan reviews, zoning compliance permits, signs, and other matters pertaining to this ordinance. The schedule of fees shall be posted in city hall and may be altered only by resolution of the city council. Until all applicable fees, charges and expenses have been paid in full, no permits shall be issued related to any application or appeal.
- B. If the planning commission or board of zoning appeals determines that the basic fees provided under subsection A

above will not cover the actual costs of the application review or appeal, or if the planning commission or board of zoning appeals determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary, then the planning commission or board of zoning appeals may require the applicant to deposit with the city treasurer such additional fees in an amount sufficient to cover the estimated additional costs.

- C. These additional fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten (10) percent of the initial escrow deposit or less than ten (10) percent of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the zoning enforcement officer may require the applicant to deposit additional fees into escrow in an amount determined by the zoning enforcement officer to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this ordinance shall be deemed to make the application incomplete or the appeal procedurally defective thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the city in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal.

( Ord. No. 18-01, § 1, 2-20-18)

#### CHAPTER 23. - ZONING MAP AMENDMENTS; DESCRIPTIONS OF REZONED PROPERTIES

##### Section 23.01. - Changes of zone district classification.

- (a) The "Official Zoning Map" as referenced in section 3.02 of Article III of the Zoning Ordinance of the Code of Ordinances of the City of Lowell is amended to change the zone district classification of real properties legally described from C-3 General Business District to R-2 Residential District:

PART SE ¼ COM 100.05 FT ELY ALG N LINE OF FULTON ST (100 FT WIDE) FROM N&S ¼ LINE, TH N PARALLEL TO THE W N&S ¼ LINE TO S LINE OF SIBLEY ST EXT W FOR PT OF BEGINNING, TH E TO NW COR OF LOT 205, VALLEY VISTA NO. 7, TH S ALG WLY LINE OF SD LOT EXT SLY A DISTANCE OF 388 FT, TH WLY TO E LINE OF W 100.05 FT OF SEC 3, THEN NLY TO PT OF BEGINNING CONSISTING OF APPROXIMATELY 2.465 ACRES,

and R-3 Residential District:

PART SE ¼ COM 100.05 FT ELY ALG N LINE OF FULTON ST (100 FT WIDE) FROM N&S ¼ LINE, TH N PARALLEL TO THE W N&S ¼ LINE TO S LINE OF SIBLEY ST EXT W, TH E TO NW COR OF LOT 205, VALLEY VISTA NO. 7, TH S TO SW COR OF SD LOT FOR PT OF BEGINNING, TH E ALG S LINE OF SD PLAT 155.35 FT, TH S PERP TO S LINE OF SD PLAT 253 FT, TH W 155.35 FT, TH N TO BEG CONSISTING OF APPROXIMATELY 0.9 ACRES.

(Ord. No. 96-4, § 1, 8-5-96)

- (b) The "Official Zoning Map" as referenced in section 3.02 of Article III of the Zoning Ordinance of the Code of Ordinances of the City of Lowell is amended to change the zone district classification of real property located at 133 S. West Street legally described from R-2 Residential District to C-3 General Business District:

Lot 44 of Sweet and Smith's Addition.

(Ord. No. 96-5, § 1, 9-3-96)

- (c) The "Official Zoning Map" as referenced in section 3.02 of Article III of the Zoning Ordinance of the Code of Ordinances of

the City of Lowell is amended to change the zone district classification of real property located at 1425 West Main Street legally described from R-3 Residential District to C-3 General Business District:

PART SE ¼ COM AT SE COR OF LOT 85 OF VALLEY VISTA NO. 4 TH S ALONG W LINE OF VALLEY VISTA DR /60 FT WIDE/ TO N LINE OF FULTON ST /STL M-21 100 FT WIDE/ TH WLY ALONG N LINE OF SD HWY 500.10 FT TH N OD 15M E 302.62 FT TO S LINE OF DEBORAH DR /60 FT WIDE/ EXT WLY THE ELY ALONG SD EXT S LINE TO NW COR OF LOT 86 OF SD PLAT TH S TO SW COR OF SD LOT 86 TH E TO BEG\* SEC 3 T6N R9W 2.84 A.

(Ord. No. 96-8, § 1, 12-2-96)

- (d) The "Official Zoning Map" as referenced in section 3.02 of Article III of the Zoning Ordinance of the Code of Ordinances of the City of Lowell is amended to change the zone district classification of the following real properties located at and legally described from R-3 Residential District to PF Public Facilities District:

192 N. Broadway: Lots 18 and 19, Block 4 of Richard's and Wickham's Plat,

123 N. Hudson Street: Lots 16 and 17, Block 4 of Richard's and Wickham's Plat,

and from C-3 General Business District to C-2 Central Business District:

105 N. Broadway: Lot 12 excluding the west 22 feet of Block 4 of Richard's and Wickham's Plat,

301 W. Main Street: East 45 feet of Lot 13, Block 4 of Richard's and Wickham's Plat,

303 W. Main Street: West 61 feet of East 106 feet of Lot 13, Block 4 of Richard's and Wickham's Plat,

315 W. Main Street: West 22 feet of Lot 12 also West 26 feet of Lot 13 also East ½ of Lot 14, Block 4 of Richard's and Wickham's Plat,

and from C-3 General Business District to PF Public Facilities District:

325 W. Main Street: Lot 15 and the West ½ of Lot 14, Block 4 Richard's and Wickham's Plat.

(Ord. No. 98-3, § 1, 3-16-98)

- (e) The "Official Zoning Map" as referenced in section 3.02 of Article III of the Zoning Ordinance of the Code of Ordinances of the City of Lowell is amended to change the zone district classification of real property legally described from R-2 Residential District to R-3 Residential District:

PART SE ¼ COM 100.05 FT ELY ALG N LINE OF FULTON ST (100 FT WIDE) FROM N&S ¼ LINE, TH N PARALLEL TO THE W N&S ¼ LINE TO S LINE OF SIBLEY ST EXT W FOR PT OF BEGINNING, TH E TO NW COR OF LOT 205, VALLEY VISTA NO. 7, TH S ALG WLY LINE OF SD LOT EXT SLY A DISTANCE OF 388 FT, TH WLY TO E LINE OF W 100.05 FT OF SEC 3, THEN NLY TO PT OF BEGINNING CONSISTING OF APPROXIMATELY 2.465 ACRES.

(Ord. No. 98-8, § 1, 7-20-98)

- (f) The "Official Zoning Map" as referenced in section 3.02 of Article III of the Zoning Ordinance of the Code of Ordinances of the City of Lowell is amended to change the zone district classification of real property located at 1395 Bowes Road legally described from C-3 General Business District to LI Light Industrial District:

W 134 FT OF E 1081 FT OF THAT PART OF SE ¼ LYING S OF S LINE OF FULTON ST /STL M21 100 FT WIDE/ EX N 400 FT & EX COM 1041 FT W & 33 FT N FROM SE COR OF SEC TH W 40 FT TH N 40 FT TH SELY TO BEG \* CONSISTING OF 1.06 ACRES.

(Ord. No. 98-9, § 1, 9-2-98)

- (g) The "Official Zoning Map" as referenced in section 3.02 of Article III of the Zoning Ordinance of the Code of Ordinances of the City of Lowell is amended to change the zone district classification of real property located at 703 Godfrey legally

described from R-1 Residential District to R-2 Residential District:

PART NW ¼ COM 730 FT E ALONG N SEC LINE FROM NW COR OF SEC TH S PERP TO N SEC LINE TO A PT 50 FT N FROM N LINE OF BIRCHWOOD MANOR NO. 1 TH W PAR WITH SD N LINE TO E LINE OF W 425.28 FT OF NW ¼ TH N ALONG SD E LINE TO N SEC LINE TH E TO BEG\*

SEC 2 T6N R9W 2.49 A.

(Ord. No. 98-10, § 1, 11-16-98)

- (h) The "Official Zoning Map" as referenced in section 3.02 of Article III of the Zoning Ordinance of the Code of Ordinances of the City of Lowell is amended to change the zone district classification of real property located at 1351 Bowes Road legally described from C-3 General Business District to LI Light Industrial District:

W 66 FT OF E 947 FT OF THAT PART OF SE ¼ LYING S OF S LINE OF FULTON ST /100 FT WIDE/ EX N 400 FT ALSO W 29.91 FT OF E 881 FT OF THAT PART OF SE ¼ LYING S OF S LINE OF FULTON ST /100 FT WIDE/ EX N 330 FT ALSO W 53.09 FT OF E 851.09 FT OF THAT PART OF SE ¼ LYING S OF S LINE OF FULTON ST /100 FT WIDE/ EX N 300 FT \*

SEC 3 T7N R9W 1.38 A.

(Ord. No. 99-2, § 1, 6-21-99)

- (i) The "Official Zoning Map" as referenced in section 3.02 of Article III of the Zoning Ordinance of the Code of Ordinances of the City of Lowell is amended to change the zone district classification of real property located at 136 South Center Street legally described from R-2 Residential District to C-3 General Business:

The South 6 feet of Lot 54 also Lot 55 of Sweet & Smith's Addition.

(Ord. No. 99-4, § 1, 8-16-99)

- (j) The "Official Zoning Map" as referenced in section 3.02 of Article III of the Zoning Ordinance of the Code of Ordinances of the City of Lowell is amended to change the zone district classification of real property located in part at 1115 East Main Street legally described from SR Suburban Residential District to Planned Unit Development (PUD)/Residential (R-1) District:

The Southeast ¼ of the Northwest ¼ of section 1, Town 6 North, Range 9 West, Lowell Township, Kent County, Michigan, except that piece of land described as: Commencing 20 rods East of the Southwest corner of said Southeast ¼ of the Northwest ¼ thence North 20 rods; thence East 30 rods; thence North 21 ½ rods; thence East 30 rods; thence South to the Southeast corner of said Southeast ¼ of the Northwest ¼ thence West 60 rods to beginning.

(Ord. No. 02-6, § 1, 11-18-02)

- (k) The "Official Zoning Map" as referenced in section 3.02 of Article III of the Zoning Ordinance of the Code of Ordinances of the City of Lowell is amended to change the the zone district of the following legally described property to Planned Unit Development Single Family Residential District, R-1:

That part of the NW fractional ¼ of Section 1, Town 6 North, Range 9 West, Lowell Township, Kent County, Michigan, described as: Commencing at the North ¼ corner of said Section 1; thence S00°05'43"E 1386.32 feet along the East line of the NW fractional ¼, to the North line of the SE ¼ of the NW fractional ¼ of said Section 1, and the point of beginning of this description; thence S89°40'23"W 1339.05 feet, along the North line of the SE ¼ of the NW fractional ¼, to the West line of the SE ¼, NW fractional ¼; thence S00°14'39"E 1045.44 feet, along said West line of the SE ¼, of the NW fractional ¼ of Section 1; thence Northeasterly 89.61 feet along a 133.0 foot radius curve to the left, the chord of which bears N62°48'38"E 88.08 feet; thence N43°30'21"E 134.92 feet; thence Easterly 54.37 feet along a 67.00 foot radius curve to the right, the chord of which bears N66°45'10"E 52.89 feet; thence N90°00'00"E 126.38 feet; thence S00°05'43"E 98.31 feet;

thence N89°48'13"E 495.00 feet, parallel with the South line of the NW fractional ¼; thence N00°05'43"W 354.75 feet, parallel with the East line of the NW fractional ¼, to the North line of the South 684.75 feet of said NW fractional ¼; thence N89°48'13"E 495.00 feet, along the North line of the South 684.75 feet of said NW fractional ¼; thence N00°05'43"W 634.31 feet, along the East line of the NW fractional ¼, to the point of beginning.

(Ord. No. 03-4, § 1, 8-4-03)

- (l) The "Official Zoning Map" as referenced in Section 3.02 of Article III 3 of the Zoning Ordinance of the Code of Ordinances of the City of Lowell is amended to change the zone district classification of real property located in part at 1450 West Main Street legally described from C-3 General Business District to R-3 Residential District:

PARCEL "A": The South 438.03 feet (as measured along the West right-of-way of Valley Vista Drive and the Southerly extension thereof) of the West 270 feet of the east 1351 feet of that part of the Southeast ¼ of Section 3, T6N, R9W, lying South of the South line of Fulton Street (State Trunk line M-21), City of Lowell, County of Kent, State of Michigan, less the property taken by the City of Lowell for expansion of the adjoining Street. Containing 2.21 acres. Subject to highway right-of-way for Bowes Street over the South 33.00n feet thereof.

Containing 2.21 Acres, more or less

(Ord. No. 03-7, § 1, 12-15-03)

- (m) The "Official Zoning Map" as referenced in Section 3.02 of Chapter 3 of the Zoning Ordinance of the Code of Ordinances of the City of Lowell is amended to change the zone district classification of real property located in part of 119 Lincoln Lake Avenue legally described as Lots 5 and 6, Block 18, Richards and Wickham's Plat from PF Public Facilities District and R-3 Residential District to C-1 Neighborhood Business District.

(Ord. No. 05-2, § 1, 3-21-05)

- (n) That the "Official Zoning Map" as referenced in Section 3.02 of Chapter 3 of the Zoning Ordinance of the Code of Ordinances of the City of Lowell is amended to change the zone district classification of real property located at 211-225 South Washington Street legally described as Lots 8, 9 and 10, Block 17 of Avery's Plat and 330 South Washington Street legally described as Lot 1, Block 21 of Avery's Plat from R-3 Residential District to L-I Light Industrial District.

(Ord. No. 07-04, § 1, 5-7-07)

- (o) That the "Official Zoning Map" as referenced in Section 3.02 of Chapter 3 of the Zoning Ordinance of the Code of Ordinances of the City of Lowell is amended to change the zone district classification of real property located at 119 Lincoln Lake Avenue legally described as the south one B half of Lots 5 and 6, Block 18 of Richards & Wickhams Plat from PF Public Facilities District and at 424 Chatham Street legally described as the north one-half of Lots 5 and 6, Block 18 of Richards & Wickhams Plat from R-3 Residential District to C-3 General Business District.

(Ord. No. 10-03, § 1, 9-7-10)

- (p) The "Official Zoning Map" as referenced in Section 3.02 of Chapter 3 of the Zoning Ordinance of the Code of Ordinances of the City of Lowell is amended to change the zone district classification of real property located at 312 East Main Street, Permanent Parcel Number 41-20-02-430-011, and 318 East Main Street, Permanent Parcel Number 41-20-430-012, from I Industrial District to C-2 Central Business District.

(Ord. No. 14-03, § 1, 12-15-14)

- (q) The "Official Zoning Map" as referenced in Section 3.02 of Chapter 3 of the Zoning Ordinance of the Code of Ordinances of the City of Lowell is amended to change the zone district classification of real properties identified below from their



existing classification to MU Mixed Use District.

Street Address	Permanent Parcel No.	Current Zone District Classification	New Zone District Classification
300 High Street S.E.	41-20-02-260-001	PF Public Facilities	MU Mixed Use
238 High Street S.E.	41-20-02-404-003	PF Public Facilities	MU Mixed Use
307 East Main Street S.E.	41-20-02-407-007	C-3 General Commercial	MU Mixed Use
309 East Main Street S.E.	41-20-02-407-008	C-3 General Commercial	MU Mixed Use
311 East Main Street S.E.	41-20-02-407-022	C-3 General Commercial	MU Mixed Use
317 East Main Street S.E.	41-20-02-407-027	C-3 General Commercial	MU Mixed Use
319 East Main Street S.E.	41-20-02-407-028	C-3 General Commercial	MU Mixed Use
321 East Main Street S.E.	41-20-02-407-029	C-3 General Commercial	MU Mixed Use
140 North Washington Street S.E.	41-20-02-407-021	C-3 General Commercial	MU Mixed Use
411 East Main Street S.E.	41-20-02-427-010	C-3 General Commercial	MU Mixed Use
413 East Main Street S.E.	41-20-02-427-011	C-3 General Commercial	MU Mixed Use
404 Avery Street S.E.	41-20-02-427-001	C-3 General Commercial	MU Mixed Use
427 East Main Street S.E.	41-20-02-427-008	C-3 General Commercial	MU Mixed Use
112 North Jefferson Street S.E.	41-20-02-427-007	C-3 General Commercial	MU Mixed Use

426 Avery Street S.E.	41-20-02-427-003	C-3 General Commercial	MU Mixed Use
503 East Main Street S.E.	41-20-02-428-014	C-3 General Commercial	MU Mixed Use
111 North Jefferson Street S.E.	41-20-02-428-003	C-3 General Commercial	MU Mixed Use
513 East Main Street S.E.	41-20-02-428-015	C-3 General Commercial	MU Mixed Use
517 East Main Street S.E.	41-20-02-428-009	C-3 General Commercial	MU Mixed Use
519 East Main Street S.E.	41-20-02-428-010	C-3 General Commercial	MU Mixed Use
312 East Main Street S.E.	41-20-02-430-014	C-2 Central Business	MU Mixed Use
318 East Main Street S.E.	41-20-02-430-012	C-2 Central Business	MU Mixed Use
414 East Main Street S.E.	41-20-02-431-014	C-3 General Commercial	MU Mixed Use
422 East Main Street S.E.	41-20-02-431-003	C-3 General Commercial	MU Mixed Use
430 East Main Street S.E.	41-20-02-431-004	C-3 General Commercial	MU Mixed Use
116 South Jefferson Street S.E.	41-20-02-431-005	C-3 General Commercial	MU Mixed Use
504 South Main Street S.E.	41-20-02-432-008	C-3 General Commercial	MU Mixed Use
121 South Jefferson Street S.E.	41-20-02-432-007	C-3 General Commercial	MU Mixed Use
512 East Main Street S.E.	41-20-02-432-002	C-3 General Commercial	MU Mixed Use

(Ord. No. 15-02, § 1, 2-17-15)

(r) The "Official Zoning Map" as referenced in Section 3.02 of Chapter 3 of the Zoning Ordinance of the Code of Ordinances of the City of Lowell is amended to change the zone district classification of real properties identified below from their current zone district classifications to their new zone district classifications.

Street Address	Permanent Parcel No.	Current Zone District Classification	New Zone District Classification
725 Bowes Road	41-20-01-382-011	R-2/R-3 Residential	R-3 Residential
199 South Pleasant Street	41-20-02-356-011	R-2 Residential	R-3 Residential
203 South Pleasant Street	41-20-02-356-012	R-2 Residential	R-3 Residential
205 South Pleasant Street	41-20-02-356-013	R-2 Residential	R-3 Residential
1111 Bowes Road	41-20-03-478-045	C-3 General Commercial	R-2 Residential

(Ord. No. 15-05, § 1, 6-15-15)

(s) The "Official Zoning Map" as referenced in Section 3.02 of Chapter 3 of the Zoning Ordinance of the Code of Ordinances of the City of Lowell is amended such that the parcels in the list below are rezoned as indicated.

Parcel ID	Address	Current Zoning	Proposed Zoning
41-20-10-100-015	2104 Bowes Rd	F-1 Floodplain	I-General Industrial and RE River's Edge
41-20-11-106-002	812 Bowes Rd	R3 Multiple Family Residential and F-1 Floodplain	RE River's Edge
41-20-11-126-003	500 S Hudson St	R3 Multiple Family Residential and F-1 Floodplain	R3 Multiple Family Residential and RE River's Edge
41-20-11-251-001	499 Dansville Ave	F-1 Floodplain	RE River's Edge
41-20-11-203-001	925 S Hudson St	F-1 Floodplain	SR Suburban Residential and RE River's Edge

41-20-11-227-007	775 Grand River Dr	F-1 Floodplain	SR Suburban Residential and RE River's Edge
41-20-11-230-001	675 Grand River Dr	F-1 Floodplain	SR Suburban Residential and RE River's Edge
41-20-02-440-003	504 Front St	F-1 Floodplain	PF Public Facilities and RE River's Edge
41-20-01-351-004	351 S Jackson St	F-1 Floodplain	RE River's Edge
41-20-01-307-007	125 S Division St	F-1 Floodplain	SR Suburban Residential and RE River's Edge
41-20-01-305-009	125 S Grove St	F-1 Floodplain	RE River's Edge
41-20-01-305-010	950 E Main St	F-1 Floodplain	RE River's Edge
41-20-01-308-003	920 Railroad St	F-1 Floodplain	RE River's Edge
41-20-01-306-009	1001 Railroad St	F-1 Floodplain	R2-Single or Two-Family Residential and RE River's Edge
41-20-01-376-004	1275 Grand River Dr	F-1 Floodplain	RE River's Edge
41-20-01-376-003	1255 Grand River Dr	F-1 Floodplain	RE River's Edge
41-20-01-376-005	1295 Grand River Dr	F-1 Floodplain	RE River's Edge

( Ord. No. 16-02, § 10, 5-16-16)

(t) The "Official Zoning Map" as referenced in Section 3.02 of Chapter 3 of the Zoning Ordinance of the Code of Ordinances of the City of Lowell is amended to amend the zone district classification of real property located at 1100 Sibley Street, S.E., Permanent Parcel No. 41-20-03-477-022, from its existing classification of PF Public Facilities District to R-2 Residential District.

( Ord. No. 18-03, § 1, 6-18-18)

(u) The "Official Zoning Map" as referenced in Section 3.02 of Chapter 3 of the Zoning Ordinance of the Code of Ordinances of the City of Lowell is amended to amend the zone district classification of real property located at 2560 Bowes St. SE, Permanent Parcel No. 41-20-03-371-004, from its existing classification of I Industrial to PF Public Facilities.

( Ord. No. 19-01, § 1, 4-1-19)

- (v) The "Official Zoning Map" as referenced in Section 3.02 of Chapter 3 of the Zoning Ordinance of the Code of Ordinances of Lowell is amended to rezone the subject property located at 219 High Street to the PUD-Planned Unit Development zoning district designation.

( Ord. No. 19-05, § 3, 9-16-19)

- (w) The "Official Zoning Map" as referenced in Section 3.02 of Chapter 3 of the Zoning Ordinance of the Code of Ordinances of the City of Lowell is amended to amend the zone district classification of real property located at 601 W. Main Street, Permanent Parcel No. 41-20-02-340-008, 611 W. Main Street, Permanent Parcel No. 41-20-02-340-007, 617 W. Main Street, Permanent Parcel No. 41-20-02-340-006, 623 W. Main Street, Permanent Parcel No. 41-20-02-340-005, 124 Amity Street, Permanent Parcel No. 41-20-02-340-004 and 608 Chatham Street, Permanent Parcel No. 41-20-02-340-003 to C-1-Neighborhood Business.

( Ord. No. 19-08, § 1, 11-18-19)

## CHAPTER 24. - OPEN SPACE PRESERVATION

### Footnotes:

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**Editor's note**— *Ord. No. 03-2, § 3, adopted Feb. 18, 2003, set out provisions intended for use as Appendix A, Chapter 23. Inasmuch as Chapter 23 already exists and at the editor's discretion, these provisions have been included as Chapter 24.*

### Section 24.01. - Purpose.

Act 179 of the Public Acts of Michigan of 2001 ("Act 179) an amendment to the City and Village Zoning Act, Act 207 of the Public Acts of Michigan of 1921, as amended, requires that a city who has adopted a zoning ordinance having a population of one thousand eight hundred (1,800) or more and having undeveloped land zoned for residential development at a certain density must adopt provisions in its zoning ordinance known as "open space preservation" provisions which permit land satisfying specified criteria to be developed, at the option of the landowner, with the same number of dwellings on a portion of the land specified in the zoning ordinance, but not more than eighty (80) percent, that, as determined by the city, could otherwise be developed, under existing ordinances, laws and rules, on the entire land area. The purpose of this chapter is to adopt open space preservation provisions consistent with the requirements of Act 179.

(Ord. No. 03-2, § 3, 2-18-03)

### Section 24.02. - Qualifying conditions.

- A. Land may be developed under the provisions of this chapter only if each of the following conditions is satisfied:
1. The zoning district in which the land is located shall permit development at a density equivalent to two or fewer dwelling units per acre, if the land is not served by a public sewer system, or shall permit development at a density equivalent to three or fewer dwelling units per acre, if the land is served by a public sanitary sewer system;
  2. The development of land under this chapter shall not depend upon the extension of a public sanitary sewer or a public water supply system to the land, unless the development of the land without the exercise of the clustering option provided by this chapter would also depend on such extension;
  3. The clustering option provided pursuant to this chapter shall not have previously been exercised with respect to the same land; and
  4. The undeveloped twenty (20) percent (or more) portion of the land must remain in a perpetually undeveloped state by way of a binding legal restriction.

- B. If all of the preceding conditions are satisfied, the land may be developed, at the option of the landowner, in accordance with provisions of this chapter.

(Ord. No. 03-2, § 3, 2-18-03)

Section 24.03. - Permitted uses.

Only those land uses permitted by the zoning district in which the land is located shall be permitted on land developed or used pursuant to the provisions of this chapter.

(Ord. No. 03-2, § 3, 2-18-03)

Section 24.04. - Application and review procedure.

- A. The application requirements and review procedures for land proposed to be developed pursuant to the provisions of this chapter shall be those stated in chapter 18 of this appendix, governing site plans, except as otherwise provided in this section.
- B. In addition to the application materials required by chapter 18 of this appendix, an application for the development of land under the provisions of this chapter shall include the following:
1. An existing zoning plan prepared for the purpose of demonstrating the number of dwelling units that could be developed on the land under its existing zoning if the clustering option provided by this chapter were not exercised. The existing zoning plan may be conceptual in nature but shall include at least the following information:
    - a. Date, north arrow and scale, which shall not be more than 1" = 100', and, in all cases, the scale shall be the same as that utilized for the site plan illustrating proposed development using the clustering option permitted by this chapter.
    - b. Location of streets and driveways.
    - c. Location of all lots, illustrating lot area and width and depth of each lot to demonstrate compliance with the minimum requirements of the applicable zoning district.
    - d. Location of all utilities that would be necessary to serve a development under the existing zoning plan and which would not be located within any public road right-of-way or private street easement, or on buildable lots. Such utilities include, but are not limited to, storm water retention or detention basins, public sewage treatment systems and public water supply facilities.
    - e. If development under the existing zoning plan would require the use of septic tanks and drain fields, the existing zoning plan shall illustrate the location of all septic tanks and drain fields. The applicant shall submit proof that the proposed septic tank and drain field location for each lot would be approved, or has been approved, by the Kent County Health Department.
    - f. The existing zoning plan shall illustrate all unbuildable land, which shall include slopes of twenty (20) percent or greater, regulated and unregulated wetlands, public utility easements, flood plains, and other similar features which limit or prevent construction of buildings or roads. Each lot shown on the existing zoning plan shall contain at least 75% of the minimum requirement of the minimum lot area of the applicable district.
  2. A copy of the conservation easement, plat dedication, restrictive covenant or other legal instrument that would run with the land, and that would have the legal effect of preserving in perpetuity the open space required by this chapter in an undeveloped state. Such legal instrument shall be reviewed by the city attorney prior to recording, and shall be subject to the approval of the city attorney, consistent with the terms of this chapter. The legal instrument shall:
    - a. Indicate the proposed permitted use(s) of the undeveloped open space.

- b. Require that the open space be maintained in perpetuity in an undeveloped condition, without buildings, structures improvements, except such drainage improvements, utility lines, riding trails, hiking trails, picnic areas, park or play equipment, agricultural structures or similar improvements that are approved by the planning commission.
  - c. Require that the undeveloped open space be maintained by the parties who have an ownership interest in the undeveloped open space.
  - d. Provide standards for scheduled maintenance of the undeveloped open space, including necessary pruning and harvesting of trees and new plantings.
3. The site plan for the clustering option permitted by this chapter shall include the following minimum information, in addition to that required by chapter 18 of this ordinance:
- a. Date, north arrow and scale which shall not be more than 1" = 100', and, in all cases, the scale shall be the same as that utilized for the existing zoning plan.
  - b. The site plan shall clearly illustrate the portions of the land that are proposed to remain in a perpetually undeveloped state and the portions of the land that will be used for clustered development.
  - c. The site plan shall indicate the total number of acres of land that are proposed to remain in a perpetually undeveloped state, the total number of acres of land that are proposed to be used for clustered development, and the percentage of each, as compared to the total site acreage.
  - d. The site plan shall illustrate the location of all proposed lots and proposed building envelopes and shall indicate the lot area and width of each lot, and the proposed front, side and rear yard building setbacks. The number of proposed dwelling lots on the site plan shall not exceed the number of lots on the existing zoning plan, as approved by the planning commission, and reduced to accommodate non-dwelling structures, if necessary, as described in section 5.L. hereof.
  - e. The site plan shall illustrate the location and type of all proposed structures or improvements that are not dwellings.
  - f. If the clustered development will include septic tanks and drain fields, the site plan shall illustrate the location of all septic tanks and drain fields. The applicant shall submit proof that the proposed septic tank and drain field location for each lot has been approved by the Kent County Health Department.
4. If the development is to be served by public or private streets, proof that the city has approved the design, layout and construction of the streets.
- C. When reviewing an application submitted pursuant to this chapter, the planning commission shall determine whether the existing zoning plan accurately reflects the number of dwelling units that could be developed on the land under its existing zoning if the clustering option provided by this chapter were not exercised. If the planning commission determines that the number of dwellings illustrated on the existing zoning plan exceeds the number of dwellings that could be permitted on the land if it were developed under its existing zoning, if the clustering option provided by this chapter were not exercised, the applicant shall submit a revised site plan for the clustering option reflecting the permitted number of dwellings, as determined by the planning commission.
- D. If a site plan satisfies all requirements of this ordinance, all requirements of this chapter and all conditions of approval imposed by the planning commission, the planning commission shall approve the site plan. If the cluster option permitted by this chapter is proposed as a platted subdivision or a site condominium development, the applicant shall also demonstrate compliance with all requirements of the Land Division Act, Act 283 of the Public Acts of Michigan of 1967, as amended, before the planning commission may approve the development.

(Ord. No. 03-2, § 3, 2-18-03)

- A. *Required Open Space.* At least twenty (20) percent, but no more than forty (40) percent of the land proposed for development under the provisions of this chapter shall remain in a perpetually undeveloped state (i.e., "open space") by means of a conservation easement, plat dedication, restrictive covenant or other legal instrument that runs with the land, as approved city attorney. The following areas shall not constitute open space:
1. The area within all public street rights-of-way.
  2. The area within all private street easements.
  3. Any easement for overhead utility lines, unless adjacent to open space.
  4. The area within a platted lot, site condominium unit or metes and bounds parcel occupied by a structure not permitted to be located in open space.
  5. Off street parking and/or loading areas.
  6. Detention and retention ponds.
  7. Community drain fields.
  8. Wetlands, creeks, streams, ponds, lakes, or other bodies of water.
  9. Floodplains and steep slopes (twenty (20) percent or over).
- B. *Standards for Open Space.* The following standards shall apply to the open space required pursuant to this chapter:
1. The open space shall not include a golf course.
  2. The open space may include a recreational trail, picnic area, children's play area, greenway, linear park, an agricultural use or other use which, as determined by the planning commission, is substantially similar to these uses.
  3. The open space shall be available for all residents of the development, subject to reasonable rules and regulations. The open space may be, but is not required to be, dedicated to the use of the public.
  4. If the land contains a lake, stream or other body of water, the planning commission may require that a portion of the open space abut the body of water.
  5. A portion of the open space shall be located along the public street frontage abutting the land. The depth of this area shall be at least 50 feet, not including public right-of-way, and this area shall be left in its natural condition or be landscaped to help reduce the view of houses on the land from the adjacent roadway and to preserve the rural view.
  6. A portion of the open space shall be reasonably useable by the residents of the land for passive recreational uses such as hiking or picnicking.
  7. Open space shall be located so as to be reasonably accessible to the residents of the clustered development. Safe and convenient pedestrian access points to the open space from the interior of the clustered development shall be provided.
  8. Open space shall be located so as to preserve significant natural resources, natural features, scenic or wooded conditions, bodies of water, wetlands or agricultural land. If these type of land features are not present on the land, then the open space shall be centrally located, along the road frontage.
  9. Open space shall be linked with any adjacent open spaces, public parks, bicycle paths or pedestrian paths, unless otherwise approved by the planning commission.
- C. *Use of Open Space.* All dwelling units and other structures and improvements shall be located outside that portion of the land designated as open space. However, the planning commission, in its discretion, may permit structures or improvements to be located in the open space if the structures and/or improvements would be consistent with the designated purpose of the open space. By way of example only, park or playground equipment could be permitted on open space designated for recreational use, or agricultural structures could be permitted on open space designated for agricultural use.
- D. *Compliance With Zoning District.* The development of land under this chapter shall comply with all requirements of this



ordinance applicable to the zoning district in which the land is located, except those setback and yard size requirements that must be adjusted to allow the clustering option permitted under this chapter.

E. *General Design Standards.*

1. All lots within a clustered development shall be provided access by an interior public or private street. No individual lot shall have direct access to any street other than those constructed to serve the clustered development.
2. Areas in which natural vegetation and terrain is left undisturbed shall be provided along existing public roads and adjacent property lines of sufficient width to screen buildings from adjacent roadways and properties.
3. Lots shall be located toward the interior of the development, or shall be located behind existing natural features so as to screen dwellings from existing public roads and adjacent properties.
4. The entrance or entrances to the development shall be no wider than necessary to accommodate any necessary acceleration lanes and provide adequate sight distance. Boulevards, landscaping, planters, fences and other amenities designed to call attention to the development may be permitted with the approval of the planning commission.
5. The development shall be designed so as to minimize additional runoff from roads, roofs, driveways and other improvements. Further, the development shall be designed, to the maximum extent possible, to minimize runoff from improvements into lakes, streams and wetlands.
6. The planning commission may require the preservation of existing desirable vegetation within lots, except as necessary for the construction of buildings, drain fields and driveways.
7. The planning commission may require that individual lots have shared driveways to minimize the removal of vegetation or the alteration of existing slopes.

F. *Uniform Lot Size.* Lots for dwellings in the clustered portion of the development shall be as uniform in area as is reasonably practicable, unless otherwise approved by the planning commission.

G. *Building Envelopes.* The location and area of building envelopes, as proposed by the applicant, shall be subject to the review and approval of the planning commission. Building envelopes shall not be located on top of prominent hilltops, ridges or steep slopes, or in proximity to wetlands or other sensitive areas.

H. *Required Frontage.* Each lot shall have a minimum of fifty (50) feet of frontage measured at the street right of way line.

I. *Lot Width.* Each lot shall have a minimum width equal to no less than sixty (60) percent of the minimum lot width specified for the zoning district in which the land is located, unless otherwise approved by the planning commission.

J. *Maximum Number of Lots.* The clustered portion of the development shall contain no more than the maximum number of dwelling lots, as determined from the existing zoning plan approved by the planning commission, and as reduced to reflect the inclusion of non-dwelling unit structures, if any, as described in subsection L. below.

K. *Non-Dwelling Unit Structures.* Lots containing non-dwelling structures such as a clubhouse and its related amenities or an accessory building, shall be subject to all requirements of this chapter applicable to lots containing dwellings and shall further be subject to all other requirements of this ordinance and other city ordinances applicable to the type of structure proposed. However, the planning commission may, in its discretion, permit the enlargement of a lot containing a non-dwelling structure so as to reasonably accommodate it.

L. *Reduction in Lots for Non-Dwelling Structures.* If structures other than dwellings, such as a clubhouse, are constructed on a lot in the clustered portion of the land, the number of dwelling lots permitted in the clustered portion of the land shall be reduced as follows:

1. The area of a lot or lots occupied by non-dwelling structures, shall be calculated and then divided by the average area of a dwelling lot that could be situated in the clustered development if the non-dwelling structures were not included in the clustered development, as determined from the approved existing zoning plan. If this number is a fraction, it shall be rounded up to the nearest whole number.

2. The number calculated under 1. above shall be subtracted from the number of dwelling lots that could be permitted in the clustered development in the absence of the non-dwelling structures, as determined from the approved existing zoning plan, in order to determine the maximum number of dwelling lots permitted to be included in the clustered portion of the development with the non-dwelling structures included.
- M. *Perimeter Lots.* Notwithstanding any other provision of this chapter, the planning commission may require that the clustered development be designed and constructed with lot sizes and setbacks on the perimeter that will be reasonably consistent with the lot sizes and setbacks of adjacent planned or existing uses.
- N. *Sidewalks.* Sidewalks shall be installed in the clustered portion of the development extending to the public right-of-way.
- O. *Grading.* Grading within the clustered development shall comply with the following requirements:
1. To preserve the natural appearance of the land, all graded areas, cuts and fills shall be kept to a minimum. Specific requirements may be placed on the area of land to be graded or to be used for building, and on the size, height, and angles of cut-and-fill slopes and the shape thereof. Retaining walls may be required.
  2. All areas indicated as open space on the approved development plan shall be undisturbed by grading, excavating, structures or otherwise, except as permitted by the Planning Commission. Drainage improvements, utility lines, riding trails, hiking trails, picnic areas and similar recreational improvements and amenities may be placed in open space areas if approved by the planning commission.
  3. Grading within the clustered development shall be planned and carried out so as to avoid erosion, pollution, flooding or other adverse effects upon the land, and so as to have only such minimal effect upon the environmental characteristics of the land as may be reasonably feasible.
- P. *Streets.* Private streets within a clustered development shall conform to the private street requirements of the city. The planning commission may, however, following consultation with the fire chief and other public safety officials as appropriate, allow a reduction in the minimum right-of-way and roadbed width requirements for all or a portion of the street to minimize the removal of vegetation or alteration of natural slopes. The Planning Commission may require that portions of private streets with reduced widths be designated as one-way only.
- Q. *Other Laws.* The development of land under this chapter is subject to all other applicable city ordinances, state and federal laws, rules and regulations, including, but not limited to, rules relating to suitability of groundwater for on-site water supply for land not served by a public water system, and rules relating to the suitability of soils for on-site sewage disposal for land not served by public sanitary sewers.

(Ord. No. 03-2, § 3, 2-18-03)

Section 24.06. - Amendments to an approved site plan.

- A. An approved clustered site plan and any conditions imposed upon its approval shall not be changed except upon the mutual consent of the planning commission and the applicant, except as otherwise stated below with respect to a minor change.
- B. A minor change which does not substantially alter the basic design or conditions of the site plan approved by the planning commission may be approved by the city manager who shall notify the planning commission of such change.
- C. The following items shall be considered minor changes:
  1. Reduction of the size of any building, building envelope or sign.
  2. Movement of buildings or signs by no more than ten feet.
  3. Plantings approved in the landscaping plan replaced with by similar types of plantings.
  4. Changes requested by the city for safety reasons.
  5. Changes which will preserve natural features of the land without changing the basic site layout.

6. Other similar changes of a minor nature proposed to be made to the configuration, design, layout or topography of the which are deemed by the city manager to be not material or significant in relation to the entire site and which the city n determines would not have any significant adverse effect on the development or on adjacent or nearby lands or the pu safety and welfare.
- D. The city manager may refer any decision regarding any proposed change in an approved site plan to the planning commission for review and approval (regardless of whether the change may qualify as a minor change). In making a determination on whether to refer a change to the planning commission for review and approval, the city manager may consult with the chairperson of the planning commission.
- E. If the city manager determines that a requested change in the approved site plan is not minor, re-submission to the planning commission for an amendment shall be required, and the consideration thereof shall take place in the same manner as for an original application.

(Ord. No. 03-2, § 3, 2-18-03)

#### Section 24.07. - Performance guarantees.

The planning commission, in its discretion, may require reasonable performance guarantees or assurance deemed satisfactory to it under the circumstances of a particular development. Such arrangements shall be conditioned upon faithful compliance with all of the provisions and requirements of the approved clustered site plan, including any conditions thereto, and construction and placement of all the improvements required thereby. In its discretion, the planning commission may rebate, refund or permit the reduction of a proportionate share of the amount specified in a performance bond, letter of credit, or other written assurance, based upon the percent of improvements completed, as verified by the planning commission.

(Ord. No. 03-2, § 3, 2-18-03)

#### Section 24.08. - Time limitations of development.

Each development permitted pursuant to this chapter shall be under construction within one year after the date of approval of the site plan by the planning commission. If this requirement is not met, the planning commission may, in its discretion, grant an extension not exceeding one year, provided that the applicant submits reasonable documentation that unforeseen difficulties or special circumstances have been encountered causing delay in the commencement of the development. If construction of the development has not begun within the one-year stated time period, or within any authorized extension thereof, any building permits issued for the development or any part thereof shall terminate and the applicant shall be required to obtain a new approval from the planning commission under the terms of this chapter.

(Ord. No. 03-2, § 3, 2-18-03)

#### Section 24.09. - Definitions.

Words and phrases used in this chapter, if defined in Act 179, shall have the same meaning as provided in Act 179.

(Ord. No. 03-2, § 3, 2-18-03)