

Chapter 60 ZONING¹

ARTICLE I. TITLE, PURPOSE AND SCOPE

Sec. 60-1. Short title.

This chapter shall be known and cited as the "City of New Baltimore Zoning Ordinance."

(Ord. No. 158, § 1.00, 9-22-2008)

Sec. 60-2. Purpose and intent.

- (a) The purposes of this chapter are to:
- (1) Promote the public health, safety, morals and general welfare;
 - (2) Encourage the use of lands in accordance with their character and adaptability;
 - (3) Limit the improper use of land;
 - (4) Avoid the overcrowding of population;
 - (5) Provide adequate light and air;
 - (6) Avoid congestion on the public roads and streets;
 - (7) Reduce hazards to life and property;
 - (8) Facilitate adequate provisions for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements; and
 - (9) Conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties.
- (b) In reaching these objectives, the city will give reasonable consideration to the character of each district, its peculiar suitability for particular uses, the general and appropriate trend, and the character of land, buildings

¹Editor's note(s)—Ord. No. 158, adopted September 22, 2008, provided for the adoption of a new Zoning Code of Ordinances, included as Chapter 60 of this volume. Former Chapter 60 pertained to zoning and was derived from Ord. No. 116, §§ 1, 2, adopted August 25, 2003, and subsequently amendatory ordinances cited in the Code Comparative Table at the end of this volume.

Cross reference(s)—Any ordinance pertaining to zoning map amendments saved from repeal, § 1-11(a)(15); buildings and building regulations, ch. 10; community development, ch. 18; environment, ch. 20; floods, ch. 24; historical preservation, ch. 26; land divisions and subdivisions, ch. 28; planning, ch. 38; signs, ch. 42; zoning district regulations for signs, § 42-66 et seq.; streets, sidewalks and other public places, ch. 48; telecommunications, ch. 50; waterways, ch. 58.

State law reference(s)—Authority to regulate land use, MCL 125.3101 et seq.; municipal planning, MCL 125.3801 et seq.

and population development, as studied, recommended and/or adopted within the master plan by the City of New Baltimore Planning Commission and the New Baltimore City Council.

(Ord. No. 158, § 1.01, 9-22-2008)

Sec. 60-3. Scope and interpretation.

- (a) The provisions of this chapter shall be considered as minimum standards and requirements within each respective zoning district and shall not preclude the establishment of higher or more restrictive standards or requirements for the authorization of any special land use permit by the City of New Baltimore where such higher or more restrictive conditions meet the following state requirements and are found necessary after review by the city planning commission to attain the intent of this chapter.
- (b) Reasonable conditions may be required with the approval of a conditional use, planned unit development, or other land uses or permitted activities necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Such conditions imposed shall meet all of the following requirements:
 - (1) Be designed to protect natural resources; the health, safety, welfare, and social and economic well being of those who will use the land use or activity under construction; residents and landowners immediately adjacent to the proposed land use or activity; and the community as a whole.
 - (2) Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
 - (3) Be necessary to meet the intent and purpose of this chapter; be related to the standards established herein for the land use or activity under consideration; and be necessary to ensure compliance with these standards.

(Ord. No. 158, § 1.02, 9-22-2008)

Secs. 60-4—60-20. Reserved.

ARTICLE II. SITE PLAN REVIEW AND APPROVAL²

Sec. 60-21. Intent.

Site plan review provides the city with an opportunity to review the proposed use of a site in relation to all applicable provisions of the zoning ordinance and city planning. Site plan review also provides the city with an opportunity to review the relationship of the plan to surrounding uses, accessibility, on and off-site pedestrian and vehicular circulation, off-street parking, public utilities, drainage, natural features, screening, and other relevant factors which may have an impact on the public health, safety and general welfare.

(Ord. No. 158, § 2.00, 9-22-2008)

²State law reference(s)—Site plans, MCL 125.3501.

Sec. 60-22. Planning standards.

In reviewing all applications for site plan approval, the planning commission shall consider the plan in relation to the following standards:

- (1) *Vehicular access and circulation.*
 - a. *Access.* The location and design of driveways providing vehicular access to the site shall be arranged to promote the safety and convenience of vehicles and pedestrians and to provide access in a manner that promotes proper internal circulation and minimizes on-site curb cuts, taking into consideration such issues as proper driveway alignment, driveway spacing and internal connectivity between sites. The planning commission shall require public streets adjacent or through a proposed development when it is necessary for the public health, safety and welfare, and/or provide continuity to the public road system. In those instances where the planning commission determines that there are an excessive number of curb-cuts in relation to abutting public roads, thereby diminishing the capacity of the road or creating excessive points of conflict, a reduction in the number of driveways shall be required.
 - b. *Circulation.* On-site circulation shall be clearly indicated on the plan. Access lanes, maneuvering lanes, parking stalls, stacking lanes, loading/unloading bays and doors, shall be designed in a manner that promotes the general safety, convenience, and interaction of both vehicles and pedestrians. The relationship to and the impacts upon adjacent properties shall also be considered.
- (2) *Relationship to surrounding property.* All site development features shall be arranged to minimize the potential for negatively impacting surrounding property. In making this determination, the planning commission shall review the plan for negative conditions, such as, but not limited to:
 - a. Channeling excessive traffic onto local residential streets.
 - b. The lack of adequate screening of parking, maneuvering, or service areas.
 - c. Excessive visual pollution caused from lighting and debris.
 - d. The building structure and use shall be generally consistent in size, scale, and intensity with the adjacent uses.
 - e. The impediments to the access of emergency vehicles.
- (3) *Relationship to natural features.* All buildings, driveways, parking lots, and site improvements shall be designed to be compatible with all natural features on-site. The site buildings and improvements shall not encroach into the physical characteristics of the site, such as wetlands, floodplains and natural drainage ways, and shall minimize the impact on environmental features, including, but not limited to, woodlands, slopes and sensitive soils. The proposed development shall not needlessly have an adverse impact on the natural environment of the site or the surrounding area. In no way shall natural drainage ways or other natural water retention bodies be altered in a manner that reduces or significantly alters the current drainage location, patterns or volumes.
- (4) *Infrastructure.* The planning commission shall consider the city engineer's evaluation of the adequacy of public or private utilities proposed to serve the site, including water, sanitary sewers and stormwater retention.

(Ord. No. 158, § 2.01, 9-22-2008)

Sec. 60-23. Submission requirements.

- (a) A site plan shall be submitted for review by the planning commission whenever one or more of the following conditions apply:
- (1) Whenever a building permit is required for the erection or structural alteration of a building (other than single-family homes, farm buildings, or accessory structures to these uses).
 - (2) For the construction, use, or establishment of a new or expanded parking or storage area.
 - (3) For all special land uses.
 - (4) For any change in use or class of use as determined significant by the city.
 - (5) The erection of, or addition to, any major utility service facilities, including towers, substations, pump stations and similar facilities.

The planning commission may delegate authority to the building official, city engineer and/or city planner to waive, upon unanimous consent, the site plan submission requirement when the proposed building or site change is minimal.

- (b) A required site plan shall include the entire site under the control or ownership of the applicant with all areas proposed for improvement and all unplanned areas also included. All site plans submitted for consideration shall include the following information:
- (1) *General site data.*
 - a. The site plan shall be prepared by and carry the seal and signature of the registered architect, landscape architect, community planner, land surveyor or professional engineer who prepared it, and shall consist of one or more sheets necessary to adequately provide the required data.
 - b. The dimensions of all improvements and yards shall be labeled in a manner that clearly indicates the plan's compliance with the applicable zoning ordinance standards and requirements.
 - c. North point and scale should customarily be provided at 1" = 20', or 1" = 30'. For large-scale development, 1" = 50' or 1" = 100' may be acceptable, provided all important typical areas and chapter requirements are thoroughly detailed in clearly recognizable form and presented at the customary scale.
 - d. Complete legal description.
 - e. Parcel identification number.
 - f. Size of the site.
 - g. Location map showing major roads, nearby cross-streets and property lines, where necessary.
 - h. Zoning of site and all surrounding property. If the site has split zoning, show the line between the districts.
 - i. Proposed address, if available.
 - j. Location of existing structures and improvements. Indicate if any such structure or improvement is to be removed.
 - k. Location of proposed structures and improvements.
 - l. Yards/setbacks and critical dimensions between buildings and other site improvements.
 - m. Existing improvements (buildings, parking, driveways, sidewalks, signs, fences, walks, etc.) within 200 feet of all property lines.

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- n. Topography at two-foot contours (existing and proposed).
 - o. Benchmarks with USGS reference points.
 - p. Recorded easements and rights-of-way with liber and page numbers.
- (2) *Building plans.*
- a. All architectural building elevations (front, sides and rear).
 - b. Type of surface material and design of all exterior surfaces.
 - c. Dimensioned floor plans (principal and accessory buildings).
 - d. Decks and/or patios (dimensions, location, height and materials).
 - e. All exterior appliances, such as cooling towers, dust collectors, condensers, evaporators and the like, and method of screening.
- (3) *Access, parking and circulation.*
- a. Existing and proposed rights-of-way for all abutting roads.
 - b. Location and dimensions of all driveways and street approaches.
 - c. Indicate the type of surface (paving).
 - d. Parking spaces (location, number, dimensions, aisle dimensions and surface material).
 - e. Site circulation pattern (direction of pedestrian and vehicular traffic flow if one-way or not obvious from the arrangement).
 - f. Identification of all fire lanes.
 - g. Sidewalks, interior walks and their connection. Interior sidewalks shall provide a connection to the eight-foot exterior sidewalk.
 - h. Sidewalks, eight-foot asphalt along all exterior roadways.
 - i. Carport locations and details (including architectural elevations).
 - j. Location of emergency access roads.
- (4) *Environmental features.*
- a. Complete landscaping plan, including ground cover and the location, number, type and size of all proposed plantings.
 - b. Indications of trees and shrubs shall only be used on the site plan where trees and shrubs exist, or where such vegetation will be planted prior to occupancy. All such trees and shrubs shall be labeled as to size, type and whether existing or proposed.
 - c. A tree preservation plan as required by section 20-186.
 - d. Greenbelts, walls and/or berm details. (Provide at least one cross-section for each type used.)
 - e. Site irrigation (sprinklers). Indicate all areas to be irrigated.
 - f. Treatment of all undeveloped areas (such as seeded, sodded, plantings, maintenance or other).
 - g. Trash receptacles and method of screening.
 - h. Site lighting details (location, height, type, intensity, method of shielding, and a ground level illumination plan (if required)).

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- i. Wetlands, as determined by a wetlands consultant, shall be indicated on the plan if wetlands are suspected or known to exist on a site, or if a general wetlands map indicates the potential presence of a wetland in the area of the site. A Level 3 wetland assessment from the Michigan Department of Environmental Quality will be required prior to final approval.
- (5) *Other information.*
- a. Location of all site utilities including fire hydrants and fire department connections (if applicable) as approved by the fire chief.
 - b. Site drainage characteristics and improvements.
 - c. Park and/or recreation areas (show boundary and size in square feet).
 - d. Fences, screen walls, or other similar structures (location and details).
 - e. Statistical data shall be furnished, including: number of dwelling units; size of dwelling units (i.e., one-bedroom, two bedrooms and three bedrooms), if any; and the total gross acreage involved. (In the case of mobile home parks, the size and location of each mobile home site shall be shown.)
 - f. Where large equipment or machinery is to be installed as part of the development, the location, type, horsepower, fuel, dimensions, and other data of all such equipment and/or machinery shall be indicated.
 - g. Location of storage, use and disposal areas, if any, for hazardous substances, and evidence of approval by the applicable federal, state or local review agency.
 - h. List of hazardous substances used, stored or generated at the proposed facility, in accordance with procedures of the planning commission.
 - i. If phasing is proposed or intended, it shall be clearly shown on the site plan.
 - j. Traffic impact studies or market studies.
- (6) *Waivers.* Where it is determined by the planning commission that certain requirements of this section are not necessary to the review and understanding of the site, the planning commission may waive the requirements.

(Ord. No. 158, § 2.02, 9-22-2008)

Sec. 60-24. Review procedures.

- (a) *Submission.* The proposed site plan shall be submitted to the planning and zoning administrator, or other designated representative, who shall check the submission data and transmit it to the following departments, agencies and consultants, if applicable:
 - (1) Macomb County Road Commission or Michigan Department of Transportation, whichever is appropriate (applicant's responsibility).
 - (2) Macomb County Public Works Commissioner (applicant's responsibility).
 - (3) Macomb County Health Department (applicant's responsibility).
 - (4) Fire department.
 - (5) Building department.
 - (6) Assessor's office (check legal description).

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- (7) Water department.
 - (8) Sewer department.
 - (9) D.P.S.
 - (10) Construction inspector.
 - (11) City engineer.
 - (12) City planner.
 - (13) Police department.
 - (14) Planning commissioners (one for each).
 - (15) Planning commission file.
 - (16) Appropriate school district (residential plans).

Each department, agency or professional shall acknowledge the date of its receipt of the site plan for its inspection and comments. The planning and zoning department shall next submit the site plan with the available written comments from the various agencies and departments to the planning commission for review at the meeting at which the site plan is placed on the agenda.

- (b) *Submission deadline.* The site plan may be placed on the following agenda of the next regular planning commission meeting if it has been received a minimum of 20 business days prior to the meeting. The resubmission of a site plan that has already been in front of the planning commission at least one time shall submit plans a minimum of ten business days prior to the next regularly scheduled planning commission meeting.
- (c) *Planning commission review.* The site plan shall be reviewed by the planning commission with reference to the specific requirements of this chapter, including those items listed above and other factors to be considered by the city in planning and establishing zoning districts as authorized under this chapter. The commission shall also require review and comment from the city planner, city engineer and city attorney, where appropriate. Approval of the site plan (as submitted, or with additions, corrections or alterations) by the planning commission shall satisfy the requirements of this zoning ordinance. It shall not, however, exempt the petitioner from compliance with other city ordinances.
- (d) *City council review.* Upon determination of the planning commission that a site plan is in compliance with the zoning ordinance, the plans shall be forwarded to the city council for final approval. Approval of the site plan by the city council shall satisfy the requirements of this chapter.
- (e) *Approval period.* A site plan approval shall be valid for 12 months from the date of approval. If physical improvement of the site is not in actual progress at the expiration of the approval and diligently pursued to completion, the approval shall be null and void, unless renewed or extended by specific action of the city council. Any request for an extension shall be made in writing. If approval is not extended before expiration of the 12-month period, then a new application and a new approval shall be required before a building permit may be issued. The city council may grant a maximum of four extensions.
- (f) *Performance bonds.* The city council may require a cash deposit or irrevocable bank letter of credit acceptable to the city, covering the estimated cost of improvements associated with a project for which the site plan approval is sought, be deposited with the city clerk to ensure faithful completion of the improvements. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project.
- (g) *Review fees.* A site plan fee shall be required to cover the cost of review by the city's engineer, planner, and other professional and city services, in accordance with a schedule of fees as determined by the city council.

(h) *Compliance.*

- (1) Any construction, development and/or activity(ies) approved by the city, by and through the site plan review process, shall be undertaken and completed in strict compliance with the approved site plan of record.
- (2) The approved site plan of record shall include any properly recorded plan(s), map(s), drawing(s), photograph(s), specification(s), documents(s), and audio/video transcription(s) which serve to describe or illustrate any specific development, construction and/or activity approved by the city, by and through the site plan review process.
- (3) Developments will be reviewed by the Planning Commission as to their conformance with the approved site plan 12 months from the date of city council approval.

(Ord. No. 158, § 2.03, 9-22-2008)

Sec. 60-25. Site condominium subdivision and condominiums.

- (a) The intent of these requirements is to ensure that all site condominium subdivisions are developed in compliance with accepted planning and engineering standards applicable to similar forms of development, as reflected in the city's ordinances and requirements. All references to site condominiums are also meant to include condominiums within the provisions of this section.
- (b) Single-family detached condominiums may be allowed as a special land use in any single-family zoning district, subject to site plan review by the city. The review procedures for commercial and industrial site condominium subdivisions shall also be regulated by this section. Condominiums are permitted uses in all commercial, industrial and multiple-family districts.
 - (1) *Submission requirements.* All site condominium subdivision plans shall be submitted for review, as required by Article II of this chapter and Section 66 of the Condominium Act, and include the following additional information:
 - a. A boundary survey of the site condominium subdivision site.
 - b. A plan delineating all natural and man-made features on the site, including, but not limited to, drains, ponds, lakes, streams, floodplains, wetlands and woodland areas.
 - c. The location, size, shape, area and width of all condominium units and common areas and the location of all proposed streets.
 - d. A copy of the master deed and a copy of all restrictive covenants to be applied to the project. Such deeds shall include an acceptable means of converting the project to a platted subdivision, under the provisions of Act 288 of 1967, at some future date.
 - e. A utility plan showing all sanitary sewer, water and storm drainage improvements, plus all easements granted to the city for installation, repair and maintenance of all utilities.
 - f. A street construction, paving and maintenance plan for all streets within the proposed condominium subdivision plan.
 - g. A storm drainage and stormwater management plan, including all lines, swales, drains, basins, and other facilities.
 - (2) *Review procedures.* Pursuant to authority conferred by Section 141 of the Condominium Act, all site condominium subdivision plans shall require approval by the planning commission and city council before units may be sold or site improvements initiated. In determining whether to approve a site condominium subdivision plan, the planning commission shall consult with the city attorney, planner

and engineer regarding the adequacy of the submission as it relates to the City of New Baltimore Zoning Ordinance and requirements of the Condominium Act. The review process shall consist of the following two steps:

- a. *Preliminary plan review.* In the preliminary review phase, the Planning Commission shall review the overall plan for the site, including basic road and unit configurations and the consistency of the plans, with all applicable provisions of the City of New Baltimore Zoning Ordinance. Plans submitted for preliminary review shall include information specified in items a., b. and c. of the submission requirements in subsection (1) above.
 - b. *Final plan review.*
 1. Upon receipt of preliminary plan approval, the applicant shall prepare the appropriate engineering plans and apply for final review by the planning commission. Final plans shall include information as required by the Submission Requirements in subsections a. through g. above. Such plans and information shall be reviewed by the city attorney, engineer and planner.
 2. Further, such plans shall be submitted for review and comment to all applicable local, county and state agencies. Final approval shall not be granted until such time as all applicable review agencies have had an opportunity to comment on said plans.
- (3) *District requirements.* The development of all site condominium subdivisions shall observe the applicable yard setback and minimum floor area requirements of the zoning district within which the project is located. The density of development of the project shall be no greater and spacing no less than would be permitted if the property were a platted subdivision. Site condominiums located within a planned unit development (PUD) shall be governed by the standards approved as part of the overall PUD plan.
- (4) *Design standards.* All streets and roads in a site condominium subdivision shall conform to the standards of the City of New Baltimore Land Division and Subdivision Ordinance if the streets are to be dedicated to the public, or to standards and requirements of the City of New Baltimore Engineering Ordinance if private. Public streets shall be required, when necessary, to provide continuity to the public road system. All other improvements in site condominium subdivisions shall meet the standards of the City of New Baltimore Land and Subdivision Ordinance.
- (5) *Utility easements.* The condominium subdivision plan shall include all necessary public utility easements granted to the City of New Baltimore to enable the installation, repair, and maintenance of all necessary public utilities to be installed. Appropriate dedications for sanitary sewers, lines and storm drainage improvements shall be provided.
- (6) *Final acceptance.* The city shall also require all the appropriate inspections. After construction of the site condominium subdivision, an as-built reproducible mylar of the completed site improvements (excluding dwelling units) is to be submitted to the city for review by the city engineer. A final certificate of occupancy and any construction bonds or letter of credit will not be released to the developer/owner until said as-built mylar has been reviewed and accepted by the city.

(Ord. No. 158, § 2.04, 9-22-2008)

State law reference(s)—Condominium act, MCL 559.101 et seq.

Sec. 60-26. Condominium conversions.

- (a) For all condominium projects, other than site condominiums, including convertibles, conversions or expansions, the following shall apply:

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- (1) *Required information.* Concurrently with the notice of proposed action, required to be given to the city pursuant to section 71 of the Condominium Act, Public Act No. 59 of 1978 (MCL 559.171), as amended, a person intending to develop a condominium development in the city shall provide the following information:
- a. The name, address and telephone number of the following:
 1. Persons with an ownership interest in the land on which the condominium development will be located, together with a description of the nature of each entity's interest (e.g., fee owner, optionee, land contract vendee, etc.).
 2. Engineers, attorneys, architects or registered land surveyors associated with the project.
 3. The developer or proprietor of the condominium development.
 - b. The legal description and acreage of the land on which the condominium development will be developed, together with any existing development and any proposed expansion plans and appropriate tax identification numbers.
 - c. The purpose of the development (i.e., residential, multiple-family, commercial, industrial, etc.).
 - d. Number of condominium units existing or to be developed on the subject parcel.
 - e. The condominium plan for the project prepared by a registered architect, land surveyor or engineer.
 - f. Site plan meeting the requirements of the appropriate zoning district.
 - g. The nature, location and approximate size of the general and limited common elements.
 - h. Utility plan, including water, sewer, and storm drainage.
 - i. Floor plans and typical elevations of each side of the structure, if applicable, coded to the corresponding number or letter on the site plan.
 - j. The size, location, area and horizontal boundaries of each condominium unit.
 - k. The vertical boundaries and volume for each unit comprised of enclosed air space, if any.
 - l. A number or letter assigned to each condominium unit.
 - m. Floodplain and wetland information, if the condominium lies within or abuts a floodplain or wetland area.
 - n. Correspondence from the proper and appropriate state, county and local authorities.
 - o. Building section showing the existing and proposed structures and improvements, including their location on the land. Any proposed structures and improvement shown shall be labeled either "must be built" or "need not be built". To the extent that a developer is contractually obligated to deliver utility conduits, buildings, sidewalks, driveways, storm drainage, landscaping and an access road, such shall be shown and designated as "must be built"; however, the obligation to deliver such items exists whether or not they are shown and designated.
- (2) *Site plans.* Prior to recording of the master deed required by section 72 of Public Act No. 59 of 1978 (MCL 559.172), the condominium development shall undergo site plan review and approval pursuant to Article II of this chapter. In addition, the city shall require appropriate engineering plans, building permits, inspections and approval of the master deed prior to the issuance of any certificates of occupancy.
- (3) *Site plans for expandable or convertible projects.* Prior to expansion of or conversion to a condominium development, the project shall undergo site plan review and approval pursuant to this chapter. Water,

sewer and storm drainage facilities must be reviewed and upgraded to meet the separate ownership or public system requirements. Variances or deviations shall be considered only by the zoning board of appeals or the construction code board.

(b) General requirements are as follows:

- (1) *Master deed, restrictive covenants, and as-built survey.* The draft master deed and bylaws shall be submitted to the planning commission for its review. The site or survey plan shall show all common elements. Prior to the issuance of a building permit, the draft master deed shall be recommended for approval by the planning commission, and prior to the issuance of a certificate of occupancy, the final master deed shall be reviewed by the city attorney and approved by the city council. The condominium development developer or proprietor shall furnish the city with the following: three copies of the master deed; three copies of all restrictive covenants; and two copies of an as-built survey. One copy of each of the above shall be provided to the city attorney, the building department, and the city engineer. The as-built survey shall be reviewed by the city engineer for compliance with city ordinances. Fees for this review shall be established by resolution of the city council.
- (2) *Monuments required.* All condominium developments which consist in whole or in part of condominium units which are building sites, mobile home sites or recreational sites shall be marked with monuments, as provided in the condominium act (Public Act No. 59 of 1978 (MCL 559.101 et seq.).
- (3) *Performance bond.* If deemed necessary, the City shall require a performance bond for the total costs, as approved and determined by the city engineer, of all improvements required.
- (4) *Building department review.* The building department shall conduct a full inspection of all buildings in the condominium project to ensure that current city building code requirements have been met prior to the granting of a certificate of occupancy.

(Ord. No. 158, § 2.05, 9-22-2008)

State law reference(s)—Condominium act, MCL 559.101 et seq.

Secs. 60-27—60-40. Reserved.

ARTICLE III. GENERAL PROVISIONS

Sec. 60-41. Animals.

No animals, livestock or poultry of any kind shall be raised, bred or kept on any residentially zoned or used property, except that nonvicious dogs, cats or other household pets may be kept, provided they are not kept, bred or maintained for any commercial purposes. All animals shall be maintained in accordance with applicable city ordinances and shall be subject to licensing requirements. The keeping of more than four adult domestic animals in any structure shall be considered a kennel.

(Ord. No. 158, § 3.01, 9-22-2008)

Sec. 60-42. Appearance requirements.

The exterior surface of all buildings, except agricultural uses and single-family dwellings, shall be constructed of clay brick or other comparably durable decorative building materials approved by the planning commission.

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- (1) Building frontages in nonresidential zoned districts shall be constructed with a minimum of 90 percent brick or similarly durable material, as determined by the planning commission. The remaining ten percent of the surface material may be a color integrated block, EIFS, factory finish seam metal or similar materials as determined by the planning commission. EIFS shall not be used on the first floor.
 - (2) EIFS, block or similar materials that are susceptible to staining shall not be utilized where signs may be installed, as determined by the planning commission.
 - (3) EIFS and similar materials that are susceptible to contact damage shall not be utilized in areas below eight feet from the established grade.
 - (4) All nonresidential buildings having brick exterior shall not be reconstructed, remodeled, altered, or painted (if the building is currently unpainted), without prior approval of the planning commission.

(Ord. No. 158, § 3.02, 9-22-2008; Ord. No. 216, § 3, 2-26-2018)

Sec. 60-43. Building grades.

When a new building is constructed on a vacant lot between two existing buildings or adjacent to an existing building, the existing established grade shall be used in determining the grade around the new building, and the yard around the new building shall be graded in such a manner as to meet existing grades and not to permit run-off of surface water to flow onto the adjacent property. If necessary, drain systems will be installed to provide water run-off solutions from new buildings or existing buildings onto existing areas at the new building owner's expense. Final grades shall be approved by the building inspector. A certificate of grading and location of building shall be duly completed and certified by a registered engineer or land surveyor before construction begins.

(Ord. No. 158, § 3.03, 9-22-2008)

Sec. 60-44. Buildings to be moved.

Moving of buildings includes any buildings or structures being relocated within the city, being moved out of the city, or being moved into the city. A building permit only is needed when the building is being moved within the property lines of a lot or when such move does not necessitate movement along a public road. Moving of buildings into, within, and/or out of the city shall be approved by the city council prior to such moving.

(Ord. No. 158, § 3.04, 9-22-2008)

Sec. 60-45. Buildings under construction.

Any building or structure for which a building permit has been issued and the construction of the whole or a part of which has been started, or for which a contract or contracts have been entered into pursuant to a building permit issued prior to the effective date of Ordinance No. 158, may be completed and used in accordance with the plans and application on which said building permit was granted.

(Ord. No. 158, § 3.05, 9-22-2008)

Sec. 60-46. Corner clearance and visibility.

No fence, wall, structure or planting shall be erected, established or maintained on any lot which will obstruct the view of a driver of a vehicle approaching the intersection, excepting that landscaping would be permitted where the growth is less than 2.5 feet in height or where all branches are at least eight feet above the road level. Such unobstructed area shall mean a triangular area formed by the right-of-way and driveway

intersection and a line connecting them at points 20 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. Decorative fencing which would be approved on a corner could include open wave, split rail, or similar fencing.

(Ord. No. 158, § 3.06, 9-22-2008)

Sec. 60-47. Decorative pond fencing.

Whenever fencing is required around a pond, detention pond, retention pond, siltation basin, lake, or the like, fencing which is ornamental in nature shall be utilized. Such fencing shall be decorative wrought iron, simulated wrought iron, aluminum, vinyl or the like as approved by the planning commission. Fencing shall be between four and six feet in height as required by the city and must meet all other applicable building codes. In those areas not visible to public view or adjacent residences, the planning commission may approve a substitute material if no purpose is served by providing the decorative fencing material.

(Ord. No. 158, § 3.07, 9-22-2008)

Sec. 60-48. Essential services.

Essential services, as defined by this chapter, shall be permitted as authorized under any franchise or that may be regulated by any law of the State of Michigan or any ordinance of the city; it being the intention hereof to exempt such essential services from the application of this chapter.

(Ord. No. 158, § 3.08, 9-22-2008)

Sec. 60-49. Fences in other than single-family residential zoning districts.

- (a) All fences erected in commercial and industrial districts shall require approval by the planning commission as part of site plan review. Such fences shall not be located in the front yard.
- (b) All fences hereafter erected shall be of an enclosure type. Barbed wire, spikes, razor wire, nails or any other sharp point or instrument of any kind on top or on the sides of any fence, or electric current or charge in said fences, are prohibited, except barbed wire cradles may be placed on top of fences enclosing permitted rear or side yard storage in the general commercial and industrial districts, and public utility buildings, as deemed necessary in the interests of public safety by the planning commission.

(Ord. No. 158, § 3.09, 9-22-2008)

Sec. 60-50. Frontage.

All dwellings shall have direct access and frontage on a public road, unless the private road is included in an approved site condominium development, open space option, cluster option, or planned unit development.

(Ord. No. 158, § 3.10, 9-22-2008)

Sec. 60-51. Height limitations and exceptions.

Except as herein provided, no building or structure shall be erected or altered to exceed the height limit established by this chapter for the zone in which such building is located.

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- (1) Church towers and steeples, roof structures (penthouses) for the housing of elevators, stairways, tanks or ventilating equipment, fire walls, skylights, electrical transmission and communication poles, towers and antenna, theater screens, flag poles, smokestacks, chimneys, water tanks, silos, conveyors or similar structures may be erected above the height limits established for the zone in which such structure is located, provided the requirements of this section are met.
 - (2) If the height of any building or structure or tower exceeds the height allowed in the zone wherein the building or structure is located, then all required yard dimensions shall be increased by not less than one foot for each one foot each building exceeds the height allowed in the zone concerned.

(Ord. No. 158, § 3.11, 9-22-2008)

Sec. 60-52. Locations of structures in public easement.

No structure, other than a fence, walk or parking lot, may be erected in a public easement.

(Ord. No. 158, § 3.12, 9-22-2008)

Sec. 60-53. Lot limitations.

In all single-family zoning districts, only one principal building shall be placed on a parcel or a lot of record. This restriction shall not apply to approved open space or cluster options, site condominiums, or planned unit developments. No building shall be erected on land subdivided in violation of the Land Division Act, Act 288 of the Public Acts of 1967, as amended.

(Ord. No. 158, § 3.13, 9-22-2008)

Sec. 60-54. Measuring setback requirements.

The measurement for determining front, rear and side yard setback requirements shall be made from the exterior wall of the principal building to the nearest applicable property line.

(Ord. No. 158, § 3.14, 9-22-2008)

Sec. 60-55. Nonresidential driveways.

- (a) Nonresidential driveways, entrances and exits shall be subject to approval by the City of New Baltimore, the Macomb County Department of Roads and/or the Michigan Department of Transportation where applicable, and by the planning commission after considering the effects on surrounding property, pedestrian and vehicular traffic and the movement of emergency vehicles.
 - (1) All nonresidential sites may be permitted one access drive onto the abutting public thoroughfare unless access to the subject property is available from an adjacent parcel through the use of a cross access easement and the cross access easement provides reasonable access to the site.
 - (2) In the case of a corner lot or double frontage lot, the site may be permitted one access drive for each roadway frontage only after planning commission review and the applicant showing the necessity for the second drive.
 - (3) Such drives shall be a minimum of 30 feet in width but in no case shall exceed 36 feet in width.
 - (4) Driveways shall be prohibited on Washington Street between Green Street and Front Street.

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- (b) Additional driveways may be permitted by the planning commission subject to special land use approval.
 - (1) The planning commission shall consider the request for special land use approval after a traffic study has been submitted by the applicant which substantiates the need for additional access drives.
 - (2) In making the determination as to whether or not additional access drives are necessary, the planning commission shall consider the location of driveways on adjacent sites and across the street, turning movements and traffic volumes/generation.
 - (c) Tapers and bypass lanes may be required, as determined by the planning commission.
 - (d) The planning commission may require an access easement to provide for vehicular access to existing or contemplated adjacent parking areas to minimize the need for driveways to each facility and thereby decreasing hazards to vehicular traffic. In such instances, a reciprocal use agreement shall be signed by each owner and provided to the city for its review and approval.

(Ord. No. 158, § 3.15, 9-22-2008; Ord. No. 216, § 4, 2-26-2018)

Sec. 60-56. Outdoor merchandising.

- (a) No person or business shall use any sidewalk or that space between the sidewalk and curb or any planted strips or park in sidewalks, or any parking area, or any area of a road right-of-way for displaying for sale, or for any other purpose, any goods or any other articles; or leave any goods, boxes, trucks, barrels, trunks or any other article or thing in or on such areas for a longer time than is necessary for the removal thereof from the transporting vehicle, into the place of business or residence to the transportation vehicle to which the sale is intended to be removed unless the provisions of subsection 60-56(b) or (c) have been met.
- (b)
 - (1) Temporary commercial sidewalk sales/outdoor merchandising areas may be permitted for defined time periods by the city council. An applicant must be an owner or operator/lessee of an existing commercial operation on the subject site who desires to display and sell goods or merchandise customarily sold within a building on the sidewalk or parking area abutting or in proximity to the existing facility. An owner or operator/lessee of a property that wishes to operate a temporary outdoor merchandising area with goods or merchandise that are not customarily sold within the building located on the site shall be regulated under the provisions of subsections 12-80(c) through (g) of the City of New Baltimore Code of Ordinances.
 - (2) Commercial sidewalk sales and outdoor cafés within the city right-of-way shall be for a defined period specified in the permit, as issued by the building official. For commercial sidewalk sales, the allowable display time shall not exceed a total of 30 days per calendar year. Outdoor cafés in a city right-of-way may be permitted for a time period determined appropriate by the city council. See section 60-230. The city council may establish a fee to defray the administrative costs for issuance of a permit. The applicant shall include in the application a plot plan of the site indicating the exact location of the proposed outdoor sales area. The plot plan shall be reviewed by the building official and/or fire department to ensure that the designated sales area does not encroach into a maneuvering lane that is necessary for adequate vehicle and pedestrian circulation and/or emergency access.
 - (3) Sidewalk displays of goods related to a ground floor business, when permitted as specified above, shall only take place directly in front of the business establishment, provided at least five feet of clearance is maintained along pedestrian circulation routes. Displays are required to comply with the following:
 - a. *Size.* Display cases shall be located against the building wall and shall not be more than two and one-half feet deep. The display area shall not exceed 50 percent of the length of the storefront, as measured parallel to the facade.
 - b. *Hours and materials.* Display cases shall be permitted outdoors only during normal business hours, and shall be removed at the end of the business day, no later than 10:00 p.m. Cardboard

boxes, pallets and plastic containers shall not be used for sidewalk displays. There shall be no movable, fluttering or flashing devices used to attract attention to outdoor displays.

- c. *Maintenance and style.* Sidewalk displays shall maintain a clean and well-kept appearance at all times and shall be compatible with the character of the storefront from which the business operates.
- (c) With the exception of outdoor cafés in a city right-of-way, the establishment of an outdoor display area for a time period that exceeds the 30-day temporary timeframe shall be considered permanent and integral to the annual operation of the business. Such display areas shall be subject to site plan review and approval by the planning commission and city council. Permanent outdoor merchandising/display areas are permitted as a special land use in the commercial zoning districts and shall conform with the requirements of section 60-56.
- (Ord. No. 158, § 3.16, 9-22-2008; Ord. No. 216, § 5, 2-26-2018)

Sec. 60-57. Outdoor storage and/or display lots.

When permitted in a particular zoning district, an outdoor storage use shall be enclosed by an approved masonry wall or obscuring fence, as approved by the planning commission. The extent of such a wall or fence shall be determined by the planning commission on the basis of usage. Such wall or fence shall not be less than four feet six inches in height and may, depending upon land usage, be required to be ten feet in height. An earth-toned, vinyl coated, chain link fence, or a landscaped earth mound (berm), both with intense evergreen shrub planting, may be permitted by the planning commission. Open storage areas shall be paved to parking lot standards and drained to meet city engineering requirements. In instances where the proposed storage items would place an excessive amount of stress on the paved surface, the planning commission may approve an alternative method of surfacing.

(Ord. No. 158, § 3.17, 9-22-2008)

Sec. 60-58. Permitted uses.

- (a) No building or structure shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used for any purpose other than that permitted in that zoning district, except as otherwise provided herein.
- (b) Ingress and egress to a parking lot, loading area, or to a use other than residential shall not be permitted across or upon land zoned as residential.

(Ord. No. 158, § 3.18, 9-22-2008)

Sec. 60-59. Porches/terraces, at-grade patios, steps/stairs and decks.

At-grade patios may be constructed within required front, side and rear yard setbacks. Unenclosed and uncovered access porches (i.e., one which is not roofed over) or paved terraces may project into a required front or rear yard setback for a distance not exceeding four feet. Patio and porches covered or partially covered by permanent construction (awnings excepted) shall not project into any required setback, but this shall not be interpreted to include or permit fixed canopies or awnings. Decks may be allowed to project not more than ten feet into the required rear yard setback, provided that the following conditions are met:

- (1) The deck does not encroach into any easement.
- (2) The deck is not located facing any street.

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- (3) The deck conforms with applicable side yard setback requirements.
 - (4) The deck is located not less than ten feet from any detached accessory building. (This separation shall not apply to any accessory structure.)
 - (5) The deck elevation shall be no greater than eight inches over the first floor grade elevation of the main structure. (Exception: a deck around a pool may match the height of the pool.)
 - (6) Any additional structures attached to the deck, such as a gazebo or pool, shall be located at least ten feet from any structure.

(Ord. No. 158, § 3.19, 9-22-2008)

Sec. 60-60. Prohibited occupancy.

- (a) In no case shall a travel trailer, motor home, automobile chassis, tent or portable building be considered a dwelling. Mobile homes shall not be used as dwellings, except when located in, and as part of, a mobile home park; or when located in zoning districts set forth in this chapter. All travel trailers, motor homes and mobile homes parked or stored on lands not approved for such use as herein set forth shall not be occupied.
- (b) In the case of mixed occupancy, where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purpose of this chapter and shall comply with the provisions thereof relative to dwellings.

(Ord. No. 158, § 3.20, 9-22-2008)

Sec. 60-61. Projections or access into yards.

- (1) Architectural features, not including vertical projections, may extend or project into a required side yard not more than two inches for each one foot of width of such side yard; and may extend or project into a required front yard or rear yard not more than three feet.
- (2) For the purpose of this chapter, access drives may be placed in the required front or side yards so as to provide access to rear yards and/or accessory or attached structures. These drives shall not be considered as structural violations in front and side yards. Further, any walk, terrace or other pavement servicing a like function, and not in excess of nine inches above the grade upon which placed, shall, for the purpose of this chapter, not be considered a structure and shall be permitted in any required yards.

(Ord. No. 158, § 3.21, 9-22-2008)

Sec. 60-62. Receiving and broadcasting antennas.

Any exterior receiving or broadcasting antenna shall not be located in the yard between the building and the street. All mechanical and storage areas at the base of such antennas shall be screened from public view in a manner deemed acceptable by the planning commission.

(Ord. No. 158, § 3.22, 9-22-2008)

Sec. 60-63. Sidewalks and pathways.

- (a) An eight-foot-wide pathway constructed of concrete, or a similar durable material determined acceptable by the planning commission and the City of New Baltimore Engineer, shall be required across the frontage of all properties abutting major roads as defined in the city master plan. All properties that are not considered a

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major road shall be required to maintain a five-foot-wide sidewalk across the frontage. Properties abutting the following roads shall be required to maintain a ten-foot-wide nonmotorized vehicle pathway: The water side of Jefferson Avenue, the east side of County Line Road, or any other location identified for a pathway within the City of New Baltimore Recreation Plan, Macomb County Trailway Plan, or their successors.

- (b) The city planning commission may reduce the width of the pathway from eight feet to five feet when it is determined that the majority of the pathway in a particular area already maintains an established width.
- (c) Property owners who are constructing a new residential structure, or who are expanding the floor area of an existing residential structure by more than ten percent, shall be subject to the requirements herein, notwithstanding the existence of any previous residential structure or otherwise.
- (d) The pathway shall be constructed in either the proposed road right of way when the full dedication of the proposed road right of way is a requirement of the city, or the existing road right of way and in both instances, with the interior non road edge of the sidewalk being located one foot within the outer most edge of the right of way, unless another location is identified and improved by the city engineer.
- (e) Pathways provided for on Green Street between Huntley and County Line Road shall consist of eight feet of concrete and two feet of brick pavers as part of the pathway design.

(Ord. No. 158, § 3.23, 9-22-2008; Ord. No. 181, § 2, 1-23-2012)

Sec. 60-64. Storage and/or parking of commercial and recreational vehicles.

- (a) No recreational vehicle or commercial vehicle shall be parked or stored on any vacant lot in a residential district. A vacant lot shall refer to any lot upon which no residential dwelling unit exists.
- (b) No recreation vehicle shall be parked or stored on any lot occupied by a residential dwelling unit unless such recreation vehicle is currently plated and is stored in a garage, enclosed in a building or is completely within the rear, side or waterfront yard of such lot, or stored in an area approved under subsection 60-101(f) of this chapter, unless permitted on a temporary basis under the provisions herein. Such storage shall not occur so as to cause a nuisance to abutting residential premises. Sailboats and other similar watercraft shall not be stored with the mast in an upright position. No such vehicle shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot.
- (c) The parking of recreation vehicles shall be permitted on a lot or parcel's driveway for a temporary period not to exceed 72 hours.
- (d) Any type of vehicle, including automobiles, trucks, recreational vehicles, motorcycles, trailers, or any other vehicle required to be licensed by the State of Michigan, of any kind or type, without current license plates, shall not be parked or stored on any residentially zoned property other than in a completely enclosed building.
- (e) The storage of any vehicle, including automobiles, trucks, recreational vehicles, motorcycles, trailers, or other similar item, on any nonresidentially zoned piece of property shall be prohibited unless specifically permitted in the zoning district the subject property is located after site plan approval has been granted.
- (f) In residential zones, only one commercial vehicle per lot or parcel shall be parked within a residential driveway subject to the following conditions: (1) the licensed commercial vehicle shall be owned or operated by a member of the family residing on said lot or parcel and shall not be used for hauling garbage, refuse or other objectionable matter; (2) such vehicle shall not encroach into the public right-of-way; (3) each residential lot or parcel shall be limited to having one licensed commercial vehicle parked on its lot or parcel at any time; (4) any trailer, if attached to a motor vehicle, shall constitute one licensed commercial vehicle for purposes of this section; and (5) if a trailer is unattached, it shall be only permitted on a lot or parcel's driveway for a temporary period not to exceed 72 hours.

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- (g) In no event shall any commercial vehicle or recreational vehicle be permitted to park in the public right-of-way of a residential district, except when the commercial vehicle is being parked for the purpose of providing specific services or goods for a limited duration of time relating to the lot or parcel at that location. Commercial vehicles being utilized may park temporarily at a residence for purposes of providing services or goods to that residence, lot or parcel.

(Ord. No. 158, § 3.24, 9-22-2008; Ord. No. 179, § 3, 1-9-2012)

Editor's note(s)—Section 3 of Ord. No. 179, adopted Jan. 9, 2012, changed the title of § 60-64 from "Storage and/or parking of vehicles and trailers" to "Storage and/or parking of commercial and recreational vehicles."

Sec. 60-65. Storage, accumulation, dumping and/or collection of waste, junk, garbage and other similar materials.

- (a) No site shall be used for the storage, accumulation, dumping and/or collection of waste, junk, garbage and other similar materials, except upon approval by the planning commission in compliance with Article X of this chapter or as otherwise permitted under this chapter.
- (b) The owner or occupant of all land, structures and/or every part thereof shall have the duty to maintain same in a clean and sanitary condition, free from any accumulation of dirt, filth, rubbish, garbage and vermin, and the duty not to act or omit to act so as to create or permit the existence of a nuisance as defined in this chapter. This duty shall extend to any area of land between the site line and adjoining streets and curbs.
- (c) The depositing of dirt, sand or earth materials shall be permitted in any district in accordance with the following requirements:
- (1) Any finish grade to be established shall be approved by the city engineer.
 - (2) The finish grade shall be graded not later than 60 days after completion of the deposits on the land, in a manner so as to prevent the collection of water and which will leave the ground surface in a condition suitable for other permitted uses within the district in which the site is located.

(Ord. No. 158, § 3.25, 9-22-2008)

Sec. 60-66. Utility approval.

Except as provided elsewhere in this chapter, the erection, construction, alteration, maintenance, addition, reconstruction or replacement by public utilities of underground, surface or overhead distribution of gas, electricity, communications (except transmitting or receiving towers), steam or water transmission or distributing systems, collection, supply or disposal system, including poles, mains, drains, sewers, pipes, conduits, wires, cables, high voltage transmission lines, towers in connection with such lines, and other similar equipment and accessories in connection therewith shall require city council approval, after review and recommendation by the planning commission based on the standards outlined in subsection 60-211(b) of this chapter.

(Ord. No. 158, § 3.26, 9-22-2008)

Sec. 60-67. Uses with locational restrictions to avoid secondary effects.

- (a) *Purpose.* In the development and execution of this chapter, it is recognized that certain uses as a result of their nature have serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances having a deleterious effect upon the use and enjoyment of adjacent areas. Special regulation of these uses is necessary to assure that these adverse effects will not

contribute to the blighting or downgrading of the surrounding neighborhood. In connection with the adoption of this chapter, council has received information, including information associating blight and increased crime with sexually-oriented businesses, including studies in the City of Detroit, Michigan, in the early 1970s, the City of St. Paul, Minnesota, in 1978, the City of Phoenix, Arizona, in 1979, the City of Minneapolis, Minnesota, in 1980, the City of Austin, Texas, in the early 1980s, the City of Indianapolis, Indiana, in 1987, Oklahoma City, 1986, 1992, the City of Los Angeles, California, in 1984, Adams County, Colorado, in 1988, the report of the Minnesota Attorney General issued in 1989, Times Square, New York, 1974, Dallas, Texas, 1994, 1997, and Newport News, Virginia, 1996. In connection with the adoption of this chapter, Council has received further information that certain types of skid-row businesses have through studies in the City of Detroit been found to have deleterious effect upon the use and enjoyment of adjacent areas, including information associating blight.

- (b) *Sexually-oriented business.* It has been demonstrated that the establishment of sexually-oriented businesses in business districts which are immediately adjacent to and which serve residential neighborhoods have a deleterious effect on both businesses and residential segments of the neighborhood, causing blight, downgrading property values, and in some instances crime increasing in the vicinity. The orderly planning, development and preservation of neighborhoods residential uses should be encouraged and fostered by properties and persons which comprise the business and residential segments of each neighborhood. Sexually-oriented businesses defined herein shall only be permitted in the I (industrial) zoning district, subject to the following requirements and conditions:
- (1) Such uses shall be permitted only in the I (industrial) zoning district provided no portion of the property upon which such business is situated is within 300 feet of any of the following:
 - a. A residentially-zoned district;
 - b. Property upon which a residential use exists;
 - c. A church;
 - d. A school;
 - e. Pool or billiard hall;
 - f. Coin-operated amusement centers;
 - g. Roller skating rinks or ice rinks;
 - h. Night clubs or dance halls permitting the congregation of persons under 21; or
 - i. Any public park.

The method of measurement shall utilize the two property edges closest to each other, measured with a direct line.
 - (2) This distance prohibition may be waived by the city council after recommendation from the New Baltimore Planning Commission upon presentation of a valid petition requesting waiver that is signed by 51 percent or more, of each of the following categories:
 - a. Persons owning property within 300 feet of the proposed location;
 - b. Persons residing with or occupying any dwelling unit within 300 feet of the proposed location;
 - c. Persons or entities operating any of the uses described in subsections (1)a.—i. within 300 feet of the proposed location.
- (c) *Pawnbroker.* It has been demonstrated that the establishment of pawnbrokers in business districts which are immediately adjacent to and serve residential neighborhoods have a deleterious effect on both business and residential segments of the neighborhood causing blight. Such prohibition fails to avoid the deleterious

effects of blight and devaluation to both business and residential property values resulting from the establishment of these businesses in a business district which is immediately adjacent to and serves residential neighborhoods. The orderly planning, development and preservation of neighborhoods should be encouraged and fostered by properties and persons which comprise the business and residential segments of each neighborhood. Pawnbrokers, as defined herein shall only be permitted in the I (industrial) zoning district, subject to the following requirements and conditions:

- (1) Such use shall be permitted only in the I (industrial) district provided no portion of the property upon which such business is situated is within 300 feet of any of the following:
 - a. A residentially-zoned district;
 - b. Property upon which a residential use exists;
 - c. A church;
 - d. A school;
 - e. Pool or billiard hall;
 - f. Coin-operated amusement centers;
 - g. Roller skating rinks or ice rinks;
 - h. Night clubs or dance halls permitting the congregation of persons under 21; or
 - i. Any public park.

The method of measurement shall utilize the two property edges closest to each other, measured with a direct line.

- (2) This distance prohibition may be waived by the city council after recommendation from the New Baltimore Planning Commission upon presentation of a valid petition requesting waiver that is signed by 51 percent, or more, of each of the following categories:
 - a. Persons owning property within 300 feet of the proposed location;
 - b. Persons residing with or occupying any dwelling unit within 300 feet of the proposed location; and
 - c. Persons or entities operating any of the uses described in subsections (c)(1)a.—i. within 300 feet of the proposed location.
- (d) The provisions of this section shall not apply to hospitals, nursing homes, medical clinics or the offices of a medical professional who is licensed to practice massage therapy in the State of Michigan, or who is permitted to practice under the auspices of an associate or an establishment duly licensed in the State of Michigan, clergyman, certified member of the American Massage and Therapy Association or certified member of the International Myomassethics Federation.

(Ord. No. 158, § 3.27, 9-22-2008)

Sec. 60-68. Wind energy conversion systems.

- (a) *Permitted zoning districts.* Wind energy conversion systems shall be permitted in the industrial, local commercial and general commercial zoning districts. Wind energy conversion systems shall specifically be prohibited in all residential zoning districts and the central business zoning district.

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- (b) *Building mounted WECS.* One wind energy conversion system ("WECS") shall be considered a permitted use and shall only require a permit from the building department, when all of the following requirements have been met:
- (1) The WECS is mounted to the roof of a structure.
 - (2) The WECS shall be a vertical axis wind turbine. Horizontal axis WECS with a propeller blade shall be specifically prohibited on top of a structure.
 - (3) The vertical axis wind turbine shall not exceed a height of more than 15 feet above the maximum permitted height in the zoning district in which it is located.
 - (4) A building and/or roof mounted WECS shall be setback from the property line a distance equal to one foot for every foot in height of the structure.
 - (5) A roof mounted WECS shall be setback a minimum distance of 30 feet from the front façade of the structure.
- (c) *Ground mounted WECS.* One WECS that is mounted on a tower attached to the ground shall be permitted as a special land use subject to the following:
- (1) The tower shall be setback from the property line a distance equal to twice the overall height of the tower measured to the top of the blade.
 - (2) The tower shall be located within the side or rear yard. Towers located within the front yard are specifically prohibited.
 - (3) The tower shall not exceed an overall height of 175 feet, measured to the top of the blade.
 - (4) A minimum distance of 20 feet shall be provided for between ground level and the proper blade at its lowest point.
 - (5) No ground mounted WECS shall be located closer than 400 feet to another ground mounted WECS.
- (d) *General requirements.*
- (1) No WECS shall produce a noise level exceeding 55 decibels (dB) at the property line.
 - (2) Guy wires shall be setback a minimum distance of five feet from the property line.
 - (3) The minimum vertical blade clearance from grade shall be 20 feet for a WECS employing a horizontal access rotor.
 - (4) The planning commission may request a shadow flicker analysis for any WECS requiring special land use review and approval. The analysis shall identify problem areas where shadow flicker may affect the occupants of nearby structures and describe measures that shall be taken to eliminate or mitigate the effects.
 - (5) An operator shall remove any and all parts associated with a WECS within six months once the device has become inoperable.
 - (6) Any application to erect a tower mounted WECS shall be accompanied by a structural engineer's report indicating that the proposed tower's design characteristics are sufficient to withstand winds, ice and other naturally occurring hazards.
 - (7) All applicable state construction and electrical codes and local building requirements shall be complied with. In addition, WECS shall comply with all applicable state and federal regulations.
 - (8) An application for a structure mounted WECS shall be accompanied by manufacturer specifications and building documentation sufficient to the building department to demonstrate structural stability. The

property owner shall also sign an affidavit taking responsibility for the WECS and the ability of the roof to support the device.

(Ord. No. 174, § 1, 3-14-2011)

Sec. 60-69 Medical marijuana.

The following zoning ordinance provisions apply to the use, distribution, sale, and cultivation of marijuana, as otherwise approved and allowed pursuant to state law:

- (1) *Intent and purpose.* The section as proposed is intended to permit those persons in need of medical marijuana for medicinal purposes as allowed under the state act to be afforded a reasonable opportunity to be treated and for those persons who are permitted to furnish medical marijuana, to furnish it within the limitations of the act in order to protect public health, safety, and welfare.

The section is intended to afford law enforcement an opportunity to distinguish between an unlawful enterprise and an enterprise operating, consistent with the state law regulating medical marijuana by providing defined areas for cultivation of medical marijuana and defined areas where use and transfer of marijuana are permitted.

This section is also intended to protect and preserve the value of residential, commercial and industrial districts.

This section is intended to prohibit the cultivation of marijuana in residential districts in order to protect and preserve peace, order, property and safety of persons as a result of reliable information that the growth of marijuana in residential districts is associated with an increase in break-ins, home invasions, and other criminal activity perpetrated upon persons growing marijuana in residential settings.

This section regulating marijuana in residential areas is further intended to avoid injury to property and bodily injury resulting from issues associated with the growth of marijuana, including problems with insufficient or improper electrical supply, problems with ventilation leading to mold, or other health hazards and other hazards which are associated with the cultivation of marijuana in residential settings and which is otherwise often difficult to detect and regulate.

This section is intended to preserve, protect and further the public health, safety and welfare of the residents of the City of New Baltimore and the public at large.

- (2) *Definitions.* [The following words, terms and phrases, when used in this subsection, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]
- a. *Act* refers to the Michigan Medical Marijuana Act, MCL 333.26421 et seq. currently, or as amended.
 - b. *Registered primary care giver* refers to a person meeting the definition of caregiver under state law and who has been issued and possesses a registry identification card and possesses the documentation that constitutes a valid registry under the Act.
 - c. *Marijuana, Marijuana (or Marihuana)* means that term as defined in Section 7106 of the Public Health Code, 1978 PA 368, MCL 333.7106.
 - d. *Medical use* means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transportation of marijuana, or paraphernalia relating to the administration of marijuana to treat or alleviate a registered qualifying patient's debilitating medical condition, or symptoms associated with the debilitating medical condition, as further defined under the Act.

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- e. *Registered qualifying patient* refers to a person meeting the definition under state law and has been issued and possesses a registry identification card which is valid under the Act, as amended.
 - f. *Enclosed locked facility* means a closet, room, or other comparable stationary and fully enclosed area equipped with secure locks or other functioning security devices that permit access only by a registered primary care giver, or registered qualifying patient. Marijuana plants grown outdoors, are considered to be in an enclosed, locked facility if they are not visible to the unaided eye from an adjacent property when viewed by an individual at ground level, or from a permanent structure and are grown within a stationary structure that is enclosed on all sides, except for the base, by chain-link fencing, wooden slats, or a similar material that prevents access by the general public and that it is anchored, attached, or affixed to the ground; located on land that is owned, leased, or rented by either the registered qualifying patient, or a person designated through the department registration process, as the primary giver, for the registered qualifying patient, or patients for whom the marijuana plants are grown; and equipped with functioning locks or other security devices that restrict access only to the registered qualifying patient, or the registered primary caregiver, who owns, leases, or rents the property on which the structure is located. Marijuana plants grown outdoors in an enclosed, locked facility shall be subject to special approval land use under the zoning ordinance. Enclosed, locked facility includes a motor vehicle if both of the following conditions are met:
 - 1. The vehicle is being used temporarily to transport living marijuana plants from one location to another with the intent to permanently retain those plants at the second location.
 - 2. An individual is not inside the vehicle unless he or she is either the registered qualifying patient to whom the living marijuana plants belong, or the individual designated through the Department of Registration process as the primary caregiver for the registered qualifying patient.
 - g. *Parcel* shall mean a separate legally described area of real property with its own separate tax ID number issued through the City of New Baltimore Assessing Department with a minimum frontage of 100 feet and a minimum depth 200 feet.
 - h. *Transfer* means to convey, sell, give, deliver, or allow the possession by another person or entity.
 - i. *[Other provisions and terms.]* The other provisions and terms of the Michigan Medical Marijuana Act for purposes of deferential context are incorporated by reference as though more fully restated.
- (3) *Medical marijuana for registered qualifying patients.* Registered qualifying patients, or visiting qualified patients may use, possess and store medical marijuana as provided in the Michigan Medical Marijuana Act, MCL 333.26421 et seq., as amended and as further provided herein.
- a. *Registered qualifying patient without a registered primary care giver:*
 - 1. A registered qualifying patient may use possess and store marijuana in their principal residence within the City of New Baltimore for personal use only, compliant with applicable law.
 - 2. A registered qualifying patient is prohibited from cultivating, growing, manufacturing, or producing marijuana anywhere other than the industrial I district; section 60-142 at a parcel in an enclosed locked facility, compliant with the provisions of this section including [subsection] (3)b.5. and any other applicable laws.
 - 3. Each registered qualifying patient is limited to 12 plants, at a parcel in an enclosed locked facility in the industrial district section 60-142; and up to 2.5 ounces of the usable product for those 12 plants at their principal residence in the City of New Baltimore.

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4. Both the registered qualifying patient and the owners, agents, and employees of the parcel at which marijuana for medical use is present by a registered qualified patient are responsible jointly and severally for compliance with this section.
- b. *Registered qualifying patient with a registered primary care giver:*
1. If a registered qualifying patient has a registered primary care giver, such patient is prohibited from growing marijuana anywhere within the City of New Baltimore.
 2. Each registered qualifying patient may possess up to 2.5 ounces of marijuana as provided for in the Act.
 3. Each registered qualified patient shall receive any necessary treatment, using marijuana and provided by the caregiver only at the primary residence of the individual registered qualifying patient in New Baltimore.
 4. Medical marijuana for a registered primary caregiver. Any registered primary caregiver may acquire, possess, cultivate, manufacture, transfer, or transport medical marijuana compliant with the Michigan Medical Marijuana Act, MCL 333.26421 et seq. as amended and further subject to the following:
 - (i) A registered primary caregiver may only grow, cultivate, manufacture, process and store marijuana in a parcel in the industrial I-district; section 60-142 and in an enclosed locked facility.
 - (ii) A registered primary caregiver, may only transfer medical marijuana in the City of New Baltimore, to a registered qualified patient who is in his or her care, in the City of New Baltimore, at the principal residence of the patient if situated within the City of New Baltimore. Transfer of medical marijuana outside the City of New Baltimore, shall otherwise be fully compliant with all other applicable law, including the Michigan Medical Marijuana Act, MCL 333.26421 et seq., as amended and any other applicable law.
 - (iii) The registered primary caregiver is responsible for utilizing at a parcel an enclosed locked facility, compliant with state law for cultivating, growing, manufacturing, processing and storing marijuana for medical use only. The enclosed locked facility utilized by the primary registered caregiver, shall provide separation by fully enclosed walls, or fences, for plants that are grown on behalf of each registered qualifying patient, on whose behalf the registered primary caregiver is furnishing marijuana for medical use, so it is accessible only to the primary caregiver. The processing and storing of medical marijuana is permitted only by registered primary caregivers, and registered qualifying patients.
 - (iv) The registered primary caregiver may grow up to a maximum of 72 plants. No more than 12 plants, for each individual registered qualifying patient.
 - (v) The registered primary caregiver is responsible for providing the security necessary to assure that the growing marijuana and usable product are accessible for use only by the primary registered caregiver for transfer to, only to registered qualifying patients who are registered to the registered primary caregiver and must fully comply with the provisions of the Michigan Medical Marijuana Act, MCL 333.26421 et seq., as amended.
 5. Parcels situated with enclosed locked facilities. The cultivation, growth, manufacturing of marijuana and processing by other than a registered qualifying patient are permitted only

in the industrial I-district; section 60-142. Marijuana may be transported to and from such facility, but shall not be transferred by a registered primary caregiver to a registered qualifying patient, or another registered primary caregiver at such facility. The following specific provisions additionally apply:

- (i) Each parcel upon which enclosed locked facilities with marijuana for medical use are present, must be a minimum of 300 feet from any parcel upon which any school, or school facility is situated, residential district, and any other parcel upon which marijuana in a secure cultivation facility is present.
 - (ii) Transfers are prohibited. Only cultivation, growth, processing, storing and transporting to and from is permitted.
 - (iii) Each enclosed locked facility for marijuana for medical use, must contain a minimum of 200 square feet and shall not exceed 1,200 square feet.
 - (iv) Each individual enclosed locked facility shall receive a certificate of zoning compliance before the presence of marijuana is allowed.
 - (v) Each enclosed locked facility must be separate from any other enclosed locked facility and maintained, enclosed and locked.
 - (vi) All persons, including but not limited to registered primary caregivers and registered qualified patients, are prohibited from the use, or consumption of medical marijuana at any parcel upon which enclosed locked facilities for marijuana, for medical purposes, is present.
 - (vii) Registered primary caregivers and registered qualifying patients, as well as any other persons, are prohibited from consumption, transfer, or use of medical marijuana for medical use at the parcel of land situated with enclosed locked facilities.
 - (viii) Marijuana plants grown outdoors in an enclosed, locked facility shall be subject to special approval land use under the zoning ordinance.
6. Cultivation of medical marijuana as defined under the Michigan Medical Marijuana Act, MCL 333.26421 et seq. as amended, is prohibited in any zoning district, except the industrial I district; section 60-142.
7. The consumption, transfer, or use of marijuana, in public, or a place opened to the public is prohibited.

(Ord. No. 188, § 1, 3-25-2013)

Sec. 60-70. Medical and recreational marihuana facilities.

- (a) *Legislative intent.* In 2016, the Michigan Legislature enacted the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq, and the Marihuana Tracking Act, MCL 333.27901 et seq. The provisions in this section of the zoning ordinance, as well as those in other sections of the zoning Ordinance relating to the subject of medical marihuana, are adopted for the purposes and with the intent set forth in City of New Baltimore Medical Marihuana Facilities Regulation and permit ordinance (being chapter 12, article IX) and sections of said ordinance incorporated within.

The intent of this article is to regulate medical marihuana provisioning centers, medical marihuana grower facilities, medical marihuana safety compliance facilities, medical marihuana secure transporters, and medical marihuana processor facilities, as defined in chapter 12, article IX, to the extent permissible under State of

Michigan and federal laws and regulations, and to protect the public health, safety, and welfare of the residents of the City of New Baltimore.

It is also the intent of this article to regulate any land use that requires a license from the department of licensing and regulatory affairs (LARA) in the administration of Michigan Regulation and Taxation of Marihuana Act (MRTMA) MCL 333.27954 et seq. or other state law providing for the sale, transport, testing, growing, distribution, and processing of recreational marihuana or any other activity involving a recreational marihuana-related use that shall require review and approval pursuant to this article and Ordinance No. 327, Recreational Marihuana Establishments. Any facility not specifically authorized in this article is prohibited.

Except as may be required by law or regulation, it is not the intent of this section to diminish, abrogate, or restrict the protections for medical uses of marihuana found in the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, and the Marihuana Tracking Act.

- (b) *Operation without license prohibited.* Every medical marihuana facility and every recreational marihuana facility in the City of New Baltimore shall be licensed pursuant to the terms and provisions set for in chapter 12, article IX or article X, respectively. No person shall operate a medical marihuana or recreational marihuana facility in the city without first obtaining a license for the recreational or medical marihuana facility from the city clerk. A medical marihuana or recreational marihuana facility must operate with 1) a city license under the provisions of chapter 12, article [IX] or X, and must also operate with 2) a state license or approval pursuant to the MMFLA or MRTMA, as these statutes may be amended from time-to-time. If both 1) and 2) above are not satisfied, the marihuana facility is hereby declared a public nuisance. License applications are reviewed and approved by the city council.
- (c) *Approved site plan required.* Use of any property or existing structure as a marihuana facility requires an approved site plan. If the site and structure to be used is existing, and a site plan would not otherwise be required for construction based on section 60-23 of this article, a previously approved site plan or an as-built survey demonstrating compliance with the requirements of the zoning ordinance, as determined by the planning and zoning administrator or his/her designee, may be accepted by the city. This site plan or as-built survey drawing shall be supplemented by floor plans and other documents necessary to verify compliance with the requirements of this article and chapter 12, article IX and article X, as applicable based on the type of facility. If a previous site plan or as-built survey drawing is not accepted, a new site plan shall be prepared and is it is subject to the approval process and all other requirements of the zoning ordinance. Any change in use to a medical marihuana or recreational marihuana facility which requires an increase in parking spaces beyond the capacity of what is currently provided on the subject property is subject to site plan approval following the requirements and procedures in the zoning ordinance. The planning commission will determine the requirement for the minimum number of parking spaces after reviewing documentation from an applicant to support the number of parking spaces proposed. In making this determination, the planning commission can consider whether a provisioning center or marihuana retailer is proposing curbside or off-site pickup. The planning commission will consider traffic, parking, safety and operations, adjacent land use, and neighborhood impacts when reviewing such proposals. Any proposal for curbside or off-site pickup will require approval by city council after considering a recommendation by the planning commission.

If a new site plan is not required by this article, the application for license may be made directly to the city council with the existing site plan or as-built survey drawings, with review following the procedures and standards of chapter 12, article IX (medical) or Article X (recreational).

If a new site plan is submitted, it shall be reviewed by the planning commission, and the planning commission shall make a recommendation to the city council. The planning commission shall review the site plan to determine compliance with the requirements of the zoning ordinance, chapter 60 of the New Baltimore Code of Ordinances, and all other applicable laws and ordinances. Once the site plan has received a recommendation from the planning commission, it shall be forwarded to the city council for final action. The city council will consider and take final action on the site plan and the medical marihuana or recreational facility license.

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- (d) *License application evaluation.* The city council, itself, and/or with the assistance of designees shall assess and evaluate all applications for a medical marihuana facility license submitted according to the provisions of chapter 12, article IX and for recreational marihuana facility license submitted according to the provisions of chapter 12, article X.
- (e) *Maximum number of facilities.* When reviewing a site plan for a medical marihuana facility, the planning commission shall acknowledge the maximum number of licenses that can be issued for facilities as provided in chapter 12, article IX. For a recreational marihuana facility, the maximum number of licenses that can be issued is specified in chapter 12, article X.
- (f) *Facilities buffering, dispersion, and other requirements.* When reviewing a site plan for a new recreational or medical marihuana facility, the following shall apply:
- (1) The entire parcel upon which the medical marihuana or recreational marihuana facility is to be located must be fully compliant with the zoning ordinance.
 - (2) The parcel upon which the medical marihuana or recreational marihuana facility is to be located must be entirely within the boundaries of the special facilities overlay of the industrial zoning district as delineated on the zoning map.
 - (3) For purposes of calculating the following buffering and dispersion requirements, the distances specified below shall be measured from the building of the buffered use to the building of the medical marihuana or recreational marihuana facility nearest to the buffered use. The distance from medical marihuana or recreational marihuana facility building to the building of the buffered use shall be included in the permit application. In the case of a park with a playground, the measurement for the buffered use shall be taken from the nearest play structure. All medical marihuana and recreational marihuana facility buildings must be at least 300 feet away from the following:
 - a. A public or private pre-kindergarten, elementary or secondary school building;
 - b. A public park with playground equipment as measured from the nearest play structure;
 - c. A commercial child care organization building (non-home occupation) that is required to be licensed or registered with the Michigan Department of Health and Human Services; or its successor agency;
 - d. A religious institution building that is defined as tax exempt by the city assessing department;
 - e. A building in which substance abuse prevention services, substance abuse treatment, or substance abuse rehabilitation services are provided as those terms are defined in MCL 333.6101 et seq., as amended.
 - (4) The following also applies to medical marihuana and recreational marihuana facilities:

Any medical marihuana or recreational marihuana facility building shall be at least 300 feet away from residentially zoned property.
 - (5) A medical marihuana or recreational marihuana facility shall not be located within the same building or unit occupied by any other type of business, unless co-located compliant with the Medical Marihuana Facilities Licensing Act and other medical marihuana facility use or, if applicable, the Michigan Regulation and Taxation of Marihuana Act.
 - (6) No medical marihuana or recreational marihuana facility shall be located in an unzoned area or in an area subject to an agreement entered into pursuant to Public Act 425 of 1984.
 - (7) A grower, processor, or provisioning center may co-locate their medical marihuana or recreational marihuana facility within the same building or parcel if compliant with state law. Each type of medical

marihuana and recreational marihuana facility, subject to licenses, requires separate city applications and permits pursuant to chapter 12, article IX and article X, respectively.

- (8) All grower, processor, or provisioning centers shall include odor control methods that follow industry best practices for removal of odor outside of a medical marihuana or recreational marihuana facility. Such methods shall be subject to approval of the planning commission, including but not limited to activated carbon filters/scrubbers, internal exhaust fans, odor neutralizers, and air purifiers, to be included as part of their license application and approved site plan as required on a case-by-case basis by the planning commission. Ozone generators shall not be permitted as an odor neutralization method.
- (g) *Minimum conditions.* Except as may be preempted by state law or regulation, the following minimum zoning standards apply.
- (1) *Medical marihuana provisioning centers and recreational marihuana retailers.*
- a. The entire parcel upon which the medical marihuana facility is to be located must be properly situated and zoned for medical marihuana or recreational marihuana facilities and the medical marihuana provisioning center or recreational marihuana retailer must be located in a building as defined under chapter 12, article IX, section 12-342 (medical) or chapter 12, article X (recreational).
 - b. Unless permitted by the MMFLA or MRTMA, as applicable, public or common areas of the medical marihuana provisioning center and recreational marihuana retailer must be separated from restricted or non-public areas of the medical marihuana provisioning center and recreational marihuana retailer by a permanently locked barrier. Unless permitted by state law, no medical or recreational marihuana is permitted to be stored, displayed, or transferred in an area accessible to the general public.
 - c. All medical marihuana and recreational marihuana storage areas within the medical marihuana provisioning center or recreational marihuana retailer must be separated from any customer/patient areas by a permanent barrier. Unless permitted by the state law, no medical marihuana or recreational marihuana is permitted to be stored in an area accessible by the general public or registered customers/patients. Medical marihuana may be displayed in a sales area only as permitted by state law.
 - d. Marihuana shall not be permitted to be stored in trailers or sheds or other accessory structures to the principal building.
 - e. No medical marihuana provisioning center or recreational marihuana retailer shall be open between the hours of 9:00 p.m. and 7:00 a.m.
 - f. No medical marihuana or recreational marihuana facility shall be operated in a manner creating noise, dust, vibration, glare, fumes, or odors detectable to normal senses beyond the boundaries of the property on which the medical marihuana provisioning center or recreational marihuana retailer is operated; or any other nuisance that hinders the public health, safety, and welfare of the residents of the City of New Baltimore.
 - g. Drive-thru windows on the premises of a medical marihuana provisioning center or recreational marihuana retailer shall be prohibited. Outdoor seating is not permitted.
 - h. Recreational retail facilities and medical marihuana provisioning centers may provide for curbside pickup of products if authorized by the MMFLA or MRTMA, respectively, and if approved by city council, after a recommendation from the planning commission as part of site plan approval subject to the following:

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1. Curbside pickup facility, as used in section 60-70, means an off-street parking space that accommodates customers waiting in their vehicle while the staff of the provisioning center or marijuana retailer brings the items purchased directly to the customers while the customer(s) remain in their vehicle.
 2. Facilities offering curbside pick-up service shall provide dedicated curbside pickup space(s) for the customer and the dedicated space(s) must be on the same zoning lot as the principal use.
 3. Curbside pick-up spaces shall be permitted anywhere within an off-street parking area that a standard parking space is permitted, provided all standards pertaining to off-street parking spaces and to off-street parking areas are met.
 4. All spaces shall be clearly marked with a different colored striping and a sign to differentiate from regular parking spaces. Each curbside pick-up space shall be identified with a standard "curb-side pickup" sign. All identification signs shall meet the same standards relative to installation, location, height, and size as barrier-free parking signs. Alternate location, sign and sign may be approved by the city council upon planning commission recommendation, provided they are compatible with surrounding architecture and signage.
 5. Curbside pick-up spaces shall meet all dimensional requirements and construction standards of a standard parking space in article VIII, Off-Street Parking and Loading Requirements, including length and width.
 6. The number of curb-side pick-up parking spaces may be counted towards minimum required parking spaces for the principal use. Additionally, the city council, upon recommendation from the planning commission, may modify the required number of parking spaces if the applicant demonstrates that curbside pickup will result in fewer required parking spaces.
 7. Drive-through lanes shall not be used for conducting transactions.
 - i. All disposal systems for spent water and spent soil shall be approved by the city.
 - j. Exterior signage shall comply with chapter 42 of the City of New Baltimore Code of Ordinances and chapter 12, article IX (medical) and article X (recreational).
- (2) *Medical marihuana or recreational marihuana grower facility.*
- a. The entire parcel upon which the medical marihuana or recreational marihuana facility is to be located must be properly situated and zoned for medical marihuana facility zoning.
 - b. Medical marihuana and recreational marihuana grower facilities shall produce no products other than useable medical or recreational marihuana and related extractions and by-products authorized by state law and intended for human consumption.
 - c. Co-locations of a growing facility with another permitted marihuana use shall be allowed in compliance with STATE law.
 - d. No accessory uses other than uses regulated pursuant to Chapter 12, Article IX and Chapter 12, Article X shall be permitted within the same building occupied by a use permitted under Chapter 12, Article IX (medical) and under Chapter 12, Article X (recreational).
 - e. All activity related to the grower facility shall be done indoors, except for cultivation fully compliant with state law so that the visibility of marihuana plants from public view does not occur. All plants immediately upon harvesting must be relocated indoors, and shall not be stored or left outdoors.

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- f. The outdoor cultivation of plants within three hundred feet (300') of residentially zoned property and within one hundred feet (100') of any other property boundary is prohibited.
 - g. All medical and recreational marihuana shall be contained within a locked medical marihuana or recreational marihuana facility, including all interior doors, all windows and points of entry and exists, with commercial grade non-residential locks and with a monitored alarm system. Marihuana shall not be permitted to be stored in trailers, sheds, or other accessory structures to the principal building.
 - h. Floors, walls, and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.
 - i. There shall be adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor; minimize the potential for the waste development of odor; and minimize the potential for waste becoming an attractant, harborage or breeding places for pests.
 - j. Litter and waste shall be properly removed and the operating systems for waste disposal are maintained in an adequate manners so that they do not constitute a source of contamination in areas where medical or recreational marihuana is exposed.
 - k. All disposal systems for spent water and spent soil shall be approved by the city and byproduct materials, soils, plant materials, and other materials shall be stored indoors until pickup for disposal.
 - l. Venting of marihuana odors into the areas surrounding the medical marihuana or recreational marihuana grower facility is prohibited.
 - m. See chapter 12, article IX (medical) and article X (recreational) for limitations on exterior signage.
- (3) *Medical marihuana safety compliance facility.*
- a. The entire parcel upon which the medical marihuana or recreational marihuana facility is to be located must be properly situated and zoned for medical marihuana or recreational marihuana facilities.
 - b. There shall be no other accessory uses permitted within the same medical marihuana or recreational marihuana facility other than those associated with testing medical marihuana or recreational marihuana.
 - c. Exterior signage shall comply with chapter 42 of the City of New Baltimore Code of Ordinances and chapter 12, article IX (medical) and article X (recreational). Additional advertising signs, including but not limited to, vehicle signs, sandwich boards, portable signs, temporary signs, or banners are prohibited.
 - d. All medical marihuana and recreational marihuana shall be contained within the building in an enclosed, locked medical marihuana or recreational marihuana facility in accordance with state law, and rules and regulations of the medical marihuana licensing board and the Michigan Department of Licensing and Regulatory Affairs.
 - e. Litter and waste shall be properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where medical marihuana or recreational marihuana is exposed.
 - f. Floors, walls, and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.

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- (4) *Medical marihuana or recreational marihuana processor facility and medical marihuana or recreational marihuana secure transporter.*
- a. The entire parcel upon which the medical marihuana facility is to be located must be properly situated and zoned for medical marihuana or recreational marihuana facilities.
 - b. Exterior signage shall comply with chapter 42 of the City of New Baltimore Code of Ordinances and chapter 12, article IX (medical) and article X (recreational). Additional advertising signs, including but not limited to, vehicle signs, sandwich boards, portable signs, temporary signs, or banners are prohibited.
 - c. All activity related to the processor shall be performed indoors in a building.
 - d. All medical and recreational marihuana shall be contained within the building in a locked medical marihuana or recreational marihuana facility in accordance with state law, and the rules and regulations of the medical marihuana licensing board and the Michigan Department of Licensing and Regulatory Affairs.
 - e. The dispensing of marihuana at the medical marihuana or recreational marihuana processor or secure transporter facility shall be prohibited except as authorized by state law.
 - f. Litter and waste shall be properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where medical marihuana or recreational marihuana is exposed.
 - g. Floors, walls, and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.
 - h. There shall be adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor; minimize the potential for the waste development of odor; and minimize the potential for waste becoming an attractant, harborage or breeding places for pests.
 - i. There shall be no other accessory uses permitted in the same medical marihuana or recreational marihuana facility other than those associated with the processing. Multi-tenant commercial buildings may permit accessory uses in suites segregated from the processor facility.

(Ord. No. 230, § 1, 5-18-2020; Ord. No. 235, § 1, 3-11-2020; Ord. No. 240, § 1, 2-8-2021)

Secs. 60-71—60-80. Reserved.

ARTICLE IV. ZONING DISTRICTS AND ZONING MAP

Sec. 60-81. Zoning map.

The Zoning Map of the City of New Baltimore, which together with all explanatory matters thereon, is hereby adopted and declared to be a part of this chapter. Regardless of the existence of purported copies of the zoning map which may from time-to-time be made or published, the zoning map, which shall be located in the office of the city clerk, shall be the final authority as to the current status of zoning in the City of New Baltimore. In the event that the Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the city council may, by resolution, adopt a new zoning map. The new zoning map may correct drafting or other errors or omissions in the prior zoning map, but no such corrections shall have the effect of amending the original zoning map or any subsequent amendment thereof. Unless the prior zoning

map has been lost or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

(Ord. No. 158, § 4.00, 9-22-2008)

Sec. 60-82. Zoning districts.

For the purpose of this chapter, the City of New Baltimore is hereby divided into the following districts:

- R-80 Single-Family Residential
- R-70 Single-Family Residential
- R-65 Single-Family Residential
- WR Waterfront Residential District
- WM Waterfront Marina District
- RM-1 Multiple-Family Residential
- RM-2 Multiple-Family Residential
- MHC Manufactured Housing Community
- BT Business Transitional
- LC Local Commercial
- GC General Commercial
- CB Central Business
- I Industrial

(Ord. No. 158, § 4.01, 9-22-2008)

Sec. 60-83. 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) Unless shown otherwise, the boundaries of the districts are lot lines; the centerlines of streets, alleys, roads or such lines extended; railroad right-of-way lines; and the City of New Baltimore limits. Dimensions shown are to the center of the adjacent road or street.
- (2) Where, due to the scale, lack of detail or illegibility of the zoning map for this chapter, there is any uncertainty or contradiction as to the location of any district boundaries shown thereon, interpretation concerning the exact location of district boundary lines shall be determined, upon written application or upon its own motion, by the zoning board of appeals. The zoning board of appeals, in arriving at a decision on these matters, shall apply the following standards:
 - a. The district boundaries, as set forth in this section, shall first be considered with reference to the standards cited in subsection (1) above.
 - b. Where a district boundary divides a site, the location of any such boundary, unless the same is indicated by dimensions shown on said map, shall be determined by the use of the map scale shown thereon.

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- c. If, after the application of the foregoing standards, uncertainty, contradiction or dispute remains as to the exact location of a district boundary, the zoning board of appeals shall determine and fix the location of said boundary line as all of the facts and circumstances shall require.

(Ord. No. 158, § 4.02, 9-22-2008)

Sec. 60-84. District regulations.

- (a) No structure or land shall be used, occupied, erected, constructed, moved or altered, except in conformity with the regulations specified for that zoning district. Unless a use is permitted in a particular zoning district, it shall be prohibited in that zoning district.
- (b) Except as otherwise provided, regulations governing land and building use, minimum lot size, lot area per dwelling unit, building height, building placement, required yards and other pertinent factors are hereby established as stated in the detailed provisions for each of the zoning districts. In each zoning district, a permitted use shall be a use of land or buildings subject to the minimum requirements specified for such use in the zoning district in which such use is located, plus applicable requirements found elsewhere in this chapter. A special land use shall be a use of land or buildings which may be permitted in that district only after following special procedures designed to ensure site and use compatibility with existing or proposed surrounding land uses. In evaluating and deciding each application for such permission, the planning commission shall apply the standards contained in article X of this chapter and any special conditions imposed for that use.

(Ord. No. 158, § 4.03, 9-22-2008)

Sec. 60-85. Zoning of vacated areas.

Whenever any street, alley or other public way within the City of New Baltimore is vacated by official government action, and when the lands within the boundaries thereof attach to and become a part of the land adjoining such street, alley or other public way, such lands formerly within such vacated street, alley or public way shall automatically and without further governmental action thenceforth acquire and be subject to the same zoning regulations as are applicable to the lands to which same shall attach.

(Ord. No. 158, § 4.04, 9-22-2008)

Secs. 60-86—60-100. Reserved.

ARTICLE V. RESIDENTIAL DISTRICTS

Sec. 60-101. Provisions applicable to residential districts.

- (a) *Accessory buildings.* Accessory buildings or structures in all residential districts shall be customarily incidental to, and subordinate in size and scope to the principal structure or use, and shall be subject to the following regulations:
 - (1) Where the accessory building is structurally attached to a main building, it shall conform to all regulations of this chapter applicable to the main building.
 - (2) An accessory building shall not be used for any business, profession, trade or occupation, except where approved by the City of New Baltimore as a home occupation.

(Supp. No. 14)

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(3) Detached accessory buildings and/or structures:

- a. Shall not be located in the required front or required side yard setbacks. On corner lots, they shall not be located within the required front yard setback along all street frontages. On lake, river or canal lots (see subsection 60-101(f)), garages may be located no closer than 25 feet to the road right-of-way line.
- b. Shall not be located closer than ten feet to any other building.
- c. May be located in the side or rear yards, provided that they are not located closer than five feet to any lot line or one foot from an alley.
- d. A storage building of no more than 100 square feet may be permitted in the side or rear yard.
- e. Shall not exceed 20 feet in height.
- f. Shall not be constructed prior to the construction of the main building.
- g. Shall have the following maximum size limits. All accessory buildings and structures shall be included in the calculation of permitted maximum lot coverage of the applicable zoning district.
 1. On parcels of 12,500 square feet or less, one detached garage or carport building, and one storage building, the total of which shall not exceed 725 square feet of floor space, shall be permitted.
 2. On parcels with more than 12,500 square feet, but less than five acres, the total of all detached accessory building(s) shall not exceed 1,200 square feet, and no more than two detached accessory buildings shall be permitted.
 3. On five acres or more, the total of all detached accessory building(s) shall not exceed 2,000 square feet. There shall be no more than three detached accessory buildings.
 4. A boat hoist, boat lift, or boat house is permitted in the lake or canal yards, provided that such structure is not enclosed, except with a roof or similar top cover, and a maximum wall drop from the roof not to exceed two feet, and a clear opening of at least six feet below either the roof or wall drop (see subsection 60-101(f)).

(b) *Design standards.*

- (1) The front elevation of single-family detached dwelling units shall not recur in the same or a substantially similar structural form on another dwelling within the same block frontage, without there being at least three other dwellings with a different building elevation between the dwellings that repeat the front elevation. Different colors alone will not constitute different front elevations.
- (2) Plans for modulars, prefabricated units and similarly constructed units shall be approved by the State of Michigan Construction Code Commission as meeting the State Construction Code (Public Act 230 of 1972 and Public Act 371 of 1980, as amended) prior to the issuance of a building or occupancy permit. Manufactured/mobile homes or trailers shall meet or exceed the requirements imposed by the United States Department of Housing and Urban Development Mobile Home Construction and Safety Standards (24 CFR 3280 and as, from time-to-time, such standards may be amended). The planning commission shall be furnished a certificate stating that such dwelling meets the minimum building code requirements applicable to such structure or shall include a seal attached to the unit. Any addition to such manufactured home must be designed and constructed by the manufacturer of such home or must be based upon an architectural plan deemed compatible with the overall design of the manufactured home and approved by the planning commission.
- (3) All one-family dwelling units shall have a minimum width across any front, side or rear elevation of 24 feet.

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- (4) All dwelling units shall be attached to a permanent foundation constructed on the site in accordance with the building code and shall have a wall of the same perimeter dimensions of the dwelling and additions thereto and constructed of such materials and type as required in the building code. In the event that the dwelling is a manufactured home, as defined herein, such dwelling shall also be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission and shall have a continuous perimeter wall, as required above.
- (5) Single-family dwellings shall be aesthetically compatible in design and appearance with other residences in the vicinity. In making such determination of compatibility, the planning commission may consider the following factors: total square footage; length-to-depth proportions; value and quality of construction; exterior building materials; architectural style and design and roof line; as well as the character, design and appearance of a majority of the residential dwellings (excluding manufactured housing communities) within 500 feet of the subject dwelling. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.
- (c) *Dwellings per lot or parcel.* No more than one single-family residential dwelling shall be permitted per lot or parcel, except as provided for in a site condominium.
- (d) *Dwellings without basements.* Each one-family and two-family dwelling unit without a basement shall provide not less than an additional 100 square feet of floor area for utility rooms and/or storage space greater than the minimum floor area per dwelling unit.
- (e) *Fences, walls and protective barriers.*
- (1) No fence shall be erected in the single-family residential district along the line dividing lots or parcels of land or located within any required rear or side yard in excess of six feet in height above the average grade of the land.
- (2) Public recreation facilities may erect a fence greater than six feet in height to provide protection to adjoining residential properties after approval from the planning commission.
- (e) *Fences, walls and protective barriers.*
- (3) All single-family residential properties where the back or side yard of the house abuts a major, secondary or collector road, as designated in the City of New Baltimore Master Plan, shall meet the following requirements:
- a. All fences, unless otherwise approved as part of the platting or condominium process, that are located within a side or rear yard abutting a road (as described above) shall maintain a required height of six feet and panel lengths of eight feet to maintain uniformity along all road frontages. Such fences shall be located on the property line abutting such road and shall be installed consistent with the manufacturer's specifications.
- b. All such fences shall:
1. Be a heavy gauge vinyl fence type.
 2. Carry a transferrable limited lifetime warranty.
 3. Be of a flat-top style, not dog-ear or shadow-box style.
 4. Be a sand/beige color.
 5. Have an aluminum-reinforced bottom rail.

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6. Have the ability to be installed to step over terrain where the topography is not flat and such installation is determined necessary by the building official to maintain a consistent height and character across a yard or multiple yards.
 7. Have a gate, of the same material as the fence, to provide access to the opposite side of the fence for maintenance purposes.
- (4) All single-family residential properties where the front yard abuts a major, collector or local road, as designated in the City of New Baltimore Master Plan, shall meet the following requirements.
 - a. No fence, wall or hedge shall be located in the front yard of a residential lot or parcel which has a height greater than 42 inches. Fences located in the front yard shall be decorative in nature. Chain link fencing is prohibited within the front yard.
 - (5) Fences within 15 feet of the intersection of a driveway and the road right-of-way shall not be constructed of view-obscuring materials to ensure adequate clear vision for vehicular traffic.
 - (6) All fences in multiple-family residential districts shall be subject to site plan review procedures.
 - (7) Fencing on adjoining properties shall be required to maintain a back-to-back relationship. When separate fences have been installed on adjoining properties, there shall be not more than six inches between the two fences.
 - (8) All fences hereafter erected shall be installed with the post side facing towards the property on which the fence is located.
- (f) *Lake, river or canal lot frontage.* Those residential lots and/or parcels having one lot line abutting or extending into the water and an opposite lot line abutting a public thoroughfare shall maintain at least a 30-foot open and unobscured yard area on the water side, except that the following exceptions apply:
- (1) Exceptions specific to lake lot frontages:
 - a. A boat hoist, boatlift or an uncovered boat well pursuant to subsection 60-101(a)(3)g.4. may be permitted.
The construction of a deck or patio shall not be permitted on top of the roof of a covered boat well or structure
 - b. One dock box and one pump house may be permitted subject to the following requirements:
 1. Height: Twenty-four inches.
 2. Width: Thirty-six inches.
 3. Length: The length of a dock box or pump house shall not exceed eight feet.
 - (2) A boardwalk or patio abutting the water's edge shall be permitted subject to the following conditions:
 - a. Such boardwalk or patio shall be no more than 20 feet in width and no more than 12 inches above the natural grade of the site.
 - b. No boardwalk shall be permitted to cantilever or extend into the water and/or beyond the property line.
 - (3) Exceptions specific to canal or river lot frontages:
 - a. All permitted exceptions specific to lake front lots, and;
 - b. A covered boat well or boat hoist pursuant to subsection 60-101(a)(3)g.4. may be permitted.
 - (4) In general, the waterfront yard shall be measured from the seawall or bulkhead or the average shoreline established by the Corps of Engineers. A principle structure shall maintain a minimum

setback on the waterside of 90 feet, or a setback equal to the average setback of the adjacent lots. In no case may a structure be constructed that is more than 15 feet in front of the principle structure on the waterside of an adjacent lot. No main or accessory building shall be closer to the thoroughfare than authorized by the front yard setback required in this chapter.

- (g) *Measuring minimum floor space requirements.* Minimum floor space requirements as established by the various provisions of this chapter for residential dwelling shall be measured from the exterior surface of enclosing walls and the centerline of common partition walls for each dwelling unit. Minimum floor area shall not include cellars or basements, attached garages or attics, unheated breezeways, porches or decks.
- (h) *Residential entranceway.* In all residential districts, so called entranceway structures, including, but not limited to, walls, columns and gates, marking entrances to single-family subdivisions may be permitted and may be located in a required setback, provided that such entranceway structures shall comply with all codes and ordinances of the city and be approved by the planning commission.
- (i) *Residential open space development.*
 - (1) Residential open space development, as defined in this chapter, shall be considered a permitted use in the R-65, R-70 and R-80 Zoning Districts.
 - (2) Intent. The intent of this section of the Zoning Ordinance (this chapter) is to provide a preferable alternative to conventional single-family development regulations. All residential open space developments shall promote the following objectives:
 - a. Preserve the city's natural resources, including woodlands, wetlands, topography, floodplains and similar natural assets.
 - b. Preserve open space.
 - c. Encourage a creative approach to the development of parcels exhibiting unusual characteristics and/or land use relationships.
 - d. Provide alternatives to conventional subdivision development.
 - e. Provide common areas with recreation opportunities of both a passive and active nature.
 - (3) Submission and preservation requirements.
 - a. All natural assets and cultural/historic features on the site must be identified on the plan. Such assets shall include natural stands of large trees, wetlands, floodplains, productive agricultural land, topography, bodies of water (i.e. streams, rivers), land which serves as a natural habitat for wildlife, or other natural assets which should be preserved. Regulated natural features such as, but not limited to, wetlands and floodplains must be identified through documentation from the appropriate federal, state and/or local authorities.
 - b. A detailed map of the parcel identifying soil conditions shall be provided. Soil borings may also be required by the planning commission.
 - c. The site design for common open space shall include both active and passive recreation areas for residents within the open space community. Active recreation areas shall refer to upland areas with man-made improvements that are maintained on a regular basis. These areas shall not include open water regardless of the ability to provide for swimming, boating, fishing and similar water related activities. All open space developments shall include an improved trail way system as a portion of the required active recreation area. Active recreation areas may also include playground equipment, properly constructed sport fields, swimming pools, exercise equipment, parks (with benches, picnic tables, barbeques and gazebo-like structures) and other similar type uses. Passive recreation shall be open space areas left in their natural state, preserved natural amenity areas, open fields (improved as required in subsection (i)(5), herein), agricultural land,

and open water lakes (not including retention/detention ponds). This paragraph shall not apply to farmland preservation projects. Such passive and active open space shall be clearly defined on the site plan.

- d. A preservation and maintenance agreement for all open space areas and common elements, reviewed and approved by the city attorney shall be submitted. Approval of the development shall be conditioned upon the recording of appropriate conservation easements and/or other irrevocable instruments for the purpose of providing for maintenance and preservation of common elements, open space areas, wooded areas and/or other areas with natural resources or features to be preserved. All such maintenance agreements, deed restrictions, and the approved plans from the city shall clearly indicate that open space maintenance shall be the responsibility of the homeowners or condominium association.

(4) Density.

- a. The maximum number of units allowed shall be determined by the submission of a "yield plan". The yield plan shall be provided by the developer and shall be a feasible development under the requirement standards of the specified zoning district with regard to lot width, lot area, width-to-depth ratios, setbacks, frontage, and other applicable provisions of such district. The yield plan shall meet all applicable requirements of the State Land Division Act and all applicable city ordinances. The yield plan shall also meet all requirements of the City of New Baltimore Land Division and Subdivision Regulation Ordinance (chapter 28 of this Code).

The planning commission may require soil and ground water perk tests for lots of a suspect nature. They may also require test wells if adequate well water is questionable. If it is determined through these tests that the number of housing lots proposed is unfeasible, the site plan will be revised and resubmitted, minus the number of house lots that failed the perk and/or water test. Detailed engineering is not required at this stage.

- b. The planning commission may award the applicant a development bonus with regard to the number of residential units permitted within an open space development. Such bonus shall not exceed a ten-percent increase in the number of residential units. The planning commission may grant such a bonus upon a finding that the applicant is preserving the natural features of the site or creating natural features on site.

(5) Open space requirements.

- a. A minimum of twenty percent of the development shall be set aside for common open space, as defined below. The amount of active open space acreage so required by this section shall be determined by the following formula:

Population per Dwelling Unit* X	Number of Dwelling Units X	$\frac{8.375 \text{ acres}}{1,000 \text{ Persons}} =$	Active Open Space Area
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* The population per dwelling unit shall be determined by using the current Southeast Michigan Council of Governments projections for persons per household for the City of New Baltimore. In no case shall a number less than 2.50 persons per household be utilized.

Said area shall either:

1. Belong to the homeowner's association, with proper maintenance being set forth in homeowner deed restrictions; or

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2. The developer may choose to deed such land to the City of New Baltimore for neighborhood playgrounds, parks or recreation areas subject to city acceptance of such property. For the purposes of this chapter, the city shall only consider acceptance of a minimum of four acres of contiguous active open space. The failure of the city to accept such property shall not relieve the developer from the requirements of the open space ordinance.

Open space shall be defined as follows: All areas within the open space development, not individually owned or part of a limited common area, which are designed and intended to preserve open land resources for the common use and enjoyment of the residents of the entire development for any of the following uses: recreation, forestry and/or open space conservation, prairies, meadows, community gardens, or agricultural uses. The open space requirements shall not be met by land uses such as rights-of-way or easements designated for road or utility purposes, areas within lots, detention/retention ponds (and associated land surrounding the ponds), golf courses or other commercial recreational uses, or land area dedicated as limited commons.

- b. A minimum of 33 percent of all dwelling units within the development shall abut the dedicated open space.
 - c. Trail ways shall be located throughout the open space and shall link the internal sidewalk/walking path system of the housing development with the open space areas. Such trail ways shall be a minimum of five feet in width and constructed of asphalt in upland areas and wood plank decking in wetland areas.
 - d. A minimum of one access point to the open space, being a minimum of 50 feet in width, shall be provided for each 12 households. These access points shall link the open space to the sidewalks and the remainder of the development.
 - e. Developments shall provide open space in a manner which encourages the future linkage of open space to adjacent parcels.
 - f. All dwelling units shall have side, rear, or alley entry garages, or other configurations not opening directly to the street; except that the planning commission may approve dwelling units with garages that face the road if such garage does not extend beyond the front plane of the living quarters of the dwelling.
 - g. The development shall include a minimum of a 210-foot roadway setback-buffer measured from the road centerline along any regional, major, or secondary road with a right-of-way of 120 feet or less. For those roads with a right-of-way greater than 120 feet, the roadway buffer shall be increased one-half foot for each one foot over 120 feet.
 - h. A minimum buffer width of 30 feet shall be provided between streams, lakes, ponds or wetlands and similar man-made features such as detention/retention basins. Residential lots shall not encroach within this 30-foot wide waterbody/waterway buffer.
 - i. Nonagricultural open fields designated for passive recreation shall be planted with native prairie grass or similar types of ground cover. In addition, ten trees shall be planted for each one acre of open field. Deciduous trees shall be a minimum size of 2½ inches caliper and evergreen trees shall be a minimum of six feet in height. Such trees shall be planted and maintained within the open field area and be native to Michigan.
- (6) Utilities. All utilities shall be placed underground when feasible. The applicant shall provide adequate sanitary sewage treatment, water supply and storm water drainage systems to serve the development. Evidence shall be submitted indicating that all such systems have received preliminary approval from appropriate county or state authorities. The city shall have sole authority for final approval of any

utility system. In the absence of a city utility system, all utilities to serve the site shall be constructed and maintained by the applicant and any successors. A maintenance agreement, approved by the city, shall be required.

- (7) Roads. Roadways shall conform to the Road Commission of Macomb County standards and/or the City of New Baltimore Engineering Standards.
- (8) Street trees. The entrance and roadways shall be landscaped and planted with street trees, to create an attractive vista. Such trees shall be planted no more than thirty feet on center. The trees shall meet the size and species requirements of this chapter.
- (9) Pedestrian circulation. Sufficient right-of-way width shall be provided so that sidewalks may be installed on both sides of all streets. A five-foot wide concrete sidewalk shall be located one foot from the property line (within the street right-of-way). This requirement may be waived by the planning commission when an acceptable and more imaginative solution to pedestrian circulation is proposed by the applicant.
- (10) Setbacks. The following building setbacks shall be required:
 - a. Thirty feet from the edge of any interior road right-of-way or easement.
 - b. Five-foot side yard setback. No two principal structures shall be located within thirty feet of each other.
 - c. Rear yard setbacks shall be a minimum of twenty feet for lots with rear yards which abut open space or alleys. All other lots shall meet the rear yard setback of the zoning district for the site.
 - d. No lot, property line or building site shall be located within an exterior roadway setback-buffer.
- (11) Fencing. The use of perimeter fencing around building sites is prohibited except as permitted herein. Rear yards and side yards may be enclosed with split rail, picket-type, wrought iron, or other similar decorative fencing. Such fences shall not exceed 48 inches in height. In no case shall view obscuring fences, privacy fences, chain-link fences or other similar wire fences be permitted on a site. Fences are prohibited in the front yard or street-side (front) yard.
- (12) Dedication of open space and/or development rights. The dedicated open space shall be set aside in an irrevocable conveyance that is acceptable to the city attorney and approved by the city council, such as the following:
 - a. A conservation easement as established by the State of Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980, as amended (M.C.L. 399.251).
 - b. Master deed as established by the State of Michigan Condominium Act, Act 59 Public Act of 1978, as amended.
 - c. Distribution, gift or sale of the development rights to all property owners within the open space community.

The above conveyance shall indicate all proposed uses of the dedicated open space, which shall also be shown on the approved open space community. The city Attorney shall review the conveyance and assure the city that such lands shall remain as open space for perpetuity. The conveyance shall also detail a maintenance schedule and funding for operation, maintenance and insurance for all common areas, facilities, projects and programs of the Open Space Community, and shall include methods of payments and collection. The homeowner or condominium association shall be responsible for maintenance of all open space areas. At the time the property is turned over to the association it shall be clean and free of debris.

(13) Unless otherwise provided for in this chapter, all other applicable zoning ordinance provisions shall apply.

(j) *Storage in any residential district.*

- (1) Fish shanties shall be stored in a safe and sightly manner. All openings shall be secured, locked, or otherwise fastened to preclude the possibility of a child or adult being trapped or otherwise injured.
- (2) Boats shall be stored and shored in such a manner as to withstand a 45 mile an hour wind and shall be covered or otherwise protected to prevent accidents to children and adults.
- (3) All storage of equipment, trailers and materials shall be made as safe and sightly as is reasonably possible.
- (4) All such property shall be owned by the property owner or resident, except that not more than one nonowned trailer or boat may be stored on the lot or parcel.

(k) *Swimming pools.* All swimming pools erected in the city greater than 24 inches in depth shall comply with the following requirements:

- (1) Pool location. Neither the pool nor its fence shall be located within the required front yard or required corner lot side yard. Rear yard setbacks shall not be less than ten feet between the pool outside wall and the rear property line, or less than the established easement width at the rear property line, or less than ten feet between pool wall and any building on the lot.
- (2) All electrical installations or wiring in connection with swimming pools shall conform to the provisions of the City of New Baltimore electrical code. If service drop conductors or other utility wires cross under or over a proposed pool area, the applicant shall make satisfactory arrangements with the utility involved for the relocation thereof before a permit shall be issued for the construction of a swimming pool. A no-fault ground unit should be provided to protect against electrical shock.
- (3) A building permit is required prior to the construction of the pool or the installation of electrical service.

(Ord. No. 158, § 5.00, 9-22-2008; Ord. No. 173, § 1, 3-14-2011; Ord. No. 194, § 1, 9-23-2013; Ord. No. 231, § 1, 12-9-2019)

Sec. 60-102. Single-family residential districts, R-80, R-70, R-65.

(a) *General intent.* The single-family residential districts are designed to be the most restrictive of the zoning districts. The intent is to provide for an environment of predominantly residential dwelling units, along with other residentially related facilities which serve the residents in the district. It is further the intent of these districts to:

- (1) Prohibit those uses which would interfere with, or adversely affect, the development of single-family dwellings;
- (2) Discourage any land use which, because of its size or characteristics, would create costs or requirements for public services substantially in excess of those at the specified densities; and
- (3) To discourage any land use which would generate excessive traffic on local residential streets.

(b) *Permitted uses.*

- (1) Single-family dwellings.
- (2) Family day-care (one—six children).
- (3) Type I home occupations (subsection 60-224(a).)

- (4) Public schools.
- (5) Accessory buildings, structures and uses customarily incidental to the above uses when located as required in subsection 60-101(a).
- (c) *Special approval land uses.* The following buildings, structures and uses may be permitted by the city council, after a recommendation by the planning commission and subject to the special land use requirements (article X) and the following specific section for each use.
 - (1) Cemeteries (section 60-214).
 - (2) Churches (section 60-215).
 - (3) County, state or federal uses (section 60-217).
 - (4) Group day care (seven—12 children or adults) (section 60-223).
 - (5) Large-scale recreation uses (section 60-228).
 - (6) Nursery schools, day nurseries, child and adult care centers (section 60-229).
 - (7) Public utilities, oil and gas lines (section 60-236).
 - (8) Private Schools.
 - (9) Single-family site condominiums (subject to the requirements of section 60-25).
 - (10) Two-family residential dwellings or accessory apartments (section 60-238).
 - (11) Type II home occupation (subsection 60-224(b)).
- (d) *Area, height and placement requirements.*
 - (1) In the R-80 district:

Minimum lot area:	12,000 square feet
Minimum width of lot:	80 feet
Minimum setbacks:	front yard - see below*
	side yard - no side less than five feet;
	total of both at least 20 feet;
	rear yard - 40 feet
Maximum lot coverage:	30 percent
Maximum height:	35 feet
Minimum floor area per unit (in squarefeet):	one-story: first floor/total 1,152/1,152; 1½-story: first floor/total 900/1,152; two-story: first floor/total 800/1,456

* Front and street-side setbacks shall be measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's master plan as follows:

Road Classification	Linear Feet
County Line Road	105
Major	90
Secondary	90
Collector	73

Local or private road (measured from the road easement or common usage line abutting the subject lot)	30
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(2) In the R-70 District:

Minimum lot area:	8,400 square feet
Minimum width of lot:	70 feet
Minimum setbacks:	front yard - see below*
	side yard - no side less than five feet;
	total of both at least 15 feet
	rear yard - 30 feet
Maximum lot coverage:	30 percent
Maximum height:	35 feet
Minimum floor area per unit (in square feet):	one-story: first floor/total 1,056/1,056; 1½-story: first floor/total 800/1,056; two-story: first floor/total 700/1,356

* Front and street-side setbacks shall be measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's master plan as follows:

Road Classification	Linear Feet
County Line Road	100
Major	85
Secondary	85
Collector	68
Local or private road (measured from the road easement or common usage line abutting the subject lot)	25

(3) In the R-65 district:

Minimum lot area:	7,800 square feet
Minimum width of lot:	65 feet
Minimum setbacks:	front yard - see below*
	side yard - no side less than five feet;
	total of both at least 15 feet
	rear yard - 30 feet
Maximum lot coverage:	30 percent
Maximum height:	30 feet
Minimum floor area per unit (in square feet):	one-story: first floor/total 960/960; 1½-story: first floor/total 800/1,056; two-story: first floor/total 700/1,356

* Front and street-side setbacks shall be measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's master plan as follows:

Road Classification	Linear Feet
County Line Road	100
Major	85
Secondary	85
Collector	68
Local or private road (measured from the road easement or common usage line abutting the subject lot)	25

- (e) *Existing subdivisions and plats.* In single-family subdivisions or assessor's plats which existed prior to the adoption of this chapter, if two-thirds of the lots along one side of the block are built upon, the minimum front yard setback may be the average of the setbacks already established by the housing along such frontage.
- (f) *Tri-level structures.* Tri-level structures shall meet the minimum floor area requirements for 1½-story buildings, and quad-levels shall meet the minimum requirements for the two-story buildings.
- (g) *Corner lots.* Corner lots shall be at least ten feet wider on each street than is required for that specific zoning district. A corner lot shall have at least the minimum front yard setbacks from each street when the adjoining lots have front yards on that street. No principal or accessory building shall project into these required front yards on either street. On such corner lots, the remaining yards may meet the minimum requirements for side yards rather than rear yard setbacks.
- (h) *Front yards.* The required front yard shall not be occupied by buildings or structures (except flag poles, gas or electric lamps, bird feeders, bird houses and similar items). Trees, shrubs, flowers and landscaping are encouraged. Parking of vehicles is permitted only in approved driveways.
- (i) *Minimum lot frontage required on streets with curved segments.* In the case of lots with frontage on streets with curved segments, such as a cul-de-sac street or street that contains an eyebrow, there shall be a minimum frontage dimension as measured at the front lot line on a curve of 55 feet in all single family residential zoning districts.

(Ord. No. 158, § 5.02, 9-22-2008; Ord. No. 205, § 1, 8-24-2015)

Sec. 60-103. Waterfront residential district.

- (a) *General intent.* The objective of this district is to encourage orderly development of the bay shore area of the city. The waterfront is recognized as a physical, economic, and cultural resource of the city. Therefore, this district is designed to promote the orderly development of the waterfront, while taking into account the unique existing lot dimensions/features currently associated with this area.
- (b) *Permitted Uses.*
 - (1) Permitted uses of the single-family zoning districts.
 - (2) Recreational open space, parks and recreation areas.
 - (3) Accessory uses and buildings as follows:
 - a. Private launching ramps.
 - b. Indoor storage of boats.

- c. Outdoor storage of boats in areas specifically designated on a site plan for such uses. The maximum capacity shall be shown on the site plan.
 - d. Accessory uses and buildings subject to the requirements of subsection 60-101(a).
- (c) *Special land uses.* The following buildings, structures and uses may be permitted by the city council, after a recommendation by the planning commission and subject to the special land use requirements (section 60-101) and the following specific section for each use:
- (1) All special land uses of the single-family residential zoning districts.
 - (2) Marine construction, dredging, sheet pile, and maintenance equipment use and storage. Such equipment and facilities, when not actively used, shall be neatly stored in areas where they are not readily visible from adjacent residential uses or from the road.
 - (3) Municipal or private marinas and facilities for the berthing, launching or servicing of recreational boats, except as otherwise provided in this article.
 - (4) Eating and drinking establishments and retail establishments ancillary to a marina facility.
- (d) *Area, height and placement requirements.*

(1)	Minimum lot area:	7,800 square feet
	Minimum lot width:	65 feet
	Maximum lot depth-to-width ratio:	8:1
	Maximum lot coverage:	30 percent
	Maximum height:	35 feet
(2)	Minimum floor area per unit (in square feet):	
	one-story:	first floor/total 960/960
	1½-story:	first floor/total 800/1,056
	two-story:	first floor/total 700/1,356

- (3) Setbacks shall conform to the provisions of the R-65 zoning district.
- (4) Parking and permitted outside storage of boats and equipment necessary and accessory to the principal use shall require planning commission approval and shall comply with the following conditions:
 - a. All storage or parking shall be located not less than 15 feet from any street or 25 feet from any residential use.
 - b. Boat or equipment storage areas shall be continuously maintained with a well-drained, dustproof surface at all times.
 - c. The most appropriate method of screening the outdoor storage of materials from view will be determined by the planning commission.

(Ord. No. 158, § 5.02, 9-22-2008)

Sec. 60-104. Waterfront marina district.

- (a) *General intent.* The objective of this district is to encourage orderly development of the bay shore area of the city. The waterfront is recognized as a physical, economic, and cultural resource of the city. Therefore, this district permits or encourages only those recreational, resort and business uses which are related to the waterfront and which cannot or should not be located elsewhere.

(b) *Permitted uses.*

- (1) Municipal or private marinas and facilities for the berthing, launching or servicing of recreational boats, except as otherwise provided in this article.
- (2) Recreational open space, parks and recreation areas.
- (3) Permitted uses of the RM-2 multiple family residential zoning district, in accordance with the area, height, and placement regulations of the RM-2 district.
- (4) Retail businesses which supply products primarily and directly for persons using the facilities of the district, such as sale of boats, equipment and accessories, fishing equipment, and other similar items.
- (5) Accessory uses and buildings as follows:
 - a. Private launching ramps.
 - b. Engine and hull repair.
 - c. Indoor storage of boats.
 - d. Outdoor storage of boats in areas specifically designated on the site plan for such uses. The maximum capacity shall be shown on the site plan.
 - e. Outdoor storage of recreational boats. No parking lot shall be occupied by stored boats during the months of June, July and August. All such storage shall be arranged in an orderly manner and at least one-half of the parking area shall be conveniently available for customer parking by May 15th.
 - f. Other approved accessory uses and buildings when located on the same lot as a principal use, provided that such accessory use or building shall be clearly incidental to the permitted use.

(c) *Special land uses.* The following buildings, structures and uses may be permitted by the city council, after a recommendation by the planning commission and subject to the special land use requirements (article X) and the following specific section for each use:

- (1) Other retail uses such as convenience stores, clubs and lounges.
- (2) Marine construction, dredging, sheet pile, and maintenance equipment use and storage. Such equipment and facilities, when not actively used, shall be neatly stored in areas where they are not readily visible from adjacent residential uses or from the road.
- (3) Caretaker's quarters.

(d) *Area, height and placement requirements.*

(1)	Minimum lot area:	200,000 square feet
	Minimum lot width:	300 feet
	Maximum height:	40 feet.

- (2) Front yards abutting or adjacent to any residential district shall be a minimum of 70 feet from the centerline for buildings and 45 feet for parking, and shall be planted or landscaped.
- (3) A 25-foot greenbelt shall be provided when any WM District abuts any residential district.
- (4) A 30-foot setback for all buildings, but not including boat docks, piers, wells or similar structures, shall be provided along the waterfront edge or average shoreline of any WM district which is adjacent to a residential zoned property. The 30-foot setback shall be required for a distance of at least 50 feet into the WM district measured from the common lot line.

-
- (5) Parking and permitted outside storage of boats and equipment necessary and accessory to the principal use shall be provided for all new construction and shall comply with the following conditions:
 - a. All storage or parking shall be located not less than 15 feet from any street or 25 feet from any residential district.
 - b. Boat or equipment storage areas shall be continuously maintained with a well-drained, dustproof surface at all times.
 - c. The most appropriate method of screening the outdoor storage of materials from view will be determined by the planning commission.
 - (6) Public launchings permitted at any public or private launching ramp, shall be limited to the number of parking spaces available to the general public for the parking of vehicles and boat carriers at such location.
 - (7) All lighting for external illumination of the parking area, buildings, grounds, or waters shall be directed away from and shall be shielded from adjacent residential districts.
- (Ord. No. 158, § 5.04, 9-22-2008)

Sec. 60-105. Multiple family residential, RM-1.

- (a) *General intent.* The RM-1 multiple-family residential district is intended to provide a proper environment for families who wish to live in low-rise multiple-family dwellings. This district is designed to permit various types of multiple family dwellings and regulated uses. The district requires large land acreages to provide a residential living habitat, including open space, recreation areas, and preservation of natural resources.
- (b) *Permitted Uses.*
 - (1) Multiple-family dwellings.
 - (2) All principal permitted uses of the single-family residential district, subject to the regulations of the R-70 single-family zoning district.
 - (3) Accessory buildings and uses.
- (c) *Special land uses.* The following buildings, structures and uses may be permitted by the city council, after a recommendation by the planning commission and subject to the special land use requirements (article X) and the following specific section for each use:
 - (1) Boarding, convalescent, or rest homes (section 60-213).
 - (2) Cemeteries (section 60-214).
 - (3) Churches (section 50-215).
 - (4) Community service clubs and lodges (section 60-216).
 - (5) County, state or federal uses (section 60-217).
 - (6) Group day care (seven—12 children or adults) (section 60-223).
 - (7) Housing for the elderly (section 60-225).
 - (8) Large-scale recreation uses (section 60-228).
 - (9) Nursery schools, day nurseries, child and adult care centers (section 60-229).
 - (10) Private schools.
 - (11) Public utilities, oil and gas lines (section 60-236).

(12) Type II home occupation (section 60-224(b)).

(d) *Minimum site and building requirements.* No project site shall have less than one acre and 200 feet of frontage.

(1) Minimum gross site area in square feet, per dwelling unit for the RM-1 District:*

- a. One bedroom: 4,600
- b. Two bedrooms: 5,000
- c. Three bedrooms: 5,400

* Efficiency units shall be regulated the same as one-bedroom units.

Note: Units with more than three bedrooms shall provide an additional 1,000 square feet of site area for each additional bedroom.

- (2) All sites used for multiple-family dwellings in these districts must be provided with an approved water and sewage system.
- (3) Plans presented which include a den, library or extra room shall have such extra room counted as a bedroom for purposes of this chapter.
- (4) Each development shall be limited to a maximum of ten percent efficiency units and a maximum of 50 percent one-bedroom units.
- (5) Open space areas shall be provided on a per unit basis according to the following schedule. The minimum number of square feet of open space area shall be provided in addition to all required setbacks and greenbelts and shall be provided on a per unit basis according to the following schedule:

Bedrooms	Minimum Square Feet
1	500
2	600
3	700
4	800

(6) Landscaped greenbelts must be provided adjacent to, and surrounding each building on the following basis:

Side of Building	Required Greenbelt
Front	30 feet
Rear	40 feet
Sides	15 feet

Buildings which include attached garages may eliminate the required greenbelt on sides of the building where garages are located in order to permit a parking apron and paved access to garages. However, pavement shall not surround more than 40 percent of the overall perimeter of the building.

Each square foot of pavement which encroaches into a required greenbelt must be replaced on another side of the same building. Site plans must clearly dimension landscaped greenbelts and provide calculations in instances of greenbelt transfer.

Areas used to facilitate utilities must maintain a 30-foot greenbelt.

- (7) No multiple-family building shall exceed 150 feet in length along any one face of the building.
 - (8) All drives shall be 24 feet in width. For the purposes of this section, all paved areas within the site utilized for vehicular access and circulation shall be considered drives.
 - (9) Landscaping. Areas of the site not required to be hard-surfaced shall be sodded and, where appropriate, planted with trees and shrubs as provided in article ix of this chapter. In addition to the requirements of article IX, one tree shall be provided for each unit within the development. Such trees shall be placed within the required front yard greenbelt for each building. The planning commission may also approve decorative plants and art objects which must be maintained as required for greenbelts and planted strips under this chapter.
 - (10) Lighting. Adequate lighting facilities shall be provided for service drives and parking areas and indicated on the site plan approved by the planning commission. Lighting shall not exceed the standards provided in section 60-189 of this chapter.
 - (11) Sidewalks. Sidewalks shall be provided along both sides of all drives within the development.
- (e) *Building requirements.*
- (1) Maximum height of each building:
 - a. In stories: Two.
 - b. In feet: 32.
 - (2) Minimum yard setback from the project's perimeter: Perimeter setbacks shall not be based on building orientation.
 - a. Front yard. Front and street-side building and parking setbacks shall be measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's master plan as follows:

Road Classification	Buildings (Linear Feet)	Parking (Linear Feet)
County Line	115	90
Major	100	75
Secondary	100	75
Collector	83	58
Local	70	45
Cul-de-sac Radius	100	75
Private Road (measured from the road easement or common usage line abutting the subject lot)	40	15

- b. Side yard. No building shall have a setback of less than 30 feet or $10 + (10 \times \text{number of stories})$ in feet from any side yard lot line.
 - c. Rear yard. No building shall be located closer than 50 feet to any rear yard lot line.
 - d. A minimum of ten feet of landscaped yard must be provided along the project's perimeter. In no case shall any paved areas encroach into this required landscaped yard.
- (3) Minimum floor areas for multiple-family shall be as follows:

- a. Efficiency unit. The term "efficiency unit" shall mean a dwelling unit containing a minimum of 650 square feet of floor area and consisting of not more than one room in addition to kitchen, dining and necessary sanitary facilities.
- b. One-bedroom unit. The term "one-bedroom unit" shall mean a dwelling unit containing a minimum floor area of at least 850 square feet per unit, consisting of not more than two rooms in addition to kitchen, dining and necessary sanitary facilities.
- c. Two-bedroom unit. The term "two-bedroom unit" shall mean a dwelling unit containing a minimum floor area of at least 1,150 square feet per unit, consisting of not more than three rooms in addition to kitchen, dining and necessary sanitary facilities.
- d. Three or more bedroom unit. The term "three or more bedroom unit" shall mean a dwelling unit wherein for each room, in addition to the three rooms permitted in a two-bedroom unit, there shall be provided an additional area of 200 square feet to be minimum floor area of 1,250 square feet.

In addition to the minimum floor area per unit, 32 square feet shall be provided in each unit for utilities space (washer, dryer and work space). Buildings with enclosed common tenant or occupant hallways, such as apartment structures, may provide central utility rooms in lieu of the individual unit spaces required above. In each building where a central utility room is permitted, internal access shall be provided from each dwelling unit; the central utility room shall contain 20 square feet for each dwelling unit in the building; and there shall be one washer and one dryer for every four dwelling units or fraction thereof.

(f) *Off-street parking requirements.*

- (1) Where any recreation vehicles are permitted in the development by the city planning commission, adequate fenced, locked or secured and visually buffered parking and storage spaces shall be provided in addition to those required elsewhere in this chapter. Such parking shall be collective and in a central location. In no case, however, shall a recreation vehicle be parked or stored closer than 30 feet to any building or site boundary line.
- (2) Storage of commercial vehicles or trailers on the premises is prohibited.

(Ord. No. 158, § 5.06, 9-22-2008)

Sec. 60-106. Multiple-family residential, RM-2.

- (a) *General intent.* The RM-2 multiple-family residential district is intended to provide a living environment for individuals and couples who wish a higher density area within or adjacent to the developed downtown area.
- (b) *Permitted uses.* All permitted uses of the RM-1 zoning district.
- (c) *Special land uses.* All special land uses of the RM-1 zoning district.
- (d) *Minimum site and building requirements.* No project site shall have less than 20,000 square feet and 100 feet of frontage.
 - (1) Minimum gross site area in square feet, per dwelling unit in the RM-2 district:*

* Efficiency units shall be regulated the same as one-bedroom units.

RM-2 District

One-bedroom	3,800
Two-bedroom	4,200

Three-bedroom	4,600
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Note: Units with more than three bedrooms shall provide an additional 1,000 square feet of site area for each additional bedroom.

- (2) All sites used for multiple-family dwellings or two-family dwellings in these districts must be provided with an approved water and sewage system.
- (3) Plans presented which include a den, library or extra room shall have such extra room counted as a bedroom for purposes of this chapter.
- (4) Each development shall be limited to a maximum of ten percent efficiency units and a maximum of 50 percent one bedroom units.
- (5) Open space areas shall be provided on a per unit basis according to the following schedule. The minimum number of square feet of open space area shall be provided in addition to all required setbacks and greenbelts and shall be provided on a per unit basis according to the following schedule:

Bedrooms	Minimum Square Feet
1	300
2	400
3	500
4	600

- (6) Landscaped greenbelts must be provided adjacent to, and surrounding each building on the following basis:

Side of Building	Required Greenbelt
Front	30 feet
Rear	40 feet
Sides	15 feet

Buildings which include attached garages may eliminate the required greenbelt on sides of the building where garages are located in order to permit a parking apron and paved access to garages. However, pavement shall not surround more than 40 percent of the overall perimeter of the building.

Each square foot of pavement which encroaches into a required greenbelt must be replaced on another side of the same building. Site plans must clearly dimension landscaped greenbelts and provide calculations in instances of greenbelt transfer. Areas used to facilitate utilities must maintain a 30-foot greenbelt.

- (7) No multiple-family building shall exceed 150 feet in length along any one face of the building.
- (8) All drives shall be 24 feet in width. For the purposes of this section, all paved areas within the site utilized for vehicular access and circulation shall be considered drives.
- (9) Landscaping. Areas of the site not required to be hard-surfaced shall be sodded and, where appropriate, planted with trees and shrubs as provided in article IX of this chapter. In addition to the requirements of article IX, one tree shall be provided for each unit within the development. Such trees shall be placed within the required front yard greenbelt for each building. The planning commission

may also approve decorative plants and art objects which must be maintained as required for greenbelts and planted strips under this chapter.

(10) Lighting. Adequate lighting facilities shall be provided for service drives and parking areas and indicated on the site plan approved by the planning commission. Lighting shall not exceed the standards provided in section 60-189 of this chapter.

(11) Sidewalks. Sidewalks shall be provided along both sides of all drives within the development.

(e) *Building requirements.*

(1) Maximum height of each building:

a. In stories: Three.

b. In feet: 40.

(2) Minimum yard setback from the project's perimeter: Perimeter setbacks shall not be based on building orientation.

a. Front yard. Front and street-side building and parking setbacks shall be measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's master plan as follows:

Road Classification	Buildings (Linear Feet)	Parking (Linear Feet)
County Line	115	90
Major	100	75
Secondary	100	75
Collector	83	58
Local	70	45
Cul-de-sac radius	100	75
Private road (measured from the road easement or common usage line abutting the subject lot)	40	15

b. Side yard. No building shall have a setback of less than 30 feet or $10 + (10 \times \text{number of stories})$ in feet from any side yard lot line.

c. Rear yard. No building shall be located closer than 50 feet to any rear yard lot line.

d. A minimum of ten feet of landscaped yard must be provided along the project's perimeter. In no case shall any paved areas encroach into this required landscaped yard.

(3) Minimum floor areas for multiple-family shall be as follows:

a. Efficiency unit. The term "efficiency unit" shall mean a dwelling unit containing a minimum of 650 square feet of floor area and consisting of not more than one room in addition to kitchen, dining and necessary sanitary facilities.

b. One-bedroom unit. The term "one-bedroom unit" shall mean a dwelling unit containing a minimum floor area of at least 750 square feet per unit, consisting of not more than two rooms in addition to kitchen, dining and necessary sanitary facilities.

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- c. Two-bedroom unit. The term "two-bedroom unit" shall mean a dwelling unit containing a minimum floor area of at least 950 square feet per unit, consisting of not more than three rooms in addition to kitchen, dining and necessary sanitary facilities.
 - d. Three or more bedroom unit. The term "three or more bedroom unit" shall mean a dwelling unit wherein for each room, in addition to the three rooms permitted in a two-bedroom unit, there shall be provided an additional area of 200 square feet to be minimum floor area of 1,150 square feet.

In addition to the minimum floor area per unit, 32 square feet shall be provided in each unit for utilities space (washer, dryer and work space). Buildings with enclosed common tenant or occupant hallways, such as apartment structures, may provide central utility rooms in lieu of the individual unit spaces required above. In each building where a central utility room is permitted, internal access shall be provided from each dwelling unit; the central utility room shall contain 20 square feet for each dwelling unit in the building; and there shall be one washer and one dryer for every four dwelling units or fraction thereof.

(f) *Off-street parking requirements.*

- (1) Where any recreation vehicles are permitted in the development by the city planning commission, adequate fenced, locked or secured and visually buffered parking and storage spaces shall be provided in addition to those required elsewhere in this chapter. Such parking shall be collective and in a central location. In no case, however, shall a recreation vehicle be parked or stored closer than 30 feet to any building or site boundary line.
- (2) Storage of commercial vehicles or trailers on the premises is prohibited.

(Ord. No. 158, § 5.06, 9-22-2008)

Sec. 60-107. Manufactured housing community—MHC.

(a) *General intent.* This district is designed to create a residential zoning district which will permit and encourage single family development in mobile homes. Unlike the typical single family subdivision in which the individual lot provides the open space and amenities for family living, the overall development pattern would be similar to that of multifamily development. The manufactured housing community will be managed, organized and regulated by the developer. Streets, utilities, open space, recreation and amenities will be provided and regulated by the developer.

(b) *Permitted uses.*

- (1) Manufactured housing, subject to the requirements as established and regulated by Act 96 of the Public Acts of 1987, as amended, and all applicable codes and ordinances referenced herein.
- (2) All permitted uses of the RM-1 zoning district.
- (3) Clubhouse and recreation facilities for the use of the park residents.
- (4) Accessory commercial uses, such as manager's offices, laundry and facilities, and other services for the residents of the park, may be permitted in any nonresidential structure. Adequate parking for such services shall be provided, as required by the Michigan Manufactured Housing Commission Rules (Rules 925 and 926). The park proprietor or management may display for sale mobile homes and accessories (provided the accessories are contained within a mobile home or an approved permanent structure for such purpose). Such sales would cease with the total development of the park.

(c) *General site requirements.*

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- (1) Building height. The maximum height of service buildings and permitted office structures shall be two stories or 35 feet.
 - (2) Fire hydrants. Fire hydrants of a size and a pressure to be used by the City of New Baltimore Fire Department shall be placed within said trailer coach park so that no trailer coach shall be more than 300 feet from a fire hydrant measured along roadway or parking area.
 - (3) Plumbing, electrical and cable TV. Plumbing and electrical installations shall be maintained in accordance with New Baltimore Plumbing and Electrical Codes. All electric and telephone wiring shall be underground. Externally mounted antennas shall be prohibited, except that a master antenna shall be constructed and maintained with underground leads servicing each manufactured home site.
 - (4) Access to public roads. A manufactured housing community access road shall be hard-surfaced and not less than 36 feet in width. Access roads shall meet construction and all other requirements as determined by the City of New Baltimore, the Road Commission of Macomb County, and/or the Michigan Department of Transportation.
 - (5) Reference is hereby made to Sections 11, 12 and 13 of the Manufactured Housing Commission Act (No. 419, P.A. 1976) which required, among other things, that a person who desires to develop a manufactured housing community shall submit a preliminary plan to the City of New Baltimore planning commission for approval. The preliminary plan shall include the location, layout, general design and a general description of the project (see article II for submission requirements and procedures). The preliminary plan shall not include detailed construction plans.

(Ord. No. 158, § 5.07, 9-22-2008)

Secs. 60-108—60-120. Reserved.

ARTICLE VI. COMMERCIAL DISTRICTS³

Sec. 60-121. Business transitional, BT.



³Cross reference(s)—Businesses, ch. 12.

(a) *General intent.*

- (1) *General character.* The business transitional district (BT) is intended to permit the use and development of residential, office, and commercial uses within the same district in such a manner that it respects and protects existing residential uses and in-town residential character of the district. Multi-family, office, and/or commercial development would be permitted only where no substantial adverse impacts upon existing residential uses would be incurred and when sufficient buffering, screening and parking are provided. This is a pedestrian-oriented district and non-motorized connections to adjacent neighborhoods and the CB district are found throughout the district.
- (2) *Building types and dimensions.* Buildings are one to two stories, and they are residential in character. New non-residential structures may reflect the core elements of buildings in the adjacent CB district. Setbacks for rear and interior side yards are measured from the lot line, while front yards and street-facing side yard setbacks are measured from the centerline of the street right-of-way or the lot line, depending upon the road frontage. Building coverage on the lot is moderate and less intense than the CB district.
- (3) *Street, alley, and block patterns.* Blocks are framed by a street grid. Alleys provide access to rear parking areas and rubbish collection, if available.
- (4) *Parking and mobility.* Parking is provided at grade on the street and in the rear or side of lots, if provided. Pedestrian-oriented amenities are provided to encourage strolling through the district.

(b) *Permitted uses.*

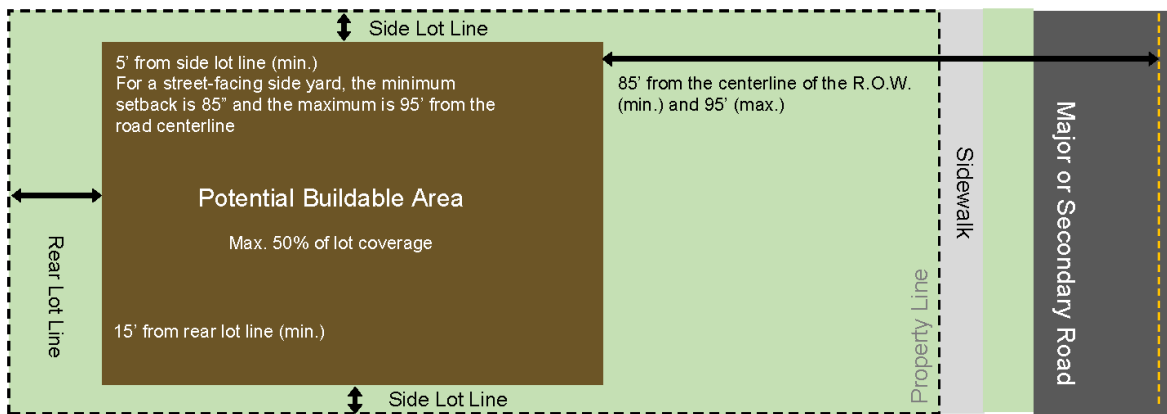
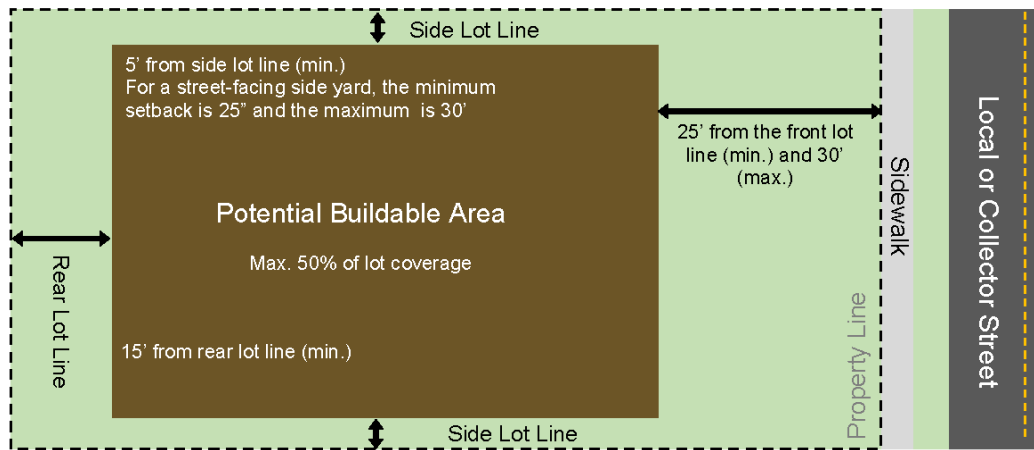
- (1) Single-family dwellings and accessory uses that existed as of September 25, 1989.
- (2) Common open space, including pedestrian plazas, parks, and courts.
- (3) Business and professional offices.
- (4) A change of use to a special land use identified in subsection (c), may be considered a permitted use by the planning commission if the following conditions are present:
 - a. There is no substantial change in use or class of use.
 - b. The new use does not require additional parking spaces.
 - c. There is no outdoor storage required.
 - d. The previous use or the use to be discontinued had been approved as a special land use.

(c) *Special land uses.* The following buildings, structures and uses may be permitted by the city council, after a recommendation by the planning commission and subject to the special land use requirements (article X) and the following specific section for each use:

- (1) Retail facilities including, but not limited to, antiques, jewelry, book and stationery, gifts and novelties, music stores, camera and photography, art galleries, and florists.
- (2) Selected services, such as beauty or barber shops, shoe repair shops, laundry, or tourist facilities.
- (3) Boarding, convalescent or rest homes (section 60-213).
- (4) Churches and other places of worship (section 60-215).
- (5) Community service clubs and lodges (section 60-216).
- (6) Group day care (seven to 12 children or adults (section 60-223)).
- (7) Multi-family or two-family uses, subject to the requirements of the RM-2 district.

- (8) Museums and libraries.
 - (9) Home occupations (section 60-224).
 - (10) Housing for the elderly and senior citizen housing.
 - (11) Eating establishments, provided that seating capacity is limited to 20 patrons and no alcohol is served.
 - (12) Uses of a similar and no more objectionable character and impact as the above uses. Also permitted are customer accessory uses to the above provided there shall be no drive-through or other auto-oriented uses in this district.
- (d) *Area, height, and placement requirements.*

Figure 60-121(d) Setbacks, Building Placement, and Lot Coverage



Standard	Requirement
(1) Maximum height.	30 feet
(2) Minimum lot size.	7,800 square feet
(3) Maximum lot coverage.	50%
Front and Street-facing Side Yard Setbacks	

(4) Setbacks on Major and Secondary Roads. Minimum front yard and street-facing side yard setback, measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's master plan. The maximum front yard and street-facing side yards shall be the values as determined in this table, plus 10 feet.	a. Major Road:	85 feet minimum 90 feet maximum
	b. Secondary Road:	85 feet minimum 90 feet maximum
(5) Setbacks on Collector and Local Roads. Minimum front yard and street-facing side yard setback, measured from the front lot line. The maximum front yard and street-facing side yards shall be the values as determined in this table, plus 5 feet.	c. Collector:	25 feet minimum 30 feet maximum
	d. Local Road:	25 feet 30 feet maximum
(6) Front yard setbacks along Alfred and Main Street shall have a minimum setback of 0 feet and a maximum setback of 25 feet. Street-facing side yards on other streets shall conform with (4) or (5) above.	e. Alfred and Main Street:	0 feet minimum and 25 feet maximum.
(7) Minimum Interior Side Yard setback	5 feet	
(8) Minimum Rear Yard setback	15 feet	

(e) *Building and frontage typologies.* Principal structures in the BT district shall conform to the typologies identified as follows:

- (1) *Stoop with setback.* This building type is intended to permit limited non-residential uses while preserving a residential-style setting adjacent to the CB district. Buildings are close to the frontage line and raised at entry. This frontage includes an exterior step and landing that may be covered. The illustration below is intended to reflect required general building elements including a stoop, vertically-proportioned windows, pedestrian connection to public sidewalk, and pitched roof. The illustration is not intended to reflect an architectural style.

*Figure 60-121 (e)(1)a. Stoop with Setback
Axonometric View*



*Figure 60-121 (e)(1)b. Stoop with Setback
Section View*

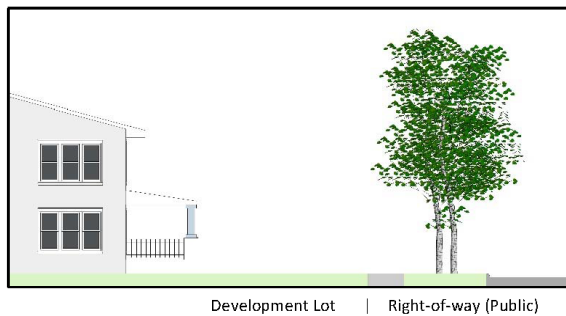


(2) *Porch.* This building type is intended to maintain a residential-style quality and character of the neighborhood. Porches extend the façade of a building while maintaining a setback from the street. Fences at the property line may be used to better define the private space of a yard. The illustration below is intended to reflect required general building elements including a porch, vertically-proportioned windows, pedestrian connection to public sidewalk, and pitched roof. The illustration is not intended to reflect an architectural style.

Figure 60-121(e)(2)a. Porch axonometric view



Figure 60-121 (e) (2) b. Porch section view



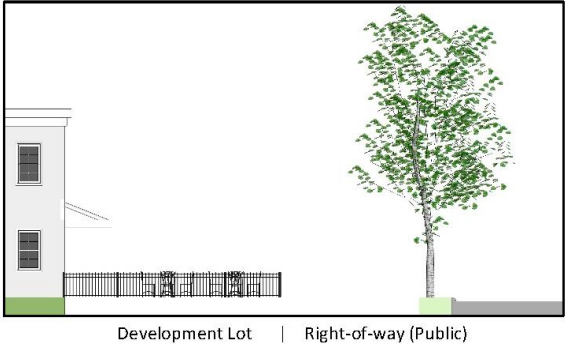
(3) *Shopfront.* This frontage type is intended to encourage ground floor commercial uses in multistory buildings that would support the transitional nature between the downtown and residential character of the business transition district. Buildings feature ample windows for displays and open views into indoor activity. Second floor windows are vertically proportioned. Primary entrances are prominent and street-facing. Awnings are encouraged to shielding visitors from the elements and minimize the impact of direct sunlight near the storefront.

This building type is most appropriate along Alfred Street, Main Street, and on corner lots. Other locations will be reviewed by the planning commission on a case-by-case basis.

Figure 60-121(e)(3)a. Shopfront Axonometric View



Figure 60-121(e)(3)b. Shopfront Section View

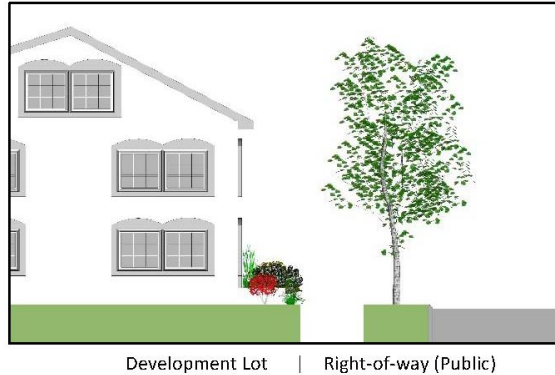


(4) *Rowhouse*. This frontage type is intended to encourage dense, attached residential uses in a style that is compatible with single-family homes. These units would support the transitional nature between the downtown and residential character of the business transition district. Buildings would be two-story with a raised first floor with the option of basement entry from the front or rear.

Figure 60-121(e)(4)a. Rowhouse Axonometric View



Figure 60-121(e)(4)b. Rowhouse Section View



Homes would be attached to one another, extending either partially or fully along a block. Clusters are limited to a maximum of four units, with a minimum ten-foot separation between clusters. Architectural variation between neighboring buildings can enhance the character of new developments. The illustration shown reflects how this building type could be sited along Alfred Street or Main Street. Along other streets in the district, a greater street-facing setback is required.

(5) *Historic district.* Applicants shall refer to the City of New Baltimore Historic District Design Guidelines and requirements of the historic district commission when modifying or constructing a structure within the historic district.

(6) *Other typologies.* It is recognized that places of worship, civic uses, and other permitted or special approval uses in the district have different typologies than the typologies illustrated above. The unique characteristics of the uses and structures in relation to existing similar uses and similar structures in the district will be considered when reviewing plans for new or expanded structures. If a new or modified structure is in keeping with the established historical and neighborhood character found in similar structures in the district, the city may approve alternative typologies for new or expanded structures that reinforce the existing historic character as well as the pattern established by similar uses and similar structures in the district. All the setback, height, area, and other dimensional requirements in section 60-121(e) apply and will not be modified except by a variance granted by the zoning board of appeals.

(f) *Additional requirements for the BT District.*

- (1) Major screening requirements between the CB and BT district and a residential use will be waived if the properties are separated by a public right-of-way or alley.
- (2) Parking lot screening abutting public roads. All off-street parking areas with more than ten parking spaces and visible from a public road shall be screened with a two and one-half-foot high clay brick wall, with a suitable stone cap, along the lot line facing the adjacent street. This wall may be set back up to 20 feet from the lot line if the space between the lot line and the wall is design, constructed and maintained as a park, plaza or outdoor dining area.
- (3) All signs are subject to section 42-68, design standards in the business transitional district and section 42-179, design standards in the historic district.
- (4) Uses shall not have a drive-through or drive-in operation.
- (5) Uses shall not have indoor or outdoor vehicle sales, repair or servicing.

(Ord. No. 158, § 6.00, 9-22-2008; Ord. No. 216, § 1, 2-26-2018)

Sec. 60-122. Local commercial, LC.

- (a) *General intent.* The local commercial district is intended to permit retail business and service uses which are needed to serve the nearby residential areas. In order to promote such business development so far as is possible and appropriate in each area, uses are prohibited which would create hazards, offensive and loud noises, vibration, smoke, glare, heavy truck traffic, or late hours of operation.
- (b) *Permitted uses.*
 - (1) Retail businesses which supply commodities on the premises, such as, but not limited to, groceries, takeout stores, dairy products, notions or hardware.
 - (2) Personal service establishments which perform services on the premises such as, but not limited to, repair shops (watches, radio, television, shoe, etc.), tailor shops, beauty shops or barber shops, and self-service laundries.
 - (3) Dry cleaning establishments (pick-up stations only) dealing directly with the consumer.
 - (4) Professional and medical offices.
 - (5) Public utility buildings, service buildings, telephone exchange buildings, electric transformer stations and substations, and gas regulator stations, but not including storage yards.
- (c) *Special land uses.* The following buildings, structures and uses may be permitted by the city council, after a recommendation by the planning commission and subject to the special land use requirements (article X) and the following specific section for each use:
 - (1) Churches (section 60-215).
 - (2) Community service clubs and lodges (section 60-216).
 - (3) Funeral homes and mortuaries (812210) (section 60-221).
 - (4) Group day-care (seven—12 children or adults) (section 60-223).
 - (5) Hospitals (section 60-242).
 - (6) Nursery schools and day-care centers (section 60-229).
 - (7) Outdoor sales for a period exceeding 30 days.
- (d) *Area, height and placement regulations.*

Minimum lot area per building:	8,000 square feet
Minimum lot width:	70 feet
Maximum height:	35 feet
Maximum lot coverage:	35 percent
Minimum front yard setback:	see below*
Minimum side yard setbacks:	15 feet each. No side yards are required along the interior side lot lines where commercial buildings will directly abut. On the exterior side yard, which borders on a residential district, there shall be provided a setback of not less than 30 feet on the side or residential street.
Minimum rear yard setback:	30 feet

* Front and street-side building setbacks shall be measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's master plan as follows:

Road Classification	Buildings (Linear Feet)
County line	105
Major	90
Secondary	90
Collector	73
Local	60
Private road (measured from the road easement or common usage line abutting the subject lot)	30

(Ord. No. 158, § 6.01, 9-22-2008; Ord. No. 213, § 1, 8-14-2017)

Sec. 60-123. Central business district, CB.



(a) *General intent.*

- (1) *General character.* The central business district is proposed in the city's master plan as being the core center for retail purchases and dining in New Baltimore. The development of the downtown area should be promoted as a pedestrian-oriented retail center which establishes an identity for the city, and that can attract people to the community. The downtown area, with its renovation of older buildings and preservation of the historical character, can provide for typical retail services, in addition to specialty retail, restaurants, cafés, and similar businesses that will encourage residents, as well as tourists and visitors, to use the downtown area.

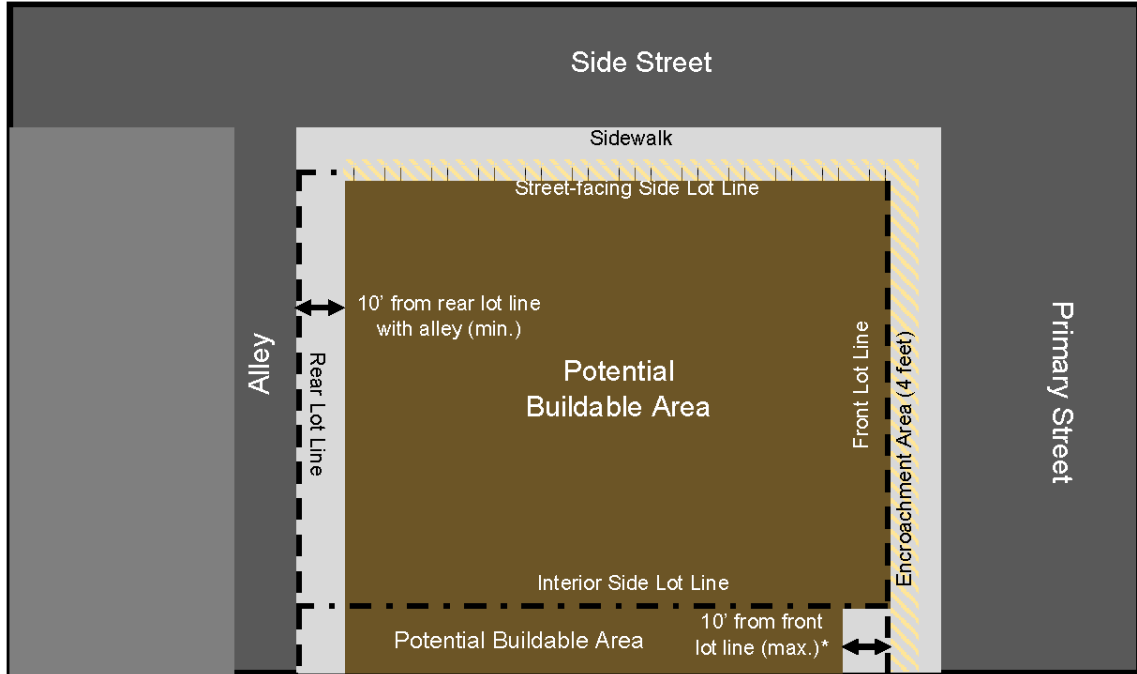
In the central business district, maintaining traffic and pedestrian safety are predominant and compelling government interests, with emphasis on the safety of pedestrians. The central business district has the heaviest concentration of pedestrian activity in the city, and this pedestrian activity is a key factor in the economic success of the district. Pedestrian traffic leads to retail sales and it serves office, entertainment, government, and residential uses in the district and surrounding areas. It also reduces vehicular trips because motorists can park once and then use the pedestrian network rather than a vehicle to make multiple stops. The regulations contained herein that impact the placement of structures, the appearance and function of street-facing facades, and other related elements of district

character are intended to foster the continued pedestrian-oriented and historic downtown character of New Baltimore.

- (2) *Building types and dimensions.* Buildings are typically two stories, and third stories are permitted. Setbacks for front, side, and rear yards are measured from the lot line. Side yards are optional, and the connection of buildings to form a continuous street wall is encouraged. Building coverage on a lot is high, and many buildings have rear entryways in addition to front entryways.
 - (3) *Street, alley, and block patterns.* Blocks are framed by a street grid. Alleys provide access to rear parking areas and rubbish collection.
 - (4) *Parking and mobility.* Parking is provided at grade on the street and in rear or side parking lots, if provided. Bicycle parking is encouraged in this district. The district is oriented toward pedestrian activity.
- (b) *Permitted uses.*
- (1) Retail sales including, but not limited to, specialized food stores, bakeries, department stores, general merchandise stores, pet shops, apparel and accessory stores, drug stores, video rental, and bookstores.
 - (2) Personal service establishments which perform services on the premises, such as, but not limited to, repair shops (watches, television, shoe, jewelry and the like), tailor shops, beauty parlors, barber shops, and self-service laundries.
 - (3) Artist studios and galleries.
 - (4) Common open space, including pedestrian plazas, parks, and courts.
 - (5) Eating and drinking establishments, provided a restaurant shall not include a drive-thru or in-the-vehicle services.
 - (6) Hotels.
 - (7) Physical fitness facilities such as health clubs.
 - (8) Professional or business offices located on the second floor or higher.
 - (9) Banks and similar financial institutions.
 - (10) Residential uses on second floor or higher meeting the following requirements:
 - a. Each dwelling unit must contain the minimum number of square feet set forth below based on the number of bedrooms in the unit:
 1. One bedroom: 700 square feet.
 2. Two bedrooms: 900 square feet.
 3. Three bedrooms: 1,100 square feet.
 4. More than three bedrooms: 1,100 square feet plus an additional 200 square feet for each bedroom over three.
 - b. Each dwelling unit must contain its own separate bath and kitchen facilities. No shared facilities are permitted.
 - c. Detached single-family housing and two-family housing shall not be permitted in the CB district.
 - d. Dwelling units shall not be located above any establishment engaged in food preparation of any kind involving heating, baking and/or cooking on the premises unless both of the following fire safety measures are in place:

-
1. The establishment is protected by a sprinkler fire suppression system; and
 2. The dwelling units and all common aisles, corridors, etc. adjacent to the dwelling units are equipped with hard wired smoke alarms. Battery operated alarms are not permitted.
- e. Applicable restrictions under the city fire code and/or fire prevention code shall not be subject to waiver or variance of any kind.
- (11) Uses of a similar and no more objectionable character and impact as the above uses. Also permitted are customer accessory uses to the above provided there shall be no drive-through or other auto-oriented uses in this district.
- (c) *Special land uses.* The following buildings, structures and uses may be permitted by the city council, after a recommendation by the planning commission and subject to the special land use requirements (article X) and the following specific section for each use.
- (1) Churches and other places of worship (section 60-215).
 - (2) Outdoor sales for a period exceeding 30 days. Outdoor sales for a period of 30 days or less is an accessory use subject to the provisions of section 60-56.
 - (3) Outdoor cafés, on-site (section 60-230).
 - (4) Professional or business offices located on the first floor.
 - (5) Drive-thru facilities are subject to the following:
 - a. A drive-thru facility shall be subject to special land use, however, it shall not enter or exit directly onto Washington Street.
 - b. Drive-thru and drive-in facilities for restaurants shall not be permitted in the CB district.
 - (6) Libraries or museums.
 - (7) Government offices and assembly halls.
 - (8) Theaters, auditoriums, concert halls and similar places of assembly.
 - (9) Uses of a similar and no more objectionable character as the above uses, as determined by city council following a recommendation by the planning commission.
- (d) *Area and placement requirements.*

Figure 60-123(d) Setbacks, Facade Abutting Street, and Encroachments



Standard	Requirement
(1) Minimum front yard setback.	<p>The front lot line is the required build-to line. The façade shall be built to the build-to line for the minimum width specified in section 60-123(d)(4).</p> <p>* To provide for some design flexibility, a maximum front yard setback of 10 feet is permitted.</p> <p>Depth variations that exceed 10 feet may be permitted within the front facade if 80 percent of the building frontage meets the build-to line.</p>
(2) Minimum side yard setback.	<p>Side yard setbacks are not required and shall only be permitted on one side of the property with the following exception:</p> <p>Structures shall provide a side yard setback of 20 feet, plus the height of the building which exceeds 40 feet in height for each side yard abutting a residential district.</p>
(3) Minimum rear yard setback.	<p>If an alley is present abutting the rear yard, a setback of 10 feet shall be required. If an alley is not present in the rear yard, a minimum setback of 30 feet shall be required and a 20-foot wide paved access drive shall be provided in the rear yard setback area. Any rear yards abutting a residential district shall provide a setback of 40 feet.</p>
(4) Primary Street façade abutting build-to line.	<p>Buildings shall be constructed to the build-to line, and the façade of the building shall occupy 80 percent or more of the full width of the parcel.</p> <p>For buildings with forecourts, the minimum required percent of façade abutting the build-to line shall be reduced provided: 1) the combination of forecourt frontage and balance of the building frontage at the same lot line equals at least 80% of the total build-</p>

	to line length, and 2) the forecourt meets all the requirements specified in this chapter (section 60-123(i)(3)).
(5) Side Street façade abutting street.	Buildings shall be constructed to the build-to line (i.e., the street-facing side lot line), and the façade of the building shall occupy 50 percent or more of the full depth of the parcel along the street-facing side yard.
(6) Minimum building depth along a required build-to line.	Whenever a build-to line is specified, the minimum depth of a building abutting the build-to line shall be 20 feet.
(7) Maximum encroachments.	Awnings, balconies, projecting signs, and upper floor bay windows may encroach over the build-to line by 4 feet.

(e) *Height and floor area requirements.*

Figure 60-123(e) Height Requirements

Standard	Requirement
1. Maximum height	45 feet
2. Minimum height	30 feet; 2 stories
3. Minimum first floor ceiling height	14 feet. Storage and utility rooms are exempt.
4. Maximum floor area ratio	The gross area of the building shall not exceed a floor-to-area ratio of 4:1.

(f) *Primary and side streets.* A primary street is the street upon which the front lot line abuts.

For corner lots, a side lot line abutting a street shall be considered a build-to line. Also, Washington Street shall always be designated as a Primary Street in the CB District, and any property abutting Washington Street shall designate Washington Street frontage as a front lot line and shall have a building entrance facing the front lot line or facing a forecourt abutting the front lot line.

(g) *Front and exterior side yard setbacks.* Whenever a structure is setback from a front or street-facing side lot line, the setback area shall be either paved with concrete, brick pavers or similar material customarily found in the district. Landscaped areas and furnishings (benches, trash receptacles, and similar equipment) designed and constructed in a manner consistent with the district, with a focus on pedestrian flow and creating places of pedestrian interest, may also be provided.

(h) *Parking lot screening abutting public roads.* All off-street parking areas with more than ten parking spaces that are visible from a public road shall be screened with a two and one-half-foot high clay brick wall, with a suitable stone cap, along the lot line facing the adjacent street. This wall may be set back up to 20 feet from the lot line if the space between the lot line and the wall is design, constructed and maintained as a park, plaza or outdoor dining area.

(i) *Historic district.* Applicants shall refer to the City of New Baltimore Historic District Design Guidelines and requirements of the historic district commission when modifying or constructing a structure within the historic district.

(j) *Typologies.* Structures in the CB district shall conform to one of the typologies identified as follows: Shopfront, arcade or forecourt (see figures below). These typologies are intended to reflect the building and site development elements described below and are not intended to reflect specific architectural style(s). For certain unique building types, such as places of worship and government buildings, the city may approve alternative typologies for new or expanded structures that reinforce the existing historic character as well as the pattern established by similar uses and similar structures in the district. All the setback, height, area, and

other dimensional requirements in section 60-121(e) apply and will not be modified except by a variance granted by the zoning board of appeals.

Building and Frontage Typologies

- (1) *Shopfront*. This frontage type is intended to encourage ground floor commercial uses in multiple story buildings that are typical in downtown New Baltimore. Buildings feature ample windows for displays and open views to indoor activity on the ground floor. Primary entrances are prominent and street-facing, and they are either recessed at the doorway up to five feet or placed at the build-to line. Awnings are encouraged to shield pedestrians from the elements and minimize the impact of direct sunlight near storefronts.

Figure 60-123(j)(1)(a) below: Shopfront axonometric view illustrating pedestrian-oriented storefront that encourages walking throughout the CB district. The storefront glazing, which allows views inside the building, is a critical element that encourages pedestrians to stroll the district.



Figure 60-123(j)(1)(b) below: Section view of shopfront illustrating relationship of storefront to pedestrian walkway. Street trees and awnings provide protection from the elements and reduce the impact of high temperatures during warm weather months.



(2) *Arcade.* With this frontage type, the upper floors of the façade project to the lot line, while the ground floor façade is recessed from the lot line. The maximum recess of the ground floor from the lot line shall be ten feet. Arcades are ideal for retail use and outdoor dining.



Figure 60-123 (j)(2)(b) below: Arcade section view shows the recessed pedestrian walkway and the upper floor area above. The entire structure is on private property, and the columns and upper floors extend to the front lot (build to) line.



(3) *Forecourt.* Forecourts are an additional design element incorporated into a shopfront or arcade frontage. The main façade of the building is at or near the build-to line, while a maximum of 50 percent of building frontage is set back up to 40 feet from the build-to line, creating a small court space. The space could be used as an entry court or shared garden space for apartment buildings, as an additional restaurant seating area within retail and retail service use areas, as a small park or plaza, or similar use.



Figure 60-123(j)(3)(b) below: Forecourt section view shows the relationship of the development lot to the right-of-way. The courtyard area is not visible from this angle, as it is behind the portion of the building placed at the build-to line.



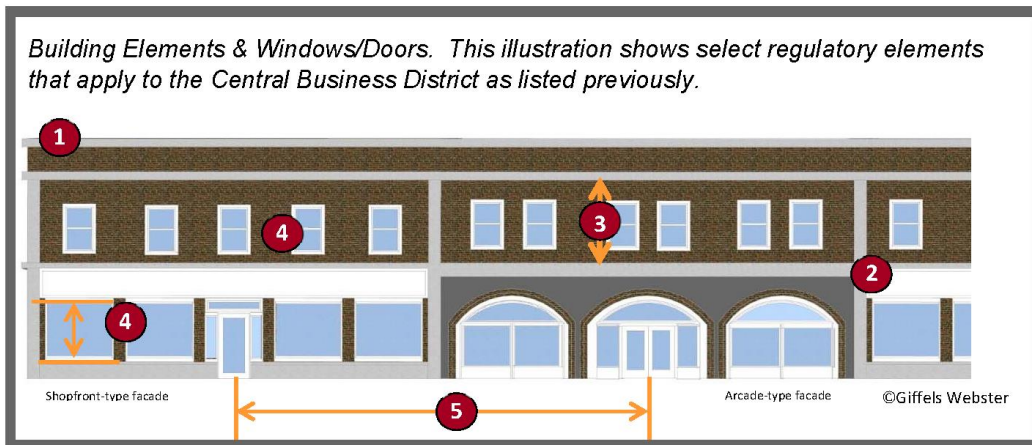
Forecourts may be placed at any location along the frontage provided that the forecourt is enclosed on three sides by building walls. The forecourt area shall have a mix of paved areas (brick, stone or concrete pavers or concrete), landscaped areas (planted with a mix of flowers, plants, shrubs, and trees), and street furniture (such as chairs, tables, benches, and similar features). Lawn areas are not appropriate for courtyards and may only be used as a minor accent to an otherwise landscaped area. Outdoor dining is encouraged.

(k) *Additional requirements for CB district (see illustration below).*

- (1) Buildings must include a top or cap element, such as a parapet, cornice or similar feature.
- (2) The edge of each distinguishable storefront shall be defined by a vertical design element.
- (3) Horizontal expression lines shall define stories of the building.
- (4) Ground-floor facades in the CB district shall have a minimum of 60% glazing between two and eight feet above grade. Upper floors are required to maintain 30% glazing on their street-facing facades. Window glazing shall be clear with a visible light transmittance of not less than 65 percent (0.65) on ground floors, and 45 percent (0.45) on upper floors, per glass manufacturer specifications.
- (5) A minimum of one pedestrian entrance per building is required. For buildings with more than 149 feet of building frontage on the same street, provide one additional pedestrian entrance for each 75 feet of building frontage over the first 75 feet.
- (6) See section 60-42 for additional appearance requirements.
- (7) Vacant storefronts in the CB district shall not be boarded up, covered with paper or otherwise appear derelict or abandoned. Temporary displays of art, merchandise from other downtown businesses or similar displays shall be permitted. Temporary decorative covering of windows shall be permitted only during periods of active store renovations.
- (8) Driveways shall be prohibited on Washington Street between Green Street and Front Street. See section 60-55 for additional requirements. The intent is for vehicular access for: 1) emergency vehicles,

- 2) service deliveries, and 3) private parking lots, when provided, to occur primarily from drives in the rear yard or from the alley network behind buildings.
- (9) Major screening requirements between the CB and BT district and a residential use shall be waived if the properties are separated by a public right-of-way or alley.
- (10) Landscaping requirements of section 60-183(d) and (e) shall not apply to the CB district.
- (11) All signs shall follow section 42-179, design standards in the historic district.

Figure 60-123(k)(11) Building Elements and Windows/Doors



(Ord. No. 158, § 6.02, 9-22-2008; Ord. No. 170, § 2, 12-13-2010; Ord. No. 216, § 2, 2-26-2018)

Sec. 60-124. General commercial district, GC.

- (a) *General intent.* The GC general commercial district, as established in this article, is intended to permit a wider range of business and entertainment activities than those permitted in the local commercial business district. This GC district is designed to provide sites for more diversified business types and are often located so as to serve passerby, highway-oriented traffic. These uses would generate larger volumes of vehicular traffic, would need more off-street parking and loading, and would require more planning to integrate such districts with adjacent residential areas. This district would also provide suitable locations for those commercial activities which function relatively independent of pedestrian traffic and proximity of other firms. These activities typically direct auto traffic access and visibility from the road.
- (b) *Permitted uses.*
 - (1) Any retail business or service establishment permitted as a principal use in the LC local commercial or CB central business districts.
 - (2) Building material and supply dealers (NAICS 444) except for lumber retail yards (NAICS 444190), with all activities being indoor. The outdoor display, storage, or sale of goods shall be considered a special land use.
 - (3) Business schools, colleges or private schools.
 - (4) Commercial banking and credit unions, excluding drive-thru facilities.
 - (5) Veterinarian clinics.

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- (6) Eating and drinking establishments, excluding drive-thru facilities.
 - (7) Food and beverage stores (NAICS 445).
 - (8) Funeral homes and mortuary establishments.
 - (9) Hotels and motels (except bed and breakfast, casino hotels, tourist cabins and recreational vehicle campgrounds).
 - (10) Home furniture, furnishings and equipment.
 - (11) Indoor recreation establishments, such as a bowling alley, billiard hall, gymnasium, indoor archery range, indoor tennis court, indoor skating rink, or similar establishments.
 - (12) Professional and medical offices.
 - (13) Nursery schools and day care centers.
 - (14) Theaters, assembly halls, or similar places of assembly, when conducted completely within enclosed buildings.
 - (15) Payday lending and check cashing establishments subject to the following:
 - a. Such businesses shall be permitted to operate only between the hours of 8:00 a.m. and 8:00 p.m.
 - b. As defined herein, check cashing, payday lending, or similar establishments shall not be located within one-half mile (2,630 feet) of another check cashing, payday lending or similar type establishment.
- (c) *Special land uses.* The following buildings, structures and uses may be permitted by the city council, after a recommendation by the planning commission and subject to the special land use requirements (article X) and the following specific section for each use.
- (1) Automobile repair and service centers (section 60-212).
 - (2) Churches (section 60-215).
 - (3) Community service clubs, lodges, halls, catering establishments, and banquet halls (section 60-216).
 - (4) Drive-thru facilities (section 60-219).
 - (5) Full and self service car washes (section 60-220).
 - (6) Gasoline service stations (section 60-222).
 - (7) Hospitals (section 60-242).
 - (8) Large scale recreation (section 60-228).
 - (9) Open air business uses, including the retail sales of plant materials, lawn furniture, playground equipment, and garden or building supplies (section 60-231).
 - (10) Outdoor sales for a period exceeding 30 days.
 - (11) Outdoor sales lots for the sale of automobiles (NAICS 4411) (section 60-232).
 - (12) Outdoor sales lots for the sale of new or secondhand recreational vehicles and boats (NAICS 4412) (section 10-22).
 - (13) Outdoor sales lots for the sale of manufactured homes (section 60-234).
 - (14) Public utilities (section 60-236).
 - (15) Raising of fur bearing animals including kennels (section 60-237).

- (16) Tattoo parlor.
- (17) Used goods sales.
- (18) Buy/sell precious metals establishment (section 60-241).

(d) *Area, height and placement requirements.* The following area, height, density, bulk, and placement requirements shall apply to all uses and structures:

Minimum lot area:	20,000 square feet
Minimum lot width:	100 feet
Maximum height:	35 feet
Maximum lot coverage:	35 percent
Minimum yard setback front:	see below*
Minimum yard setback sides:	15 feet each. No side yards are required along the interior side lot lines where commercial buildings will directly abut. On the exterior side yard, which borders on a residential district, there shall be provided a setback of not less than 30 feet on the side or residential street.
Minimum yard setback rear:	15 feet

* Front and street-side building setbacks shall be measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's master plan as follows:

Road Classification	Buildings (Linear Feet)
County line	105
Major	90
Secondary	90
Collector	73
Local	60
Private road (measured from the road easement or common usage line abutting the subject lot)	30

(Ord. No. 158, § 6.03, 9-22-2008; Ord. No. 169, §§ 2, 3, 6-28-2010; Ord. No. 213, § 2, 8-14-2017)

Secs. 60-125—60-140. Reserved.

ARTICLE VII. INDUSTRIAL DISTRICTS

Sec. 60-141. Provisions applicable to industrial districts.

- (a) *Exterior facing materials.* A minimum of 50 percent of the front yard exterior of all buildings hereafter erected shall be constructed of aesthetically pleasing clay brick and/or stone building materials. The remainder of the building shall be constructed of color impregnated split-block or pre-fabricated decorative metal siding. Other durable, decorative building materials may be approved by the planning commission in instances where the character and style of the proposed structure warrants special consideration. The

architecture and approved exterior finish of any building shall be complementary and compatible in style and be of uniform finish on all sides of its exterior when the site is adjacent to any non-industrial district. Within the industrial district, the architecture and approved front yard exterior finish shall be returned on the building side(s) a sufficient distance, as determined by the planning commission, to provide a continuous appearance from the street.

- (b) *Site requirements.* The following site requirements apply to the industrial district:
- (1) No part of any building, parking access and/or service area, loading/unloading, outdoor storage, gas tanks, or similar structure or facility may be located closer to any property line adjacent to a residential district than specified in the building setback requirements.
 - (2) Outdoor storage areas shall be designated on the site plan. If no storage area is to exist on site, then the statement "A No Outdoor Storage Is Permitted on This Site" shall be placed on the site plan and shall be a signed certified statement to that effect by the owner. Outdoor storage areas shall be screened from abutting land zoned for residential use with an obscuring wall or fence and greenbelt, as determined appropriate by the planning commission.
 - (3) General regulations and limitations on uses.
 - a. Noise. Noise shall not exceed 65 decibels measured at the front site line and as measured at any site line that is adjacent to any BT, LC, GC, or CB commercial zone or any residential use or zoning district.
 - b. Odors and gases. No noxious odors or gases shall be emitted which may be harmful or irritating to the public health and/or safety.
 - c. Glare and heat. Glare and heat from arc welding, acetylene torch cutting or similar processes shall be shielded in such a manner as to prevent any danger or discomfort to persons outside of any building where such operation is being conducted.
 - d. Vibration. Shall not cause a ground displacement exceeding 0.003 inch as measured at any site line of the premises and not detectable at any residential district boundary.
 - e. Smoke. Emission of smoke shall not exceed the number 2 standard as established by the Ringlemann Chart for consecutive periods of four minutes in any 30 minutes.
 - f. Dirt, dust and fly ash. The emission of dirt, dust and fly ash shall not exceed 0.3 grains per cubic foot of flue gas as measured at stack temperature of 500 degrees Fahrenheit with not to exceed 50 percent excess air. No haze shall be caused by such emission which would impair visibility.
 - g. Radioactive materials. No radioactive materials shall be emitted in excess of standards established for human safety by the National Institute of Standards and Technologies.
 - h. Power. Power utilized in any industrial activity shall be derived only from electrical energy or smokeless fuels containing less than 20 percent volatile content on a dry basis. Bituminous coal shall be fired only by mechanical equipment.
 - i. Electrical Radiation. Electrical radiation shall not adversely affect at any point any operations or any equipment other than those of the creator of the radiation. Avoidance of adverse effects from electrical radiation by appropriate single or mutual scheduling of operations is permitted.
 - j. Waste. All sewage and industrial wastes shall be handled, stored, treated, and/or disposed of in compliance with all federal and State of Michigan laws and regulations.
 - k. Bulk storage of flammable liquids, liquefied petroleum gases and the like shall be regulated by the City of New Baltimore Fire Code and the following restrictions:

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1. Above ground. Above ground storage of flammable liquids, liquefied petroleum gases and the like is not permitted unless a special land use permit is obtained under article X of this chapter.
 2. Underground storage. Bulk storage accessory to the principal use may be permitted underground provided that storage tanks shall be located not less than 50 feet from any site line of the premises.
- I. Storage. All outdoor storage shall require a special land use permit unless otherwise indicated in this chapter (section 60-235).
 1. Inside and underground storage other than junk: Such storage is permitted provided compliance is made with all applicable fire, safety and health regulations.
 2. Outside storage other than junk: No materials, goods, and/or supplies used in connection with or part of any industrial use shall be stored, located or deposited in a manner so as to obstruct or interfere with any roadway, driveway, or maneuvering lane on the premises which could be used as a means of access for fire-fighting equipment.
 3. Outside storage of junk and/or industrial waste incidental to an industrial use: Any such storage shall not exceed ten days and shall be completely enclosed within a tight, unpierced masonry, wood or metal fence and shall comply with the requirements of section 60-56 and/or 60-235.
- (4) Requirements for and limitations on equipment and machinery.
 - a. Automatic screw machines. Such machines must be equipped with noise silencers or other sound absorbing devices and must not be located closer than 500 feet to any residential zoned district.
 - b. Stamping machines, punch presses, press breaks and hydraulic presses shall not be located closer than 500 feet to any residential zoning district or developed residential site. All such machines shall be placed on shock absorbing mountings located on suitable reinforced concrete footings. No such machine shall be loaded beyond such capacity as may be prescribed by the manufacturer of the machine.
 - c. Hammers, steam or board and hot forgings. No such machine or operation is permitted closer than 500 feet to any residential zoning district. Such machine or operation is other-wise permitted when placed on shock absorbing mountings located on a suitable reinforced concrete footing, all of which shall be completely enclosed within a masonry type building.

(Ord. No. 158, § 7.00, 9-22-2008)

Sec. 60-142. Industrial, I.

- (a) *General intent.* The intent of the industrial district is to encourage and facilitate the development of industrial enterprise in a setting conducive to economic stability and growth, providing protection from blight, deterioration and nonindustrial encroachment, and efficient traffic movement for employee and truck traffic. Protection is provided to residential land uses by separating them from industrial activities and by prohibiting the use of industrial zones for new residential development.
- (b) *Permitted uses.*
 - (1) Automobile repair and service centers.
 - (2) Building material sales.
 - (3) Contractors office with garages for indoor maintenance and indoor storage of equipment.

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- (4) Manufacturing, compounding, processing, assembly and packaging facilities.
 - (5) Municipal uses and buildings.
 - (6) Offices, research and laboratories.
 - (7) Public utility buildings, telephone exchange, transformer stations and substations, gas and oil pumping regulator and transfer stations, and propane depots.
 - (8) Storage facilities for building materials, sand, gravel, lumber, or storage of contractor's equipment and materials, provided such is enclosed within a building or within an obscuring wall on those sides abutting residential, commercial or the streets.
 - (9) Tool and die, gauge and machine shops.
 - (10) Uses with locations restrictions to avoid secondary effects (section 60-67).
 - (11) Warehousing and wholesaling establishments.
 - (12) Medical marijuana and recreational marijuana facilities (subject to section 60-69 and only when located within the special facilities overlay, as noted in section 60-143 and displayed on the zoning map. The number of permitted facilities shall be as regulated in section 60-143 and chapter 12, article IX for medical marihuana and in chapter 12, article X for recreational marihuana.
 - (13) Accessory buildings, structures and uses and accessory outside storage customarily incidental to any of the above uses. Outside storage shall be limited to currently licensed cars, trucks, and finished and semi-finished manufactured materials produced on the premises and equipment necessary as an accessory to the principal use, provided the following conditions are complied with:
 - a. All storage shall begin behind the minimum front yard setback requirements.
 - b. Obscuring screening shall be provided, as regulated in section 60-182.
 - c. Whenever a different material is to be stored than that approved in the original request, a new approval shall be required from the planning commission.
 - d. The planning commission shall also find, before granting this approval, it will not tend to further:
 1. Impair the adequate supply of light and air to adjacent property.
 2. Increase the hazard from fire, flood and other dangers.
 3. Diminish the market value of adjacent land and buildings.
 4. Increase the congestion on the public streets.
 5. Otherwise impair the public health, safety, comfort and general welfare.
- (c) *Special land uses.* The following buildings, structures and uses may be permitted by the city council, after a recommendation by the planning commission and subject to the special land use requirements (article X) and the following specific section for each use:
- (1) Retail business uses which have an industrial character in terms of their outdoor storage requirements or activities, such as lumber yards; building materials; boat, car, truck, mobile home, travel trailer or farm implement sales; tree and nursery sales.
 - (2) Retail services to serve the needs of persons working in the industrial district, such as eating and drinking establishments, banks, automobile service stations, trade or industrial schools, medical clinics and offices.
 - (3) Indoor commercial recreation, such as bowling centers, ice rinks, tennis courts, racquetball facilities, or dance studios which require very large buildings and large parking areas.

- (4) Airports, airfields, heliports, hangars, beacons and other facilities associated with airport operations.
- (5) Asphalt and concrete mixing plants.
- (6) Bulk storage of flammables and raw materials.
- (7) Contractor yards with outdoor storage.
- (8) Crematorium not accessory to a cemetery (section 60-218).
- (9) Heavy stamping, punching, hammering, riveting, grinding, or pressing operations.
- (10) Hospitals (section 60-242).
- (11) Junk yards (section 60-227).
- (12) Mining, extraction, landfills and incineration.
- (13) Outdoor storage (section 60-235).
- (14) Trucking operations, trucking facilities, and truck storage.
- (15) Wireless communication towers (section 60-239).
- (16) Any lawful use of land not expressly prohibited or provided for, or a use that has been deemed similar to a permitted shall be a special land use in the industrial zoning district.

(d) *Area, height and placement requirements.*

(1)	Minimum lot area:	20,000 square feet
	Minimum lot width:	100 feet
	Maximum height:	50 feet
	Maximum lot coverage:	50 percent
	Minimum yard setback front:	see below*

* Front and street-side building setbacks shall be measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's master plan as follows:

Road Classification	Buildings (Linear Feet)
County line	115
Major	100
Secondary	100
Collector	83
Local	70
Cul-de-sac radius	100
Private road (measured from the road easement or common usage line abutting the subject lot)	40

- (2) Side yard: No side yard of less than ten feet in width shall be left between the lot line and building. Corner lot side yards must equal the setback required for the front yards on the street to which they side. If an exterior yard borders other than an industrial district, there shall be provided a yard setback of not less than 50 feet.

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- (3) Rear yard (linear feet): 20 feet. No building shall be closer than 50 feet to the outer perimeter (property lines) of this district where said property lines abut any residential district, and such space shall only be used for the parking of individual passenger vehicles and/or small trucks.
 - (4) There shall be a minimum distance of 20 feet between any two buildings on the same lot.

(Ord. No. 158, § 7.01, 9-22-2008; Ord. No. 213, § 3, 8-14-2017; Ord. No. 240, § 2, 2-8-2021)

Sec. 60-143. Special facilities overlay, SF.

- (a) *Legislative intent.* In 2016, the Michigan Legislature enacted the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq, and the Marihuana Tracking Act, MCL 333.27901 et seq. The provisions in this section of the zoning ordinance, as well as those in other sections of the zoning ordinance relating to the subject of medical marihuana, are adopted for the purposes and with the intent set forth in City of New Baltimore Medical Marihuana Facilities Regulation and Permit Ordinance (being chapter 12, article IX) and sections of said ordinance incorporated within.

The intent of this section is to regulate medical marihuana provisioning centers, medical marihuana grower facilities, medical marihuana safety compliance facilities, medical marihuana secure transporters, and medical marihuana processor facilities to the extent permissible under State of Michigan and federal laws and regulations, and to protect the public health, safety, and welfare of the residents of the City of New Baltimore.

It is further the intent of this section to permit medical marihuana facilities within a specific area that is located entirely within the industrial (I) zoning district and the special facilities overlay boundary shall be shown on the City of New Baltimore Zoning Map.

Except as may be required by law or regulation, it is not the intent of this section to diminish, abrogate, or restrict the protections for medical uses of marihuana found in the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, and the Marihuana Tracking Act.

- (b) *Permitted uses.*

- (1) Medical marihuana facilities subject to the requirements of chapter 12, article IX and section 60-70, medical marihuana facilities.
 - a. Medical marihuana grower facility: Two permits maximum for all of the permitted facilities in total combined:
 - Class A, 500 plants;
 - Class B, 1,000 plants;
 - Class C, 1,500 plants.
 - b. Medical marihuana processing center: Two permits.
 - c. Medical marihuana provisioning center: Two permits.
 - d. Medical marihuana safety compliance facility: Two permits.
 - e. Secured transporter facility: Two permits.
- (2) All uses otherwise permitted in section 60-142 (industrial district) shall be permitted in the special facilities overlay unless otherwise restricted or prohibited by chapter 12, article IX of the New Baltimore Code of Ordinances.

- (c) *Area, height and placement requirements.* Area, height and placement requirements shall be the same as section 60-142 unless otherwise modified by chapter 12 of the New Baltimore Code of Ordinances.

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- (d) All other provisions that apply to any development in the industrial (I) district shall also apply to the special facilities (SF) overlay district unless otherwise modified, supplemented or excluded by chapter 12 of the City Code of New Baltimore.

(Ord. No. 230, § 2, 5-18-2020)

Secs. 60-144—60-160. Reserved.

ARTICLE VIII. OFF-STREET PARKING AND LOADING REQUIREMENTS

Sec. 60-161. Intent.

The off-street parking and loading requirements of this chapter are established to prevent congestion on public streets by providing clearly defined parking areas that are separated from roadways; to remove the hazard to pedestrians of emerging between parked vehicles onto a public street; to facilitate proper storm-water runoff; to prevent the generation of dust; and to ensure safe, on-site circulation for pedestrians and automobiles.

(Ord. No. 158, § 8.00, 9-22-2008)

Sec. 60-162. General parking requirements.

It shall be the duty of both the owner and occupant of any premises to provide off-street parking areas as required in this article. Such off-street parking areas shall be laid out, constructed and maintained in accordance with the following standards and regulations:

- (1) Whenever a use or an activity requiring off-street parking is created, enlarged or increased in activity or intensity, off-street parking spaces shall be provided on site and maintained as required by this chapter.
- (2) The amount of required off-street parking for new uses of buildings, additions to existing buildings, new uses of land and accessory buildings shall be determined in accordance with the regulations in effect at the time the new use or addition is proposed, and the space so required shall be shown on the site plan and shall be irrevocably reserved for such use.
- (3) Off-street parking existing at the effective date of this chapter in conjunction with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or new use.
- (4) Nothing in this section shall be construed to prevent the collective provisions of offstreet parking areas for two or more buildings or uses. Such collective parking may be reduced by up to 15 percent of the required minimum number of spaces for the various uses computed separately, provided that a parking study is presented to the planning commission which substantiates the requested reduction.
- (5) Where the owners of two buildings, whose peak operating hours do not overlap, desire to utilize common off-street parking areas, the planning commission may permit such dual function provided that the following conditions have been met:
 - a. The peak business hours of the two buildings or uses do not overlap. The applicant requesting shared parking shall demonstrate to the planning commission that the amount of parking required for each individual site may be accommodated for in the future. In the event that there is a change of uses that no longer meets the criteria established for shared parking, the required number of spaces as provided in section 60-163 shall be installed.

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- b. The common parking area meets the off-street parking requirements of the larger building or more intensive use.
 - c. The common parking area meets all of the locational requirements of this chapter with respect to each building or use.
- (6) Off-street parking areas required herein shall be located within 300 feet of the permitted use it is intended to serve, such distance to be measured along lines of public access to the property between the nearest point of the parking area and the building to be served, provided that the said off-street parking area shall not be separated from the building to be served by any major or secondary thoroughfare, drain or physical barrier, or public improvement.
 - (7) Required off-street parking may not be enclosed with a gate that would permit it to be closed to either employees or patrons.
 - (8) When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction shall require one parking space.
 - (9) For the purpose of determining off-street parking requirements for all uses, floor area shall mean 100 percent of the gross floor area as measured from the interior of all exterior walls.
 - (10) Whenever drive-through or vehicle stacking lanes are provided, such lanes shall be located so as not to impede pedestrian or vehicular circulation on the site or on abutting sites, nor shall any drive-thru lane cross a vehicle maneuvering lane or aisle or block any space used for parking. Stacking or vehicle waiting spaces shall be a minimum of 9.5' × 21'. Four (4) stacking spaces shall be provided for each drive-through window provided. Eating and drinking establishments shall provide a minimum six (6) stacking spaces beginning at the menu board.

(Ord. No. 158, § 8.01, 9-22-2008)

Sec. 60-163. Minimum number of off-street parking spaces.

The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule. For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use which is most similar in type as determined by the planning commission.

- (1) Residential.
 - a. The off-street parking area required for single-family dwellings shall be located on the same lot or plot of ground of the building they are intended to serve and shall consist of a paved parking strip, parking apron, carport and/or garage on the basis of two parking spaces for each dwelling unit. Parking shall be restricted to paved areas. The parking of recreation vehicles shall be regulated by all applicable ordinances within the city.
 - b. Multiple-family residential dwellings shall have two paved off-street parking spaces for each one-bedroom dwelling unit. For each additional bedroom per unit, one-half additional parking space shall be provided. Multiple-family dwelling units in the central business zoning district shall be required one and one-half paved off-street parking spaces per each dwelling unit.
 - c. Housing for the elderly. Two spaces for each three dwelling units, and one for each employee. Should the dwelling units revert to general occupancy, then two spaces per unit shall be provided. The location of this reserved parking area shall be shown on the site plan at the time of the original approval.

- d. Manufactured homes. Two spaces per unit, plus one (1) space for every three manufactured home sites for visitor parking. Visitor parking shall be located within 300 feet of the manufactured home sites they are intended to serve.
- e. Community buildings (multiple-family and manufactured housing community). One space for each four persons allowed within the maximum occupancy load, as determined by the fire department.
- f. In multiple-family residential districts and manufactured housing communities where recreation vehicles are permitted, a secured storage area for such vehicles shall be provided and buffered from adjacent uses. No unlicensed motor vehicle of any type shall be parked within the development at any time, except within a covered building or the enclosed storage area. In the manufactured housing community district, no motorized recreation vehicles or boats shall be parked on individual home sites. All group off-street parking lots shall be adequately lighted during hours of darkness with no more than one-half footcandle of illumination.

(2) Institutional.

Use	Minimum Spaces Required
Auditoriums (incidental to churches, schools, and hospitals)	One space for every three seats; plus one for every two employees. If no seats, one for every 50 square feet of floor area.
Churches or temples	One space for every four seats or six feet of pew in the main worship area.
Convalescent homes	One space for every two beds; plus one for each staff member.
Elementary and junior high schools	Ten spaces; plus one for every two employees; plus auditorium requirements.
Hospitals	One space per bed; plus one space per employee and doctor on peak employment shift. Parking for emergency facilities shall be provided on the basis of one space per 100 square feet of floor area of the emergency room, patient treatment areas and waiting areas.
Libraries/museums	One space for every 500 square feet of floor area.
Nursery schools, day nurseries or child care facilities	One space for each employee; plus one space for every four students on the premises at one time.
Private clubs and lodges	One space for every 200 square feet of floor area.
Senior high schools and colleges	One space for every one employee; plus one space for every four students; plus the requirements of the auditorium.

(3) Recreational.

Use	Minimum Spaces Required
Bowling alleys	Five spaces per lane; spaces required for ancillary uses, such as lounges or restaurants, shall be determined on the basis of the individual requirements for each use as specified herein.

Dance halls, amusement device centers, ice skating rinks, indoor shooting & archery ranges, and exhibition halls	One space per three persons allowed at maximum occupancy load, as determined by the fire department.
In-water boat wells (rental/lease)	One space for each boat berth, plus one for every two employees in the largest working shift, plus one for every 1,500 square feet of indoor storage or work floor space.
Miniature golf, par 3 courses and driving ranges	Two spaces per each golf hole; plus one space for each driving range tee; plus one space per employee.
Private golf, swimming or tennis clubs and similar uses	One space for every three member families; plus one per employee.
Private Parks	One space for every two individual members.
Public golf courses (not including miniature golf, driving ranges or par 3 courses)	Six spaces for each golf hole.
Public recreation (other)	One space for every two users at maximum capacity; plus one space for each employee.
Stadiums and sports arenas or similar places of assembly	One space for every four seats or every ten feet of bench.
Racquet/tennis and exercise clubs	One space for every two persons allowed within maximum occupancy, as determined by the fire department.
Theaters	One space for every four seats; plus one space for every two employees. If no seats, then one space for every 75 square feet of floor space.

(4) Offices.

Use	Minimum Spaces Required
Banks	One space for every 200 square feet of floor area. Stacking lanes for drive-thru tellers shall be provided.
Business and professional offices or free-standing administrative offices, except as indicated below	One space for every 250 square feet of floor area.
Clinics, medical, dental, veterinary	One space for each employee; plus one space for every 200 square feet of floor area.

(5) Auto-related uses.

Use	Minimum Spaces Required
Auto wash, hand or coin-operated	Four exterior waiting spaces at entry, plus two exterior drying spaces for each bay; plus one space for each employee.
Full-service auto wash	One space for each employee, plus 20 exterior spaces at entry.
Auto service stations and auto repair services, excluding heavy and major repair	In addition to a service space to be provided at each pump, the following additional requirements shall apply: three spaces for each service bay; plus one

	space for every 200 square feet of retail floor area; plus one space for each employee.
Self-service gasoline stations (gasoline and convenience retail; no repair or fast food restaurants)	In addition to a service space to be provided at each pump, the following additional requirements shall apply; one space for every 250 square feet of retail floor area; plus one space for each employee.
Heavy and major auto repairs	Three spaces for each service bay. No wrecked vehicles to be parked or stored outside.
Quick oil changes	Two spaces per bay; plus one space for each employee at the peak shift; one space for every 200 square feet of floor area used for retail sales.
Vehicle sales/rental establishments	One space for every 300 square feet of sales area; one space for every 200 square feet of office area; and two spaces for each service bay.

(6) Commercial.

Use	Minimum Spaces Required
Banquet/catering halls	One space for every two persons allowed within maximum occupancy, as determined by the fire department.
Beauty parlors/barber shops	Three spaces for the first two chairs, plus one space for each additional chair; or one space for every 75 square feet of floor area, whichever is less.
Dry cleaners	One space for every two employees, with a minimum of four spaces.
Funeral homes/mortuaries	One space for every 75 square feet of assembly room floor space, parlors, and slumber rooms.
Furniture and appliance retail stores; household equipment repair shops; showroom of a plumber, decorator, electrician or similar trade; clothing and shoe repair and other similar uses.	One space for every 500 square feet of floor area. For floor area used in processing or storage, one additional space shall be provided for each two persons employed within or each 1,000 square feet, whichever is greater.
Greenhouses and nurseries	One space per employee; plus one space for every 200 square feet of actual permanent or temporary areas devoted primarily to sales.
Laundromats and coin-operated dry cleaners	One space for every three machines.
Motel, hotel, or other transient uses.	One space for each occupancy unit, plus one space for each employee; spaces required for ancillary uses, such as lounges, restaurants or conference areas, shall be determined on the basis of the individual requirements for each use as specified herein.
Open air businesses	One space for every 500 square feet of lot area used for retail sales, services, and uses.
Retail stores, except as otherwise specified herein	One space for every 250 square feet of floor area.
Restaurants/lounges (excluding fast-food or carry-out establishments)	One space for every 150 square feet of floor area, or one space for every two seats, whichever is greater.

Restaurants, fast-food and drive-ins	One space for every two employees; plus one space for every three seats intended for patrons within the restaurant building; plus one space for every 20 square feet of building floor area available in the order-waiting area.
Restaurants, carry-out only	One space per employee plus 50 percent of the minimum parking requirement for restaurants with permanent seating.

(7) Industrial.

Use	Minimum Spaces Required
Industrial and wholesale	One space for every 500 square feet of floor area.
Warehouse	One space for every 1,700 square feet of useable floor area.
Office-research	One space for every 300 square feet of floor area.
Mini-warehouses or self-storage units	Two spaces for the residential caretaker's unit; plus one space per 50 square feet of floor area used for office purposes.

- (8) Maximum number of parking spaces permitted. In no circumstance shall any use provide a number of surface parking spaces which exceeds the required minimum amount defined in section 60-163 by more than 25 percent, unless otherwise stated in this chapter.
- (9) Parking in the central business zoning district. The city council, after planning commission recommendation, may waive or lessen the parking requirements for property zoned CB, central business, based upon the availability of parking within the area or the projected amount of pedestrian traffic. Residential uses in the CB Zoning District shall not be eligible for a parking waiver and shall meet the requirements of subsection (1)b.

Sec. 60-164. Off-street parking space layout standards, construction and maintenance.

Wherever the requirements in section 60-213 require the construction of an off-street parking area, such off-street parking area shall be laid out, constructed and maintained in accordance with the following standards and regulations:

- (1) No parking lot shall be constructed unless and until a permit therefore is issued by the building department. Applications for a permit shall be submitted as per the requirements of site plan review (article III).
- (2) Plans for the layout of an off-street parking area shall have dimensions consistent with the following standards:
- a. Ninety-degree pattern: Parking spaces and maneuvering lanes shall be provided based on one of the following alternatives:

Space Width	Space Length	Maneuvering Width

9.5 feet	19 feet	22 feet
10 feet	19 feet	20 feet

- b. Sixty-degree pattern: Fifty-eight feet for two tiers of spaces, and one aisle/maneuvering lane, with the minimum aisle width for two-way traffic being 20 feet. One-way traffic shall require a maneuvering lane of not less than 15 feet in width.
 - c. Forty-five degree pattern: Fifty-six feet with two tiers of parking spaces, plus one aisle/maneuvering lane of at least 20 feet in width for two-way traffic. One-way traffic shall require a maneuvering lane of not less than 12 feet in width.
 - d. Parallel parking: Each parallel parking space shall be separated by at least five feet from an adjoining parking space.
 - e. All other two-way drives or maneuvering lanes not indicated above shall have a minimum width of 20 feet. One-way drives shall have a minimum width of ten feet. All proposed maneuvering lanes less than 20 feet in width are subject to approval by the City of New Baltimore Fire Department.
 - f. Parking spaces to accommodate vehicles with trailers (boats and recreational vehicles) shall be at least ten feet by 40 feet.
 - g. All parking area stalls shall be striped and maintained.
- (3) Site drainage and water detention/retention in a proposed parking area shall be approved by the City of New Baltimore Engineer.
 - (4) Handicapped parking spaces shall be furnished as required by state and federal law.
 - (5) All parking spaces shall be provided with adequate access by means of maneuvering lanes. Spaces shall not be designed to permit or encourage vehicles from backing out of a space directly onto a street or alley, with the exception of single-family residential uses.
 - (6) The entire parking area, including parking spaces, maneuvering lanes and drives required under this Section, shall be provided with asphalt or concrete surfacing in accordance with the City of New Baltimore Engineering Standards and as approved by the city engineer. The parking area shall be surfaced prior to the issuance of the certificate of occupancy for the building or buildings which it serves.
 - (7) No parking area shall be located closer than five feet to any property line. Single-family residential development shall not be required to meet this provision.
 - (8) Curbed, landscaped islands shall be placed at the ends of parking space groupings to separate parking spaces from maneuvering aisles and provide for safe traffic flow.
 - (9) In any area where front-end parking abuts a curbed area or a raised sidewalk, a two-foot vehicle overhang shall be required.
 - (10) In any area where a row of front-end parking abuts a curbed lawn area at least two feet in width or a raised sidewalk having a minimum width of at least five feet, the minimum parking stall depth may be reduced by up to two feet in depth in order to allow for a vehicle to overhang such area or such sidewalk. In no case shall the parking stall depth be decreased to allow a vehicle to overhang a required parking setback or property line.
 - (11) Ingress and egress to a parking lot for nonresidential purposes shall not be provided across land zoned for single-family residential purposes. All such entrances and exits shall also be located at least ten feet from any property zoned for single-family residential use.

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- (12) Parking lot lighting shall meet the requirements of section 60-189.
 - (13) The surface of the parking lot area, shall be maintained and kept free from weeds, rubbish, refuse and debris.
 - (14) All parking serving other than single-family dwellings shall be side-by-side or parallel. Tandem parking shall be prohibited, except where a multiple-family unit has its own separate two-car garage, their separate approach apron can be used for visitor parking. Tandem parking to a depth of three cars may be permitted in vehicle storage and inventory areas provided such areas are under the control of employees and are not accessible by the general public. Any parking or vehicle circulation areas accessible to the public shall meet the size standards specified in this section.
 - (15) Except as otherwise provided in this article, required off-street parking space shall be for the use of occupants, employees, visitors, customers, clients and patrons. Off-street parking areas shall not be used for other than parking purposes or allowed to become unusable, except for temporary repairs. The storage of vehicles or merchandise in any off-street parking space is prohibited, except as permitted in conjunction with the approved principal or accessory use. Further, no repairs or service to vehicles and no display of vehicles for the purpose of sale shall be carried on or permitted upon any off-street parking area, except as permitted in conjunction with the approved principal or accessory use.
 - (16) The planning commission may require an access easement to provide for vehicular access to existing or contemplated adjacent parking areas to minimize the need for driveways to each facility and thereby decreasing hazards to vehicular traffic. In such instances, a reciprocal use agreement shall be signed by each owner.
 - (17) The use of any outdoor noise-producing device or public address system that is deemed a nuisance to neighboring properties shall be prohibited.
 - (18) Adequate ingress and egress to the parking area by means of clearly limited and defined paved drives shall be provided for all vehicles. All parking areas shall be provided with an entrance and exit from the abutting public thoroughfare. Such entrance and exit may be combined as one, which shall be 30 feet in width and/or may be located on an adjacent site.
 - (19) Reinforced concrete curbs, meeting the City of New Baltimore Engineering Standards, and as approved by the city engineer, shall be required. The use of bumper blocks is prohibited, except in such circumstances as determined by the planning commission where the site characteristics warrant their use.

(Ord. No. 158, § 8.03, 9-22-2008)

Sec. 60-165. Parking structure development standards.

It is intended that the provision of parking within structures or buildings shall serve to increase the value and convenience of related development and to enhance, rather than detract from, the appearance of the overall development. It is further intended that the provision of such facilities shall not negatively impact the safety and security of the public. All parking structures shall observe the layout, construction and maintenance requirements of section 60-164, plus the following additional standards:

- (1) Parking structures shall be considered a permitted use in the following zoning districts: GC General commercial, CB central business and I industrial. In all other zoning districts a parking structure shall require special land use approval (article X).
- (2) Parking structures shall be physically integrated into the overall design and functioning of the site, as well as the surrounding area. The exterior treatment of the parking structure element of a building

complex shall be substantially the same in appearance to that of the main building element, and shall further be designed so that all architectural and vehicular lighting is shielded or screened from view from adjacent properties.

- (3) The development of parking structures shall be in accordance with safety and security requirements established by the city.

(Ord. No. 158, § 8.04, 9-22-2008)

Sec. 60-166. Off-street loading and unloading.

On the same premises with every building, structure, or part thereof, erected and occupied for manufacturing, storage, warehouse goods, a wholesale store, a market, a hotel, a hospital, a mortuary, or other uses similarly involving the receipt or distribution of vehicles, materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading, and unloading services adjacent to the opening used for loading and unloading in order to avoid interference with public use of the streets and alleys. Such loading and unloading shall be provided in accordance with the following:

Gross Useable Floor Area	Loading/Unloading Spaces Required
up to 20,000 square feet	One space
20,001 to 100,000 square feet	One space plus one space for each additional 20,000 square feet of excess over 20,000 square feet.
100,001 to 500,000 square feet	Five spaces plus one space for each 40,000 square feet over 100,000 square feet.
Over 500,000 square feet	15 spaces plus one space for each 80,000 square feet over 500,000 square feet.

- (1) All loading or unloading areas shall provide a minimum area of ten feet by 50 feet with a height clearance of 14 feet.
- (2) Loading and unloading areas shall be so located and designed that the vehicles intended to use them can maneuver safely and conveniently to and from a public right-of-way and complete loading and unloading operations without obstructing or interfering with any public right-of-way or any parking space or parking lot maneuvering lane or aisle. When required, loading and unloading areas shall be designated and defined.
- (3) No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities, except as specifically authorized by this chapter.
- (4) Unless otherwise specified, loading and unloading areas shall be provided only in rear yards. Side yard loading may be permitted by the planning commission when it is determined that such space and loading facilities would not interfere with parking and circulation, either vehicular or pedestrian, or with abutting uses.
- (5) All loading and unloading areas shall be surfaced, drained, and otherwise developed in accordance with the provisions applicable to off-street parking areas (section 60-164).
- (6) Loading and unloading in the central business zoning district shall be provided for on a case by case basis, as determined necessary by the planning commission.

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- (7) Overhead doors shall be considered as loading/unloading areas and shall not be placed on the front of the building.

(Ord. No. 158, § 8.05, 9-22-2008)

Secs. 60-167—60-180. Reserved.

ARTICLE IX. ENVIRONMENTAL PROVISIONS⁴

Sec. 60-181. Intent.

The intent of the environmental provisions is to preserve the quality and character of the city's environment by regulating man-made development and by preserving existing environmental amenities. The requirements of this article are designed to achieve the following objectives:

- (1) Uphold the city's right and duty to protect its natural resources and amenities, as established within the State Constitution and the enabling legislature.
- (2) To enhance the visual quality of the city, while preserving and/or enhancing each individual property's economic value.
- (3) To protect adjacent property owners, persons passing by, and the city from activities and/or negative impacts created by development.
 - a. Reduce or eliminate glare into and from adjacent sites and activities.
 - b. Reduce or eliminate debris, dust and other pollutants from the air.
 - c. Control noise and provide acoustical modification into and from adjacent sites.
 - d. Control the direction and velocity of surface water runoff and minimize soil erosion.
 - e. Minimize visibility of undesirable elements contained within the site.
- (4) Recognizing the above-cited benefits of the natural environment, it is important to integrate these features into development to improve the community's environmental qualities and to enhance the visual character of the built environment.

(Ord. No. 158, § 9.00, 9-22-2008)

Sec. 60-182. Screening requirements.

- (a) Screening shall be required between different zoning districts and uses according to the requirements of this section of this chapter. The type of screening required in different situations is based on one of two impact rankings: (1) minor, or (2) major.
- (b) Where screening is required, only one adjoining use shall be responsible for its installation, except as noted herein. This use shall be referred to as the "use providing screening." The other less intense use shall be the

⁴Cross reference(s)—Environment, ch. 20.

State law reference(s)—Natural resources and environmental protection act, MCL 324.101 et seq.

"protected use." In instances where a protected use is developed adjacent to and after the use which is intended to provide the screening, the protected use shall provide the required screening.

- (c) To determine the appropriate level of impact, refer to the adjoining zoning districts on the following schedule of screening requirements. The level of impact is indicated where both uses interface. Specific requirements for screening improvements are described in the following subsections (1)—(3). If the planning commission determines that more intense and/or compatible screening is necessary due to the nature of the proposed use and/or the nature of the protected use, it may require additional and/or alternative screening methods. These requirements are in addition to specific screening requirements set forth elsewhere in this chapter. The planning commission may waive the following screening requirements for a portion of the site where the building setback does not provide adequate space to install a required greenbelt or the planning commission may vary the following planting requirements for a portion of the site where a more comparable scenario is proposed.

(1) *Screening requirements for each intensity/impact classification.*

- a. *Minor.* The purpose of screening in this situation is to soften the impact of one land use on another. This creates an impression of space separation without necessarily eliminating visual contact. Screening intended to satisfy these objectives shall conform to the following standards:
1. Five-foot wide greenbelt (minimum).
 2. Within greenbelt, either: a) eight-foot high columnar evergreens planted at intervals not exceeding 20 feet on center and/or three-inch caliper deciduous trees planted at intervals not exceeding 30 feet on center; or b) a six-foot high wall meeting the requirements of section 60-182(2)a. below.
 3. Whenever a wall is not proposed, a minimum of five shrubs per thirty lineal feet shall also be planted in the greenbelt, and they shall have an average height of three feet. If evergreens are utilized as the primary screening device, deciduous shrubs shall be utilized. If deciduous trees are utilized as the primary screening device, evergreen shrubs shall be utilized.
 4. In Industrial districts, when industrial uses abut industrial uses, a wall or plantings shall not be required within the greenbelt between the similar uses. Screening of outdoor storage shall be required. If there is a side yard to side yard relationship between industrial uses in the industrial districts, no greenbelt shall be required.
- b. *Major.* In instances where major impacts occur, the required screening is intended to block the view of obtrusive or undesirable visual elements, exclude all contact between such uses, provide protection from noise and blowing debris, and create a strong impression of spatial separation. Major screen requirements between the CB and BT district and a residential use shall be waived if the properties are separated by a public right-of-way or alley. Screening in all other situations shall conform to at least one of the two minimum standards options listed below:
1. *Major option 1.* A minimum buffer zone of ten feet shall be maintained between the protected use and the more intense use. The buffer zone shall be developed with a six-foot high continuous, decorative masonry wall.
 - i. One deciduous tree, not less than two and one-half-inch caliper, shall be planted within the greenbelt for every 20 lineal feet.
 - ii. Additional low-level plant material shall be required along the entire length of the wall to provide continuous coverage. All such plantings shall meet the height and spacing requirements specified herein.

2. *Major option 2.* A minimum buffer zone of 15 feet shall be maintained between the protected use and the more intense use. In addition, provide two continuous rows of evergreens (spruce or pine), measuring at least eight feet in height, evenly staggered, with each row planted at intervals not exceeding 20 feet on center.

(2) *Other screening specifications.*

- a. *Walls.* Whenever a wall is used in conjunction with the previously mentioned screening requirements, it shall be constructed according to the following specifications:
 1. Walls shall be constructed of reinforced protective decorative face brick (same as building), decorative poured reinforced concrete (to match building), or similar decorative building material determined to be acceptable by the planning commission. The color of brick or facing shall be compatible with brick used on the site and shall be durable, weather resistant, and easy to maintain.
 2. Walls shall be placed on the subject property with the outer edge of the wall located on the property line. Walls shall have no openings for vehicular traffic, unless providing vehicular cross-access as approved by the planning commission.
 3. The wall shall be constructed to meet all building and engineering requirements of the city.
 4. No such wall shall be painted, nor shall it be constructed of exposed concrete block, cinder block, or wood products.
 5. Unless otherwise expressly directed by the provisions of this chapter, all protective walls or greenbelts shall be provided when required along, and immediately joining, the zoning district boundary line and/or property line and shall be installed so as to lie wholly on the land of the applicant seeking site plan approval. In instances where drains, trees or other obstacles preclude such location, the planning commission shall determine the most appropriate alternative location.
 6. All walls or greenbelts required by this chapter shall be completely installed prior to the issuance of an occupancy permit for the use of the premises, except as provided hereinafter.
 7. In any case where the development of the land and/or buildings has been fully completed and an occupancy permit would otherwise be issued, and the completed installation of the wall, greenbelt and/or landscaping required is prevented by inclement weather or acts of nature beyond the control of the owner, the owner may receive a six-month temporary occupancy permit subject to the completion of all such landscaping, provided that a sufficient financial guarantee has been posted at the city by the applicant.
 8. Maintenance of the wall or any other substituted screening device shall be the responsibility of the property owner on whose property such wall or screen is located.

(3) *Schedule of screening requirements.*

Use Providing Screening ⁽¹⁾	Protected Zoning District or Use ⁽¹⁾			
	Single-Family	Multiple/MHC	Commercial/Office	Industrial
Single-Family (R-80, R-70, R-65, WRD)	—	—	—	—
Multiple Family or Mfgt. Housing Comm.	Major	Minor	Minor	Minor

Commercial/Office (BT, LC, GC)	Major	Major	Minor	Minor
Central Business (CB)	Major	—	—	—
Industrial (I)	Major	Major	Minor	Minor

⁽¹⁾ In instances where a "protected use" is developed adjacent to and after the use which is intended to provide the screening, the "protected use" shall provide the required screening.

(Ord. No. 158, § 9.0, 9-22-2008; Ord. No. 216, § 6, 2-26-2018)

Sec. 60-183. Parking lot landscaping requirements.

- (a) *Intent.* The intent of these requirements is to enhance the aesthetic appeal of the city; to promote public safety; to moderate heat, wind and other local climatic effects produced by parking lots; and to minimize nuisances, particularly noise and glare.
- (b) *Parking lot greenbelt requirement.* All parking areas in nonresidential zoning districts (BT, LC, GC, and CB) shall be setback a minimum of 15 feet from the right-of-way or road easement of all abutting roadways. In the IND districts, this shall be reduced to ten feet. The setback area shall be landscaped in a manner consistent with the intent of this article.
- (c) *Interior parking lot landscaping.* All unpaved areas between a building and a facing street shall be landscaped and maintained to include grass and/or placement of shrubbery. See the CB district for specific requirements in that district. All off-street parking areas shall incorporate and provide curbed tree planting spaces to be laid out square and constructed to provide not less than 126 square feet of land area for each tree planting. These curbed islands shall be planted with sod (landscape rock, gravel, or other similar material is prohibited). Curbed, landscaped islands shall be placed at the ends of all parking space groupings to separate the parking spaces from the maneuvering lanes and to provide for safe traffic flow. These planting areas shall not be less than seven feet in width. Trees shall be planted throughout the parking area. Trees shall be a minimum of two and one-half-inch caliper at the time of planting and shall be provided at a ratio of one tree for each six parking spaces or fraction thereof. These trees shall not be counted towards street frontage tree requirements. The following trees or similar types are suitable for parking lot and urban conditions:
 - (1) White fir (only when clear vision is maintained).
 - (2) Norway maple.
 - (3) Tulip tree.
 - (4) Ginkgo tree (male only).
 - (5) Red oak.
- (d) *Frontage landscaping.* Large, deciduous street trees shall be provided within every zoning district. The trees shall be spaced evenly in a linear fashion along all road rights-of-way. One tree shall be planted for each 25 feet of road frontage and shall be planted five feet outside of the road right-of-way. This requirement may be waived in the CB and BT districts if street-facing setbacks do not permit such planting and planting within the road right-of-way is not feasible.

In the case of single-family residential development one street tree shall be required per lot or for every 40 feet of road frontage, whichever is greater.

The planning commission may approve plantings within the road right-of-way in instances where setbacks or other similar circumstances prevent the applicant from planting said trees outside of the public right-of-way. Where street trees are permitted to be planted within the road right-of-way, final approval of such plantings shall

be granted by the City of New Baltimore. Plantings within the road right-of-way shall meet all requirements of the New Baltimore Trees, Shrubs and Plants Ordinance. In no way shall the plantings impair the clear vision triangle. The trees shall be a minimum of two and one-half-inch caliper at the time of planting. These trees may not be counted towards parking lot tree requirements.

- (e) *Landscaping of buildings.* Wherever a building is constructed which abuts a drive, service aisle, road, or other means of access or maneuvering, a minimum of seven feet of landscaped area shall be provided around the equivalent of three sides or 60 percent of the building. Landscaping shall not include walkways or paved service areas. One small deciduous tree (see the plant material size table in subsection 60-187(d)) shall be provided for every 20 feet of building length of such building. Modifications to this requirement may be made by the planning commission where it is determined that unique circumstances warrant such modification. This requirement shall not apply to the CB district.

(Ord. No. 158, § 9.02, 9-22-2008; Ord. No. 216, § 7, 2-26-2018)

Sec. 60-184. Location and screening of trash receptacles.

- (a) The location of trash receptacles shall be indicated on a site plan. All such trash receptacles shall be located so as to facilitate collection and minimize any negative impact on persons occupying the development site, neighboring properties, site traffic circulation patterns, or any public right-of-way. Trash receptacles shall not be located within the front yard.
- (b) All trash receptacles shall be screened on three sides by durable masonry walls which are similar to, or compatible with, the exterior construction materials used elsewhere on site. The walls shall be constructed of either color impregnated poured concrete with a simulated brick pattern or decorative clay brick, the same as that used for the principle building. The dumpster enclosure shall not be painted. Further, the trash receptacle enclosure shall be complemented with evergreen plantings which provide a continuous screen. All trash receptacles shall be placed on an ten-by-12-foot concrete pad. Concrete or metal bollards shall be placed between the trash receptacle and the rear wall of the enclosure. The trash receptacle area shall be screened at the opening with a six-foot high metal framed wood screening gate.
- (c) The height of the masonry screening walls shall be six feet. The walls shall be maintained so as to remain structurally sound and neat in appearance. Trash receptacles shall be so located and arranged to minimize their visibility from adjacent streets and uses. All trash receptacles shall be located on site to be as accessible as possible without interfering with vehicular circulation patterns.

(Ord. No. 158, § 9.03, 9-22-2008)

Sec. 60-185. Location and screening of central air conditioning units.

Refrigeration equipment used for central air conditioning purposes and installed outside of residential dwellings and their attached structures shall not result in being a noise nuisance, and shall not be located in the front yard of the structure and shall be no less than two feet from the wall of the main structure. All such equipment shall maintain a minimum distance of three feet from the property line. Further, all such refrigeration equipment, wherever placed, must be properly screened from view and noise as required by the building department. Installation of any such equipment shall also comply with all other applicable provisions of this chapter, as amended.

(Ord. No. 158, § 9.04, 9-22-2008)

Sec. 60-186. Commercial and industrial fixture screening.

Roof-mounted appliances, including, but not limited to, air conditioners, heating apparatus, dust collectors, filters, transformers, and any other such appliance or apparatus, shall be enclosed on all sides by view-obscuring screening so as not to be visible from off the site. The design of the screening shall be approved by the planning commission as compatible with the architectural design of the building upon which it is located. Ground mounted appliances shall be screened using decorative landscaping, a decorative wall or wood screening fence, whichever the planning commission determines to be most appropriate.

(Ord. No. 158, § 9.05, 9-22-2008)

Sec. 60-187. Landscaping requirements.

(a) *General requirements.*

- (1) Whenever any yard (front, side or rear) is not designated for building, off-street parking, loading and unloading, storage, or other purpose within the terms and requirements of a given zoning district, it shall be landscaped with either approved natural materials or living plant materials which shall be maintained in an aesthetically pleasing condition.
- (2) All landscaped areas shall be protected from the encroachment of vehicles by concrete curbing or other suitable device. The installation of sprinklers shall be required to ensure the maintenance of all landscaped areas.
- (3) A detailed landscape plan for all unpaved areas shall be submitted to the planning commission, showing the names (common and botanical), location, spacing, planting size, planting and staking details of all plantings to be installed, and the location and types of all natural materials proposed to be included in the landscape treatment of the yard areas. This provision shall apply to all landscape yards, with the exception of single-family residential uses. This landscape plan shall be reviewed and approved by the planning commission.
- (4) Existing significant trees, tree stands, natural vegetation, and wild-life habitat shall be integrated into the site landscape plan to the maximum extent possible.
- (5) Undeveloped portions of the site shall be seeded, mowed and maintained.
- (6) Maintenance. The owner of the site shall maintain such landscaping in good condition so as to present a healthy, neat and orderly appearance, free from refuse and debris. All plant materials shall be continuously maintained in a sound, weed-free, healthy and vigorous growing condition and shall be kept free of plant diseases and insect pests. All unhealthy and dead material shall be replaced within one year or the next appropriate planting period, whichever comes first.
- (7) Quality. Plant and grass materials shall be of acceptable varieties and species, free of pests and diseases, hardy in Macomb County, and shall conform to standards of the American Association of Nurserymen and the city, and shall have passed any inspections required under state regulations.
- (8) No plant materials used to satisfy some or all planting requirements of this section shall be composed of nonliving materials.
- (9) Approved ground cover used in lieu of grass, in whole or in part, shall be planted in such a manner as to present a finished appearance and reasonably complete coverage after one complete growing season, with at least three plants per square foot.
- (10) Lawn grass. Grass areas shall be planted in species normally grown as permanent lawns in Macomb County. Grass may be plugged, sprigged, seeded or sodded, except that rolled sod, erosion reducing

net or suitable mulch shall be used in swales or other areas subject to erosion. Grass, sod and seed shall be clean and free of weeds and noxious pests or diseases. Grass shall be maintained at a length no greater than six inches in height. The front yard of all single-family residences shall be seeded or sodded within six months of final occupancy.

- (b) *Design objectives.* The following general design objectives and criteria shall be considered in the evaluation of landscape plans:
- (1) Ample variety and quantity of ornamental plants, trees and shrubs should be provided. Variety should be achieved with respect to seasonal changes, species selected, texture, color and size at maturity.
 - (2) Landscaping should be encouraged that will serve the functions of enhancing the visual environment, ensuring public safety, moderating the microclimate and minimizing nuisances.
 - (3) Landscaping should serve to integrate the project with the site, with a particular sensitivity to the natural topography, drainage and existing native vegetation. It should enhance the architecture of surrounding structures, when possible, by being of similar scale.
 - (4) Preservation of the existing landscape material and landforms is mandatory, particularly where mature trees are a part of the site.
 - (5) Landscaping shall be protected from vehicular encroachment. Raised planting surfaces and the use of curbs are required.
 - (6) The aesthetic and functional aspects of the proposed landscaping, both at installation and at maturity, shall be a paramount consideration in review and approval by the planning commission.
- (c) *Prohibited materials.* Where a landscape plan is required, the following plant materials are specifically prohibited:
- (1) Black Walnut.
 - (2) Boxelder.
 - (3) Catalpa.
 - (4) Chinese or Siberian Elm.
 - (5) Chokecherry.
 - (6) Cottonwood.
 - (7) Fruit-bearing Trees.
 - (8) Horse Chestnut.
 - (9) Green and White Ash.
 - (10) Mulberry.
 - (11) Ribes (Gooseberry).
 - (12) Soft maple (red, silver).
 - (13) Tree of Heaven.
 - (14) Willow.
 - (15) All thorned trees and shrubs.
- (d) *Plant material species and size requirements.* All proposed landscaped plantings shall meet the minimum size requirements specified in the plant material size table listed below:

	Minimum Size Allowable								
	Height				Caliper				
	8'	3'—4'	2'—3'	18"—2'	2"	2.5"	18"-2' spread	2" peat pot	2 gal. container
<i>Evergreens:</i>									
Fir	X								
Spruce	X								
Pine	X								
Douglas Fir	X								
<i>Narrow Evergreen Trees:</i>									
Red Cedar	X								
Arborvitae	X								
Juniper (selected varieties)	X								
<i>Large Deciduous Trees:</i>									
Oak						X			
Maple						X			
Beech						X			
Linden						X			
Ginko (male only)						X			
Honeylocust (seedless, thornless)						X			
Birch						X			
Sycamore						X			
<i>Small Deciduous Trees (Ornamental):</i>									
Flowering Dogwood (disease resistant)					X				
Flowering Cherry, Plum, Pear					X				
Hawthorn (thornless)					X				
Redbud					X				
Magnolia					X				
Mountain Ash					X				
Hornbeam					X				
Russian Olive					X				
<i>Large Evergreen Shrubs:</i>									
Hicks Yew			X						
Upright Yew			X						
Spreading Yew							X		
Pfitzer Juniper							X		
Savin Juniper							X		
Mugho Pine							X		
<i>Small Evergreen Shrubs:</i>									
Brown's, Ward's Sebio Yews							X		

Dwarf Spreading Juniper							X		
Dwarf Mugho Pine							X		
Euonymous Varieties							X		
<i>Large Deciduous Shrubs:</i>									
Honeysuckle			X						
Lilac			X						
Border Privet (hedge plantings)				X					
Sumac		X							
Buckthorn		X							
Pyranantha			X						
Weigela		X							
Flowering Quince		X							
Barberry		X							
Cotoneaster (Peking & spreading)		X							
Sargent Crabapple		X							
Dogwood (Red Osier & Grey)		X							
Euonymous Varieties		X							
Viburnum Varieties		X							
Tail Hedge (hedge planting)			X						
<i>Small Deciduous Shrubs:</i>									
Dwarf Winged				X					
Regal Privet				X					
Fragrant Sumac				X					
Lavender				X					
Cotoneaster (Rockspray, Cranberry)				X					
<i>Ground Cover:</i>									
Periwinkle								X	
Euonymous Varieties								X	
Hall Honeysuckle								X	
Pachysandra								X	
Decorative Grasses								X	
<i>Vines:</i>									
Euonymous Varieties									X
Virginia Creeper									X
Baltic Ivy							X		
Wisteria									X

(Ord. No. 158, § 9.06, 9-22-2008)

Sec. 60-188. Clear vision.

To ensure that landscape materials do not constitute a driving hazard, clear vision site triangles shall be established at all street intersections and at the intersection of site driveways and streets. No fence, wall, shrubbery, sign, or other obstruction to vision above a height of 36 inches from the established street grades shall be permitted within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between said right-of-way lines at a distance of 25 feet from their point of intersection. Internal parking lot landscaping improvements should be of an appropriate size, location, and species to avoid blocking the vision of drivers within the parking lot.

(Ord. No. 158, § 9.07, 9-22-2008)

Sec. 60-189. Outdoor lighting requirements.

Outdoor lighting in conjunction with any site plan or special land use approval in all use districts shall conform to the following requirements as to type, location and intensity.

- (1) All outdoor lighting used to light a specific site shall be shielded downward or below horizontal (maximum of 85 degrees from vertical) to reduce glare and shall be so arranged and designed to reflect light away from all adjacent residential districts or existing adjacent residences and public right of ways. No light shall cast a glare onto adjacent roadways.
- (2) Artificial light shall be stationary and constant in intensity and color at all times when in use. There shall be no flashing, oscillating, moving or intermittent type of lighting or illumination. In addition, there shall be no bare bulb illumination of any kind exposed to public view.
- (3) The lighting sources (bulbs or lenses) for non-residential properties, shall not be visible from adjoining properties or rights-of-way. In addition, the height of the non-residential lighting fixture, including the base, measured from the established grade shall not exceed 24 feet.
- (4) Carriage style and similar decorative lights which may have lighting sources which are not directed downward may be utilized in any district, however, such lights shall have internal shields to direct light downward and away from adjacent properties and roadways as necessary. The height of such lights shall not exceed 18 feet.
- (5) Lighting at any nonresidential drive and street intersection may be required upon planning commission determination. Fixtures located at an intersection shall be full cut-off fixtures. Such lighting shall not exceed an average of one footcandle. Lighting at major intersections shall not exceed an average of 1.4 footcandles.
- (6) Ground lighting (up-lighting) used for the purpose of illuminating signs, landscaping and architectural details shall be shielded away from public view, directed solely at the object to be lit and landscaped as necessary.
- (7) A ground level illumination plan (in footcandles) which demonstrates compliance with the standards of this chapter may be required for each site or development, as determined necessary by the planning commission.
- (8) Light poles shall be located within parking islands or at the boundary of the parking lot area. In instances where parking abuts such location, the light pole must be set back a minimum of 2½ feet to ensure proper overhang clearance.

- (9) The city standard light specification shall be provided along all major road frontages. The light may be required across road frontages of a lesser intensity where determined necessary by the planning commission.
- (10) The intensity of outdoor lighting in all use districts shall be limited to the following amounts:

Schedule of Illumination
(in footcandles measured at the surface)

Use	Average Illumination Level* (Footcandles)	Uniformity Ratio
Residential, church, school, and child care facility	0.8	4:1
Nonresidential	4.0	4:1

(Ord. No. 158, § 9.08, 9-22-2008)

Secs. 60-190—60-210. Reserved.

ARTICLE X. SPECIAL LAND USE AND PLANNED UNIT DEVELOPMENT (PUD)⁵

Sec. 60-211. Intent, standards and procedures.

- (a) *Intent.* These use permit review procedures are instituted to provide an opportunity to use a lot or parcel for an activity which, under certain circumstances, might be detrimental to other permitted land uses and should not be permitted within the same district, but which use can be permitted under circumstances unique to the proposed location and subject to conditions acceptable to the community and providing protection to adjacent land uses. These procedures apply to those special land uses which are specifically designated in this chapter.
- (b) *General standards.* For all special land uses, a site plan shall be submitted to the New Baltimore Planning Commission and shall conform to the requirements and procedures for site plan review as described in article II. The city council, after a recommendation from the planning commission, shall have sole power to approve or disapprove all special land uses. If the plans meet the required standards of this chapter and indicate no adverse effect which, in the opinion of the city council, could cause injury to the residents, users of adjoining property, or the city as a whole, the city council shall approve the use. In all other instances, the city council may deny or approve, with conditions, requests for special land use approvals. In considering all applications for special land uses, the city council and planning commission shall review each case on an individual basis as to its conformity, and the proposed special land use must meet and satisfy each of the following general standards, as well as the standards for each special land use.

⁵State law reference(s)—Special land uses, MCL 125.3502, 125.3504; planned unit development, MCL 125.3503.

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- (1) The proposed special land use will be of such location, size and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood and/or vicinity and applicable regulations of the zoning district in which it is to be located.
 - (2) The use will be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration vehicular turning movements, routes of traffic flow and parking lot circulation, proximity and relationship to intersections, adequacy of sight distances, location and access to off-street parking and provisions for pedestrian traffic, with particular attention to minimizing pedestrian vehicle conflicts.
 - (3) The proposed use will be designed so that the location, size, intensity, site layout and periods of operation of the proposed use eliminate any possible nuisance emanating therefrom which might be objectionable to the occupants of any other nearby uses.
 - (4) The proposed use will be designed so that the proposed location and height of buildings or structures and location, nature and height of walls, fences and landscaping will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.
 - (5) The proposed use will relate harmoniously with the physical and economic aspects of adjacent land uses as regards prevailing shopping habits, convenience of access by prospective patrons, continuity of development, and need for particular services and facilities in specific areas of the city.
 - (6) The proposed use has been designed to relate harmoniously with existing environmental, aesthetic, cityscape and surrounding neighborhood amenities.
 - (7) The proposed use is so designed, located and proposed to be operated that the public health, safety and welfare will be protected.
 - (8) The proposed use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located and will not be detrimental to existing and/or other permitted land uses in the zoning district.

(c) *Procedures.*

- (1) The proposed site plan, which meets the requirements of article II and the application for special land use, shall be submitted to the city offices at least 20 business days prior to the meeting of the planning commission. Copies of the application and site plan shall be submitted to the planning commission, building inspector, planning consultant, city engineer and other city advisors, as necessary (fire, police, etc.). The planning commission may request comments from county, state or local agencies, as they deem necessary.
- (2) Upon receipt of an application (which shall also include the proposed site plan), the application shall go in front of the planning commission, who will then set a public hearing. At the time the planning commission sets the public hearing, the city shall publish a notice of public hearing in a newspaper of general circulation in the City of New Baltimore; and the city shall follow the procedures of the state law by giving notice by mail or personal delivery to the owners of property for which approval is being considered; and the city shall give notice to all persons to whom real property is assessed within 300 feet of the boundary of the property in question.

(d) *Planning commission review.*

- (1) The planning commission shall review the application after proper notice has been given as required by state law.
- (2) The commission shall base its recommendations upon review of the individual standards for that special land use, the general standards of this section, and the specific standards for each use. The

commission shall recommend approval of the application, with any suggested conditions the commission may find necessary, or recommend disapproval of the application. The decision on a special land use shall be incorporated in a statement of findings and conclusions relative to the special land use under consideration. The decision shall specify the basis for the decision and any conditions imposed.

- (e) *City council action.* After receipt of the planning commission's recommendation, the city council shall consider the application for approval, conditional approval, or disapproval. If a public hearing before the city council is requested as provided by state law, then the council, after proper notice, shall hear any person wishing to express an opinion on the application.
- (1) Approval. If the city council determines that the particular special land use(s) meets the eight standards outlined for special land use approval, it shall clearly set forth in writing the particular use(s) which have been allowed. Thereafter, the enforcing officer may issue a building permit in conformity with the particular special land use so approved. In all cases where a particular special land use has been granted as provided herein, application for a building permit in pursuance thereof must be made and received by the city not later than one year thereafter, or such approval shall automatically be revoked. Provided, however, the city council may grant an extension thereof for good cause shown under such terms and conditions and for such period of time as it shall determine to be reasonable and appropriate.
 - (2) Denial. If the city council shall determine that the particular special land use(s) requested does not meet the standards of this chapter or otherwise will tend to be injurious to the public health, safety, welfare or orderly development of the city, it shall deny the application by a written endorsement which clearly sets forth the reason for such denial.
 - (3) Conditional approval. The city council may impose such conditions or limitations in granting approval as may be permitted by state law and this chapter which it deems necessary to fulfill the spirit and purpose of this chapter.
 - (4) Record. The decision on a special land use shall be incorporated in a statement of conclusions relative to the special land use under consideration. The decision shall specify the basis for the decision and any conditions imposed. This record shall be on file in the clerk's office, as well as being made a part of the site plan or building records for that parcel.
- (f) *Conditions.*
- (1) The city council may impose such conditions or limitations in granting approval as may be permitted by State law and this chapter which it deems necessary to fulfill the spirit and purpose of this chapter. The conditions may include:
 - a. Conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity;
 - b. Protecting the natural environment and conserving natural resources and energy;
 - c. Insuring compatibility with adjacent uses of land; and
 - d. Promoting the beneficial use of land in a socially and economically desirable manner.
 - (2) Conditions imposed shall meet each of the following:
 - a. Be designed to protect natural resources; the health, safety and welfare, as well as the social and economic well-being, of those who will use the land use or activity under consideration; residents and landowners immediately adjacent to the proposed land use or activity; and the community as a whole.

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- b. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
 - c. Be necessary to meet the intent and purpose of the zoning regulations; be related to the standards established in this chapter for the land use or activity under consideration; and be necessary to insure compliance with those standards.

(Ord. No. 158, § 10.00, 9-22-2008)

Sec. 60-212. Automobile repair and service centers excluding paint and collision shops.

- (a) All repair activities shall be confined to the interior of the building.
- (b) No outdoor storage shall be permitted.

(Ord. No. 158, § 10.01, 9-22-2008)

Sec. 60-213. Boarding homes, convalescent or rest homes.

- (a) The facility shall provide adequate outdoor open space and recreational area.
- (b) There shall be a minimum of 400 square feet of floor area per bed on the premises.
- (c) There shall be at least one parking space on site for every two employees and for every two residents capable of driving a car.

(Ord. No. 158, § 10.02, 9-22-2008)

Sec. 60-214. Cemeteries.

- (a) The cemetery shall have direct access to a public road which is capable of carrying the traffic without interfering with the residential subdivision.
- (b) The minimum site size shall be 40 acres.
- (c) Crematoriums shall be centrally located on the cemetery property and shall be a minimum of 500 feet from any property line.
- (d) A cemetery shall provide decorative fencing around the entire perimeter of the site.

(Ord. No. 158, § 10.03, 9-22-2008)

Sec. 60-215. Churches.

Churches, private or parochial schools and church halls may be permitted upon the finding that the buildings and uses meet the requirements of section 60-211 and the following conditions:

- (1) The church shall have direct access to a public road which is capable of carrying the traffic without interfering with the residential subdivision.
- (2) No off-street parking shall be permitted in the required front yard.
- (3) No church hall or school shall be located closer than 50 feet to any property line. When such buildings are located adjacent to an existing residence or to an existing residential district, a greenbelt or wall shall be constructed.

(Ord. No. 158, § 10.04, 9-22-2008)

Sec. 60-216. Community service clubs and lodges.

Community service clubs, lodges, catering or renting halls, fraternal organizations, and the like may be permitted, subject to the following requirements:

- (1) All ingress and egress shall be directly onto a public road designated as a major or secondary thoroughfare on the city's adopted master plan.
- (2) No building shall be closer than 50 feet to any property line.
- (3) Where the proposed use is adjacent to any one-family residential district, a greenbelt shall be constructed between the proposed use and the residential district according to the standards of article IX.
- (4) No off-street parking shall be permitted in the required front yard area.

(Ord. No. 158, § 10.05, 9-22-2008)

Sec. 60-217. County, state, or federal uses.

- (a) No outdoor storage is permitted unless in the industrial district.
- (b) Barbed wire/razor wire fencing shall not be permitted.

(Ord. No. 158, § 10.06, 9-22-2008)

Sec. 60-218. Crematoriums not accessory to a cemetery.

The principal building shall be located at least 500 feet from any property zoned for residential use.

(Ord. No. 158, § 10.07, 9-22-2008)

Sec. 60-219. Drive-thru facilities.

- (a) The site and use shall be located on a major or secondary thoroughfare having a right-of-way equal to or greater than 120 feet.
- (b) Any freestanding drive-thru facility located in a shopping center shall be aesthetically compatible in design and appearance with the other buildings and uses located in the shopping center. In making this determination, the planning commission shall consider the architectural design of the building, the signage and the landscaping to ensure that the design and appearance of the developed site is compatible with the design and appearance of the remainder of the shopping center.
- (c) Drive-thru service shall be permitted only if a satisfactory traffic pattern for the drive-thru lane can be established to prevent traffic congestion and the impairment of vehicular circulation for the remainder of the development. Vehicle stacking lanes shall not cross any maneuvering lanes, drives or sidewalks.
- (d) In no instance shall multiple drive-thrus be permitted unless all drive-thrus on the site are controlled and operated by a single tenant. Multiple businesses, each having a distinct advertising identity, that are owned by the same parent company, shall not be considered a single tenant.

(Supp. No. 14)

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- (e) Devices for electronically amplified voices or music shall be directed or muffled to prevent any such noises from being audible at any lot line.

(Ord. No. 158, § 10.08, 9-22-2008)

Sec. 60-220. Full and self-service car washes.

- (a) Vehicular ingress and egress from the site shall be directly onto a major thoroughfare, except that it may be permissible to allow vehicles to exit from the facility onto a public alley.
- (b) All vehicles waiting or standing to enter the facility shall be provided offstreet waiting space, and no vehicle shall be permitted to wait on the public right-of-way as part of the traffic approach.
- (c) An on-site, 50-foot long drying lane shall be required at the exit point of the car washing facility or an alternate means of collecting and drying water shall be provided.
- (d) A 15-foot greenbelt shall be provided between all property lines.

(Ord. No. 158, § 10.09, 9-22-2008)

Sec. 60-221. Funeral homes and mortuaries, not including crematoriums.

- (a) Sufficient off-street automobile parking and assembly area is provided for vehicles to be used in a funeral procession. The assembly area shall be provided in addition to any required off-street parking area. A circulation plan identifying the arrangement of the vehicular assembly area shall be provided as part of the required site plan.
- (b) The site shall be located so as to have one property line abutting a major or secondary thoroughfare of at least 120 feet of right-of-way, existing or proposed.
- (c) Loading and unloading area used by ambulances, hearses or other such service vehicles shall be obscured from all residential view by a wall six feet in height.

(Ord. No. 158, § 10.10, 9-22-2008)

Sec. 60-222. Gasoline service stations.

- (a) The site for the gasoline service station shall have 120 feet of frontage on the principal street serving the station.
- (b) The site shall contain an area of not less than one-half of an acre.
- (c) All buildings shall observe front yard setbacks plus ten feet. For purposes of this Section, gasoline pumps and pump islands shall not be considered buildings.
- (d) In order to facilitate pedestrian circulation and safety, no parking or standing of customer vehicles shall be permitted in the area immediately adjacent to any customer entrance or payment window.

(Ord. No. 158, § 10.11, 9-22-2008)

Sec. 60-223. Group day-care (seven—12 adults or children).

- (a) Fencing shall be required next to residential uses or districts. All outdoor play areas shall be enclosed.

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- (b) The requested site and building shall be consistent with the visible characteristics of the neighborhood. The group day-care home shall not require the modification of the exterior of the dwelling nor the location of any equipment in the front yard.
 - (c) The proposed use, if approved, may have one nonilluminated sign that complies with the City of New Baltimore Sign Ordinance [chapter 42 of this Code].
 - (d) The proposed use, if approved, shall be inspected for compliance with these standards prior to occupancy and at least once each year thereafter within ten days of the anniversary of the certificate of occupancy.
 - (e) Evidence of state licensing shall be provided to the city.
- (Ord. No. 158, § 10.12, 9-22-2008)

Sec. 60-224. Home occupations.

- (a) Home occupations may be permitted in a residential district. Home offices that do not result in more traffic than is normal for residential districts shall be considered a permitted use and do not require special land use approval. All other home occupation requests shall be subject to the requirements of subsection 60-224(b). No person other than members of the family residing on the premises shall be engaged in such occupation.
- (b) Type II home occupation site requirements.
 - (1) The use of the dwelling unit for a home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants and, not more than 25 percent of the floor area of the dwelling unit shall be used for the purposes of the home occupation and shall be carried out completely within such dwelling.
 - (2) There shall be no change in the outside appearance of the structure or premises or other visible evidence of the conduct of such home occupation.
 - (3) Such home occupation shall not require internal alterations or construction, equipment, machinery, or outdoor storage not customary in residential areas.
 - (4) One nonilluminated nameplate, not more than two square feet in area, may be permitted.
 - (5) There shall be no sales of any goods, articles or services on the premises, except such as is produced by such approved home occupation.
 - (6) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be provided by an off-street area, located other than in a required front yard.
- (c) Handicapped persons applying for home occupation permits may be excused from certain provisions of this section by the planning commission, based on necessity.

(Ord. No. 158, § 10.13, 9-22-2008)

Sec. 60-225. Housing for the elderly and senior citizens housing.

- (a) All housing for the elderly shall be constructed on parcels of at least two acres and may provide for the following:
 - (1) Cottage-type dwellings and/or apartment-type dwelling units.
 - (2) Common services containing, but not limited to, central dining rooms, recreational rooms, central lounge and workshops.

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- (b) All dwellings shall consist of at least 400 square feet per unit (not including kitchen and sanitary facilities).
 - (c) Total coverage of all buildings (including dwelling units and related service buildings) shall not exceed 40 percent of the total site, exclusive of any dedicated public right-of-way.
 - (d) Business uses shall be permitted on the site when developed as retail or service uses clearly accessory to the main use, within the walls of the main structure, and totally obscured from any exterior view. No identifying sign for any such business or service use shall be visible from any exterior view. Such businesses or services shall not exceed 25 percent of the floor area at grade level.
 - (e) All proposals for housing for the elderly shall be reviewed against the standards for such housing as published by the Michigan State Housing Development Authority. The MSHDA standards shall be used only as a general guide for the review to assure minimum adequacy and shall not limit the requirements placed on the use by the City of New Baltimore.

(Ord. No. 158, § 10.14, 9-22-2008)

Sec. 60-226. Indoor recreation and catering halls.

- (a) All ingress and egress shall be directly onto a paved public road designated as a major thoroughfare on the city's master plan.
- (b) All outdoor lighting shall be installed in such a manner that it will not create a driving hazard or will not cast direct illumination on adjacent properties.
- (c) An obscuring greenbelt shall be provided adjacent to any residential zoned district which shall prevent automobile headlights from shining onto the adjacent residential district. All greenbelts shall be planted according to the major screening requirements of article IX.
- (d) There shall be a landscaped area of at least 15 feet between the street property line and the parking areas.

(Ord. No. 158, § 10.15, 9-22-2008)

Sec. 60-227. Junkyards, auto wrecking yards, and storage of industrial wastes.

- (a) Such use shall be completely enclosed by a fence constructed of unpierced wood or metal vertical boards or panels not less than eight feet in height, which shall be maintained in a condition of good repair.
- (b) The area between the front fence and the front site line shall be completely landscaped and maintained with lawn and coniferous trees and shrubs.
- (c) Parking shall only be permitted within the fenced enclosure.
- (d) The site shall not abut property zoned for residential use.
- (e) The site shall not be within 1,000 feet of a residential use.

(Ord. No. 158, § 10.16, 9-22-2008)

Sec. 60-228. Large-scale recreation.

Large-scale recreation uses, such as golf courses, driving ranges, ball fields, riding stables, camper and tent parks, and picnic grounds, may be permitted, provided they meet the following conditions:

- (1) The site shall be a minimum of 20 acres in size.

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- (2) No active recreation facilities or activities shall take place within 30 feet of the perimeter of the recreation area. All recreation activities shall be adequately screened from abutting property, either by distance or a greenbelt.
 - (3) Related accessory commercial uses may be permitted in conjunction with the recreation use when it is clearly incidental to the main recreation character of the use. Such related accessory uses shall not include the sales, servicing or repair of any vehicles or equipment used on the site, except that owned by the proprietor.

(Ord. No. 158, § 10.17, 9-22-2008)

Sec. 60-229. Nursery schools and child care.

- (a) The site shall contain a minimum of 150 square feet of outdoor play area for each child and shall not be less than 3,000 square feet in total.
- (b) The use shall be screened from adjacent residential uses or residentially zoned properties by a fence or greenbelt.
- (c) Adequate facilities are available for drop-off and pick-up of children.
- (d) The proposed use, if approved, shall be inspected for compliance with these standards prior to occupancy and at least once each year thereafter within ten days of the anniversary of the certificate of occupancy.
- (e) Evidence of state licensing shall be provided to the city.

(Ord. No. 158, § 10.18, 9-22-2008)

Sec. 60-230. Outdoor cafés (on- and off-site).

- (a) The planning commission shall determine if the area designated for an outdoor café use significantly hinders the movement of pedestrian traffic. In order to allow adequate pedestrian traffic areas and emergency access around outdoor dining areas, the following dimensional requirements must be observed: At least five feet, or such additional space as the planning commission deems necessary based on site conditions and pedestrian volume, of unobstructed space must be maintained past the outside dining area for sidewalk pedestrian traffic in order to ensure a clear pedestrian passageway along the sidewalk. Additionally, all ADA requirements shall be met. In order to achieve a continuous pedestrian walkway, the pedestrian passageway shall be a straight line, parallel to the building face and curb line, for the entire length of the dining area.
- (b) An unobstructed clearance of five feet must be maintained between a fire hydrant and any furniture or fixtures related to outdoor dining. This may be increased by the planning commission if deemed necessary for public safety.

When located on public sidewalks, the building official shall, on a case-by-case basis after approval, require adjustments to the layout, dimensions, or distance from the property line of any outdoor dining area to ensure pedestrian visibility of the ground floor of buildings that adjoin those with outdoor dining areas.

- (c) The perimeter of the outdoor café shall be delineated by setting up a physical barrier, such as decorative planters, walls (on private property) or a decorative railing to physically separate café patrons from pedestrian traffic. The outdoor dining café railing shall be at least 30 inches and not more than 36 inches high. The café railing shall be constructed of a decorative material such as black or silver metal, wrought iron or similar quality material that is durable and in keeping within the aesthetic qualities of the district. On private property, a brick wall is also permitted to create the required barrier. Photographs or physical

samples of the railings and all furnishings shall be provided to the planning commission for approval at the time of application review.

Furnishings shall consist solely of readily removable awnings, umbrellas, railings (on public property), tables, chairs, and planters containing plants (on public property). Furnishings may not be attached, even in a temporary manner, to other public property, except that covers and railings may be secured by means of flush mounted anchors in a manner to be approved by the planning commission. No objects which are part of an outdoor café, except lighting fixtures, railing, awning, or other non-permanent covers, may be attached, even in a temporary manner, to any building, or structure on which the outdoor café abuts. When the associated establishment and the outdoor café are not open for daily use, all furnishings and fixtures shall be removed from public property or stored in an approved manner which shall not cause a public hazard.

- (d) All barriers used for outdoor cafés serving alcohol shall conform to Michigan Liquor Control Commission M.L.C.C. regulations.
- (e) Tables, chairs, umbrellas and any other objects provided with the outdoor café shall be of quality design, materials and workmanship both to ensure the safety and convenience of users and to enhance the visual and aesthetic quality of the urban environment.
- (f) All electrical wiring and fixtures associated with or part of the outdoor café shall be installed and remain in conformance with the appropriate codes of the City of New Baltimore.
- (g) Tall tables and tall seating for tables shall not be permitted in the public right-of-way. As used in this section, a "tall table" is defined as any table with a table-top surface higher than 32 inches above the ground, and "tall seating" is defined as chairs, seats, stools or benches designed or intended for use with tall tables.
- (h) The outside dining area must be kept sanitary, neat and clean at all times. It shall be free from accumulation of food, litter, snow, ice, and other potentially dangerous or unsanitary matter. No food preparation is permitted in the outside dining area.
- (i) If proposed on public right-of-way a permit for use of public right-of-way shall be obtained from city council.

(Ord. No. 158, § 10.19, 9-22-2008; Ord. No. 216, § 8, 2-26-2018)

Sec. 60-231. Open air business uses, including the retail sales of plant materials, lawn furniture, playground equipment, and garden or building supplies.

- (a) All outdoor areas designated for retail sales shall be enclosed by a decorative fence or masonry wall. The planning commission shall approve the height of said wall or fencing.
- (b) A greenbelt with a minimum width of seven feet shall be provided around such fencing in all areas where no entrance/exit gate is located.
- (c) Storage of materials shall maintain a setback of 50 feet from any property zoned for residential use.

(Ord. No. 158, § 10.20, 9-22-2008)

Sec. 60-232. Outdoor sales lots for the sale of automobiles.

- (a) The lot or area shall be provided and maintained with a permanent, durable and dustless surface constructed of either asphalt or concrete and shall be so graded and drained as to dispose within the site of all surface water accumulated within the area.
- (b) The location of the site shall be upon a street with a right-of-way of at least 120 feet (existing or proposed) and shall contain no fewer than 40,000 square feet.

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- (c) Such use shall be located no closer than 200 feet from any single-family zoning district.
 - (d) No vehicle repair, bumping, painting or refinishing shall be done on the site. Cleaning and refurbishing of vehicles or units shall be permitted if done completely within an enclosed building.
 - (e) Devices for the transmission or broadcasting of voices and/or music shall be prohibited.
 - (f) The applicant shall be required to meet all parking standards set forth in article VIII unless a three-foot high decorative masonry wall has been provided around all outdoor vehicle sales areas. In addition, ornamental landscaping shall be located around the exterior of such wall.

(Ord. No. 158, § 10.21, 9-22-2008)

Sec. 60-233. Outdoor sales lots for the sale of new or second-hand recreational vehicles and boats.

- (a) The lot or area shall be provided and maintained with a permanent, durable and dustless surface constructed of either asphalt or concrete and shall be so graded and drained as to dispose within the site of all surface water accumulated within the area.
- (b) The location of the site shall be upon a street with a right-of-way of at least 120 feet (existing or proposed) and shall contain no fewer than 40,000 square feet.
- (c) Such use shall be located no closer than 500 feet from any single-family zoning district.
- (d) No vehicle repair, bumping, painting or refinishing shall be done on the site. Cleaning and refurbishing of vehicles or units shall be permitted if done completely within an enclosed building.
- (e) Devices for the transmission or broadcasting of voices and/or music shall be prohibited.
- (f) The applicant shall be required to meet all parking standards set forth in article VIII unless a three-foot high decorative masonry wall has been provided around all outdoor vehicle sales areas. In addition, ornamental landscaping shall be located around the exterior of such wall.

(Ord. No. 158, § 10.22, 9-22-2008)

Sec. 60-234. Outdoor sales lots for the sale of manufactured homes.

- (a) The lot or area shall be provided and maintained with a permanent, durable and dustless surface constructed of either asphalt or concrete and shall be so graded and drained as to dispose within the site of all surface water accumulated within the area.
- (b) The location of the site shall be upon a street with a right-of-way of at least 120 feet (existing or proposed) and shall contain no fewer than 40,000 square feet.
- (c) Such use shall be located no closer than 500 feet from any single-family zoning district.
- (d) Devices for the transmission or broadcasting of voices and/or music shall be prohibited.
- (e) The applicant shall meet all outdoor storage requirements of section 60-235.

(Ord. No. 158, § 10.23, 9-22-2008)

Sec. 60-235. Outdoor storage.

- (a) Any such use must be completely enclosed with screening in accordance with the requirements of section 60-57 and subsection (b) below.
- (b) No improvements for such use shall be erected closer to the site boundary lines than permitted in the building setbacks for the industrial district. No storage use shall be closer than 100 feet to the outer perimeter (property lines) of the district where said property lines abut any residential district or border other than an industrial district, and such space shall be fully landscaped and fenced at the setback line. Corner lot side yards must equal the setback requirements for the front yard on the street side as referenced herein.
- (c) Whenever a different material is to be stored other than what was approved in the original request, a new approval shall be required from the planning commission.
- (d) Uses expressly prohibited under this section include the following:
 - (1) Junkyards, including used auto parts.
 - (2) Used building materials.
 - (3) Storage of combustible or odoriferous materials.
 - (4) Composting facilities.

(Ord. No. 158, § 10.24, 9-22-2008)

Sec. 60-236. Public utilities, gas and oil pipelines.

Public utilities, electric and gas lines, gas storage fields, oil and gas pipelines, transformer stations and other utility or services which traverse the City of New Baltimore and do not directly serve the individual homes may be permitted, subject to the following requirements:

- 1. Utility lines and pipelines shall follow section or quarter-section lines or mile roads, wherever possible. Major overhead utility lines shall be permitted to parallel road rights-of-way only when there is no feasible alternate route, or when such route would benefit the environment and/or the residents of the city, or where there is no other reasonable route.
- 2. Buildings and related uses must be screened and/or landscaped so that they do not adversely affect the surrounding properties or neighborhood. They shall also meet or exceed all the area, height or bulk requirements of the zoning district in which they are located.
- 3. It shall be shown in the review that every reasonable precaution has been taken to provide maximum safety to the residents within the vicinity, as well as a minimum of interference in their normal daily living patterns.
- 4. All lines or pipes shall follow existing utility lines, corridors, or existing easements where possible and reasonable.

(Ord. No. 158, § 10.25, 9-22-2008)

Sec. 60-237. Raising of fur-bearing animals, including kennels.

- (a) Minimum site size: Five acres.

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- (b) The site shall abut a roadway designated as either a major or secondary thoroughfare in the City of New Baltimore Master Plan.
 - (c) There shall be provided an area of at least 100 square feet for each animal, including the area devoted to interior kennel space and runs.
 - (d) All interior building areas used for the keeping of animals shall be soundproofed.
 - (e) All animals shall be kept in soundproofed buildings between 8:00 p.m. and 8:00 a.m.
 - (f) Exterior dog runs and non-soundproofed interior buildings shall not be located closer than 200 feet to any lot line.
 - (g) Soundproofed interior buildings shall be located at least 100 feet from any property line.
 - (h) Exterior areas for the keeping of dogs shall be provided with fencing capable of confining the animals.
 - (i) All exterior dog runs shall be screened from view by adjoining parcels and the public road.
 - (j) The design and appearance of buildings used as animal boarding places shall be consistent with surrounding uses.
 - (k) One parking space shall be provided for every five kennel runs.
 - (l) All kennel runs and interior building areas shall have concrete floors or a suitable equivalent that can be easily cleaned.

(Ord. No. 158, § 10.26, 9-22-2008)

Sec. 60-238. Two-family dwellings.

- (a) The minimum lot size shall be equal to 1½ that required for single-family residential lots in that district.
- (b) Maximum height of any structure, minimum yard setbacks per lot, maximum lot coverage of all buildings, and rules regarding accessory buildings are the same as those for that residential district.
- (c) Off-street parking spaces shall consist of a parking lot, driveway, garage, or combination thereof for each dwelling unit. Such parking spaces shall be equally accessible for all residents and shall be located on the premises they are intended to serve. All such parking shall provide not less than two offstreet parking spaces per dwelling unit. Off-street parking shall not be permitted in any required front yard.
- (d) A two-family dwelling unit may only be permitted on a collector road or more intense designation, as designated in the master plan, or on a corner lot of a local roadway.
- (e) An accessory apartment or granny apartment in owneroccupied, singlefamily dwellings may be permitted, provided that:
 - (1) The apartment will be a complete, separate housekeeping unit.
 - (2) Only one apartment will be created within an owner occupied, single-family house.
 - (3) The owner(s) of the residence in which the accessory unit is created shall occupy at least one of the dwelling units on the premises.
 - (4) The accessory apartment shall be designed so that, to the degree reasonably feasible, the appearance of the building remains that of a one-family residence. In general, any new entrances shall be located on the side or in the rear of the building.
 - (5) The design and size of the apartment conforms to all applicable standards in the health, building, and other codes.

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- (6) The accessory apartment shall be clearly a subordinate part of the single-family dwelling. In no case shall it be more than 30 percent of the building's total floor area.

(Ord. No. 158, § 10.27, 9-22-2008)

Sec. 60-239. Wireless communication towers.

- (a) *Purpose and intent.* The general purpose of this section is to authorize wireless communications towers, while still maintaining the community integrity, as well as the general character, property value, and aesthetic quality of the city.
- (1) Wireless communication towers, including their respective transmission towers, relay and/or receiving antennas, and normal accessory facilities involved in television, radio, microwave, cable systems, cellular, personal communication and similar communication services and facilities, shall be permitted as a special land use in the industrial zoning districts, when found to be needed or desirable to the public convenience or welfare and in conformance with the following requirements: It is noted that communication towers do not fall under the classification of essential services and may in no way be regulated as such.
 - (2) New towers may be located in the I (industrial) zoning districts after special land use approval.
 - (3) The development of new structures, stealth, concealed antennas, or such appurtenances on existing buildings or structures may be permitted in exceptional cases in other zoning districts, subject to special land use by the planning commission and the city council. Such approval would require a unique approach with no adverse impacts on the surrounding residential properties or adjacent neighborhoods.
 - (4) The co-location of a wireless antenna on an existing tower shall also require special land use approval.
- (b) *Requirements of the applicant.*
- (1) The applicant shall demonstrate that the tower is required in this general area and shall submit the grid patterns necessary for their system as part of such documentation. The city may also request that the applicant provide a map or overlay identifying all of the tower locations, search rings, or coverage area within the City of New Baltimore and the nearest adjoining units of government which are within a three-mile radius of the applicant's site. The city may also require the applicant to show why a cable based, fiber optic, or similar system cannot or should not be used in lieu of a wireless communication tower.
 - (2) In order to maximize the efficiency of providing such services, while minimizing the impact of such facilities on the city, co-location of such facilities on an existing tower or other existing structure is required, when physically feasible. The applicant shall have reviewed public sites, existing towers, tall buildings, or similar structures which are, or may be, capable of providing adequate service. If collocation is deemed not feasible, the applicant shall furnish written documentation as to why a co-location at another site or facility is not feasible and whether they have, in fact, contacted the owners of existing facilities to determine if co-location is possible.
 - (3) A written explanation of the design characteristics and ability of the structure(s) and attendant facilities to withstand winds, ice and other naturally occurring hazards shall be submitted for all towers and antennas. This technical documentation of any information regarding these concerns may be required by the planning commission or city council.
 - (4) The development of any such facility, together with accessory uses, shall be in such a location or be of a size and character as to be compatible with the orderly development of the zoning district in which it is situated, and shall not be detrimental to the orderly and reasonable development or use of

properties in the adjacent areas or the community at large. Furthermore, the location and improvement of facilities, as provided for herein, shall also be subject to the following additional requirements:

- a. The site shall be of such size and shape that the proposed tower facility may be developed in compliance with all requirements of the city, and any such tower/antenna shall not exceed 175 feet in height.
 - b. The tower site shall be landscaped to obscure the view of the tower base, accessory buildings, and/or protective fences from any public right-of-way in accordance with article IX of this chapter. Greenbelts or landscaped berms may also be required along any residential zoning district. A six-foot fence shall enclose the site.
 - c. The city encourages innovative designs and utility pole camouflage as practical solutions for minimizing the visual pollution impact on residential neighborhoods or the motoring public. Monopole (stealth or equivalent type) antenna structures may be required where such are technologically feasible.
 - d. Setback requirements will be determined in relation to the tower/antenna design and collapse data as stated in subsection (b)(3). Minimum setback requirements, unless otherwise provided for, are as follows:
 1. When adjacent to nonresidential zoning districts, the setback shall not be less than the overall height of the tower/antennas. This setback requirement shall also apply to any accessory buildings. If the design and collapse data for the tower properly documents its ability to collapse down upon itself, the setback requirements to any side or rear yard property line abutting a nonresidential zoning district may be reduced to one-half the overall height of the tower. In no instance shall any tower facility be located within a front yard.
 2. When adjacent to any residential zoning district, the tower setback shall not be less than the overall height of the tower/antennas, plus 50 feet. If the design and collapse data for the tower properly documents its ability to collapse down upon itself, the setback requirement to any side or rear yard property line abutting any residential district may be reduced to the overall height of the tower/antennas. In no instance shall any tower be located within a front yard.
 3. Further modifications to setbacks may be considered when it is documented that the adjacent property is unbuildable due to wetlands, floodplains or other significant limitations. It shall also be determined that there will be no adverse impacts as a result of such development.
 - e. All new tower construction should provide for multiple antennas or multiple facilities upon the tower to encourage co-location. Leasing terms or the lease document must be provided (refer to subsection (b)(8)).
 - f. A visual simulation (rendered drawing to scale) may be required in a district that is within or abuts a sensitive or extremely visible areas as deemed by the planning commission. This simulation should include existing structures and natural elements and the tower's relation to those elements.
- (5) In addition to site plan review for new or reconstructed towers, the planning commission, upon deeming it necessary, shall require an independent third party review of an application. Such review shall be conducted by a professional engineer specializing in this type of communication technology and will be paid for by the applicant. The requirement for such a review shall be based on one or more of the following findings:

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- a. The applicant has not substantiated a need for a proposed tower to the satisfaction of the commission.
 - b. The applicant has been unable to disprove the ability to co-locate on an existing tower or structure to the satisfaction of the commission.
 - c. The applicant has not substantiated the structural safety of a structure to be commensurate with the requested setback.
 - d. The data supplied by the applicant is determined to be disorganized, confusing or misleading by the commission.
 - e. The applicant has not substantiated that alternative technology cannot be utilized as a substitute to the proposed tower construction.
- (6) All structures, buildings, and required improvements shall comply with all other applicable codes and ordinances, including Federal Aviation Agency and Federal Communications Commission standards and shall be continuously maintained in a safe and complying condition. The permit may include a requirement for periodic structural and safety inspections and reports, as deemed necessary by the building official.
- (7) The applicant shall submit a letter agreeing that should any tower/antenna facility, approved under this Section, cease to be used for its approved use, for more than 90 continuous days or more than 90 days of any 120 day period it shall be removed from the site within 180 days of such cessation. The lease shall also state such conditions. Removal of the tower/antenna and its accessory use facilities shall also include removing the top three feet of the caisson upon which the tower is located and covering the remaining portion with top soil. The letter of agreement may include a financial guarantee, to insure removal of all facilities approved under the special use permit. Any such agreement, including any financial guarantee, shall be in a form acceptable to the city's attorney. The financial guarantee may also include a provision for periodic adjustments to the guarantee according to changes in the Consumers Price Index or other similarly established and accepted price indexes.
- (8) The applicant shall provide a letter of intent to lease any excess space on a tower facility and commit itself to:
- a. Promptly responding to any requests for information from a potential co-user of their tower/antenna;
 - b. Negotiate in good faith and allow for leased, shared use of the facility, when it is technically practical; and
 - c. Make no more than a reasonable charge for a shared use lease.
- (c) *Planning commission decisions.* The record of the planning commission and city council shall include substantial evidence to support such decision. The written findings and conclusions shall be contained in the minutes of the Commission.

(Ord. No. 158, § 10.28, 9-22-2008)

Sec. 60-240. Planned unit development.

(a) *Purpose and intent.*

- (1) The planned unit development (PUD) concept is intended to provide a degree of flexibility in the regulation of land development and the arrangement of uses. Through this option, more creative approaches to development can be utilized which take advantage of the special characteristics of the

land than would otherwise be possible through the strict enforcement of this chapter. The specific objectives of this article are to:

- a. Require innovation in land use and variety in design, layout and type of structures constructed; while preserving the intent and integrity of the city Master Plan.
 - b. Preserve significant natural resources.
 - c. Achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities.
 - d. Require the provision of useful open space.
 - e. Permit flexibility in the placement, lot area and building type regulations, while assuring the application of sound site planning standards.
- (2) The planned unit development (PUD) regulations herein shall be applied to the initiation and regulation of all planned unit development projects. Where there are conflicts between the PUD regulations herein and general zoning, subdivision, or other regulations or requirements, the PUD regulations shall apply for the project. PUDs may be permitted in any zoning district subject to city approval. PUD projects shall follow the same public hearing procedures as a special land use. One public hearing shall be held during the planning commission's review of the PUD application, and one public hearing shall be held during the city council's review of the PUD application.
- (b) *Development agreement.* A development agreement shall be provided and reviewed by the planning commission and agreed to by both the applicant and the city. Final approval of said development agreement shall be made by the city council. The agreement shall include the following:
- (1) A timetable for the development and completion of the proposed project.
 - (2) A site plan meeting all submission requirements of article II, site plan approval requirements of the City of New Baltimore Zoning Ordinance [this chapter] as deemed necessary for conceptual review by the planning commission. Residential site plans shall include the street layout and the number and type of dwelling units proposed for each phase. Nonresidential phases shall include at least the building footprint, street layout, square footage of each structure, and the location and number of spaces in all parking areas.
 - (3) The identification of at least 40 percent of the gross site acreage as nonconvertible open space. Open space shall be defined as follows: All areas within the development, not individually owned or part of a limited common area, which are designed and intended to preserve open land resources for the common use and enjoyment of the residents of the entire development for any of the following uses: recreation, forestry and/or open space conservation, wetland areas, prairies, meadows, community gardens, or agricultural uses. The open space requirements shall not be met by land uses such as rights-of-way or easements designated for road or utility purposes, areas within lots, detention/retention ponds (and associated land surrounding the ponds), golf courses or other commercial recreational uses, or land area dedicated as limited commons.
 - (4) A development impact statement that provides an assessment of all environmental features on the site, a traffic study and an economic impact study for the site.
 - (5) A phasing plan, if applicable. Phasing shall be provided in such a manner to ensure overall compliance with the overall PUD.
 - (6) A description of all architectural themes and materials used for each building including architectural renderings.
 - (7) A coordinated sign package.

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- (8) All necessary legal documents.
- (c) *Criteria for approval.* Upon receipt of an application for a PUD, the planning commission shall review said application to determine if the proposal meets the eight standards for special land use approval outlined in section 60-211 of this chapter. In addition to meeting these eight standards, the commission shall find that the plan addresses the following issues:
- (1) A suitable development agreement has been provided outlining the specific design of the site including, parking arrangement, building footprint, building design and materials, landscaping and infrastructure improvements. Said agreement provides the city with a reasonable guarantee that what will be constructed is what has been agreed to by both the city and the applicant.
 - (2) The plan provides for safe, efficient, convenient and harmonious groupings of structures, uses and facilities; for appropriate relation of space inside and outside buildings to intended uses and structural features; and for preservation of desirable natural or historic features. In particular, streets, drives and parking and service areas shall provide safe and convenient on-site circulation, as well as safe and convenient access to dwelling units, general facilities and for service and emergency vehicles.
 - (3) The planning commission shall review the positive and negative impacts of the proposed PUD to determine if the PUD development provides benefits that substantially outweigh that which would be achieved under the conventional standards of this chapter.
 - (4) The proposed PUD meets the intent of the city's master plan.
- (d) *Decision and final approvals.* The planning commission shall recommend to the city council approval or denial of the PUD and development agreement presented by the applicant. After receiving a recommendation of approval or denial of the PUD and the draft development agreement, the applicant shall submit the draft development agreement to the city attorney for review. Following the review and acceptance of the development agreement by the city attorney, the PUD and development agreement shall be forwarded to the city council. The city council shall consider the recommendations made by the planning commission and all city consultants in making a decision to approve or deny the PUD plan and final draft of the development agreement. Prior to making a final decision, the city council may require revisions to the PUD plan and development agreement, as is deemed necessary to further the objectives of this section.
- (1) Application for the approval of each phase of the development shall be submitted and regulated under the standard site plan review process outlined in article II, as well as criteria (1)—(4) outlined above in subsection (c).
 - (2) Each phase of the project shall be in compliance with the approved PUD and development agreement signed and approved by the city. The PUD and development agreement shall not be amended without a majority vote of approval by the city council, after review and recommendation by the planning commission. All amendments to the site plan and/or development agreement shall follow the same review procedures as outlined for the initial PUD approval. Development within the PUD property shall not be permitted to appeal specific standards of this chapter to the ZBA unless otherwise stated in the development agreement.

(Ord. No. 158, § 10.29, 9-22-2008)

Sec. 60-241. Buy/sell precious metals establishments.

- (a) The owner shall maintain records of all sales for a minimum of five years. These records shall be made available to the city upon request.
- (b) The hours of operation for said establishment shall be included as part of the record for an approval under the special land use requirements.

(Ord. No. 169, § 4, 6-28-2010)

Sec. 60-242. Hospitals.

(a) *Locational requirements:*

- (1) The primary ingress and egress to the site shall be from a major thoroughfare.

(b) *Site requirements:*

- (1) The minimum setback distance of a building from a side or rear lot line shall be at least 50 feet.
- (2) Noise producing activities, such as ambulance and delivery areas, laundry, and power generation shall not be located closer than 200 feet from any residential area. This distance may be reduced to 100 feet when these activity areas are located on the opposite side of the building that faces the residential area.

(c) *Buffering requirements:*

- (1) Ambulance and delivery areas shall be obscured from all residential view with a wall at least six feet in height. Said wall shall further be in accordance with section 60-182 of this zoning ordinance or shall be part of a principal building wall that is at least six feet tall.
- (2) Parking areas shall be screened from adjacent residentially zoned or residential uses by a buffer area of at least 20 feet in width, which shall include a six-foot high decorative masonry wall, an obscuring landscape buffer area, or a combination of the above, with suitable plant materials (see sections 60-182 and 60-183 of this chapter for wall and landscaping details).
- (3) All lighting shall be shielded away from the public right-of-way and neighboring residential lots, and all requirements of section 60-189 shall be met.

(d) *Performance standards:*

- (1) All hospitals shall be licensed by the State of Michigan.
- (2) Hospitals shall conform to all applicable city, county, state, and federal laws.

(Ord. No. 213, § 4, 8-14-2017)

Secs. 60-243—60-260. Reserved.

ARTICLE XI. NONCONFORMING LOTS, USES AND STRUCTURES⁶

Sec. 60-261. Provisions applicable to nonconforming lots, uses and structures.

It is the intent to recognize that the elimination, as expeditiously as is reasonable, of existing structures and uses that are not in conformity with the provisions of this chapter, is as much a subject of health, safety, and welfare as is the prevention of the establishment of new structures and uses that would violate the provisions of this chapter. It is therefore, the intent to administer the elimination of nonconforming structures and uses, recognizing established private property rights, and avoiding any undue hardship. The following regulations shall

⁶State law reference(s)—Nonconforming uses and structures, MCL 125.3208.

apply to all nonconforming buildings and structures, or parts thereof, and nonconforming uses existing at the effective date of this chapter.

- (1) There are established two classes of nonconforming uses and structures as follows:
 - a. Class A, those that should be restored, reconstructed, or have substituted nonconforming uses;
 - b. Class B, those that are not desirable and useful and will only be allowed to be continued until they are removed or voluntarily discontinued;
 - c. Classification regulations.
 1. All nonconforming uses, buildings or structures shall be classified as class B nonconforming uses at adoption of this article.
 2. Class A nonconforming uses, buildings or structures are those which have been so designated by the zoning board of appeals upon findings that:
 - (i) Continuance thereof would not be contrary to the public health, safety or welfare, or the spirit and intent of this chapter;
 - (ii) The use, building or structure does not, and is not likely to, significantly depress the value of nearby properties;
 - (iii) The use, building or structure was lawful at the time of its inception; and
 - (iv) No useful purpose would be served by strict application of the provisions or requirements of this chapter with which the use, building or structure does not conform.
 - d. *Procedure for obtaining class A designation.* A written application shall be filed with the city clerk for action by the zoning board of appeals setting forth the name and address of the applicant giving a legal description of the property to which the application pertains and including such other information as may be necessary to enable the zoning board of appeals to make a determination of the matter. The zoning board of appeals may require the furnishing of such additional information as it considers necessary. The notice and hearing procedure before the zoning board of appeals shall be the same as for an application for a variance. The decision shall be in writing and shall set forth the findings and reasons on which it is based. The zoning board of appeals may attach conditions, including any time limit where necessary, to ensure that the use, building, or structure does not become contrary to the public health, safety, or welfare or the spirit and purpose of this this section.
 - e. *Revocation of a class A designation.* Any class A designation shall be revoked, following the same procedure required for designation, upon finding that, as a result of any change of conditions or circumstances, the use, building, or structure no longer qualifies for a class A designation.
 - f. *Regulations pertaining to class A.* Regulations pertaining to class A are as follows:
 1. No class A nonconforming use of land, building, or structure shall be resumed if it has been, for any reason, discontinued for a continuous period of at least 12 months or if it has been changed to another nonconforming use for any period.
 2. A class A use or structure may be used, altered or enlarged, provided that it does not violate any condition imposed by the board of zoning appeals at the time of its designation.
 3. Nothing in this section shall prevent the restoration of a class A nonconforming building or structure destroyed by fire, explosion, act of God, or act of the public enemy subsequent to the effective date of its class designation or shall prevent the continuance of the use of such building or structure or part thereof as such use existed at the time of such

impairment of such building or structure or part thereof, provided that such restoration is completed within 18 months from the time of destruction and that the same use is made of the premises; except that, for reasonable cause, the building official may grant one extension of time for an additional period not exceeding 90 days.

4. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition any class A nonconforming building or structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.
 5. Should a class A nonconforming building or structure be moved for any reason, it shall thereafter conform to the regulations for the district (zone) in which it is located after it is moved.
 6. Where class A nonconforming use status applies to a building and/or structure and premises in combination, removal of the building or structure shall eliminate the nonconforming status of the land.
 7. Any class A nonconforming use of a building or structure or land may be changed to another nonconforming use upon written findings of the zoning board of appeals that the proposed use is:
 - (i) Similar in operational characteristics as the former nonconforming use;
 - (ii) There is no increase in the intensity of the use of the land, building or structure involved;
 - (iii) Such change in use will have a less detrimental effect or negative impact on neighboring property than the existing nonconforming use it is replacing; and
 - (iv) The proposed use, although inappropriate to a uniform zoning pattern, is desirable and useful in pursuit of the public interest or is more appropriate to the zoning district than the existing nonconforming use.
 8. In permitting such a change in use, the zoning board of appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this chapter, inclusive of upgrading the premises to comply as nearly as is practicable with requirements of this chapter.
 9. Prior to action by the zoning board of appeals, all required documentation for a change from one nonconforming use to another shall be submitted to the planning commission for its review and written recommendation.
- g. *Regulations pertaining to class B.* Regulations pertaining to class B are as follows:
1. The purpose of this section is to eliminate class B nonconforming uses and structures as rapidly as is permitted by law, without payment of compensation.
 2. Any part of a building, structure or land occupied by a nonconforming use which hereafter is abandoned and remains unoccupied for a continuous period of 12 months shall not thereafter be occupied, except by a use which conforms to the use regulations of the district in which it is located. This shall not apply to a seasonal nonconforming use of land. However, discontinuation for a full season with no active attempt to sell or market the property shall be considered abandoned and any future use shall conform to this chapter.
 3. A nonconforming building or structure having been damaged or partially destroyed by fire or other calamity to an extent not exceeding 60 percent of its assessed valuation, exclusive of foundations, at that time, may be restored; and its immediately previous occupancy or use existing at the time of such partial destruction may be continued or be resumed,

provided that such reconstruction is approved by variance as authorized under article XII hereof, and the work of restoration is commenced within one year of the date of such partial destruction and is diligently carried on to completion. Whenever a nonconforming building or structure is damaged in excess of 60 percent of its assessed valuation, exclusive of foundations, at that time, the repair or reconstruction of such building shall conform to all of the regulations of the district in which it is located and it shall be treated as a new building.

4. The nonconforming use of a building, structure or land may not be changed to a different use unless one of the following conditions has been met:
 - (i) Such different use is permitted in the zoning district under which the property is currently zoned, subject to site plan review and approval as required in this chapter.
 - (ii) Such proposed use, while still nonconforming, is considered less intense than the previous nonconforming use as determined by the City of New Baltimore Planning Commission, and would bring the site closer into conformance with existing ordinance standards. A use may be deemed more intense if the planning commission determines that the proposed use meets any of the following criteria:
 - (A) The proposed use generates more light, noise, air, or other pollution than the current use;
 - (B) The proposed use generates more traffic and/or turning movements, or negatively alters the traffic circulation pattern on or off the site;
 - (C) The use generates a greater need for parking on site;
 - (D) The proposed use causes greater negative economic impacts on adjacent properties than the current use.

Where a use change requires submission of a site plan, the applicant shall be required to comply with all applicable zoning provisions as is deemed reasonably feasible by the City of New Baltimore Planning Commission. Site plan compliance shall include but not be limited to such items as parking, landscaping, and signage.

5. There may be a change of tenancy, ownership or management of an existing nonconforming use, provided there is no change in the nature or character of such nonconforming use.
6. Except as otherwise provided in this section, a nonconforming building or structure may be maintained. The maintenance of such building or structure shall include necessary repairs and incidental alterations. The alterations, however, shall not increase the extent or degree of nonconformity of such building or structure. In a building which is nonconforming as to use regulations, no structural alterations shall be made, except those required by law or ordinance. Provided further, that the cost of such work shall not exceed 30 percent of the assessed valuation of such building or structure at the time such work is done. This requirement shall not be considered as prohibiting the bringing of a structure into conformity with the regulations of the district in which it is located.
7. A nonconforming use of a portion of a building or structure, which building or structure otherwise conforms to the provisions of this chapter, shall not be expanded or extended into any other portion of such conforming building or structure, nor changed, except to a conforming use. If such nonconforming use, or portion thereof, is discontinued or changed

to a conforming use, any future use of such building, structure, or portion thereof, shall be in conformity to the regulations of the district in which such building or structure is located.

8. Whenever the owner shall fail to comply with the provisions of this chapter relating to removal or discontinuance of a nonconforming use, the building official shall serve notice in writing on such owner or his agent requiring him/her to comply therewith within a reasonable time after such notice. If, after such notice, the owner fails to comply therewith, the building official shall take such action as may be necessary, including civil action, to cause compliance with the provisions hereof.
9. Nonconforming lot of record; division of nonconforming lot. Parcels shall not be divided in a manner that increases nonconformity, causes an existing structure or site improvement to become nonconforming, or creates one or more nonconforming lots.
10. Use of nonconforming lot of record. Any nonconforming lot of record shall only be used as permitted in the district in which it is located. A single nonconforming lot may be developed or improved with a principal building and permitted accessory structures, without the need for a variance, provided that the following conditions have been met:
 - (i) The structure and lot shall conform to all applicable yard dimensions, setbacks and other requirements, other than minimum lot width and lot area, for the district in which it is located.
 - (ii) The lot in question meets 70 percent of the minimum lot width and lot area requirements of the district in which it is located.
 - (iii) The lot is not under contiguous single ownership with other lots that could be combined into one or more conforming lots.
11. Contiguous nonconforming lots under the same ownership. Two or more contiguous, nonconforming lots under the same ownership shall be considered one parcel. The applicant shall not be permitted to make improvements to the parcel prior to combining such lots to create one conforming lot of record.

(Ord. No. 158, § 11.00, 9-22-2008; Ord. No. 228, § 1, 10-16-2019)

Secs. 60-262—60-270. Reserved.

ARTICLE XII. ZONING BOARD OF APPEALS⁷

Sec. 60-271. Creation and membership.

- (a) There is hereby established a zoning board of appeals which shall perform its duties and exercise its powers as provided in Act 110 of the Public Acts of 2006, as amended, and in such a way that the objectives of this chapter shall be observed, public safety secured, and substantial justice done. The zoning board of appeals shall consist of seven regular members, each to be appointed for a term of three years, expiring on December 31 in the year of expiration. All vacancies for unexpired terms shall be filled for the remainder of the term. The compensation for members of the board may be established by city council. One of the

⁷Cross reference(s)—Administration, ch. 2.

members of the board shall be a member of the planning commission. Members shall be appointed by the mayor and confirmed by city council.

- (b) The city council herewith also establishes positions for two alternate members to serve on the zoning board of appeals. Each alternate member shall be appointed by the Mayor and confirmed by the city council to serve a three-year term. The alternate members shall be called on a rotating basis to sit as regular members of the Board in the absence of a regular member. 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. Once an alternate has been called to serve in a particular case, he or she shall continue to serve and participate in that case until a final decision has been rendered.
- (c) Members of the zoning board of appeals shall be removable by the city council for nonperformance of duty or misconduct in office, upon written charges and after public hearing. A member shall disqualify himself or herself from a vote in which he or she has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which he or she has a conflict of interest may constitute misconduct in office.

(Ord. No. 158, § 12.00, 9-22-2008)

Sec. 60-272. Proceedings of the board.

- (a) The zoning board of appeals shall establish rules and procedures in accordance with the provisions of this chapter and the applicable state law.
- (b) All meetings of the zoning board of appeals shall be held at the call of the chairman or the board in accordance with their adopted procedures and at such other times as the board shall determine or specify in its rules of procedure. All meetings, including hearings, conducted by the board shall be open to the public, and all business of the board shall be conducted at such meetings. The board shall not conduct business unless a majority of its members are present.

(Ord. No. 158, § 12.01, 9-22-2008)

Sec. 60-273. Powers of the zoning board of appeals.

- (a) *Chapter interpretation.*
 - (1) Interpret of this chapter, text and map, and all matters relating thereto whenever a question arises in the administration of this chapter as to the meaning and intent of any provision or part of this chapter. Any text interpretations shall be narrow and in a manner as to carry out the intent and purpose of this chapter. Interpretations shall not have the effect of amending the ordinance.
 - (2) Map interpretations should be based on the rules of this chapter (article IV) and any relevant historical information.
- (b) *Appeals of administrative decisions, nonuse or dimensional variances.*
 - (1) To hear and decide appeals where it is alleged by the appellant that there is error in any order, interpretation, requirement, permit, decision or refusal made by the zoning official or building department in enforcing any provision of this chapter.
 - (2) To hear and decide on all matters referred to it or upon which it is required to pass under this chapter.
 - (3) Permit such modification of the height, placement and area regulations as may be necessary to secure an appropriate improvement of a lot which is of such shape, or so located with relation to surrounding development or physical characteristics, that it cannot otherwise be appropriately improved without such modification.

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- (4) Permit the modification of the automobile parking space or loading space requirements where, in the particular instance, such modifications will not be inconsistent with the purpose and intent of such requirement.
 - (5) Permit nonuse or dimensional variances, such as walls, buffering, screening or landscaping.
 - (6) For the board to approve the above non-use or dimensional variance, the applicant must show practical difficulty by showing:
 - a. The strict enforcement of this chapter would cause practical difficulty and deprive the owner of rights enjoyed by all other property owners owning property within the same zoning district;
 - b. The requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district;
 - c. That the plight of the owner is due to unique circumstances of the property; and
 - d. That the problem is not self-created.
- (c) *Use variance.*
- (1) A use variance is a modification of the literal provisions of this chapter which may be authorized by the zoning board of appeals when strict enforcement of this chapter would cause unnecessary hardship for the property owner due to circumstances unique to the property.
 - (2) A use variance permits a use of land that is otherwise not allowed in that district. Improper grant of use variances usurps the authority of the planning commission and the legislative body and has the same effect as a rezoning without going through the rezoning process.
 - (3) The board shall authorize, upon an appeal, a variance to the use of land, building or structure, provided that the evidence in the official record of the appeal affirmatively supports all of the following findings:
 - a. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved, or to the intended use of the property, that do not apply generally to other properties or uses in the same district or zone;
 - b. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity;
 - c. That the granting of such variance will not unreasonably increase the congestion in public streets, or increase the danger of fire, or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area;
 - d. That the proposed variances will not impair an adequate supply of light and air to adjacent property;
 - e. That allowing the variance will result in substantial justice being done considering the public benefits intended to be secured by this chapter, the individual hardships that will be suffered by a failure of the board to grant a variance, and the rights of others whose property would be affected by the allowance of the variance;
 - f. That the variance is the minimum variance that will make possible the reasonable use of the land, building or structure; and
 - g. That the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

(Ord. No. 158, § 12.02, 9-22-2008)

Sec. 60-274. Limitations on powers of zoning board of appeals.

- (a) The concurring vote of four members of the board shall be necessary to approve any modification, interpretation or appeal.
- (b) The concurring vote of five members of the board shall be necessary to approve any use variance.
- (c) Nothing contained herein shall empower the board to override the decisions of the planning commission with respect to the approval or denial of special approval land uses.
- (d) Nothing contained herein shall empower the board to override the decisions of the city council with respect to the approval or denial of planned unit developments or any other decision authorized to be made by the city council.
- (e) Nothing contained herein shall empower the board to change the terms of this chapter, to effect changes in the zoning map, or to add to the uses permitted in any zoning district, except when specifically empowered to do so.
- (f) Every decision of the board shall be based upon findings of fact, and each and every such finding shall be supported in the record of the proceedings of the board.
- (g) In authorizing a variance or taking any other action within its jurisdiction, the board may attach such conditions as may be deemed necessary in the furtherance of the purposes of this chapter.
- (h) Any person aggrieved by the zoning board of appeals may appeal to the circuit court.

(Ord. No. 158, § 12.03, 9-22-2008)

Sec. 60-275. Appeal process.

- (a) Appeals shall be commenced by a person filing a notice of appeal or petition as described in the rules and procedures of the zoning board of appeals, accompanied by such appeal fee as may be specified by city council. The notice of appeal shall specify the specific grounds upon which the appeal is based and shall be signed by the applicant. It shall also specify the requirement from which a variance is sought and the nature and extent of such variance.
- (b) The appeal shall also be accompanied by a fully completed application, along with plot plans meeting the rules of procedure adopted by the board.
- (c) The board shall fix a reasonable time for the hearing of appeals and shall give due notice thereof as required by law.
- (d) The building department shall transmit to the board all of the documents and records related to the appeal.
- (e) Any person may appear in person or be represented by a duly authorized agent.
- (f) The board shall prepare an official record for each appeal and shall base its decision on this record. The official record shall include:
 - (1) The relevant administrative record and administrative orders issued thereon relating to the appeal.
 - (2) The notice of appeal.
 - (3) Such documents, exhibits, photographs, or written reports as may be submitted to the board for its consideration.
 - (4) The minutes of the hearing, findings of fact, and decisions and orders of the board.

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- (g) The record and decision of the board shall meet all of the following:
- (1) Complies with the constitution and laws of this state.
 - (2) Is based upon proper procedure.
 - (3) Is supported by competent material and substantial evidence on the record.
 - (4) Represents the reasonable exercise of discretion granted by law to the zoning board of appeals.

(Ord. No. 158, § 12.04, 9-22-2008)

Sec. 60-276. Zoning board of appeals approval.

- (a) No order of the zoning board of appeals permitting the erection or alteration of a building shall be valid for a period longer than six months, unless a building permit for such erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit. The applicant may file, in writing, a request for an extension of said zoning board of appeals approval of up to 180 days. The request shall be filed at the building department. The building official reserves the right to deny such request.
- (b) No order of the zoning board of appeals permitting a use of a building or land shall be valid for a period longer than six months, unless such use is established within such period; provided, however, that where such order shall continue in force and effect if a building permit for said erection or alteration is started and proceeds to completion in accordance with such permit.

(Ord. No. 158, § 12.05, 9-22-2008)

Secs. 60-277—60-290. Reserved.

ARTICLE XIII. ADMINISTRATION AND ENFORCEMENT⁸

Sec. 60-291. Enforcement.

The provisions of this chapter shall be administered and enforced by the city council through the building official or any other employees, inspectors and officials as the city council may delegate to enforce the provisions of this chapter.

(Ord. No. 158, § 13.00, 9-22-2008)

Sec. 60-292. Duties of building official.

The building official shall have the power to grant building and occupancy permits, to make inspections of buildings or premises to carry out his/her duties in the enforcement of this chapter. It shall be unlawful for the building official to approve any plans or issue a building permit for any excavation or construction until he/she has inspected such plans in detail and found the plans/use to be in compliance with this chapter. To this end, the building official shall require that every application for a building permit for excavation, construction, moving, alteration, or change in type of use or the type of occupancy be accompanied by written statement and plans or

⁸Cross reference(s)—Administration, ch. 2.

plats drawn to scale and showing the following in sufficient detail to enable the building official to ascertain whether the proposed work or use is in conformance with this chapter:

- (1) The actual shape, location and dimensions of the lot.
- (2) The shape, size and location of all buildings or other structures to be erected, altered or moved and of any buildings or other structures already on the lot.
- (3) The existing and intended use of the lot and of all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.
- (4) The signature of the fee holder owner of the premises concerned.
- (5) Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this chapter are being observed.

The building official under no circumstances is permitted to grant exceptions or vary the terms of this chapter.

(Ord. No. 158, § 13.01, 9-22-2008)

Sec. 60-293. Permits.

The following shall apply in the issuance of any permit:

- (1) *Permits required.*
 - a. Any owner or authorized agent of the owner who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by the building code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.
 - b. No plumbing, electrical, drainage or other permit shall be issued until it has been determined that the plans and designated use indicate that the structure and premises, if constructed as planned and proposed, will conform to the provisions of this chapter. Alteration or repair of an existing building or structure shall not include any changes in structural members, stairways, basic construction type, kind of class occupancy, light or ventilation, means of egress and ingress, or any other changes affecting or regulated by the building code, the Housing Law of the State of Michigan, or this chapter, except for minor repairs or changes not involving any of the aforesaid provisions.
- (2) *Permits for manufactured homes as temporary use.* The owner of any premises may move not more than one manufactured/mobile home upon such premises and utilize the same for residence purposes, which does not include storage, during the actual construction of a permanent dwelling thereon, but not to exceed six months beginning with the issuance of a permit for the construction of said dwelling. Application may be made for one six-month extension. The city council shall require said owner to furnish a financial guarantee in a sum equal to the cost of removing said manufactured home from the premises and completion of the permanent structure. Such financial guarantee may be in the form of a corporate surety bond, irrevocable bank letter of credit or cash.

(Ord. No. 158, § 13.02, 9-22-2008)

Sec. 60-294. Certificates of occupancy.

The issuance of a certificate of occupancy shall be governed by codes currently adopted by the State of Michigan and adopted by reference in the City of New Baltimore Code of Ordinances.

(Ord. No. 158, § 13.03, 9-22-2008)

Sec. 60-295. Unlawful structures.

Any uses of land or dwellings, or construction or alteration of buildings or structures, including tents or mobile homes used, erected, altered, raised or converted in violation of any of the provisions of this chapter, are hereby declared to be a nuisance per se. The building official or the city council is hereby authorized to apply to a court of equity to abate the nuisance created by such unlawful use or structure. Whenever the building official has declared a structure to be not conforming with the requirements contained in this chapter, the owner or occupant may be required to vacate such structure or premise, and such structure or premise shall not again be used or occupied until it has been made to conform with this chapter.

(Ord. No. 158, § 13.04, 9-22-2008)

Sec. 60-296. Violations and penalties.

If the building official shall find that any of the provisions of this chapter are being violated, he shall notify, according to city policy, the person responsible for such violation or the owner of record of the lot upon which such violation is taking place. The notice shall include the nature of the violation and the applicable section of the chapter. He shall order discontinuance of the illegal use of any lots or structures or, if illegal additions, alterations or structural changes, discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to ensure compliance with, or to prevent violation of, its provisions.

(Ord. No. 158, § 13.05, 9-22-2008; Ord. No. 168, § 2, 2-8-2010)

Sec. 60-297. Schedule of fees, charges and expenses.

The city commission shall establish, by resolution, fees for each of the following:

- (1) *Inspection and certification.* Fees for inspections and the issuance of permits or certificates, or copies thereof, required or issued under the provisions of this chapter shall be paid by the person requesting the inspection and collected by the city treasurer in advance of the issuance of such permits or certificates.
- (2) *Appeals.* Any person appealing under article XII of this chapter in all cases shall pay the established fixed fee, plus such additional fees as may be deemed reasonable by the city commission for expert services necessary to render a proper decision.
- (3) *Reviews.* Fees for the review of site plans, special approval uses or other matters requiring city commission, planning commission or the zoning board of appeals review, under the terms of this chapter, shall be paid by the petitioner to cover the cost of such reviews, including notice, publication, delivery, administration and professional services.
- (4) *Rezoning.* Any petition for the rezoning of land requiring an amendment of this chapter shall be accompanied by a fee payable by the petitioner. Said fee shall be utilized to defray all costs, including necessary expert opinions in conjunction with the legislative review of the petition.

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- (5) *Other.* Fees for special resolutions pertaining to any matter relevant to this chapter or for the cost of special meetings of the city council, planning commission or the zoning board of appeals shall be paid by the recipient or applicant prior to said resolution or meeting.
 - (6) *Waivers.* The city council may waive payment of any fees established by resolution when it finds that the necessity for an appeal, variance and/or rezoning is the result of an error or omission by the city council in enactment of this chapter.

(Ord. No. 158, § 13.06, 9-22-2008)

Sec. 60-298. Performance guarantee.

- (a) To ensure compliance with this chapter and any condition imposed thereunder, the city council, planning commission, and/or building official may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the city, covering 50 percent of the estimated costs of improvements associated with a project for which site plan approval is sought, be deposited with the city to ensure faithful completion of the improvements.
- (b) The performance guarantee shall be deposited at the time of the issuance of the building permit authorizing the activity or project, or prior to the issuance of a temporary certificate of occupancy. The city may utilize the city engineer in reviewing or establishing the estimated cost of improvements for the project. The city shall establish procedures whereby a rebate of any cash deposits in reasonable proportion to the ratio of work completed on the required improvements will be made as work progresses.
- (c) As used in this section, improvements means those features and actions associated with a project which are considered necessary by the body or official granting approval to protect natural resources or the health, safety and welfare of the residents of the city and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, landscaping and drainage.

(Ord. No. 158, § 13.07, 9-22-2008)

Secs. 60-299—60-310. Reserved.

ARTICLE XIV. DEFINITIONS

Sec. 60-311. Construction

of language.

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

- (1) The particular shall control the general.
- (2) In case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control.
- (3) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- (4) 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.
- (5) A building or a structure includes any part thereof.

(Supp. No. 14)

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- (6) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
 - (7) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
 - (8) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditioning, provisions or events connected by the conjunction "an," "or," "either...or," the conjunction shall be interpreted as follows:
 - a. "And" indicates that all connected items, conditions, provisions or events shall apply.
 - b. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
 - c. "Either...or" indicates that the connected items, conditions, provisions or events shall apply singly, but not in combination.
 - (9) Terms not herein defined shall have the meaning customarily assigned to them.

(Ord. No. 158, § 14.00, 9-22-2008)

Sec. 60-312. Definitions.

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

Abandonment means to cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

Abutting means having a common border with, or being separated from such a common border by, a right-of-way, alley or easement.

Accessory building (accessory structure) means any building or structure, supplementary or subordinate to, and detached from a principal building or structure located on the same lot, the use of which is incidental and accessory to the principal use.

Accessory use or accessory means a use which is clearly incidental to, customarily found in connection with, and (except in the case of accessory off-street parking spaces or loading) located on the same lot as, the principal use to which it is related. When "accessory" is used in this text, it shall have the same meaning as accessory use. An accessory use includes, but is not limited to, the following:

- (1) Residential accommodations for servants and/or caretakers.
- (2) Swimming pools for the use of the occupants of a residence or their guests.
- (3) Domestic or agricultural storage in a barn, shed, tool room or similar accessory building or other structure.
- (4) Storage of merchandise normally carried in stock in connection with a business or industrial use, unless such storage is excluded in the applicable district regulations.
- (5) Storage of goods used in or produced by industrial uses or related activities, unless such storage is excluded in the applicable district regulations.
- (6) Accessory off-street parking spaces, open or enclosed, subject to the accessory off-street parking regulations for the district in which the lot is located.

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- (7) Uses clearly incidental to a main use, such as but not limited to, offices of an industrial or commercial complex located on the site of the commercial or industrial complex.
 - (8) Accessory off-street loading, subject to the off-street loading regulations for the district in which the lot is located.
 - (9) Accessory signs, subject to the sign regulations for the district in which the lot is located.

(Note: The storage of boats, vehicles, recreation equipment in excess of size or number of those commonly associated with residential uses in the district will not be considered accessory regardless of whether or not such storage is located in a building.)

Adult arcade means any place to which the public is permitted or invited, wherein coin-operated, slug-operated, or for compensation, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video screens, videotape decks, computer screens, or other image-producing devices are maintained to show images to five or fewer persons at a time and where the images so displayed are distinguished or characterized by the depicting or describing of specific sexual activities of specified anatomical areas.

Adult bookstore, adult video store or adult novelty store means a commercial establishment which as one of its principal business purposes (meaning either a substantial or significant portion of its stock in trade) offers for sale or rental, or for any form or consideration, any one or more of the following:

- (1) Books, computer diskettes, tapes or hard drives, 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
- (2) Instruments, devices, or paraphernalia, which are designed for use in connection with specified sexual activities. Condoms and clothing articles are excepted.

Commercial establishment may have other principal business purposes which do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specific anatomical areas and still be categorized as adult book store or adult video store. Such other business purposes will not serve to exempt such commercial establishment from being so categorized as long as one of its principal business purposes is the offering for sale or rental for consideration, materials depicting or describing specified sexual activities or specified anatomical areas. For purposes of video cassettes or films which are X-rated or of substantially equivalent content of X-rated films, shall be considered to depict or describe specified sexual activities or specified anatomical areas notwithstanding anymore restrictive definition set forth herein.

Adult cabaret nonliquor establishment means a nightclub, bar, restaurant or similar commercial or non-commercial establishment which does not furnish or serve alcoholic beverages or permit the consumption of alcoholic beverages which permits any of the following:

- (1) Persons who appear in a state of nudity or semi-nudity; or
- (2) Live performances characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- (3) Films, motion pictures, video cassettes, slides, computer presentations, or other moving-image reproductions characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult cabaret liquor establishment means a nightclub, bar, restaurant or similar commercial or non-commercial establishment which serves, furnishes or permits the consumption of alcoholic beverages which permits any of the following:

- (1) Persons who appear in a state of nudity or semi-nudity; or

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- (2) Live performances characterized by the exposure of specified anatomical areas or by specified sexual activities; or
 - (3) Films, motion pictures, video cassettes, slides, computer presentations, or other moving-image reproductions characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult motel means a hotel, motel, or similar commercial establishment which:

- (1) Offers accommodations to the public for any form of consideration and provides patrons with closed circuit television transmissions of X-rated motion pictures or motion pictures equivalent to X-rated motion pictures and has a sign visible from the public right of way advertising the availability of this type of photographic reproductions; or
- (2) Offers a sleeping room for rent for a period that is less than eight hours.

Adult motion picture theater means a commercial establishment where for any form of consideration films, motion pictures, video cassettes, or similar photographic reproductions are regularly shown which are X-rated or the equivalent of X-rated.

Adult theater means a theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified sexual activities or specified anatomical areas.

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

Antenna (see also satellite dish antenna) means a wire or set of wires used in transmitting and receiving electromagnetic waves and including the supporting structure including, but not limited to, amateur radio antennas, television antennas and satellite receiving dishes.

Apartment means a room or suite of rooms used as a dwelling for one family which does its own cooking and contains sanitary facilities therein.

Apartment (house) building means a building containing three or more dwelling units whose entrances are from a common hallway or area or series of hallways or areas.

Architectural features means architectural features of a building shall include cornices, eaves, gutters, belt courses, sills, lintels, bay windows, chimneys and decorative ornaments.

Automobile heavy repair garage means truck repair, collision service (such as body, frame, or fender straightening and repair), overall painting and vehicle rustproofing.

Automobile repair and service center means general repair, engine building, rebuilding and reconditioning of motor vehicles, not including collision service and painting.

Automobile service station means a building or premises designed or used for the retail sale or supply of fuels, lubricants, air, water, and other operating commodities for motor vehicles, and including the customary space or facilities for the installation of such commodities on or in such vehicles, and including space or facilities for the storage, minor repair or servicing of automobiles.

Awning means a cantilevered, projected or suspended cover over the sidewalk portion of the street, or a roof-like covering, usually of canvas, metal, or similar material and sometimes adjustable, placed over the sidewalk, windows, or doors to provide protection from sun and rain. It is distinguished from a canopy because it is not permanent, nor a structural portion of the building and does not support substantial weight.

Basement means that portion of a building which is partly or wholly below grade, but so located that the average vertical distance from the grade to the floor is greater than the average vertical distance from the grade to

the ceiling; provided, however, that if the average vertical distance from the grade to the ceiling is five feet or more, such basement shall be considered as a story.

Bed and breakfast establishment means an owner-occupied dwelling unit that contains no more than six guest rooms where overnight lodging, with or without meals, is provided for compensation.

Bedroom means a room in a dwelling unit planned and intended for sleeping, separable from other rooms by a door.

Berm means an earthen mound graded, shaped and improved with landscaping in such a fashion as to be utilized for screening purposes.

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

Boardinghouse means a building in which lodging and/or meals are furnished to guests for compensation.

Boathouse means a building or structure substantially over a body of water used for sheltering or hoisting one or more boats.

Boathouse, covered means a structure substantially over a body of water used for the purposes of boat dockage or storage. This structure shall have all sides open for a height of not less than eight feet above the mean water level and enclosed a distance of not more than three feet down from the top of the structure's top plate.

Build-to line (BTL) means a line or plane defining the street frontage, which extends vertically and generally parallel to the street, at which the building shall be placed.

Buildable area means the space remaining after compliance with the minimum required setbacks and the minimum open space requirements of this chapter.

Building means any structure, either permanent or temporary, having a roof or other cover supported by walls, columns, posts or other means, and intended for the enclosure or shelter of persons, animals, chattels, or property of any kind. Buildings shall include residential and nonresidential enclosures and shelter, as well as carports, coal bunkers, garages, gazebos, greenhouses, manufactured housing, mobile homes, pergolas, pole barns, portable storage units, semi-trailers, silos, sheds, storage tanks, tents, towers, vehicles used for the purposes of a building, and similar structures. Dog houses or similar covered domestic animal enclosures less than six square feet in area shall not be subject to building requirements.

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

Building, multiple means a building, or portion thereof, used or designed as residence for two or more families living independently of each other and doing their own cooking in said building. This definition includes three-family building, four-family building, and apartment building, but does not include trailer camps or manufactured housing communities.

Building official means the building official of the city or his authorized representative.

Building permits means the written authority issued by the building official permitting the construction, removal, moving, alteration or use of a building in conformity with the provisions of this chapter.

Building, single-family means a detached building designed or occupied exclusively by one family.

Building, temporary means a structure without permanent foundation erected or devoted to the development of, or in connection with, the principal site used for a limited period of time.

Building line means a line established, in general, parallel to the front street right-of-way line at the minimum front yard setback distance.

Buy/sell precious metals establishment means an establishment where more than 15 percent of the total revenue generated, measured on an annual basis, is from the resale of precious metals or gems purchased directly from the general public.

Canopy means a cantilevered, projected or suspended cover over the sidewalk portion of the street, or a roof-like covering placed over the sidewalk, windows, or doors to provide protection from sun and rain. It is distinguished from an awning because it is a permanent, durable, structural portion of the building as opposed to a light covering of canvas, metal or other similar material.

Caretaker means any person who is responsible for the safekeeping of a property. This may be the owner, manager, or any person designated by the owner, manager or court.

Car wash, full service,, means an area of land and/or structure with machine- or hand-operated facilities used principally for the cleaning and washing of motor vehicles. In no instance shall a commercial car wash so defined be considered an accessory use.

Car wash, self-service means a building that provides facilities for washing and cleaning motor vehicles, which uses production line methods with a conveyor, blower or other mechanical devices, and which may employ some hand labor for drying, polishing or waxing.

Carport means a partially open structure for sheltering vehicles erected in conformity with the site requirements for garages.

Carry-out restaurant. (See *Restaurant, fast-food*).

Cemetery means land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums and mortuaries, when operated in conjunction with and within the boundaries of such cemetery.

Check cashing establishment means an establishment whose principal business involves cashing a check for consideration or extending a deferred deposit loan, and shall include any other similar type businesses licensed by the state. This definition shall specifically exclude banks, savings and loans institutions and credit unions licensed otherwise under federal or state law.

Church or place of religious worship means an institution that people regularly attend to participate in or hold religious services, meetings and other activities. The term "church" shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held. The word "church" shall not include or mean an undertaker's chapel or funeral building.

Club, lodge or fraternity means an organization of persons for special purposes or for the promulgation of agriculture, sports, arts, science, literature, politics or the like, but not for profit.

Commercial use means an occupation, employment or enterprise dealing with the public that is carried on for profit by the owner, lessee or licensee.

Commercial vehicles means:

- (1) Vehicles with capacity in excess of three-quarters of a ton used in commercial activities, such as business or trade, by the owner, operator or some other person, except for one-ton pickups used by an owner or occupant of residential property within the city, if said pickup is for noncommercial use only.
- (2) Any trailer, regardless of size, whether attached or unattached to a motor vehicle, that is used for the storage or hauling of tools, equipment, machinery, merchandise, inventory, supplies or waste by-

products including, but not limited to, leaves, clippings, paper and/or building materials, used for commercial purposes. Trailer shall mean a vehicle without motor power, designed to be towed by a motor vehicle.

- (3) Any stake truck (with or without stakes in place), step van, semitrailer/tractor or semitrailer, ice cream truck, dump truck, vendor's truck, catering truck, tow truck, cube van or car hauler or utility truck 5,000 pounds or over.

Community center means a place, structure, area or other facility used for and providing religious, fraternal, social and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.

Commission means the City of New Baltimore Planning Commission.

Condominiums::

- (1) *Condominium Act* means Act 59 of 1978, as amended.
- (2) *Condominium subdivision plan* means the site plan illustrating the existing site features and all proposed improvements pursuant to the requirements for site plan review.
- (3) *Condominium unit* means that portion of the condominium project designed and intended for separate ownership and use, as described in the master deed.
- (4) *Master deed* means the condominium document recording the condominium project as approved by the city, to which is attached as exhibits and incorporated by reference the approved bylaws for the project and the approved condominium subdivision plan for the site.

Convalescent, nursing home or foster care home means a structure with sleeping rooms, where persons are housed or lodged and are furnished with meals, nursing and/or medical care.

Deck means a wooden platform structure higher than 18 inches above the mean yard grade.

Dedication means the transfer of property interests from private to public ownership for a public purpose. The transfer may be of fee-simple interest or of less than fee interest, including an easement.

Density, as referred to in this chapter, does not guarantee any specific number of units or lots from any individual parcel or group of parcels. Rather, density is the number of units or lots which can be developed on a given parcel, while meeting all of the criteria and regulations applicable to conventional subdivision development.

Development means the division of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any mining excavation, fill or land disturbance; and any use or extension of the use of land.

District means a portion of the city within which certain uses of land and buildings are permitted and within which certain regulations and requirements apply under the provisions of this chapter (zoning district).

Drive-in establishment means a business establishment so developed that its principal retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle (i.e., restaurants, cleaners, banks, theaters, etc.).

Drive-thru means a maneuvering lane established for the sole purpose of directing traffic to a service window which is intended to be used for sales and/or service to patrons who remain in their vehicles.

Dwelling unit means a dwelling unit is any house or building, or portion thereof, having cooking facilities, which is occupied wholly as the home, residence or sleeping place of one family, either permanently or transiently, but in no case shall a travel trailer, automobile chassis, tent or portable building be considered a dwelling unit.

Easement means the right of a person, government agency or public utility company to use public or private land owned by another for a specific purpose.

Efficiency unit means a dwelling unit consisting of one room, exclusive of bathroom and kitchen.

Erected includes built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage and the like shall be considered a part of erection.

Escort means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees to privately model lingerie or to privately perform a striptease for another person.

Escort agency means 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 services means those services as outlined below, which are designed and constructed to directly serve only local users within the geographic boundaries of the city. Such essential services may include the erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface or overhead gas, electrical, steam, fuel or water transmission or distribution systems, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants, and similar equipment, provided they are designed and constructed to directly serve only local users and are a necessity at that location.

Establishment means as applied for adult uses, means and includes any of the following:

- (1) The opening or commencement of any sexually-oriented business as a new business;
- (2) The conversion of an existing business, whether or not sexually-oriented, to any sexually-oriented business;
- (3) The addition of any sexually-oriented business to any other existing sexually-oriented business; or
- (4) The relocation of any sexually-oriented business.

Facade means the exterior wall of a building exposed to public view or that wall viewed by persons not within the building.

Family means one or more persons occupying a dwelling unit and living as a single, non-profit housekeeping unit; provided that a group of four or more persons who are not within the second degree of kinship shall not be deemed to constitute a family. Notwithstanding the definition of the preceding paragraph, a family shall be deemed to include four or more persons not within the second degree of kinship occupying a dwelling unit and living as a single, non-profit housekeeping unit, if said occupants are handicapped persons as defined in Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988. Such unrelated individuals shall have the right to occupy a dwelling unit in the same manner and to the same extent as any family unit as defined in the first paragraph of this definition.

Family day-care means a private residence where care, protection and supervision are provided, for a fee, to at least one and no more than six children, including children of the adult provider.

Fence means any artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

Floor area means area measured to the exterior face of exterior walls and to the centerline of interior partitions; plus, similarly measured, that area of all other stories having more than 84 inches of headroom which may be made usable for human habitation; but, excluding the floor area of basements, attics, garages, breezeways, porches and accessory buildings.

Floor area, gross, (for the purpose of computing parking). Floor area is the sum of the gross horizontal areas of the several floors of the building measured from the exterior walls or from the centerline of walls separating two buildings. Floor area shall include elevator shafts and stairwells at each floor, floor space used for mechanical equipment (except equipment, open or enclosed, located on the roof), attic space having headroom of seven feet ten inches or more, interior balconies and mezzanines.

Floor area ratio means determined by dividing the gross floor area of all buildings on a lot or site by the area of that lot/site.

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

Floor area, useable (for the purposes of computing parking) means useable floor area shall be considered the gross floor area as defined herein, minus the area used or intended to be used principally for elevator or stair bulkheads, or for areas dedicated to heating and cooling mechanisms, server rooms, or other areas which are necessary for the physical operation of the building itself.

Footcandle means the unit of illumination when the foot is taken as the unit of length. It is the illumination on a surface one square foot in area on which there is a uniformly distributed flux of one lumen, or the illumination produced on a surface all points of which are at a distance of one foot from a directionally uniform point source of one candela.

Frontage means the width of the lot measured at the required building line or minimum front yard setback from the right-of-way of the street or road.

Frontage type means a typology that provides a building's relationship to the street through standards for building scale and façade treatments.

Funeral home means a building, or part thereof, used for human funeral services. Such building may contain space and facilities for:

;o1; (1)\Embalming and the performance of other services used in preparation of the dead for burial;

;o1; (2)\The performance of autopsies and other surgical procedures;

;o1; (3)\The storage of caskets, funeral urns and other related funeral supplies; and

;o1; (4)\The storage of funeral vehicles, but shall not include facilities for cremation.

;b0; Where a funeral home is permitted, a funeral chapel shall also be permitted.

Garage, private, means an accessory building or portion of a main building designed or used solely for the storage of motor-driven vehicles, boats and similar vehicles owned and used by the occupants of the building to which it is accessory, with no facilities for mechanical service or repair of a commercial or public nature, having capacity for not more than three automobiles.

Garage, public, means any building or premises, other than a gasoline filling station, used for housing or care of more than three automobiles, or where any such automobiles are equipped for operation, repaired or kept for remuneration, hire or sale.

Garage, storage, means any premises, except those herein defined as private garage, used exclusively for the storage of self-propelled vehicles, and where such vehicles are not repaired.

Garbage means all wastes, animal, fish, fowl or vegetable matter incident to the preparation, use and storage of food for human consumption, spoiled food, dead animals, animal manure and fowl manures.

Gasoline service station means a place for the dispensing, sale or offering for sale of motor fuels directly to users of motor vehicles, together with the sale of minor accessories and services for motor vehicles, but not including automobile repair as herein defined for *automobile repair and service center*.

Grade means the ground elevation established for the purpose of regulating the number of stories and the height of the building. 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 grade for each face of the building.

Grade, building, means the finished grade at the building shall be the building grade.

Greenbelt (also see *Screening*) means a strip of land of definite width and location reserved for the planting of shrubs and/or trees to serve as an obscuring screen or buffer strip in carrying out the requirements of this chapter.

Gross site area means the total site area under the ownership of the applicant before any deductions are made for roads, open space, parcels to be separated or planned for later development, and the like.

Group "C" cabaret means a cabaret which features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators or similar entertainers.

Group day-care means a private residence where care, protection and supervision are provided, for a fee, to at least seven and no more than 12 children or adults, including children of the adult provider.

Hazardous substances means any substance or materials that, by reason of their toxic, caustic, corrosive, abrasive or otherwise injurious properties, may be detrimental or deleterious to the health of any person handling or otherwise coming into contact with such material or substance.

Height means the vertical distance to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip or gambrel roofs, measured from the curb level if the building is not more than ten feet from the front lot line or from the grade in all other cases.

Home occupation means an activity carried on by an occupant of a dwelling unit as a secondary use which is clearly incidental to the use of the dwelling unit for residential purposes.

Hospital means a building, structure or institution in which sick or injured persons are given medical or surgical treatment and operating under license by the health department and the State of Michigan, and is used for primarily in-patient services, and including such related facilities as laboratories, out-patient departments, central service facilities and staff offices.

Hotel means a series of attached, semi-detached or detached rental units which provide overnight lodging and are offered to the public for compensation. Hotels may include a restaurant or cocktail lounge, public banquet halls, ballrooms or meeting rooms.

Household pet means animals that are customarily kept for personal use or enjoyment within the home. Household pets shall include, but not be limited to, domestic dogs, domestic cats, domestic tropical birds and rodents, not to include pot belly pigs or reptiles.

Junkyard includes automobile wrecking yards and includes any area of more than 200 square feet for the storage, keeping or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition or abandonment of automobiles or other vehicles, motorcycles, ATVs, snowmobiles or machinery, or parts thereof, but does not include uses established entirely within enclosed buildings.

Kennel means any lot or premises on which five or more dogs, six months old or older, are kept permanently or temporarily.

Laboratory means a place devoted to experimental or routine study, such as testing and analytical operations and in which manufacturing of product or products is not permitted.

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

Lot means a parcel of land occupied or intended to be occupied by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such yards and open spaces as are required under the provisions of this chapter. A lot may or may not be specifically

designated as such on public records. Each such parcel shall also have its front lot line abutting a public street or approved private road.

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

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

Lot coverage means the percent of the lot occupied by buildings or structures, including accessory buildings or structures.

Lot depth means the mean horizontal distance measured from the front street right-of-way line to the rear lot line.

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

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

Lot lines means the lines bounding a lot as defined herein:

;o1; (1)\Front lot line: In the case of an interior lot, is that line separating said lot from the street. In the case of a double-frontage lot, is the line separating said lot from both streets.

;o1; (2)\Rear lot line: That lot line opposite the front lot line.

;o1; (3)\Side lot line: Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

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

Lot, substandard, means a lot or parcel of land that has less than the required minimum area, depth or width as established by the zone in which it is located, and provided that such lot or parcel was of record as a legally created lot on the effective date of this chapter.

Lot width means the horizontal straight line distance between the side lot lines, measured between the two points where the front setback line intersects the side lot lines. If the side property lines are not parallel, the width of the lot shall be the length of a line at right angles to the axis of the lot at a distance equal to the front setback required for the district in which the lot is located. The axis of a lot shall be a line joining the midpoint of the front and rear property lines.

Major thoroughfare means an arterial street which is intended to serve as a large volume trafficway for both the immediate municipal area and the region beyond, and is designated as a major thoroughfare, parkway, freeway, expressway or equivalent term on the major thoroughfare plan to identify those streets as depicted in the master plan.

Maneuvering lane means a paved lane designed to accommodate the on-site circulation of motorized vehicles.

Manufactured home means a structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities,

and includes the plumbing, heating, air conditioning and electrical systems contained in the structure. A manufactured home does not include a recreation vehicle.

Manufactured housing community means a parcel or tract of land under the control of a person upon which two or more manufactured homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment or facility used or intended for use incident to the occupancy of a manufactured home and which is not intended for use as a temporary trailer park and licensed pursuant to the provisions of Act 419, Public Acts of 1976, as amended.

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

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

Mean grade means mean grade is defined as the arithmetic average of elevations of points on the boundary lines of a site (parcel of land) uniformly spaced and not more than 100 feet apart.

Municipality means the City of New Baltimore.

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

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

Nude model studio means any place where a person appears in the state of nudity or displayed specified anatomical areas to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by any other person who pays money, or any other form or consideration.

Nudity or state of nudity means the exposure of the human male or female genitals, pubic area, or buttocks with less than a fully-opaque covering, the showing of the female breasts with less than a fully-opaque covering of any part of the nipple or areola, or the showing of the covered male genitals in a discernibly turgid state.

Nuisance. The word "nuisance" shall be held to embrace public nuisance as known in common law or in equity jurisprudence; and whatever is dangerous to human life or detrimental to health; and any dwelling or building which is overcrowded with occupants or is not provided with adequate ingress or egress to or from the same, or is not sufficiently supported, ventilated, sewerred, drained, cleaned or lighted in reference to its intended or actual use; and whatever renders the air or human food or drink unwholesome, are also severally, in contemplation of this chapter, nuisances and all such nuisances are hereby declared illegal.

Nuisance factors means an offensive, annoying, unpleasant or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as, but not limited to, noise, dust, smoke, odor, glare, fumes, flashes, vibration, shock waves, heat, electronic or atomic radiation, objectionable effluent, noise of congregation of people (particularly at night), passenger traffic, and invasion of non-abutting street frontage by traffic.

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

Nursing home (also convalescent or rest home) means a home, whether operated for profit or not, for the care of the aged, infirmed, or those suffering from bodily disorders, wherein seven (7) or more persons are housed or lodged and furnished with nursing care.

Nursery school, day school, child center means an establishment wherein 13 or more children, not related by bonds of consanguinity or fostership to the family living on the premises, are for remuneration cared for. Such schools or centers need not have a resident family on the premises.

Occupancy load means the number of persons that a building can hold, as determined by the fire marshall or as determined by the city building code.

Occupied means the word "occupied" includes arranged, designed, built, altered, converted to, rented or leased, or intended to be occupied.

Open air business uses means open air business uses not conducted from a wholly enclosed building, if operated for profit, shall include the following uses:

- (1) Bicycle, trailer, mobile home, motor vehicle, farm implements, boats, or home equipment sale or rental services.
- (2) Outdoor display and sale of garages, swimming pools and similar uses.
- (3) Retail sales of fruit, vegetables and perishable foods.
- (4) Retail sale of trees, shrubbery, plants, flowers, seed, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.
- (5) Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving range, children's amusement park or similar recreation uses.

Outdoor storage means the keeping, in an unroofed area, of any goods, junk material, merchandise or vehicles in the same place for more than 24 hours.

Outlot means when included within the boundaries of a recorded plat, means a lot set aside for purposes other than a building site, park or other land dedicated to public use or reserved to private use.

Outlot, commercial means a portion of a commercial lot set aside as a future and/or separate building site.

Parcel means a continuous quantity of land in the possession of or owned by, or recorded as the property of, the same person or persons.

Park means any public or private improved land available for recreational, educational, cultural or aesthetic use, or scenic purposes.

Parking, surface, means parking provided at street level. Such parking requires no building structure to support additional levels of building space or parking area above or below the at-grade parking area.

Parking area means any area of a site designated for the use of parking or access to parking spaces. The parking area shall include all spaces, drives, aisles and maneuvering lanes necessary to accommodate such parking.

Parking lot, off street, means a facility providing vehicular parking spaces along with adequate drives and aisles for maneuvering so as to provide access for entrance and exit for the parking of more than two automobiles.

Parking space means an area of definite length and width, exclusive of drives, aisles or entrances giving access thereto, and full accessibility for the parking of permitted vehicles. Tandem parking stalls in single-family detached, single-family attached, and townhome residential uses shall be considered to be fully accessible for the purpose of this definition.

Patio means a level surfaced area directly adjacent to an adjacent building which has an average elevation of less than six inches, and without walls or a roof.

Pawnbroker use means pawnbroker businesses as defined in the New Baltimore Code of Ordinances, state public acts or substantially similar business.

Payday lending establishment means an establishment which derives 15 percent or more of its total revenue from extending credit or providing loans on a secured or unsecured basis, specifically excluding banks, savings and loans, and credit unions otherwise licensed by state or federal law.

Performance guarantee (also maintenance guarantee) means any financial guarantee accepted by the city in the form of cash, letter of credit or performance bond, provided that the city shall not require that a financial guarantee more than ten percent of the total performance costs to ensure that all improvements, facilities or work required by this chapter will be completed in compliance with this chapter, regulations, and the approved plans and specifications of a development.

Permittee and/or licensee means means a person in whose name permit and/or license to operate a sexually-oriented business has been issued as well as the individual listed as the applicant on the application for permit and/or license.

Person means means any individual, proprietorship, partnership, corporation, association or any other legal entity.

Planned unit development (PUD) means 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. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.

Planning commission means the City of New Baltimore Planning Commission.

Porch, open, means a covered entrance to a building or structure which is un-enclosed, except for columns supporting the porch roof, and projects out from the exterior wall of said building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached.

Principal building means a building which contains the primary use of the lot.

Principal use means the main use of land or structures, as distinguished from a secondary or accessory use.

Private drive means a means of vehicle access serving one property or one dwelling.

Private street or road means a street or road which is not under public ownership or control serving two or more lots.

Public road means all public property reserved or dedicated for street traffic.

Public utility means any persons, firm, corporation, governmental unit or other entity duly authorized to furnish to the public, electricity, gas, sanitary sewers, water, communications, transportation or other services or commodities pursuant to federal, state or municipal regulations.

Putrescible means subject to decay and decomposition and to becoming putrid.

Recreational vehicles means vehicles primarily designed for recreation, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle, in accordance with Act 419 of Michigan Public Acts of 1976 as amended. Recreational vehicles shall include such things as motor homes, truck campers, travel trailers, folding camper trailers, off road vehicles, ATVs or other portable units including boats, snowmobiles, motorcycles, and trailers.

- (1) *Boat or personal watercraft* shall mean a vessel that requires registration from the secretary of state for traveling in or on water including a unit powered by sail or motor.

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- (2) *Snowmobile* shall mean a motor driven vehicle designed for travel primarily on snow or ice, of a type which utilizes sled-type runners or skis and endless belt tread, or any combination of these, or other similar means of contact with the surface on which it is operated.
 - (3) *Trailer* shall mean a vehicle without motor power, designed to be drawn by a motor vehicle, to be used for carrying property other than property used for commercial purposes only, including but not limited to, boats, snowmobiles, ATVs, motorcycles, personal watercrafts, or other noncommercial type of equipment, or vehicles.

Recycling center means a facility that is not a junk yard and in which recoverable resources, such as newspapers, magazines, books and other paper products; glass; metal cans; and other products are recycled, reprocessed and treated to return such products to a condition in which they may again be used for production.

Repairs means the rebuilding or removal of a part of an existing building for the purpose of maintaining its original type and classification.

Restaurant means a business establishment whose principal business is the selling of unpackaged food to the customer in a ready-to-consume state, in individual servings, or in non-disposable containers, and where the customer consumes these foods while seated at tables or counters located within the building.

Restaurant, drive-in, means an establishment that delivers prepared food and/or beverages to customers in motor vehicles, regardless of whether or not it also serves prepared food and/or beverages to customers who are not in motor vehicles, for consumption either on or off the premises.

Restaurant, fast-food, means any establishment whose principal business is the sale of foods, frozen desserts or beverages in ready-to-consume individual servings, for consumption either within the restaurant building or for carry-out, and where either means:

- (1) Foods, frozen desserts or beverages are usually served in paper, plastic or other disposable containers, and where customers are not served their food, frozen desserts or beverages by a restaurant employee at the same table or counter where the items are consumed; or
- (2) The establishment includes a drive-up or drive-thru service facility or offers curbside service.

Right-of-way means the right-of-way line shall be the line established by the Road Commission of Macomb County or Michigan Department of Transportation in their right-of-way requirements established for New Baltimore or the city's adopted master plan.

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

Rubbish means the miscellaneous waste materials resulting from housekeeping, mercantile enterprises, trades, manufacturing and offices, including other waste matter, such as slag, stone, broken concrete, fly ash, ashes, tin cans, glass, scrap metal, rubber, paper, rags, chemicals, or any similar or related combinations thereof.

Satellite dish antenna means a device incorporating a reflective surface that is solid, open mesh or bar configured and is in the shape of a shallow dish, cone, horn or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition is meant to include, but not be limited to, what are commonly referred to as satellite earth stations, TVROs (television reception only satellite dish antennas), and satellite microwave antennas.

Screening means the method by which a view of one site from another adjacent site is shielded, concealed or hidden. Screening techniques include fences, walls, hedges, berms or other features. Screening may include one or

a combination of the following materials of sufficient mass to be opaque or that shall become opaque after 12 months and which shall be maintained in an opaque condition means walls, berms or plantings.

Secondary road means a road that conducts and distributes traffic and carries through-traffic as a lower order major thoroughfare to major activity centers.

Self-service storage facility means a building consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods or contractors' supplies.

Semi-nude means a state of dress in which clothing covers no more than the genitals, anus, pubic region and areola of the female breast as well as portions of the body covered by supporting straps or devices.

Separate ownership means ownership of a parcel of property wherein the owner does not own adjoining vacant property.

Setback means the minimum horizontal distance between any face of the building, excluding only steps, and the adjoining property lines.

Sexual encounter center means a business or commercial enterprise that as one of its principal business purposes offers for any form of consideration:

- (1) Contact in the form of wrestling or tumbling between semi-nude or nude persons of the same or opposite sex; or
- (2) Physical contact between male and female persons and/or persons of the same sex, where one or more of the persons is in a state of nudity and the contact includes actual or simulated specified sexual activity.

Sexually-oriented business means any of the following:

- (1) Adult arcades;
- (2) Adult book stores and adult video stores;
- (3) Adult cabarets;
- (4) Adult motels;
- (5) Adult motion picture theaters;
- (6) Adult theaters;
- (7) Escort agencies;
- (8) Nude model studios;
- (9) Sexual encounter centers;
- (10) Other similar uses.

Site means a parcel of land.

Soil removal means removal of any kind of soil or earth matter, including topsoil, sand, gravel, clay, rock or similar materials, or combination thereof.

Special land use means a land use or an activity which, under certain circumstances, might be detrimental to other permitted uses and should not be permitted as a right in a given zoning district, but which use can be permitted under circumstances unique to the proposed location and subject to conditions, acceptable to the city, which provide protection to land uses.

Specified anatomical areas means the less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below the point immediately above the top of the areola, and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activity means and includes any of the following:

- (1) The fondling or other erotic touching of the human genitals, pubic region, buttocks, anus, or female breasts;
- (2) Sex acts, actual or simulated, including intercourse or oral copulation, masturbation, or sodomy.
- (3) Excretory functions, as part of or in connection with any of the activities set forth in (1) and (2) above.

State equalized valuation means the value shown on the city's assessment roll as equalized through the process of state and county equalization.

Stoop means a platform or small porch, usually up several steps, at the entrance to a building, usually a dwelling or dwellings.

Story means that portion of a building, other than a cellar or mezzanine, included between the surface of any floor and floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it. A mezzanine shall be deemed a full story when it covers more than 50 percent of the area of the story underneath said mezzanine, or if the vertical distance from the floor next below it to the floor next above it is 24 feet or more.

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

Street means a public thoroughfare which affords traffic circulation and means principal access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and any other thoroughfare, except an alley.

Structural alteration means any change in the supporting members of a building or structure, such as bearing walls, or partitions, columns, beams or girders, stairways, or any change in the width or number of exits, or any substantial change in the roof.

Structure means anything constructed or erected, the use of which requires location on or in the ground or attachment to something having location on or in the ground. Structures shall include, buildings, decks, fences, gates, posts, walls, swimming pools, outdoor fire pits, fireplaces, furnaces or ovens, recreation equipment, trash receptacles, heating, cooling and refrigeration equipment, antennae, poles, towers, smokestacks, and similar structures that do not meet the definition of building.

Swimming pool means any structure or container intended for swimming, located either above or below grade designed to hold water to a depth of greater than 24 inches.

Tattoo use means commercial establishments which furnish tattoos as either a substantial or significant portion of its business.

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

Tents means, as used in this chapter, shall mean a shelter of canvas or the like supported by poles and fastened by cords or pegs driven into the ground and shall not include those types of tents used solely for children's recreational purposes.

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

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

Variance means a relaxation by the zoning board of appeals of the dimensional regulations of this chapter where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions or the situation of the applicant, a literal enforcement of this chapter would result in practical difficulty or unnecessary and undue hardship.

Vehicle stacking lane means a paved surface designed to accommodate a motor vehicle waiting for entry to any drive-in/thru facility or auto-oriented use, which is located in such a way that a parking space is not obstructed.

Vertical projection means any architectural feature which projects into the yard space from the ground up through the first story.

Veterinarian clinic means a place for the care, diagnosis and treatment of sick or injured animals and those in need of medical or minor surgical attention. A veterinarian clinic may include customary pens or cages which are permitted only within the walls of the clinic structure.

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

Warehousing and distribution means the storage, wholesale and distribution of manufactured products, supplies and equipment, but excluding bulk storage of materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions.

Wireless communication facilities means all structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals which may include, but are not limited to, radio towers, television towers, telephone devices and exchanges, microwave relay towers, telephone transmission equipment building and commercial mobile radio service facilities. Citizen band radio facilities, short-wave facilities, ham, amateur radio facilities, satellite dishes, and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority are not included in this definition.

Wireless communication facility, attached, means a wireless communication facility that is affixed to an existing structure; for example, an existing building, tower, water tank, utility pole, etc., which does not include an additional wireless communication support structure.

Wireless communication, co-location means the location by two or more wireless communication providers, public authority, or other duly authorized party of wireless communications facilities on an existing structure, tower or building, in a manner that reduces the overall need for additional or multiple freestanding single use wireless communication facilities with the City of New Baltimore.

Wireless communication, support structure, means a structure newly erected or modified to support wireless communication antennas and connecting appurtenances. Support structure types, including, but not limited to, monopoles, lattice towers, light poles, utility support structures, traffic control structures, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure.

Yard means an open space, unoccupied and unobstructed from the ground upward except as otherwise provided herein, and being on the same lot with a building. The measurement of a yard shall be construed as the minimum horizontal distance between the lot line and the building or structure.

Yard, front, means a yard on the same lot with a building between the front line of the building and the front lot line and extending to the other side lot line.

Yard, rear, means a yard on the same lot with a building between the rear line of the building and the rear lot line and extending to the other side lot line.

Yard, side, means a yard on the same lot with a building between the side lot line and the nearest side line of the building and extending from the rear yard to the front yard.

Zero lot line means the location of a building on a lot in such a manner that one or more of the building's sides rests on, or within five feet of a lot line.

Zone. (See *district*)

Zoning board of appeals means the Zoning Board of Appeals of the City of New Baltimore.

Zoning official means the building official or his authorized designee.

(Ord. No. 158, § 14.01, 9-22-2008; Ord. No. 169, § 5, 6-28-2010; Ord. No. 179, § 2, 1-9-2012; Ord. No. 216, § 9, 2-26-2018; Ord. No. 231, § 2, 12-9-2019)

APPENDIX A FRANCHISES⁹

The following franchises are currently in force in the city:

	Franchise	Ord. No.	Date
(1)	Harron Communications Corporation	70	4-14-1980
(2)	Southeastern Michigan Gas Company	23	4-25-1988

CODE COMPARATIVE TABLE 1981 CODE

This table gives the location within this Code of those sections of the 1981 Code which are included herein.

Sections of the 1981 Code, not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of ordinances adopted subsequent thereto, see the table immediately following this table.

1981 Code Section	Section this Code
1.2	1-5
1.5	1-1
1.6	1-3
1.8—1.10	1-2
1.12, 1.13	1-7, 1-8
1.21—1.26	2-56—2-61
1.91—1.111	46-1—46-21
1.121—1.127	2-276—2-282
1.161—1.164	2-196—2-199
1.171—1.174	18-26—18-29

⁹Cross reference(s)—Any ordinance granting any specific right or franchise or establishing the procedure for granting a right or franchise saved from repeal, § 1-11(a)(5); buildings and building regulations, ch. 10; businesses, ch. 12; community development, ch. 18; land divisions and subdivisions, ch. 28; streets, sidewalks and other public places, ch. 48; telecommunications, ch. 50.

New Baltimore, Michigan, Code of Ordinances
CODE COMPARATIVE TABLE 1981 CODE

1.241	2-26
2.2—2.10	44-26—44-34
2.12—2.18	44-35—44-41
2.21—2.35	54-51—54-65
2.51	54-126
2.52—2.57	54-128—54-133
2.61—2.67	54-161—54-167
2.71—2.88	54-196—54-213
2.91—2.100	54-241—54-250
2.103	54-251
2.111—2.126	54-281—54-296
3.2, 3.3	34-61, 34-62
3.7—3.11	34-91—34-95
3.15—3.18	34-121—34-124
3.23—3.32	34-151—34-160
3.35—3.42	34-186—34-193
3.48—3.53	34-222—34-227
3.71—3.79	14-1—14-9
3.91—3.109	20-221—20-239
4.1—4.10	48-26—48-35
4.12	48-36
4.16, 4.17	48-37, 48-38
4.21, 4.22	48-39, 48-40
4.26	48-41
4.30	48-42
4.34, 4.35	48-43, 48-44
4.41—4.58	48-71—48-88
4.61—4.70	48-116—48-125
5.301—5.306	38-26—38-31
5.431—5.451	24-26—24-46
6.4(1)—6.4(5)	12-111—12-115
7.1—7.12	12-26—12-37
7.13—7.16	12-39—12-42
7.17—7.23	12-42—12-48
7.31, 7.32	12-38
7.51—7.54	12-76—12-79
7.71—7.78	36-26—36-33
7.81—7.86	36-61—36-66
7.101, 7.102	12-141, 12-142
7.103(1)	12-143
7.104—7.106	12-144—12-146
7.121—7.124	58-1—58-4
7.126—7.132	58-5—58-11
7.171—7.173	6-26—6-28
7.175	6-29

New Baltimore, Michigan, Code of Ordinances
CODE COMPARATIVE TABLE 1981 CODE

9.1	20-26
9.2, 9.3	10-177, 10-178
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