

## APPENDIX A ZONING ORDINANCE<sup>1</sup>

### ORDINANCE NO. 252

*AN ORDINANCE to regulate and restrict the location and use of buildings, structures and land for trade, industry, residence and for public and semipublic or other specified uses; and to regulate and limit the height and bulk of buildings and other structures; to regulate and to determine the size of yards, courts, and open spaces; to regulate and limit the density of population; and for said purposes to divide the city into districts and establishing the boundaries thereof; providing for changes in the regulations, restrictions and boundaries of such districts; defining certain terms used herein; providing for enforcement; establishing a Board of Appeals; and imposing penalties for the violation of this Ordinance.*

All land zones are hereby declared to be exclusive and restricted to the designated areas.

Pursuant to the authority conferred by Public Act No. 207 of the Public Acts of 1921 of the State of Michigan, and acts amendatory thereto, in such case, made and provided and for the purpose of promoting and protecting the public health, safety, peace, morals, comfort, convenience and general welfare of the inhabitants of the City of Madison Heights by protecting and conserving the character and social and economic stability of the residential, commercial, industrial and other use areas; by securing the most appropriate use of land; preventing overcrowding of land; the undue congestion of population; providing adequate light, air, and reasonable access; and facilitating adequate and economical provision of transportation, water, sewer, schools, recreation and other public requirements, and by other means, all in accordance with a comprehensive plan; now therefore:

The City of Madison Heights Ordains:

#### **Sec. 10.100. Short title.**

This Ordinance shall be known and may be cited as the "City of Madison Heights Zoning Ordinance."

#### **Sec. 10.200. Definitions.**

For the purpose of this Ordinance, certain terms or words used herein shall be interpreted as follows:

---

<sup>1</sup>Editor's note(s)—The zoning ordinance of the city, Ordinance No. 252, is included herein as adopted on January 11, 1965. The original arrangement, catchlines and subcatchlines have been retained. Additions made for clarity are bracketed. Amendments have been added and are indicated by the history note following the amended sections. The absence of such a note indicates that the section is derived unchanged from the original ordinance. Ordinances zoning or rezoning specific property or granting specific use permits are not included herein, but are on file in the city clerk's office.

Charter reference(s)—Specific authority to establish zoning districts to regulate land use, Ch. 2, § 2.2(j).

Cross reference(s)—Plan commission, Ch. 2, Art. VIII; buildings and building regulations, Ch. 6; enforcement of zoning provisions by building inspector, § 6-1; fire prevention and protection, Ch. 12; mobile homes and trailers, Ch. 18; subdivision regulations, Ch. 24; vegetation, Ch. 27; restriction on location of motorcycle rental business, § 28-78; water supply and sewage disposal systems, Ch. 29.

---

All words used in the present tense shall include the future; all words in the singular number include the plural number and all words in the plural number include the singular number; and the word "building" includes the word "structure" and "dwelling" includes "residence;" the word "person" includes "corporation," "copartnership," "association," as well as an "individual;" the word "shall" is mandatory and the word "may" is permissive; the word "lot," includes the words "plot" or "parcel;" the words "used" or "occupied" includes the words "intended," "designed," or "arranged to be used or occupied."

Terms not herein defined shall have the meanings customarily assigned to them.

- (1) *Alley*: Any dedicated public way affording a secondary means of access to abutting property, and not intended for general traffic circulation.
- (2) *Alterations*: Any change, addition or modification to a structure or type of occupancy, any change in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed."
- (3) *Apartments*: The dwelling units in a multiple dwelling as defined herein:
  - (a) *Efficiency apartment*: Is a dwelling unit of not less than 250 nor more than 350 square feet of floor area consisting of not more than one room in addition to kitchen and necessary sanitary facilities.
  - (b) *One bedroom unit*: Is a dwelling unit containing a minimum floor area of at least 450 square feet consisting of not more than three rooms, including one bedroom in addition to kitchen and necessary sanitary facilities.
  - (c) *Two bedroom unit*: Is a dwelling unit containing a minimum floor area of at least 600 square feet, consisting of not more than four rooms, including two bedrooms, in addition to kitchen and necessary sanitary facilities.
  - (d) *Three or more bedroom unit*: Is a dwelling unit wherein for each room in addition to the four rooms permitted in a two bedroom unit, there shall be provided an additional area of 150 square feet to the minimum floor area of 600 square feet in addition to the kitchen and necessary sanitary facilities.
- (4) (a) *Motor vehicle maintenance service facility*. A facility where routine motor vehicle maintenance consisting of oil changes, tire replacement, battery replacement, brake and exhaust system work and other routine services which require short periods of time to start and complete the maintenance service.
- (b) *Motor vehicle repair facilities (light repairs)*. A facility where motor vehicle engine repair is conducted. Prohibited activities include, but are not limited to, motor vehicle body repair, undercoating, painting, tire recapping, upholstery work, collision work, glass work, and other similar heavy duty repair.
- (c) *Motor vehicle repair facilities (heavy repairs)*. A facility where all uses and activities permitted as a motor vehicle light repair facility and a motor vehicle maintenance service facility or where motor vehicle body repair, undercoating, painting, tire recapping, upholstery work, collision work, glass work, and other activities are conducted.
- (5) *Basement*: That portion of a building which is partly or wholly below grade but so located that the vertical distance from average grade to the floor is greater than the vertical distance from the grade to the bottom of the joists supporting the ceiling. A basement shall not be counted as a story.
- (6) *Billboard*: An outdoor sign, whether placed individually or on a T-type, V-type, back to back or double-faced display, erected for the purpose of advertising a product, event, person, or subject not related to the premises on which the sign is located.

- 
- (7) *Building*. Is a structure, either temporary or permanent (This shall include tents and awnings situated on private property).
- (8) *Building, accessory*: Is a subordinate building, the use of which is clearly incidental to that of the main building or to the use of the land.
- (9) *Building, main*: Is a building in which is conducted the principal use of the lot on which it is situated.
- (10) *Building height*: Is the vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge, gable, hip and gambrel roofs; and to the average height between the lowest point and the highest point on a shed 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.
- (11) *Building line*: Is a line formed by the building foundation except that where any portion of a building, excluding unenclosed porches, exceeds eight feet in width and projects more than two feet beyond the foundation, the face of such projection shall form said building line. For the purposes of this Ordinance, a building line is the same as a front setback line.
- (12) *Commercial vehicle*: Any vehicle, or trailer, which has placed upon it, or attached to it, any type of business sign, name or other business identification (except "for sale" signs if otherwise permitted in this Ordinance), or which has attached to it, carries or transports, people, material or equipment used in the conduct of any business including taxi cabs and limousines. Commercial vehicles include but are not limited to:
- Truck tractor.
  - Semi-trailer, which shall include flat beds, stake beds, roll-off containers, tanker bodies, dump bodies and full or partial box-type enclosures.
  - Vehicles of a type that are commonly used for the delivery of ice cream, milk, bread, fruit or similar vending supply or deliver trucks. This category shall include vehicles of a similar nature which are also of a type commonly used by electrical, plumbing, heating and cooling, and other construction-oriented contractors.
  - Tow trucks.
  - Commercial hauling trucks.
  - Vehicle repair service trucks.
  - Snow plowing trucks.
- (13) *Court*: Is an open unoccupied space, other than a yard, and bounded on at least two sides by a building. A court extended to the front yard or front lot line or to the rear yard or rear yard lot line is an Outer Court. Any other court is an Inner Court.
- (14) *Club*: An organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics or the like, but not for profit.
- (15) *District*: Is a portion of the incorporated area of the city within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.
- (16) *Drive-in*: A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle, regardless of whether self-servicing is involved rather than within a building or structure.

- 
- (17) *Dwelling unit*: Is a building, or portion thereof, designed for occupancy by one family for residential purposes and having cooking facilities.
- (18) *Dwelling, one-family*: Is a building designated exclusively for and occupied exclusively by one family.
- (19) *Dwelling, two-family*: Is a building designed exclusively for occupancy by two families, living independently of each other.
- (20) *Dwelling, multiple-family*: Is a building or portion thereof, designed exclusively for occupancy by three or more families living independently of each other (Refer to "apartments" definition for dwelling unit types.)
- (a) *Apartment building*: A residential structure containing three or more dwelling units, but not a row house or terrace.
- (b) *Row house*: A two story of three or more attached one family dwellings, not more than two rooms deep, each unit of which extends from the foundation or basement to the roof.
- (c) *Terrace*: A one- or two-story row of three or more attached one-family dwellings, not more than two rooms deep, and having the total dwelling space on one floor.
- (21) *Erected*: Includes built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises required for the construction. Excavation, fill, drainage, and like, shall be considered a part of erection.
- (22) *Essential services*: Means 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, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith, but not including buildings which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety or welfare; or wireless cellular or personal communications service (PCS) telecommunications antenna towers.
- (23) *Family*:
- (a) One or more persons related by blood or marriage occupying a dwelling unit and living as a single nonprofit housekeeping unit, i.e., biological family.
- (b) Any collective number of individuals living together in one house under one head, whose relationship is of permanent and distinct domestic character, and cooking as a single housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie, or other organization, which is not a recognized religious order, nor include a group of individuals whose association is temporary or resort-seasonal in character or nature, i.e., functional family.
- (24) *Floor area*: For the purposes of computing the minimum allowable floor area in a residential dwelling unit, the sum of the horizontal areas of each story of the building shall be measured from the exterior faces of the exterior walls. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches.
- (25) *Floor area, usable*: That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, or utilities and sanitary facilities, shall be excluded from this computation of "usable floor area." Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls. Floor space to be used for servicing vehicles in automobile service establishments and public garages shall be considered as usable floor area.

- 
- (26) *Gasoline service station*: Is a place for the dispensing, sale, or offering for sale of motor fuels directly to the users of motor vehicles, the sale of minor accessories, the repair of motor vehicles when performed within a completely enclosed building. The outside storage of any vehicles, motorized or not, other than those vehicles being used for transportation by the employees and management and those vehicles waiting immediate service or repair may be permitted provided such use is approved under section 10.319(3), and such other activities whose external, physical effects could extend beyond the property line. Prohibited activities include, but [are] not limited to, the following: Vehicle body repair, undercoating, painting, tire recapping, engine rebuilding, auto dismantling, upholstery work and auto glass work.
- (27) *Garage, private*: An accessory building not over one story or 15 feet in height used for parking or storage of motor vehicles, but not for commercial servicing or repair.
- (28) *Grade*: Is deemed to mean a 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 determining the average elevation of the ground for each face of the building.
- (29) *Greenbelt*: A strip of land of definite width and location reserved for the planting of shrubs and/or trees to serve as an obscuring screen or buffer strip in carrying out the requirements of this Ordinance.
- (30) *Housing for the elderly*: A planned housing development or facility for elderly residents, defined for purposes of this ordinance as individuals who have attained the age of 50 years or couples of which either spouse has attained the age of 50 years, except as may be otherwise provided for in any applicable state or federal laws or regulations.
- (a) *Congregate elderly living units*: Housing for the elderly that consists of dwelling units containing kitchen, sanitary, sleeping and living spaces in addition to common service areas, including, but not limited to, central dining room(s), recreational room(s) and central lounge(s).
- (b) *Convalescent home*: A structure with sleeping rooms, where persons are housed or lodged and are furnished with meals, nursing and limited medical care.
- (c) *Independent elderly living units*: Housing for the elderly that includes attached or detached cottage-type dwellings, townhouses, or apartments.
- (31) *Junkyards*: Is an open area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled including, but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. A "junkyard" includes automobile wrecking yards and includes any area used for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings.
- (32) *Kenel, commercial*: Any lot or premises on which four or more dogs are confined or kept either for sale, breeding, boarding, training or sporting purposes or otherwise.
- (33) *Loading space*: An off-street space on the same lot with a building, or group of buildings for temporary parking of a commercial vehicle while loading and unloading merchandise or materials.
- (34) *Lot*: Is a parcel of land occupied, or to be occupied, by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such open spaces as are required under the provisions of this Ordinance. A lot may or may not be specifically designated as such on public records.
- (35) *Lot of record*: Is a parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by City or County Officials, and which actually exists as so shown or any part of such parcel held in record ownership separate from that of the remainder thereof.

- 
- (36) *Lot area*: The total horizontal area within the lot lines of the lot.
- (37) *Lot, corner*: A lot where the interior angle of two adjacent sides at the intersection of the two streets is less than 135 degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this Ordinance if the arc is of less radius than 150 feet and the tangents to the curve, at the two points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than 135 degrees.
- (38) *Lot, interior*: Any lot other than a corner lot.
- (39) *Lot lines*: The lines bounding a lot as defined herein.
- (a) *Front lot line*: In the case of an interior lot, the line separating said lot from the street. In the case of a corner lot, or double frontage lot, that line separating said lot from that street which is designated as the front street in the plat or in an application for a building permit or zoning approval.
- (b) *Rear lot line*: The lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten feet long lying farthest from the front lot line and wholly within the lot.
- (c) *Side lot line*: Any lot lines other than the front lot line or rear lot line.
- (1) *Exterior lot line or side street lot line*: A side lot line separating a lot from a street.
- (2) *Interior lot line*: A side lot line separating a lot from another lot or lots.
- (40) *Lot coverage*: The part or percent of the lot occupied by buildings, including accessory buildings.
- (41) *Lot depth*: The horizontal distance between the front and rear lot lines, measured along the median between side lot lines.
- (42) *Lot, double frontage*: Is any interior lot having frontages on two more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, all sides of said lots adjacent to streets shall be considered frontage, and front yards shall be provided as required.
- (43) *Lot width*: The horizontal distance between the side lot lines measured at the two points where the building line, or setback intersects the side lot lines.
- (44) *Master plan*: Is the comprehensive plan including graphic and written proposals indicating the general location for streets, parks, schools, public buildings and all physical development of the City of Madison Heights, and includes any unit or part of such plan, and any amendment to such plan or parts thereof. Such plan may or may not be adopted by the plan commission and/or the city council.
- (45) *Major thoroughfare*: Is an arterial street which is intended to serve as a large volume trafficway for both the immediate city area and the region beyond, and may be designated as a major thoroughfare, parkway, freeway, expressway, or equivalent term to identify those streets comprising the basic structure of the street plan. For purposes of this Ordinance, major thoroughfares shall be considered to be section line roads and roads of 120 feet right-of-way or more.
- (46) *Mezzanine*: Is an intermediate floor in any story occupying an area not to exceed one-third of the floor area of such story.
- (47) *Motel*: A series of attached, semidetached or detached rental units containing bedroom, bathroom and closet space. Units shall provide overnight lodging and are offered to the public for compensation and shall cater primarily to the public traveling by motor vehicles.

- 
- (48) *Nonconforming building*: A building or portion thereof, existing at the effective date of this Ordinance, or amendments thereto, that does not conform to the provisions of this Ordinance nor to the use regulations of the district in which it is located.
- (49) *Nonconforming use*: A use which lawfully occupied a building or land at the time this Ordinance or amendments thereto, became effective, that does not conform to the use regulations of the district in which it is located.
- (50) *Nursing or convalescent home*: Is a structure with sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire.
- (51) *Off-street parking lot*: A facility providing vehicular parking spaces along with adequate drives and aisles, for maneuvering so as to provide access for entrance and exit for the parking of more than two automobiles.
- (52) *Open front store*: A business establishment, other than a drive-in or gasoline service station, so developed that service to the patron may be extended beyond the walls of the building, not requiring the patron to enter said building.
- (53) *Outdoor accessory use*: A use which is clearly incidental to, customarily found in connection with, and (except in the case of accessory off-street parking spaces or loading) located on the same zoning lot as the principal use to which it is related. An accessory use includes, but it is not limited to, uses such as those that follow:
- 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.
  - Storage of goods used in or produced by industrial uses or related activities, unless such storage is excluded in the applicable district regulations.
  - Uses clearly incidental to a principal use such as, but not limited to, offices of an industrial or commercial complex located on the site of the commercial or industrial complex.
- (54) *Parking space*: Is hereby determined to be an area of definite length and width and shall be exclusive of drives, driveways, aisles or entrances giving access thereto and shall be fully accessible for the storage or parking of permitted vehicles.
- (55) *Personal service establishment*: An establishment primarily engaged in providing services involving the care of a person or his or her goods or apparel, but not including those regulated uses as listed in section 10.502(A). Personal service establishments may include, but are not limited to, barber shops, beauty shops, copy centers, florist shops, locksmiths, home furnishings, photo finishing services, stationers and shoe repair shops.
- (56) *Principal structure*: A structure or building wherein a use for which the district is designated is conducted and/or which is used for occupancy.
- (57) *Public utility*: Is any person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under Federal, State or municipal regulations to the public; gas, steam, electricity, sewage disposal, communication, telegraph, transportation, or water.
- (58) *Restaurant*: An establishment whose principal business is the sale of food and beverages to the customer in a ready-to-consume state, and whose method of operation is characteristic of a fast food restaurant, sit-down restaurant, bar/lounge, or combination thereof, as defined below:
- (a) *Restaurant, fast food*: A business establishment in which a patron purchases food or beverages, which may have been previously prepared, and which is served in disposable containers or wrappers and in which the patron consumes while seated in the restaurant or off the premises. Fast food restaurants may include drive-through and take-out establishments.

- 
- (b) *Restaurant, sit-down*: A business establishment in which a patron purchases food or beverages, which is then prepared after the patrons order, on the premises and which is thereafter served to the patron and is consumed by the patron while seated in the restaurant.
- (c) *Bar/lounge*: An establishment which is operated primarily for the dispensing of alcoholic beverages with the ancillary sale of prepared food or snacks.
- (59) *Setback*: The distance required to obtain front, side or rear yard open space provisions of this Ordinance.
- (60) *Sign*: Any structure or wall or part thereof, or device attached thereto or painted or represented thereon, or any material or thing, illuminated or otherwise, which displays or includes any numeral, letter, word, model, banner, emblem, insignia, device, service mark, trade mark or other representation used as, or in the nature of, an announcement, advertisement, direction or designation, of any person, firm, organization, place, commodity, service, business, profession, or industry, or any backlit building area, which is located upon any land or in or on any building, in such a manner as to attract attention from outside the premises. The term "sign" shall also include any bulbs, string of lights, other lighting devices, streamers, pennants, hot and cold air balloon(s) or inflatable structures, propeller(s), flags (other than the official flag of any nation, state or city), other structure(s) conveying a message, any similar device(s) of any type or kind whether bearing lettering or not in any combination of the above. Nothing in this Ordinance shall be construed so as to prohibit ideological or noncommercial advertising on any sign on which commercial advertising is permitted.
- (61) *Story*: Is the part of a building (except a mezzanine as defined herein) included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. A story thus defined shall not be counted as a story when more than 50 percent by cubic content is below the height level of the adjoining ground.
- (62) *Story, half*: Is an uppermost story lying under a sloping roof, the usable floor area of which, at a height of four feet above the floor does not exceed two-thirds of the floor area in the story directly below, and the height above at least 200 square feet of floor space is seven feet six inches.
- (63) *Street*: Is a public or private road including, but not limited to, public and private roads that are dedicated or platted, or private access easements; all measurements with reference to which shall commence at the right-of-way line.
- (64) *Structure*: Anything constructed or erected and designed for a permanent location on the ground, except screening and retaining walls and pavement.
- (65) *Temporary building or use*: Is a structure or use permitted by the city council to exist during periods of construction of the main building or use, or for special events.
- (66) *Trailer coach (mobile home)*: Any vehicle designed, used, or so constructed as to permit its being used as a conveyance upon the public streets or highways and duly licensable as such, and constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping place for one or more persons.
- (67) *Trailer court*: Any plot of ground upon which two or more trailer coaches, occupied for dwelling or sleeping purposes, are located.
- (68) *Use*: Is the purpose for which land or a building is designed, arranged or intended, or for which land or a building is or may be occupied.
- (69) *Use, accessory*: Is a use subordinate to the main use of a lot and used for purposes clearly incidental to those of the main use.



- 
- (70) *Use, main*: Is the principal use to which the premises are devoted and the principal purpose for which the premises exist.
- (71) *Wall, (fence)*: A completely obscuring structure of definite height and location to serve as an obscuring screen in carrying out the requirements of this Ordinance.
- (72) *Yards*: Is an open space of prescribed width or depth, adjacent to a lot or property line, on the same land with an existing or proposed building, group of buildings, or structure, which open space lies in the area between the building, group of buildings, or structure and the nearest lot line, and which is unoccupied and unobstructed from the ground upward, except as otherwise provided in this Ordinance, or defined below:
- (a) *Front yard*: Is an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line or street and the nearest point of the closest structure. Where the lot does not abut a public or private street and is served by a private easement, the front lot line shall be the lot line abutting the easement.
  - (b) *Rear yard*: Is an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and nearest line of the main building.
  - (c) *Side yard*: Is an open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line to the nearest point of the main building.
- (73) *Zoning exceptions and variances*:
- (a) *Exception*: Also known as Special Exception, Special Use or Special Approval. A use permitted when the facts and conditions specified in this Ordinance as those upon which the exception is permitted are found to exist by the appropriate administrative officer or legislative body.  
  
Exceptions in this Ordinance appear as Special Approvals. These land uses could not be conveniently allocated solely to one zoning district, the effects of such uses could not or cannot be definitely foreseen and/or the use itself could not have been foreseen. Any use not listed in a specific zoning district requires Special Approval.  
  
The appropriate administrative or legislative body may require that specific conditions be complied with upon the grant of a special approval. Standards for determining if a special approval should be granted are set out in section 10.805 of this Ordinance.
  - (b) *Variance*: A modification of the literal provisions of the Zoning Ordinance granted where strict enforcement would cause undue hardship and/or practical difficulty owing to circumstances unique to the individual property for which the variance is granted.  
  
A variance is not justified unless it can be shown that compliance with the Ordinance would create an undue hardship and/or practical difficulty due to unique circumstances applying to the property.

(Ord. No. 463, § 1, 1-13-72; Ord. No. 807, § 1, 6-8-87; Ord. No. 827, § 1, 7-11-88; Ord. No. 904, § 1, 6-14-93; Ord. No. 969, § 1, 4-27-98; Ord. No. 973, § 1, 7-27-98; Ord. No. 1014, § 1, 2-11-02; Ord. No. 1076, § 1, 10-12-10; Ord. No. 1091, § 1, 1-28-13, eff. 2-7-13; Ord. No. 2168, § 1, 9-13-21; Ord. No. 2173, § 1, 1-10-22)

### **Sec. 10.201. Special approval use review procedures and requirements.**

- (1) *Purpose*. The purpose of this section shall be to:
- (a) Require special approval for all uses in all zoning districts that are listed as uses permitted after special approval.

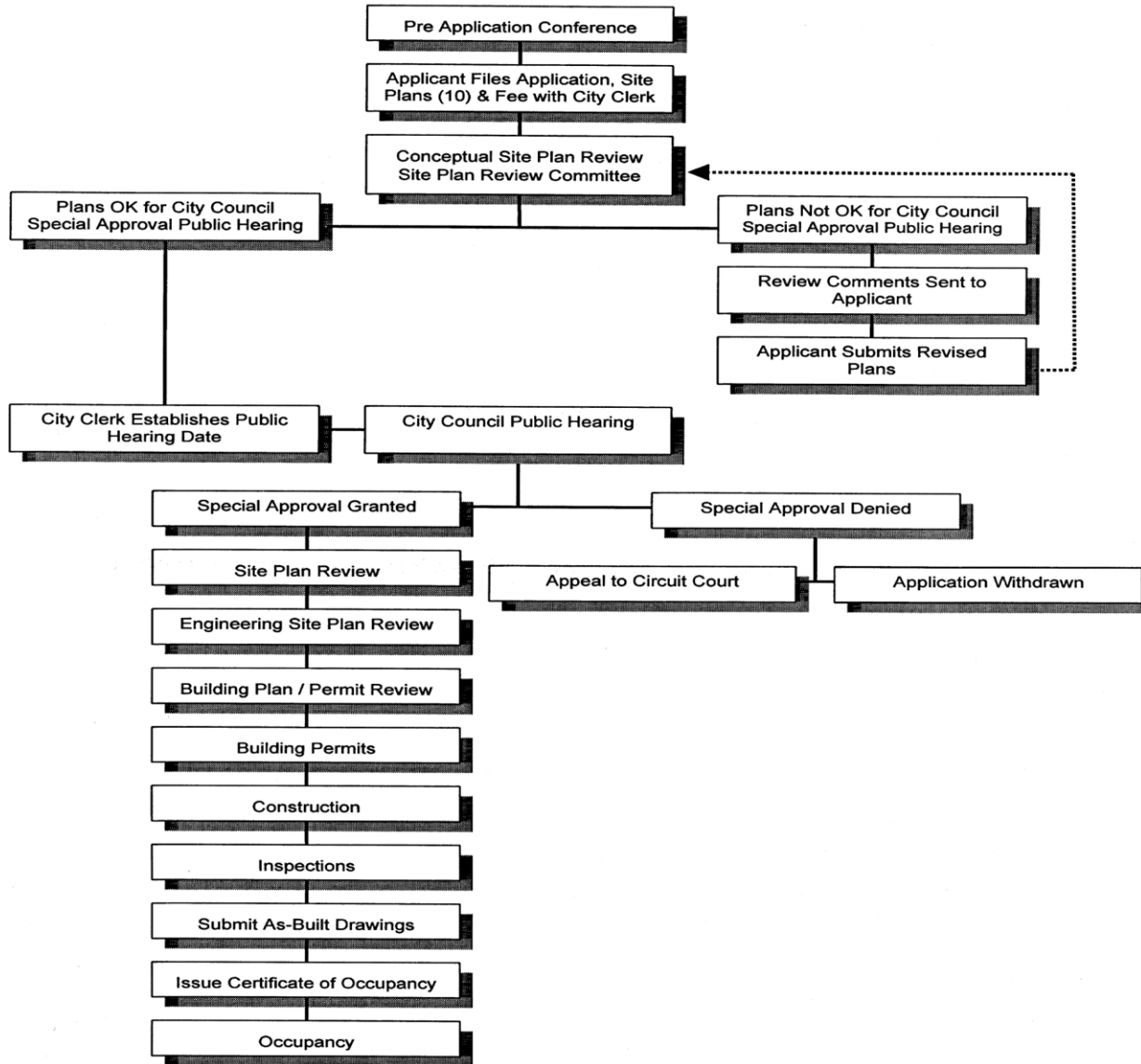
- 
- (b) Establish review procedures for all special approval uses.
  - (c) Establish review standards for all special approval uses.
  - (d) Establish the city council as the review and approval authority for special approval uses.
  - (e) Establish authority to impose conditions upon special approval uses.

(2) *Requirement established.*

The city council shall act as the special approval board, and shall act on all special approval requests as provided in this Ordinance. Special approval shall be required for all uses in all zoning districts that are listed as uses permitted after special approval. All applications for special approval shall include a site plan prepared in conformance with the submission requirements outlined in section 10.514. Site Plan Review. All special approval use requests shall be subject to a public hearing prior to a final city council decision.

(3) *Submission and review process.* All special approval uses in all zoning districts shall be reviewed in accord with the following procedural requirements and activity flow:

- (a) Applicant requests preliminary meeting with community development department staff to discuss proposal, design elements, ordinance requirements etc.
- (b) Applicant submits application, fee and ten copies of the proposed site plan to the city clerk's office (site plan must be reduced to 11" x 17").
- (c) Site plan review committee reviews plan conceptually for general conformance with ordinance requirements and transmits conceptual review comments to applicant for revision.
- (d) Applicant submits ten copies of revised site plan to community development department (site plan must be reduced to 11" x 17").
- (e) Community development department notifies city clerk when site plans are adequate for consideration by city council. City clerk then establishes public hearing date and notifies all adjoining property owners within 500 feet.
- (f) City council conducts public hearing on proposed special approval use.
- (g) City council approves, approves with conditions, or denies the special approval use request. The city council may table a request to allow verification, compilation or submission of additional or supplemental information or to address other concerns or issues.
- (h) If the city council approves, or approves with conditions, the special approval use request, the city clerk sends applicant a special approval certificate and copy of the minutes of the meeting where the case was approved. The applicant then applies for site plan review in accordance with section 10.514 of this Ordinance.



Special Approval Process—City of Madison Heights

- (4) *Review standards and criteria.* The city council shall consider the following standards and criteria in their review of all special approval use requests:
- (a) Site plans submitted for special approval uses shall be prepared in conformance with and contain all information as outlined in Section 10.514. Site Plan Review.
  - (b) All design standards or criteria imposed on specific special approval uses elsewhere in this Ordinance shall be met.
  - (c) The use shall be designed and located so that it is compatible with the surrounding properties, neighborhood and vicinity. At a minimum, this shall include:
    - 1. Location of use(s) on site;
    - 2. Height of all improvements and structures;

- 
3. Adjacent conforming land uses;
  4. Need for proposed use in specified areas of the city;
  5. Conformance with future land use plans for the area as adopted by the planning commission; and
  6. Compatibility with the permitted principal uses allowed in the zoning district where the special approval use is requested.
- (d) Ingress/egress to the use shall be controlled to assure maximum vehicular and pedestrian safety, convenience and minimum traffic impact on adjacent roads, drives and uses including, but not limited to:
1. Reduction in the number of ingress/egress points through elimination, minimization and/or consolidation of drives and/or curb cuts;
  2. Proximity and relation to intersections, specifically with regard to distance from drive(s) to intersection(s);
  3. Reduction/elimination of pedestrian/vehicular traffic conflicts;
  4. Adequacy of sight distances;
  5. Location and access of off-street parking;
  6. Location and/or potential use of service drives to access multiple parcels, reducing the number of access points necessary to serve the parcels.
- (e) Screening shall be provided along all property lines, where council determines such screening is necessary to minimize impact of the use on adjacent properties or uses.
- (f) The use shall be properly served by utilities.
- (g) The use shall not have an adverse effect on the environment beyond the normal affects of permitted principal uses in the same zoning district and shall not result in an impairment, pollution, and/or destruction of the air, water, and natural resources.
- (h) The use shall be specifically scrutinized for conformance with the performance standards outlined in section 10.509 of this Ordinance.
- (i) The proposed use shall be designed as to location, size, intensity, site layout, and periods of operation to eliminate any possible nuisances which might be noxious to the occupants of any other nearby properties. The use shall not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive smoke, fumes, glare, noise, vibration, odors, and adverse environmental impacts.
- (j) The proposed use does not impose an unreasonable burden upon public services and utilities in relation to the burden imposed by permitted principal uses in the same zoning district.
- (k) The city council may impose conditions in granting special approval that it deems necessary to fulfill the spirit and purpose of this Ordinance. The conditions may include those necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall:
1. 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.

2. Be related to the valid exercise of the police power and purposes that are affected by the proposed use or activity.
  3. Be necessary to meet the intent and purpose of the zoning regulations; be related to the standards established in this Ordinance for the land use or activity under consideration (if applicable); and be necessary to ensure compliance with those standards.
  4. Provide adequate safeguards as deemed necessary for the protection of the general welfare and individual property rights, and for ensuring that the intent and objectives of this Ordinance will be observed. The breach of any condition, safeguard or requirement, and the failure to correct such breach within 30 days after an order to correct is issued by the city shall be reason for immediate revocation of the special approval. Conditions and requirements stated as a part of special use permit authorizations shall be continuing obligations of the holders of such permits and are binding upon their heirs and assigns and upon any persons taking title to the affected property while such special use permit is in effect.
- (l) The discontinuance of a special use after a specified time may be a condition to the issuance of the permit. Renewal of a special use permit may be granted after a review and determination by the city council that continuing private need and public benefit will be served by such renewal. Renewal applications shall be in accord with standards and requirements in effect at the time that the renewal is requested.

(5) *General stipulations.*

- (a) Application for special approval shall be made with the full consent of all persons having an ownership interest in the land on which the special approval use is requested. All persons having ownership interest in the property shall sign the application prior to its acceptance by the city.
- (b) Special approval is valid for a period of one year. Site plan approval and commencement of construction of approved improvements must occur within one year of the city council's special approval or the special approval shall be automatically null and void. The city council may grant an extension for good cause for a period not to exceed six months from the date of expiration of the original approval provided for extension is made during the period of effectiveness.
- (c) The record of the city council shall be the approved minutes for special approval use cases. Said record shall be made available to the applicant whether the special approval request is approved, approved with conditions, or denied and shall constitute notice of the city council's decision regarding the special approval request.
- (d) The city council shall give notice of the time and place of the required public hearing as required by state law.
- (e) All construction, improvement or use of a parcel or parcels of land shall be in complete accord with the special approval, any conditions imposed by the city council and the approved site plan.
- (f) A special use permit may be terminated by subsequent rezoning of the affected site as a part of an appropriate zoning district, subject to any vested nonconforming use rights. Such termination may be initiated only after determination by the city council that the development status of the site is in accordance with requirements of the zoning district in which it is to be placed. There shall be no waiver of standards or procedures, including publication, hearings, planning commission and city council action, in regard to the rezoning of a site which is occupied or used under a special use permit.
- (g) No reapplication, reconsideration and/or rehearing for a special use permit which has been denied by the city council shall be resubmitted until the expiration of one year from the date of such denial,

---

except on grounds of newly discovered evidence or proof of materially changed conditions, sufficient to justify reconsideration by the city council. Each reapplication will be treated as a new application.

- (h) The conditions imposed with respect to the approval of a special land use shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the approving authority and the landowner. The city clerk shall maintain a record of changes granted in conditions.

(Ord. No. 1004, § 1, 3-12-01)

Editor's note(s)—Section 1 of Ord. No. 1004, adopted March 12, 2001, amended § 10.201 which pertained to a special approvals board and derived from Ord. No. 540, § 1, Dec. 9, 1974.

## **Sec. 10.300. Zoning districts and map.**

### **Sec. 10.301. Districts.**

For the purpose of this Ordinance, the City of Madison Heights is hereby divided into the following districts:

- R-1 One-Family Residential District
- R-2 One-Family Residential District
- R-3 One-Family Residential District
- R-T Two-Family Residential District
- R-M Multiple-Family Residential District
- O-1 Office Building District
- B-1 Local Business District
- B-2 Planned Business District
- B-3 General Business District
- M-1 Light Industrial District
- M-2 Heavy Industrial District
- P-1 Vehicular Parking District
- P-2 Vehicular Parking District
- H-M Mobile Homes District
- H-R High Rise District
- R-C Condominium Residential District
- N-P Natural Preservation District

(Ord. No. 828, § 1, 7-11-88)

---

### **Sec. 10.302. Boundaries.**

The boundaries of these districts are hereby established as shown on the Zoning Map which accompanies this Zoning Ordinance and which map with all notations, references and other information shown thereon shall be as much a part of this Ordinance as if fully described herein.

- (1) Unless shown otherwise, the boundaries of the districts are lot lines, the center lines of streets, alleys, roads or such lines extended, and the limits of the City of Madison Heights.
- (2) Where, due to the scale, lack of detail, or illegibility of the Zoning Map accompanying this Ordinance, there is any uncertainty, contradiction, or conflict as to the intended location of any district boundaries shown thereon, interpretation concerning the exact location of district boundary lines shall be determined upon written application to, or upon its own motion, by the board of appeals, after recommendation by the plan commission.

Editor's note(s)—The zoning map mentioned in this section is not included in this appendix, but is available in the office of the city clerk.

### **Sec. 10.303. Zoning of vacated areas.**

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

### **Sec. 10.304. Zoning of annexed areas.**

Any area annexed to the City of Madison Heights shall immediately upon such annexation, be automatically classified as an R-1 District until a zoning map for said area has been adopted by the city council. The plan commission shall recommend appropriate zoning for such area within three months after the matter is referred to the plan commission by the city council.

### **Sec. 10.305. District requirements.**

All buildings and uses in any district shall be subject to the provisions of section 10.500, "General Provisions," and section 10.600. "General Exceptions."

## ***ARTICLE I. R-1, R-2 AND R-3 ONE-FAMILY RESIDENTIAL DISTRICTS***

PREAMBLE: These residential districts are designed to provide for one-family dwelling sites and residentially related uses in keeping with the Master Plan of residential development in the City of Madison Heights.

### **Sec. 10.306. Principal uses permitted.**

In a One-Family Residential District (R-1 through R-3) no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided for in this Ordinance.

- (1) One-family detached dwellings.
- (2) Publicly owned and operated parks, parkways and recreational facilities.
- (3) Accessory buildings and uses customarily incident to any of the above permitted uses.

- 
- (4) Family day care homes providing care for six or fewer unrelated children but only if said day care homes are licensed by the State of Michigan and are in compliance with all state regulations.
  - (5) Parking of commercial vehicle, trailer or truck over three-fourths-ton on private property within the R-1, R-2 and R-3 residential zoning districts, may be permitted subject to conditions listed below.
    - (a) The vehicle is used as the principal means of transportation for a resident in the conduct of his employment or profession or is the resident's sole means of motor vehicle transportation.
    - (b) The vehicle is not a dump truck, stake truck, flatbed truck or semi-tractor or cube van;
    - (c) Such parking location shall be within the property boundary and shall be surfaced in accordance with section 10.340 of the Zoning Ordinance.
    - (d) The parking of such vehicle shall not constitute a nuisance to the surrounding neighborhood. If deemed necessary, the building official shall have the right to impose improvements such as, but not limited to landscape buffer or a screen wall as it may deem advisable for the welfare of the surrounding area.
  - (6) A portable on-site storage unit may be placed on a residential property subject to the following conditions.
    - (a) Only one portable on-site storage unit shall be permitted per dwelling unit. This provision is not intended to override or displace subdivision rules, deed restrictions, or other private covenants that might prohibit or restrict the placement of such storage units.
    - (b) No unit shall be allowed to become unsightly or unkept.
    - (c) In single-family residential lots, such portable on-site storage unit shall be located in the side or rear yard at least five feet from any property line or in a driveway. Alternate locations may be permitted by the building official if there are practical difficulties.
    - (d) Such portable on-site storage unit for all other residential housing types shall be kept in an on-site vehicular use area so long as the storage unit does not obstruct a drive aisle or block a required parking space.
    - (e) Such unit shall be permitted for up to 30 days in a one 12-month period, unless otherwise noted below.
    - (f) A portable on-site storage unit may be permitted for up to six months for use on-site during substantial construction or renovation on the property as evidenced by active building permits and upon a finding by the building official that such outside storage is made necessary by the extent of the work being conducted and that no other area of the property that complies with the requirements of the Zoning Ordinance is reasonably available for use.

( Ord. No. 2168 , § 2, 9-13-21

### **Sec. 10.307. Uses permissible on special approval.**

Under such conditions as the city council, after hearing, finds the use as not being injurious to the R-1, R-2 or R-3 District and environs, and not contrary to the spirit and purpose of this Ordinance, and subject further to the conditions imposed herein, the following may be permitted:

- (1) Reserved.
- (2) Public utility buildings, telephone exchange buildings, electric transformer stations and substations, and gas regulator stations (without storage yards) when operation requirements necessitate the locating within the district in order to serve the immediate vicinity.



- 
- (3) Temporary buildings and uses for construction purposes for a period not to exceed one year.
  - (4) Private noncommercial recreational areas; institutional or community recreation centers; a nonprofit swimming pool, all subject to the following restrictions:
    - (a) Any use permitted herein shall not be permitted on a lot or group of lots of record, except in those instances wherein 100 percent of the owners of property immediately abutting and 65 percent of the owners of property within 300 feet of any property line of the site herein proposed for development shall sign a petition indicating concurrence with said site. The petition shall be submitted to the board of appeals for its review.
    - (b) The proposed site for any of the community-serving uses permitted herein (i.e., those which would attract persons from beyond the immediate neighborhood) shall have one property line abutting a major thoroughfare, and the site shall be so planned as to provide ingress and egress directly onto the said major thoroughfare.
    - (c) Front, side and rear yards shall be at least 80 feet wide, and shall be landscaped in trees, shrubs and grass. All such landscaping and planting shall be maintained in a healthy growing condition, neat and orderly in appearance.
    - (d) Buildings erected on the premises shall not exceed one story in height except where due to topography; a lower level shall be permitted when said lower level is entirely below the grade of the major thoroughfare abutting the parcel in question.
    - (e) Off-street parking shall be provided so as to accommodate at least one-half of the member families and/or individual members. Bylaws of the organization shall be provided in order to establish the membership involved for computing parking requirements.
    - (f) Whenever a pool is involved, said pool area shall be provided with a protective fence six feet in height and entry shall be provided by means of a controlled gate or turnstyle.
    - (g) Where storm sewers are nonexistent or capacity is not ample, adequate on site take-off facilities shall be provided and shall be reviewed and approved by the city engineer as being adequate.
  - (5) Churches and other facilities normally incidental thereto; provided that, the site shall be so located as to provide for ingress and egress from said site directly onto a thoroughfare having an existing or planned right-of-way of at least 86 feet in width (such thoroughfare being a major thoroughfare or designated as a secondary thoroughfare on the Major Thoroughfare Plan). Provided however, that the city council sitting as a special approvals board may waive the requirement that the site be located upon a thoroughfare having an existing or planned right-of-way of 86 feet.
  - (6) Public, parochial and private elementary, intermediate schools, and/or high schools offering courses in general education, not operated for profit.
  - (7) Municipal office buildings or libraries when in character with the neighborhood.
  - (8) The housing of aged persons 55 years of age and older will be permitted in single-family zoning districts provided that a maximum of two aged persons shall be allowed, a minimum of 70 square feet of bedroom space be provided for each aged resident, that the aged persons shall be considered to be a part of the family as defined in section 10.200, "Definitions," of the Zoning Ordinance, and that the dwelling unit wherein aged persons are housed under the provisions of this Ordinance may be located in any portion of any single-family district.
  - (9) Reserved.
- (Ord. No. 331, § 1, 5-12-69; Ord. No. 477, § 1, 5-8-72; Ord. No. 532, § 1, 10-28-74; Ord. No. 2168, § 3, 9-13-21)

---

**Sec. 10.308. Area and bulk requirements.**

See section 10.400, "Schedule of Regulations," limiting the height and bulk of buildings, and minimum size of lot by permitted land use.

***ARTICLE II. R-T TWO-FAMILY RESIDENTIAL DISTRICTS***

PREAMBLE: This residential district is designed to provide sites for two-family dwelling structures, and will generally serve as zones of transition between the higher density residential districts or nonresidential district and lower density single-family districts.

**Sec. 10.309. Principal uses permitted.**

In a Two-Family Residential District, no building or land shall be used and no building shall be erected except for one or more of the following uses unless otherwise provided in this Ordinance:

- (1) All principal and special approval uses permitted and as regulated in R-1, R-2 and R-3 One-Family Residential Districts.
- (2) Two-family dwellings.
- (3) Accessory buildings and uses customarily incident to any of the above permitted uses.

**Sec. 10.310. Area and bulk requirements.**

See section 10.400, "Schedule of Regulations," limiting the height and bulk of buildings, and the minimum size of lot by permitted land use.

***ARTICLE III. R-M MULTIPLE-FAMILY RESIDENTIAL DISTRICTS***

PREAMBLE: The R-M Multiple-Family Residential District is designed to provide sites for multiple-dwelling structures which will generally serve as zones of transition between the nonresidential districts and lower density single-family districts. The multiple dwelling is further provided to serve the limited needs for the apartment type of unit in an otherwise single-family residential community.

**Sec. 10.311. Principal uses permitted.**

- (1) One-family and two-family residential dwellings existing at the time of passage of this Ordinance. Two-family dwellings (R-T) shall be permitted.
- (2) Multiple dwellings.
  - (a) Row house.
  - (b) Terrace.
  - (c) Efficiency apartment.
  - (d) Apartment.
- (3) Rental/management offices as accessory to a multiple-dwelling unit project. A rental and/or management office shall include an office or area in a multiple-dwelling unit where rent is paid or received, rental contracts are signed or discussed and/or any business relating to the managing, handling, controlling or

---

directing of the dwelling unit or the renting thereof is conducted. For the purposes of calculating parking requirements, each rental management office is to be designated as a two-bedroom unit.

(4) Accessory buildings and uses customarily incident to any of the above-permitted uses.

(Ord. No. 456, § 1, 11-15-71; Ord. No. 606, § 1, 4-10-78; Ord. No. 829, § 1, 7-11-88)

### **Sec. 10.312. Use permissible on special approval.**

Under such conditions as the city council, after hearing, finds the use as not being injurious to the R-M District and environs and not contrary to the spirit and purposes of this Ordinance, subject further to the conditions imposed herein, the following may be permitted:

- (1) A dwelling constituting a home for children or others than those residing therein; for the aged, indigent or physically handicapped; a rest or convalescent home (feeble minded, insane or drug or liquor addicts excluded) when located on a lot containing not less than two acres with a minimum of 500 square feet for each occupant therein, and provided that no building is located nearer than 25 feet to any lot line.
- (2) General hospitals when the following conditions are met:
  - (a) A site plan layout showing the building location, drives, service areas, parking areas, landscape screening areas, walls and other physical features shall be submitted for review to the plan commission, whose recommendation shall be forwarded to the city council hearing on such request.
  - (b) All hospitals shall be developed on sites consisting of at least two acres in area for the first 30 beds or less, plus one-half acre for each additional ten beds thereafter.
  - (c) The proposed site shall have at least one property line abutting a major thoroughfare or expressway service drive and ingress and egress to the site shall be directly from said thoroughfare.
  - (d) Minimum front, side and rear yards of 50 feet shall be provided. Where buildings of over three stories are allowed, all yards shall have a minimum dimension of 1½ times the height of such building.
  - (e) Ambulance and delivery areas shall be obscured from all residential view with an obscuring wall or fence six feet in height.
- (3) Accessory buildings and uses customarily incident to any of the above-permitted uses.

(Ord. No. 829, § 1, 7-11-88)

### **Sec. 10.313. Area and bulk requirements.**

See section 10.400, "Schedule of Regulations," limiting the height and bulk of buildings, and the minimum size of lot by permitted land use.

## ***ARTICLE IV. O-1 OFFICE BUILDING DISTRICTS***

PREAMBLE: The O-1 Office Building Districts are designed to accommodate office uses, office sales and basic personal services.

---

**Sec. 10.314. Principal uses permitted.**

- (1) Office buildings for any of the following occupations: Executive; administrative; professional; accounting; writing; clerical; stenographic; drafting; and sales; subject to the limitations contained below in section 10.316, "Required Conditions."
  - (2) Medical office, including out patient clinics.
  - (3) Hospitals, subject to the yard and locational requirements of section 10.312, subsection (3).
  - (4) Banks, savings and loan associations and similar uses.
  - (5) Publicly owned buildings, exchanges and public utility offices, but not including storage yards, transformer stations, substations or gas regulator stations.
  - (6) Churches.
  - (7) Other uses similar to the above uses.
  - (8) Business or trade schools.
  - (9) Medical marihuana safety compliance facilities licensed and approved by the city.
  - (10) Adult-use marihuana safety compliance facilities licensed and approved by the city.
- (Ord. No. 1076, § 2, 10-12-10; Ord. No. 2130, § 1, 2-25-19; Ord. No. 2157, § 1, 7-13-20)

**Sec. 10.315. Uses permissible on special approval.**

Under such conditions as the city council, after hearing, finds the use as not being injurious to the O-1 District and environs and not contrary to the spirit and purpose of this Ordinance, the following uses may be permitted:

- (1) A pharmacy, stores limited to medical supplies, corrective garments or bandages, optical company, tailor, seamstress, beauty parlors and barber shops, or restaurant.
- (2) Funeral homes.
- (3) Transformer stations and substations, and gas regulator stations (without storage yards) when operation requirements necessitate the locating within the district in order to serve the immediate vicinity.
- (4) Accessory dwelling units in accordance with the provisions of section 10.318(9).
- (5) The construction of high-rise buildings may be permitted upon special approval subject to the following conditions:
  - a. If the parcel abuts any single-family residential district, up to three stories or 40 feet in height may be allowed. Where the parcel abuts any other use district, up to six stories and 75 feet in height may be allowed.
  - b. Uses shall be limited to permitted principal or special approval uses in the O-1 District.
  - c. Residential uses shall not be permitted on the first floor.
  - d. Parking shall be provided for all uses in accordance with the provisions of sections 10.505, 10.506 and 10.507.

( Ord. No. 2107 , § 1, 6-8-15; Ord. No. 2128, § 1, 1-14-19)

---

**Sec. 10.316. Required conditions.**

- (1) No interior display shall be visible from the exterior of the building, and the total area devoted to display, including both the objects displayed and the floor space set aside for persons observing the displayed objects, shall not exceed 25 percent of the usable floor area of either the first or second story, or in the basement.
- (2) The outdoor storage of goods or materials shall be prohibited.
- (3) Warehousing or indoor storage of goods or material, beyond that normally incident to the above permitted uses, shall be prohibited.

**Sec. 10.317. Area and bulk requirements.**

See section 10.400, "Schedule of Regulations," limiting height and bulk of buildings and minimum size of lot by permitted land use.

***ARTICLE V. B-1 LOCAL BUSINESS DISTRICTS***

PREAMBLE: The B-1 Business Districts are designed to meet the day-to-day convenience shopping and service needs of persons residing in adjacent residential areas.

**Sec. 10.318. Principal uses permitted.**

- (1) Any generally recognized retail business which supplies commodities on the premises, for persons residing in adjacent residential areas, such as: Groceries, meats, dairy products, baked goods or other foods, drugs, dry goods, notions and hardware.
- (2) Any personal service establishment which performs services on the premises for persons residing in adjacent residential areas, such as: Shoe repair, tailor shops, beauty parlors or barbershops.
- (3) Office uses included in section 10.314, subsections (1) and (4).
- (4) Professional offices of doctors, lawyers, dentists, chiropractors, osteopaths and similar or allied professions.
- (5) Restaurants, which may include take out, drive-through lanes and/or alcoholic beverages, subject to the standards listed below. Outdoor seating is permitted after site plan approval for restaurants that do not serve alcohol, subject to the requirements listed below. Special approval is required for outdoor seating at any restaurant that serves alcohol.
  - a. *Outdoor seating is subject to the following standards:*
    - i. The hours of operation cannot exceed the normal operating hours of the indoor establishment.
    - ii. Location. No outdoor seating shall occupy any required setback area. Outdoor seating areas shall be located in a manner to maintain a minimum pathway width of six feet (clear of structures such as light poles, trees, and hydrants) along the sidewalk so as not to interfere with pedestrian traffic. In the instances the minimum width for the pathway is not maintained, an alternate pathway should be provided to maintain pedestrian connectivity between other uses and public pathways.
    - iii. Properties that abut residential districts are subject to the following additional standards:
      - (a) Outdoor seating areas shall be setback a minimum of 40 feet from any property line that abuts residential district(s). If located on the side, the side(s) of the seating area that face

- 
- adjacent residential districts shall be screened by a minimum eight foot high solid obscuring wall.
- (b) Outdoor seating area(s) shall be at grade and on the side or front of any building which abuts any residential district. Rooftop seating is not permitted.
  - (c) External speakers or live entertainment may be permitted up to close of the business and shall not exceed 25 decibels at the property line abutting the residential district.
- iv. For properties that do not abut residential districts, the following amenities may be permitted:
    - (a) Rooftop seating may be permitted.
    - (b) External speakers or live entertainment may be permitted up to close of the business and shall not exceed 65 decibels between the hours of 7:00 a.m. and 11:00 p.m. or 50 decibels between the hours of 11:00 p.m. and 7:00 a.m. at the property line.
  - v. Parking. For plans showing more than 20 occupants within the outdoor seating area or when the minimum required parking for proposed outdoor seating exceeds 20 percent of total parking required, whichever is less, requirements for off-street parking for outdoor restaurants shall be computed according to the standards contained in section 10.505, parking requirements, as indicated for restaurant use.
  - vi. Enclosure and shade structures. Proposed enclosures or shade structures are subject to the following standards:
    - (a) Outdoor seating areas shall be required to be enclosed in instances where there is alcohol service or when located within 15 feet of parking or maneuvering lanes. Enclosures shall be a minimum of 36 inches tall and shall consist of metal railing, wood railing, brick walls, bollards, or other suitable materials, subject to the approval of the approving body.
    - (b) Temporary open shade structures such as an umbrella similar to what is used in a residential backyard may be permitted without a building permit.
    - (c) Other enclosed structures such as tents or similar, exceeding 120 square feet in size or larger or attached canopies, shall require a building permit.
  - vii. Maintenance. Chairs and tables shall be of quality durable material such as metal or wood. Waste receptacles shall be provided in instances where wait staff does not clear all tables. The outside dining area must be kept sanitary, neat, and clean at all times. It shall be free from the accumulation of food, litter, snow, ice, and other potentially dangerous or unsanitary matter.
  - viii. Application requirements.
    - (a) For outdoor seating areas proposing additional parking or major landscape/hardscape improvements, a site plan shall be submitted in accordance with section 10.514.
    - (b) For all other outdoor seating areas, the city planner may allow a conceptual plan for outdoor seating providing sufficient information to determine compliance with the requirements of this section.
    - (c) Special approval is required for outdoor seating at any restaurant that serves alcohol.
- b. *Drive-through lanes are subject to the following standards:*
    - i. Special approval is required for restaurants with drive-through lanes located within the boundaries of the Southend Downtown Development Authority (DDA), subject to the procedures of section 10.201.

- 
- ii. All vehicle stacking for a use shall occur on site. The site plan shall be designed to provide safe and efficient traffic circulation both within the site and in relation to access streets that assure the safety and convenience of pedestrian traffic, to the maximum extent possible.
  - iii. Drive-through facilities shall provide one bypass lane to allow unobstructed travel for vehicles to pass those waiting to be served. Such bypass lane shall be a minimum of 18 feet in width, unless otherwise determined by the fire marshal.
  - iv. Drive-through lanes shall have a minimum width of ten feet.
  - v. Drive-through lanes shall have a minimum centerline radius of 25 feet.
  - vi. Drive-through lanes shall be striped, marked, or otherwise distinctly delineated.
  - vii. Drive-through stacking spaces shall have a minimum length of 19 feet.
  - viii. The approving body shall make a finding that the proposed plan will not have an adverse impact on the site and on the adjacent lands and uses with respect to landscaping, screening, off-street parking, vehicular and pedestrian circulation, and the compatibility of its physical design with respect to adjacent buildings.
  - ix. A minimum of ten vehicle stacking spaces per drive-through lane are required. The site plan review committee or the approving body may require additional stacking spaces and/or the submittal of a stacking study for drive-through restaurants with limited or no on-site dining. The site plan review committee or the approving body may reduce the number of stacking spaces if the applicant illustrates parking can be accommodated onsite through a stacking study or other similar data to determine the minimum number of stacking spaces.
- (6) Other uses similar to the above uses.
- (7) All uses shall be subject to the following restrictions:
- (a) All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on premises where produced.
  - (b) All business, servicing, or processing, except for off-street parking or loading, shall be conducted within a completely enclosed building.
- (8) Accessory structures and uses customarily incident to the above permitted uses.
- (9) Accessory dwellings in accordance with the following criteria.
- a. Dwelling units shall have a minimum area of 800 square feet.
  - b. Dwelling units shall be permitted only where the existing or proposed commercial building and use is in conformance with the provisions of this Ordinance.
  - c. Dwelling units shall be located only on the second story or, where proposed on the first floor, in the rear of the building.
  - d. Parking shall provide for a minimum of one space per dwelling unit in addition to any parking requirements for the principal use(s).
  - e. Pedestrian entrance doors typically shall be located on the side or rear of the structure. When located on the front of the structure, each pedestrian access door shall serve not less than two units. Where permitted, exterior stairways shall be architecturally compatible with the principal structure. Architectural or design modifications may be required to insure compatibility of the proposed design with the building and adjacent properties. Building elevations of all sides shall be included with the application.

- 
- f. Where accessory dwelling units are proposed for the second floor of a structure, a maximum building height of 30 feet and a third story to permit two story dwelling units is permitted. The third story shall be part of the dwelling unit located directly underneath.

(Ord. No. 465, § 1, 12-27-71; Ord. No. 522, § 1, 5-28-74; Ord. No. 690, § 1, 5-13-85; Ord. No. 1076, § 3, 10-12-10; Ord. No. 1091, § 2, 1-28-13, eff. 2-7-13; Ord. No. 2128, § 2, 1-14-19; Ord. No. 2166, § 3, 6-14-21; Ord. No. 2170, § 1, 10-25-21; Ord. No. 2174, § 1, 11-22-21)

### **Sec. 10.319. Uses permissible on special approval.**

Under such conditions as the city council, after hearing, finds the use as not being injurious to the B-1 District and environs and not contrary to the spirit and purpose of this Ordinance, the following uses may be permitted:

- (1) Publicly owned buildings; public utility buildings; telephone exchange buildings; electric transformer stations and substations; gas regulator stations with service yards, but without storage yards; water and sewage pumping stations.
- (2) Gasoline service stations and/or motor vehicle light repair facilities and/or motor vehicle maintenance service facilities, subject to the following:
  - (a) One hundred forty feet of street frontage on the lot proposed for the gasoline filling station shall be provided on the principal street serving the station.
  - (b) The lot shall contain not less than 14,000 square feet of lot area.
  - (c) The lot must be located on the edge of the district (where the abutting zoning district on the frontage is nonresidential) so as not to disrupt pedestrian movement within the district.
  - (d) All buildings shall be set back not less than 40 feet from all street right-of-way lines.
  - (e) Gasoline pumps, air and water hose stands and other appurtenances shall be set back not less than 15 feet from all street right-of-way lines.
  - (f) Driveway widths entering the filling station shall have a maximum width of 35 feet. Curb openings for each driveway shall not exceed 50 feet in length.
  - (g) Curb cuts shall be no closer than ten feet to any adjoining property and shall be no closer than 35 feet to any corner of the intersecting street right-of-way lines. Any two driveways shall be separated by an island at least 20 feet long.
  - (h) The angle of intersection of any driveway shall not be less than 60 degrees unless acceleration or deceleration lanes are provided.
  - (i) Curbs in accord with standard city specifications shall be constructed on all streets adjacent to the gasoline filling station site.
  - (j) Sale of alcoholic beverages from a structure wherein gasoline service stations are operated is strictly prohibited except in such structures where there is a masonry firewall between the location selling alcoholic beverages and the gasoline service station and there is a distance of 500 feet between the entrance of each establishment.
  - (k) The owner and/or operator of a gasoline service station and/or motor vehicle maintenance service facility shall not permit disabled vehicles and/or vehicles that are being repaired or waiting to be repaired or serviced to be parked for longer than 72 hours on the premises. Further, such disabled vehicles or vehicles waiting for repair or service shall be parked within an enclosed building. All repair work of any nature shall be done within an enclosed building only.



- 
- (l) Motor vehicle light repair facilities established and/or uses expanded to include motor vehicle light repairs shall completely screen all motor vehicles waiting for repairs and/or maintenance from view from any direction by an eight-foot poured concrete screen wall. All parcels which do not contain corner lots must maintain the required front yard setback per ordinance. All parcels which contain a corner lot shall contain screened walls which comply with side yard setbacks as well as front yard setbacks. Screen gates must be installed to continue the enclosure of the screened area. Disabled vehicles and/or vehicles that are being repaired or waiting to be repaired or serviced shall not be parked for longer than 72 hours on the premises. Further, all vehicles waiting for repair shall be screened from view. All repair work of any nature shall be done in an enclosed building only.
  - (m) All owners and/or operators of gasoline service stations and/or light repair facilities and/or motor vehicle maintenance service facilities that are in existence on the effective date of this Ordinance, shall not permit disabled vehicles and/or vehicles that are being repaired or waiting to be repaired or serviced to be parked for longer than 72 hours on the premises. All repair work of any nature shall be done within an enclosed building only.
- (3) Rental of equipment and/or storage of equipment, trucks, camping trailers, and similar items at gasoline service stations subject to the following.
- (a) Such use shall only take place on a site which is paved and drained to the specifications of the city engineer in areas in excess of the amount required for building, required setback, parking, loading and unloading space.
  - (b) Such use area shall be screened from view from all adjacent residential districts by a six-foot masonry wall with appropriate openings and gates to control egress and ingress.
- (4) Establishments that primarily serve alcoholic beverages for consumption on the premises. Any facility that serves alcoholic beverages with outdoor seating, subject to the conditions listed in section 10.318(5) for outdoor restaurants in general.
- (5) Video arcade businesses and indoor and/or outdoor recreational businesses.
- (6) Restaurants with drive-through lanes located within the boundaries of the Southend Downtown Development Authority (DDA), subject to the use-specific standards of section 10.318(5)b.
- (7) The construction of high-rise buildings up to three stories and 40 feet in height is permitted upon special approval subject to the following conditions:
- a. Where additions to existing structures are proposed, existing setbacks may be used for second and third floor additions, provided there are no further expansion(s) of non-conformity.
  - b. Uses shall be limited to permitted principal or special approval uses in the B-1 District.
  - c. Residential uses shall not be permitted on the first floor.
  - d. Parking shall be provided for all uses in accordance with the provisions of sections 10.505, 10.506 and 10.507.

(Ord. No. 458, § 1, 11-15-71; Ord. No. 464, § 1, 11-15-71; Ord. No. 522, § 1, 5-28-74; Ord. No. 597, § 1, 4-10-78; Ord. No. 699, § 1, 1-10-83; Ord. No. 690, § 2, 5-13-85; Ord. No. 806, § 1, 6-8-87; Ord. No. 904, § 2, 6-14-93; Ord. No. 937, § 1, 6-10-96; Ord. No. 941, § 1, 12-30-96; Ord. No. 969, § 2, 4-27-98; Ord. No. 1017, § 1, 5-13-02; Ord. No. 1048, § 1, 6-11-07; Ord. No. 1064, § 1 10-12-09; Ord. No. 1076, § 4, 10-12-10; Ord. No. 1091, § 2, 1-28-13, eff. 2-7-13; Ord. No. 2128, §§ 3, 4, 1-14-19; Ord. No. 2166, § 4, 6-14-21; Ord. No. 2170, § 2, 10-25-21; Ord. No. 2174, § 2, 11-22-21)

---

**Sec. 10.320. Area and bulk requirements.**

See section 10.400, "Schedule of Regulations," limiting height and bulk of buildings and minimum size of lot by permitted land use.

***ARTICLE VI. B-2 PLANNED BUSINESS DISTRICTS***

PREAMBLE: The B-2 Planned Business Districts are designed to cater to the needs of a larger consumer population than is served by the Local Business District, and are generally characterized by an integrated cluster of establishments served by a common parking area and generating large volumes of vehicular and pedestrian traffic.

**Sec. 10.321. Principal uses permitted.**

- (1) Any retail business or service establishment permitted in B-1 Districts, except gasoline service stations and/or automobile repair facilities and/or automobile service centers, subject to the regulations applicable in the following sections 10.322 and 10.323.
- (2) All retail business, service establishments or processing uses as follows:
  - (a) Any retail business whose principal activity is the sale of merchandise in an enclosed building.
  - (b) Service establishments provided that the principal use of the space is an office, showroom or retail adjunct.
  - (c) Theaters, assembly halls, concert halls, or similar places of assembly when conducted completely within enclosed buildings.
- (3) Accessory structures, uses and signs customarily incident to the above permitted uses.
- (4) Open air business uses when developed in planned relationship with the B-2 District as follows:
  - (a) Retail sales of plant materials not grown on the site and sale of lawn furniture, playground equipment, and other home garden supplies. Said retail area may not occupy any required setback.
  - (b) Recreational space providing children's amusement park, shuffleboard, miniature golf and other similar recreation, when part of a planned development, and when located at the exterior end of the B-2 District but not at the intersection of two major thoroughfares. All such recreation space shall be adequately fenced on all sides with a four foot fence.
- (5) Bowling alley, when located at least 100 feet from any front, rear or side yard line of any residential lot in a residential district.
- (6) Restaurants, which may include take out, drive-through lanes and/or alcoholic beverages, subject to the standards listed below. Outdoor seating is permitted after site plan approval for restaurants that do not serve alcohol, subject to the requirements listed in section 10.318(5). Special approval is required for outdoor seating at any restaurant that serves alcohol.
  - a. Drive-through lanes are subject to the following standards:
    - i. Special approval is required for drive-through lanes located within the boundaries of the Southend Downtown Development Authority (DDA), subject to the procedures of section 10.201.
    - ii. Drive-through lanes are subject to the use specific standards listed in section 10.318(5)b.

---

(Ord. No. 301, § 1, 3-27-67; Ord. No. 522, § 2, 5-28-74; Ord. No. 690, § 3, 5-13-85; Ord. No. 904, § 3, 6-14-93; Ord. No. 1091, §§ 3—5, 1-28-13, eff. 2-7-13; Ord. No. 2128, § 5, 1-14-19; Ord. No. 2166, § 5, 6-14-21; Ord. No. 2170, § 3, 10-25-21; Ord. No. 2174, § 3, 11-22-21)

### **Sec. 10.322. Uses permissible on special approval.**

Under such conditions as the city council, after hearing, finds the use as not being injurious to the B-2 District and environs and not contrary to the spirit and purposes of the Ordinance, the following uses may be permitted.

- (1) Where the parcel abuts any non-residential district, the construction of high-rise buildings up to six stories and 75 feet in height may be permitted upon special approval subject to the following conditions:
  - a. Uses shall be limited to permitted principal or special approval uses in the B-2 District.
  - b. Residential uses shall not be permitted on the first floor.
  - c. Parking shall be provided for all uses in accordance with the provisions of sections 10.505, 10.506 and 10.507.
- (2) Establishments that primarily serve alcoholic beverages for consumption on the premises. Any facility that serves alcoholic beverages with outdoor seating, subject to the conditions listed in section 10.318(5) for outdoor restaurants in general.
- (3) Motor vehicle light repair facilities and/or motor vehicle maintenance service facilities; provided, that:
  - (a) The minimum building size is three bays.
  - (b) The service center building be set back a minimum of 75 feet from all exterior property lines.
  - (c) Ingress and egress to the service center building site shall be from the shopping center proper.
  - (d) No signs, parking areas, buildings, driveways, gasoline pumps or similar uses shall be permitted within the area of a 50-foot radius as drawn from the intersection of two right-of-way lines of adjoining streets.
  - (e) All requirements of the B-2 Planned Business District are complied with.
  - (f) The owner and/or operator of a motor vehicle light repair facility and/or motor vehicle maintenance service facility shall not permit disabled vehicles and/or vehicles that are being repaired or waiting to be repaired or serviced to be parked for longer than 72 hours on the premises. Further, all vehicles waiting for repair shall be parked within an enclosed area. All repair work of any nature shall be done within an enclosed building only.
  - (g) All owners and/or operators of light repair facilities and/or motor vehicle maintenance service facilities that are in existence on the effective date of this Ordinance, shall not permit disabled vehicles and/or vehicles that are being repaired or waiting to be repaired or serviced to be parked for longer than 72 hours on the premises. All repair work of any nature shall be done within an enclosed building only.
  - (h) Motor vehicle light repair facilities and/or motor vehicle maintenance service facilities subject to the requirements of subsection 10.319(2).
- (4) Video arcade businesses and indoor and/or outdoor recreational businesses.
- (5) Massage parlors that meet the business licensing requirements of the Code of Ordinances and the requirements of Section 10.502[A] of this Ordinance.

- 
- (6) Restaurants with drive-through lanes located within the boundaries of the Southend Downtown Development Authority (DDA), subject to the use-specific standards of section 10.318(5)b.

(Ord. No. 478, § 1, 6-5-72; Ord. No. 522, § 2, 5-28-74; Ord. No. 597, § 1, 4-10-78; Ord. No. 690, § 4, 5-13-85; Ord. No. 904, § 4, 6-14-93; Ord. No. 937, § 2, 6-10-96; Ord. No. 941, § 2, 12-30-96; Ord. No. 969, § 3, 4-27-98; Ord. No. 1064, § 2, 10-12-09; Ord. No. 1076, § 5, 10-12-10; Ord. No. 2128, §§ 6, 7, 1-14-19; Ord. No. 2166, § 6, 6-14-21; Ord. No. 2170, § 4, 10-25-21; Ord. No. 2174, § 4, 11-22-21)

### **Sec. 10.323. Required conditions.**

All uses shall be subject to the following:

- (1) All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced.
- (2) All business, servicing or processing uses (except for off-street parking, loading, unloading, and those open-air uses indicated as being permissible) shall be conducted within completely enclosed buildings.

### **Sec. 10.324. Area and bulk requirements.**

See section 10.400, "Schedule of Regulations," limiting height and bulk of buildings and minimum size of lot by permitted land use.

## ***ARTICLE VII. B-3 GENERAL BUSINESS DISTRICTS***

PREAMBLE: The B-3 General Business Districts are designed to provide sites for more diversified business types and are often located so as to serve the passer-by traffic.

### **Sec. 10.325. Principle uses permitted in B-3 general business districts.**

- (1) Any retail business or service establishment permitted and as regulated in O-1 and B-2 Districts as Principal Uses Permitted and Uses Permissible on Special Approval except establishments that primarily serve alcoholic beverages for consumption on the premises, and/or have outdoor seating, and/or provide entertainment; gasoline service stations; automobile repair facilities; and automobile service centers.
- (2) Funeral homes.
- (3) Private clubs or lodges.
- (4) New car auto office, sales or showroom and accessory parking areas, exclusive of undercoating, bumping and paint shops, subject to standards listed under section 10.326(1) below.
- (5) Governmental office or other governmental use; public utility offices, exchanges, transformer stations and service yards but not including outdoor storage.
- (6) Business schools or private schools.
- (7) Restaurants, which may include take out, drive-through lanes and/or alcoholic beverages, subject to the standards listed below. Outdoor seating is permitted after site plan approval for restaurants that do not serve alcohol, subject to the requirements listed in section 10.318(5). Special approval is required for outdoor seating at any restaurant that serves alcohol.
  - a. Drive-through lanes are subject to the following standards:

- 
- i. Special approval is required for drive-through lanes located within the boundaries of the Southend Downtown Development Authority (DDA), subject to the procedures of section 10.201.
    - ii. Drive-through lanes are subject to the use-specific standards listed in section 10.318(5)b.
  - (8) Other uses similar to the above uses.
  - (9) Accessory structures and uses customarily incidental to the above permitted uses. Accessory dwelling units are permitted in accordance with the provisions of section 10.318(9).
  - (10) Mixed use developments including multiple family dwellings may be permitted provided the following conditions are met:
    - a. Residential uses may be permitted on the first floor if the residential entrance is in the rear of the building and the non-residential use, permitted in the district, comprises at least 25 percent of the ground floor, with an entrance on the front façade.
    - b. Retail uses on the first floor shall only include uses that are compatible with residential development, such as restaurants with no drive-thru, retail and service uses that are compatible with residential uses and instructional centers to serve the residents.
    - c. A maximum of one drive-thru use, which is an accessory to a full-service indoor use on-site may be permitted in a residential mixed-use development with a special approval based on conditions listed in section 10.318.3.
    - d. Multiple-housing dwelling units shall meet the minimum floor areas per unit as noted in section 401.c.
    - e. The maximum horizontal length of one building or group of buildings attached together shall not exceed 180 feet. This standard may be modified in the opinion of the approving body that the variation in the building's mass or façade elevation is compatible with surrounding development and pedestrian entranceways, plazas or other architectural features at entranceways and focal points of the development (e.g., arch, gateway, bell tower, fountain). are provided to break the long façade.
    - f. The minimum distance between buildings shall be ten feet. Additional separation may be required by the building official.
    - g. There shall be provided a separate, private pedestrian entranceway for the residential use.
    - h. Parking shall be subject to the following standards:
      - (i) Minimum parking requirements shall comply with the standards listed in section 10.505, parking requirements. The approving body may reduce the number of required parking spaces for nonresidential uses by up to 25 percent, subject to documentation that such a reduction will not negatively impact adjacent properties or be contrary to the spirit of this Ordinance.
      - (ii) Surface parking lots shall be screened from all public rights-of-way and internal roads by either (1) a two and one-half foot ornamental brick-on-brick wall, or (2) semi-transparent screening such as brick pilaster with metal decorative fence in order to maintain attractive streetscapes.
      - (iii) Minimum required screening and landscaping requirements shall be met as listed in section 10.510 of this Ordinance.
    - i. In addition to section 10.401(u), building elevations are subject to the following standards:
      - (i) Architectural design and facade material are to be complementary to existing or proposed buildings within the site and the surrounding area.
      - (ii) Elevations shall enhance the pedestrian experience along public road frontages by providing quality durable materials as well as ample windows that encourage views into a ground floor space.

- 
- (iii) The second floor shall be separated from the ground floor by a visible break that may include a change of color, material, or window pattern.

(Ord. No. 470, § 1, 1-31-72; Ord. No. 522, § 3, 5-28-74; Ord. No. 690, § 5, 5-13-85; Ord. No. 904, § 5, 6-14-93; Ord. No. 1076, § 6, 10-12-10; Ord. No. 1091, § 6, 1-28-13, eff. 2-7-13; Ord. No. 2128, § 8, 1-14-19; Ord. No. 2166, §§ 7, 8, 6-14-21; Ord. No. 2168, § 5, 9-13-21; Ord. No. 2170, § 5, 10-25-21; Ord. No. 2174, § 5, 11-22-21)

### **Sec. 10.326. Uses permissible on special approval.**

Under such condition as the city council, after hearing, finds the use as not being injurious to the B-3 District and environs, and not contrary to the spirit and purpose of this Ordinance, the following uses may be permitted:

- (1) Outdoor sales space for exclusive sale of secondhand automobiles, subject to the following:
  - (a) The lot or area shall be paved having an asphaltic or Portland cement binder as approved by the city engineer and shall be graded and drained as to dispose of all surface water accumulated within the area in accord with the provisions of section 10.340.
  - (b) Ingress and egress to the outdoor sales area shall be at least 60 feet from the intersection of any two streets.
  - (c) A two and one-half foot brick masonry wall may be permitted along public street frontages. In lieu of a brick masonry wall, a ten foot wide greenbelt planting strip may be proposed between the street right-of-way line and any area used for customer parking or vehicle display. Such planting strip shall include a mix of low shrubbery and other materials to effectively screen the parking area from public view.
  - (d) No major repair or major refinishing shall be done on the lot.
  - (e) Except when land is used as storage for uses such as vehicle storage facilities, or connection with the business of a repair or service garage, no outdoor space shall be used to store inoperable/untowable or junk vehicles.
  - (f) Adequate fire protection and access for fire vehicles shall be provided at all times.
  - (g) Outdoor space for such vehicles/equipment is only permitted when the sale and/or rental of such vehicles/equipment occurs on site. The area shall be located on the same lot as the principal building.
  - (h) Required outdoor space for sale of new or used automobiles, or similar services may be permitted on a lot within 300 feet thereof, measured between the nearest property lines. Such spaces on other property shall not replace minimum required parking and shall comply with all applicable screening requirements. Easements shall be required for all required storage located on separate parcels.
  - (i) All vehicles stored outside of a building shall be kept in a state of proper repair, have legal license plates, and be secured to prevent unauthorized entry. In addition, no unit shall be allowed to become unsightly or unkept.
- (2) Motel, subject to the following:
  - (a) Provided that it can be demonstrated that ingress and egress do not conflict with adjacent business uses or adversely affect traffic flow on a major thoroughfare.
  - (b) Reserved.
  - (c) Each unit shall contain not less than 250 square feet of floor area.

- 
- (3) Business in the character of a drive-in, or so called open front store, subject to the following:
- (a) A setback of at least 60 feet from the right-of-way line of any existing or proposed street in the major thoroughfare plan must be maintained.
  - (b) Ingress and egress points shall be located at least 60 feet from the intersection of any two-street right-of-way line.
  - (c) All drive-thru lanes are subject to the standards listed in section 10.318(5).
- (4) Commercially used outdoor recreational space for children's amusement parks, carnivals, miniature golf courses, subject to the following:
- (a) Children's amusement parks must be fenced on all sides with a four foot wall or fence.
  - (b) Carnivals may be allowed for periods not to exceed two weeks, subject to renewal by the board of appeals.
  - (c) Adequate parking shall be provided off the road right-of-way without exception and shall comply with the requirements of section 10.339, 10.340 and 10.341, except where such use is temporary only.
- (5) Trampoline facilities and similar devices may be located in the B-3 District subject to the following requirements:
- (a) Fencing shall be provided on all sides of the area used for trampoline activity. Said fence shall be no less than six feet high and shall be constructed to discourage climbing on such fences during hours when the trampoline facility is not open for business.
  - (b) Trampolines shall be located on the lot to provide the following minimum distance measured from the outside of frames:
    - 1. At least six feet at ends to nearest obstacle.
    - 2. At least four feet on exposed sides to nearest obstacle.
    - 3. At least four feet between rows of trampolines.
    - 4. In any row, at least three feet between frames or three feet of approved padding between trampoline beds.
  - (c) Pits shall not exceed four feet in depth, without special permission, and shall be adequately drained. The construction of the pits, the framing and the padding shall be according to manufacturer's plans and specifications.
  - (d) The ground area surrounding the trampoline shall have a level surface of sod, or of pea gravel or equivalent type of material to prevent dust nuisance.
  - (e) All trampolines shall be equipped with protective padding.
  - (f) Automobile entrance and exit points shall not be provided from residential streets and such entrance and exit points shall not conflict with adjacent business uses.
  - (g) Off-street parking shall be provided at a ratio of one and one-half spaces per trampoline to service those using trampolines and for spectators at the trampoline facility.
  - (h) No loudspeaker or public address system shall be used.
  - (i) In the event the trampoline facility is discontinued, all excavations shall be filled to the grade of the property prior to its use as a trampoline facility.
- (6) Veterinary offices and/or veterinary clinic, subject to the following conditions:

- 
- (a) That any building designed or constructed for use as a veterinary office or veterinary clinic shall only be permitted on special approval by the council only in O-1, B-3 and M-1 zoned districts and shall be for the sole purpose of providing necessary medical care and treatment for sick or diseased household pets during regular professional office hours, and that confinement of such animals on the premises shall be limited to occasional overnight treatment and shall not include extended hospital care or keeping of such animals.
  - (b) That facilities for boarding animals and/or commercial kennels shall be strictly prohibited.
  - (c) That veterinary offices and clinics shall be contained in completely enclosed buildings which shall be completely soundproofed, air conditioned and so constructed as to prevent the emission of all noise and odor.
  - (d) That outdoor runs or exercise pens shall be strictly prohibited.
  - (e) That such buildings shall be located no closer than 40 feet to any residential property.
  - (f) That in no case shall there be, in connection therewith, the disposal of rubbish or litter in such manner as to be noxious or offensive; harboring of vermin or decaying matter on the premises.
- (7) Gasoline service stations, subject to the requirements of section 10.319, subsection (2), exclusive of item (c).
- (8) Auto washes:
- (a) When completely enclosed in a building.
  - (b) An attendant must be on duty and on the premises at all times that such auto wash is in operation. All other times, the building must be locked and safely secured.
  - (c) The time of operation shall be limited between the hours of 8:00 a.m. and 10:00 p.m.
  - (d) All buildings to be used in connection with the auto wash shall be located at least 20 feet away from any right-of-way line.
  - (e) Where multiple wash stalls are proposed all auto stacking lanes must be channeled with curbs to each wash stall so as to prevent cross traffic and the minimum stacking space shall be six cars per stall. The minimum amount of stacking space to be provided in all car wash developments shall be equivalent to 20 minutes of full and continuous operation.
  - (f) Buildings must be constructed so as to be enclosed on two sides plus doors on the front and rear of each stall, capable of being locked.
  - (g) All lights used in connection with auto washes shall be shaded so as not to project upon or become a nuisance to adjacent properties.
  - (h) All land used in connection with auto washes is to be paved and drainage provided in accordance with existing ordinances pertaining to parking lots.
  - (i) A chainlink-type fence must be constructed so as to enclose the entire property except drives and areas where screen walls are required, two feet along any street, four feet side and back.
  - (j) Access points are limited to not more than two 20-foot drives. Such drives are to be a minimum of 50 feet apart and ten feet from the exterior lot lines and 35 feet from any intersection right-of-way lines and shall not be constructed so that ingress and egress shall be through residentially zoned areas. Such access points must have the approval of the Madison Heights Police Department to effect that they will not interfere with vehicular traffic nor will they create a safety hazard.



- 
- (k) No steam hose for public use shall be located upon the premises in connection with such auto wash.
  - (l) All blowers shall be turned off when not in use in connection with the operation of the car wash.
  - (m) It shall be unlawful for any person, firm or corporation or any agent, servant or employee thereof, who while operating an auto wash, to permit or cause to be permitted upon the premises in which the said business is located, a nuisance, by allowing the health, safety or welfare of the community to be impaired.
  - (n) It shall be the duty of the licensee, manager, or person in charge of any auto wash, to keep the premises whereon said auto wash is located, together with the parking area and any adjacent area, free from rubbish, waste products and debris.
  - (o) It shall be unlawful for any patron of an auto wash or for any other person while parking on or adjacent to the premises to race the motor of any vehicle, to suddenly start or stop any unseemly noise, nuisance or disturbance which shall impair the peace, health or safety of the community.
  - (p) Construction of auto wash buildings shall not be permitted if said construction shall require standing or parking on public rights-of-way in connection with the operation of the auto wash.
  - (q) All operations must be carried on within the building area, including but not limited to vacuuming, washing and drying.
- (8a) Coin-operated auto washes:
- (a) A "coin-operated auto wash" shall mean any place open to the public where coin-operated machinery or devices are available for use by the patrons of such business for self-service washing of motor vehicles.
  - (b) The requirements set out in subsection 10.326(8) shall also apply to coin-operated auto washes except for the following paragraphs: (a), (b), (e), (f), (k), (l), (m), and (q).
  - (c) The requirements set out in subsection 10.326(8)(d) shall provide that all buildings to be used in connection with coin-operated auto washes shall be located at least 30 feet away from any right-of-way line.
  - (d) A coin-operated auto wash shall provide its customers a means of drying their motor vehicles.
  - (e) It shall be unlawful for any person, firm, or any agent, servant or employee thereof, who owns, leases, or operates a coin-operated auto wash to permit or cause to be permitted upon the premises in which the business is located a nuisance by allowing the health, safety or welfare of the community to be impaired.
  - (f) A sign must be installed in a conspicuous place which advises patrons of the name, address and telephone number of the owner, lease-holder, manager or other person responsible for the operation of said coin-operated auto wash, where prompt assistance can be obtained, or where prompt repayment may be secured in the event that the required coin or coins have been inserted in the machine or device and the machine or device has failed to become operative.
  - (g) A public telephone shall be installed upon the premises in a conspicuous place and available at all time for use by the public.
- (9) The construction of high-rise buildings may be permitted upon special approval subject to the following conditions:
- (a) Where the parcel abuts any non-residential district, up to six stories and 75 feet in height may be allowed.

- 
- (b) Uses shall be limited to permitted principal or special approval uses in the B-3 District.
  - (c) Residential uses shall not be permitted on the first floor.
  - (d) Parking shall be provided for all uses in accordance with the provisions of sections 10.505, 10.506 and 10.507.
  - (e) In addition to the special approval review standards, the city council shall make a finding that:
    - i. The additional height will complement and be compatible with existing and proposed buildings and land uses, with respect to the size, height, area, and configuration of adjacent or surrounding parcels and structures and any other relevant characteristics and interest.
    - ii. The architectural design of the buildings minimizes the mass and height of the building.
  - (10) Establishments that primarily serve alcoholic beverages for consumption on the premises. Any facility that serves alcoholic beverages with outdoor seating, subject to the conditions listed in section 10.318(5) for outdoor restaurants in general.
  - (11) Motor vehicle light repair facilities and/or motor vehicle maintenance service facilities subject to the requirements of subsection 10.319(2).
  - (12) Video arcade businesses and indoor and/or outdoor recreational businesses.
  - (13) Massage parlors that meet the business licensing requirements of the Code of Ordinances and the requirements of section 10.502[A] of this Ordinance.
  - (14) Restaurants with drive-through lanes located within the boundaries of the Southend Downtown Development Authority (DDA), subject to the use-specific standards of section 10.318(5)b.

(Ord. No. 280, § 1, 6-27-66; Ord. No. 458, § 1, 11-15-71; Ord. No. 479, § 1, 6-5-72; Ord. No. 522, § 3, 5-28-74; Ord. No. 597, § 1, 4-10-78; Ord. No. 690, § 6, 5-13-85; Ord. No. 810, § 1, 9-28-87; Ord. No. 904, § 6, 6-14-93; Ord. No. 937, § 3, 6-10-96; Ord. No. 941, § 3, 12-30-96; Ord. No. 969, § 4, 4-27-98; Ord. No. 1017, § 2, 5-13-02; Ord. No. 1064, § 3, 10-12-09; Ord. No. 1076, § 7, 10-12-10; Ord. No. 1091, § 7, 1-28-13, eff. 2-7-13; Ord. No. 2128, §§ 9, 10, 1-14-19; Ord. No. 2166, §§ 8, 9, 6-14-21; Ord. No. 2168, § 5, 9-13-21; Ord. No. 2170, § 6, 10-25-21; Ord. No. 2174, § 6, 11-22-21)

### **Sec. 10.327. Area and bulk requirements.**

See section 10.400, "Schedule of Regulations," limiting the height and bulk of buildings and minimum size of lot by permitted land use.

## ***ARTICLE VIII. M-1 LIGHT INDUSTRIAL DISTRICT***

PREAMBLE: The M-1 Light Industrial District is designed so as to primarily accommodate wholesale activities, warehouses, and industrial operations whose external, physical effects are restricted to the area of the district and in no manner affects in a detrimental way any of the surrounding districts.

### **Sec. 10.328. Principal uses permitted.**

- (1) Professional office buildings, offices and office sales and service activities
- (2) Medical offices, including laboratories and clinics
- (3) Veterinary clinics. Any outdoor areas for pet rehabilitation shall be subject to the standards listed in section 10.328(24) of this section.

- 
- (4) Shared offices or incubator workspaces.
  - (5) Administrative offices for contractors, maintenance, and service professionals, without outside storage.
  - (6) Any of the following uses when conducted wholly within a completely enclosed building.
    - a. Warehousing and wholesale establishments, and trucking facilities.
    - b. The manufacture, compounding, processing, packaging or treatment of such products as: Bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products, hardware and cutlery; tool, die, gauge and machine shops.
    - c. The manufacture, compounding, assembling or treatment of articles or merchandise from the following previously prepared materials: Bone, canvas, cellophane, cloth, cork, feathers, felt, fibre, fur, glass, hair, horn, leather, paper, plastics, precious or semiprecious metal or stones, sheet metal (excluding large stampings such as automobile fenders or bodies), shell, textiles, tobacco, wax, wire, wood (excluding saw and planing mills), and yarns.
    - d. The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.
    - e. Manufacture of musical instruments, toys, novelties and metal or rubber stamps, or other small molded rubber products.
    - f. Manufacture or assembly of electrical appliances, electronic instruments and devices, radios and phonographs.
    - g. Laboratories—Experimental, film or testing.
    - h. Manufacture and repair of electronic or neon signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves and the like.
    - i. Warehouse, storage and transfer and electric and gas service buildings and yards, excluding gas treatment and gas pumping stations. Water supply and sewage disposal plants, water and gas tanks and holders.
    - j. Retail sales of items that are sold at wholesale on the premises. Such retail sales shall be strictly incidental to the wholesale sales and the area devoted to such sales shall not exceed 15 percent of the gross floor area. The retail sales area shall meet the parking requirements in section 10.505(11)(v).
  - (7) Accessory buildings, uses and storage uses customarily incident to the above permitted uses, subject to requirements of section 10.504, accessory buildings, structures, and uses.
  - (8) Medical marijuana facilities licensed and approved by the city.
  - (9) Adult-use marijuana establishments licensed and approved by the city
  - (10) Business or trade schools.
  - (11) Bus passenger stations.
  - (12) Restaurants, which may include take out, drive-through lanes and/or alcoholic beverages, subject to the following conditions:
    - a. Such uses shall be on parcels with frontage on arterial or collector streets as defined in Madison Heights Master Plan. The frontage requirement may be satisfied by frontage on a side street where the use has some frontage on an arterial or collector streets. Frontage on local roads may be permitted by the planning commission provided the applicant demonstrates compatibility with surrounding uses and connectivity to similar uses.
    - b. Drive-through lanes are subject to the following standards:

- 
- i. Special approval is required for drive-through lanes located within the boundaries of the Southend Downtown Development Authority (DDA), subject to the procedures of section 10.201.
  - ii. Drive-through lanes are subject to the use-specific standards listed in section 10.318(5)b.
  - c. Outdoor seating is permitted after site plan approval for restaurants that do not serve alcohol, subject to the requirements listed in section 10.318(5). Special approval is required for outdoor seating at any restaurant that serves alcohol.
- (13) Microbreweries and distilleries subject to the following conditions:
- a. No storage in any detached, separate container (e.g. a silo) for hops, barley, wheat or other grain used in the brewing process shall be permitted. No open storage of bottles, pallets or other containers shall be permitted. No storage in tractor trailers shall be permitted longer than 24 hours and only if such is conducted when attached to a motorized cab. All such storage shall be totally within walls of establishment.
  - b. No outside tent shall be permitted on any off-street parking lot or off-street loading/unloading area except as may be permitted as a temporary tent sale.
  - c. Addition of an accessory brewpub, taproom or a restaurant that will serve alcohol on the premises shall be subject to a special approval as listed in section 10.329(8) of this section.
- (14) Loft dwelling units are permitted on all M-1 zoned property that is located entirely within the boundaries of the Southend Downtown Development Authority (DDA) in accordance with the following standards:
- a. Loft dwelling units shall have a minimum area of 750 square feet.
  - b. Loft dwelling units shall be permitted only where the building and use is in conformance with the provisions of this ordinance. Where an existing building is nonconforming as to setback(s), loft dwelling units shall be permitted to continue said nonconforming setback(s) vertically for second and third floor additions, provided there are no horizontal or cantilevered extensions of the structure that would increase setback nonconformity.
  - c. Loft dwelling units may be located on the first or second floor. Where loft dwelling units are proposed for the second floor, a third story is allowed to permit two story dwelling units, where the third story shall be part of the dwelling unit located directly underneath.
  - d. Parking shall provide for a minimum of one space per dwelling unit in addition to any parking requirements for the principal use(s).
  - e. Pedestrian entrance doors to loft dwelling units may be located on the front, side or rear of the structure. When located on the front of the structure, each pedestrian access door shall serve not less than two units. Where permitted, exterior stairways shall be architecturally compatible with the principal structure. Architectural or design modifications may be required to insure compatibility of the proposed design with the building and adjacent properties. Building elevations of all sides shall be included with the site plan application.
  - f. An exterior patio or balcony is permitted but shall be located on the street side of the structure. No portion of any structure may extend over any public right-of-way, public alley or public sidewalk.
- (15) Mixed use developments are permitted on all M-1 zoned property that is located entirely within the boundaries of the Southend Downtown Development Authority (DDA) in accordance with standards listed in section 10.325(10) mixed use developments in B-3. In addition, it is subject to the following setbacks:
- i. The maximum front yard setback for new structures shall be five feet.
  - ii. A minimum of ten feet setback shall be maintained for all other yards, unless when it abuts a single-family residential district, a minimum of 20 feet should be provided.

- 
- iii. For all buildings within 50 feet from the single-family district, the building façade facing a single-family residential district shall be designed to minimize views from the building into adjacent single-family homes
  - iv. All required parking drives and service areas shall be located between the building and adjacent single-family districts. Where additions to existing structures are proposed, existing setbacks may be used for second and third floor additions, provided there are no further expansion(s) of non-conformity.
- (16) Public or private health and fitness facilities and clubs. All fitness activities shall be contained within a completely enclosed building.
- (17) Indoor recreational facilities including training facilities
- (18) Financial institutions, and union halls.
- (19) Artisan manufacturing studios.
- i. Artisan manufacturing, limited means the shared or individual use of hand-tools, mechanical tools and electronic tools for the manufacture of finished products or parts including design, processing, fabrication, assembly, treatment, and packaging of products; as well as the incidental storage and distribution of such products.
  - ii. Limited retail sales may be permitted, as an incidental use. The area devoted to such sales shall not exceed 15 percent of the gross floor area. The retail sales area shall meet the parking requirements in section 10.505(11)(v).
  - iii. Typical artisan manufacturing uses include but are not limited to: electronic goods; food and bakery products; non-alcoholic beverages; printmaking; household appliances; glass blowing, leather products; jewelry and clothing/apparel; metal work; furniture; glass or ceramic production; paper manufacturing.

Following uses are permitted when they do not abut residential districts. A special approval is required when abutting residential districts. Accessory buildings, uses and storage uses customarily incident to the below listed uses, subject to requirements of section 10.504, accessory buildings, structures, and uses.

- (20) Private outdoor recreation facilities.
- (21) Offices for contractors, maintenance, and service professionals.
- (22) Industrial tool and equipment sales, service, storage and distribution.
- (23) Sale of used or new automobile, trailers, RV and boats.
- (24) Commercial kennels and pet boarding facilities subject to the following conditions:
- a. Any outdoor facilities shall not be closer than 500 feet from the boundary of the adjacent residential zoning.
  - b. Any outdoor facilities shall be located in the interior side yard or rear yard.
  - c. A six foot tall, solid, obscuring fence or wall shall completely enclose all outdoor facilities. The outdoor facilities shall not encroach into any required building setback.
  - d. All animal waste shall be removed from the outdoor area daily and disposed of in a sanitary manner.
  - e. Pets shall not be permitted to remain outdoors overnight.
  - f. Animal wastes, biohazard materials or byproducts shall be disposed of as recommended by the Michigan Department of Public Health, and/or other duly appointed authority at the discretion of the city. All other wastes shall be contained in leak-proof and odor proof containers. No animal wastes,

---

biohazard materials or byproducts shall be buried, composted, or incinerated on-site, or allowed to enter into groundwater.

(25) Self-storage facilities, subject to the following conditions.

- a. All yard setbacks established in the M-1 district for buildings shall be complied with, except that setbacks between mini-warehouses on the same site may be 25 feet apart, side to side or front to rear.
- b. Maximum lot coverage may not exceed 40 percent.
- c. Maximum length of any mini-warehouse shall be 250 feet.
- d. No building or structure other than the manager's quarters shall exceed 15 feet in height, when abutting residential districts.
- e. A security manager shall be permitted to reside on the premises to the extent required by such use and such residence shall be considered an accessory use as provided at section 2.2.
- f. All access aisles, parking areas and walkways on the site shall be graded, drained, hard-surfaced and maintained in accordance with the city standards.
- g. Limited retail sales to tenants of products and supplies incidental to the principal use, such as packing materials, packing labels, tape, rope, protective covers, and locks and chains shall be permitted on the site devoted to this use.

(Ord. No. 471, § 1, 1-31-72; Ord. No. 690, § 7, 5-13-85; Ord. No. 1076, §§ 8, 9, 10-12-10; Ord. No. 2128, §§ 11, 12, 1-14-19; Ord. No. 2130, § 1, 2-25-19; Ord. No. 2157, § 1, 7-13-20; Ord. No. 2169, § 1, 9-13-21; Ord. No. 2174, § 7, 11-22-21)

### **Sec. 10.329. Uses permissible on special approval.**

Under such conditions as the city council, after hearing finds the use as not being injurious to the M-1 Light Industrial District and environs and not contrary to the spirit and purpose of this Ordinance, the following uses may be permitted:

- (1) Automobile or other machinery assembly plants subject to adequate control of noise and/or other nuisances.
- (2) Painting, varnishing and undercoating shops when set back at least 75 feet from any adjacent residential districts and provided further that such operation be conducted within a completely enclosed building.
- (3) Metal plating, buffing and polishing, subject to appropriate measures to control the type of process to prevent noxious results and/or nuisances.
- (4) Other uses of a similar and no more objectionable character, and which will not be injurious or have an adverse effect on adjacent areas, and may therefore be permitted subject to such conditions, restrictions and safeguards as may be deemed necessary in the interest of public health, safety and welfare.
- (5) Retail or service uses which are harmonious with and have an industrial character in terms of either their outdoor storage requirements or activities (such as, but not limited to, building material outlets, lumber yards, new automobile or boat sales and service) or serve the convenience needs of the industrial district. Open storage of all building materials shall be subject to standards in section 10.509, performance standards. Open storage of all uses included in the definition of "junkyards," used machinery, and the residue or waste products from any manufacturing process shall be expressly prohibited. Approval of any retail or service use under the provisions of this section shall be contingent

---

on a finding that the proposed use is in character with the development of the specific district within which such use is proposed to be located.

- (6) Motor vehicle heavy and light repair facilities and/or motor vehicle maintenance service facilities subject to the applicable requirements of subsection 10.319(2).
- (7) The construction of high-rise buildings up to six stories and 75 feet in height is permitted upon special approval subject to the following conditions:
  - a. The parcel shall not abut any residential district.
  - b. Uses shall be limited to permitted principal or special approval uses in the M-1 District.
  - c. Parking shall be provided for all uses in accordance with the provisions of sections 10.505, 10.506 and 10.507.
- (8) Establishments that primarily serve alcoholic beverages for consumption on the premises. Any facility that serves alcohol beverages with outdoor seating subject to the conditions listed in section 10.318(5) for outdoor restaurants in general.
- (9) Restaurants with drive-through lanes located within the boundaries of the Southend Downtown Development Authority (DDA), subject to the use-specific standards of section 10.318(5)b.

(Ord. No. 690, § 8, 5-13-85; Ord. No. 969, § 5, 4-27-98; Ord. No. 2128, §§ 13, 14, 1-14-19; Ord. No. 2169, § 2, 9-13-21; Ord. No. 2168, § 6, 9-13-21; Ord. No. 2174, § 8, 11-22-21)

### **Sec. 10.330. Required conditions.**

Any use established in the M-1 District shall be operated so as to comply with the performance standards set forth hereinafter in section 10.509.

### **Sec. 10.331. Area and bulk requirements.**

See section 10.400, "Schedule of Regulations," limiting the height and bulk of buildings, and the minimum size of lot by permitted land use.

## ***ARTICLE IX. M-2 HEAVY INDUSTRIAL DISTRICT***

PREAMBLE: The M-2 Heavy Industrial District is designed primarily for manufacturing, assembling, and fabrication activities including large scale or specialized industrial operations whose external, physical effects will be felt to some degree by surrounding districts.

### **Sec. 10.332. Principal uses permitted.**

- (1) Any principal use first permitted in an M-1 District.
- (2) Any production, processing, cleaning, servicing, testing, repair or storage of materials, goods, or products which shall conform with the performance standards set forth in section 10.509 and which shall not be injurious or offensive to the occupants of adjacent premises by reason of the omission or creation of noise, vibration, smoke, dust or other particulate matter, toxic and noxious materials, odors, fire or explosive hazards, or glare or heat.
- (3) Any of the following uses provided that they shall be located not less than 800 feet distant from any residential district; and 300 feet distant from any other district, and when authorized by the city council.

- 
- (a) Blast furnaces, steel furnaces, blooming or rolling mills.
  - (b) Manufacture of corrosive acid or alkali, cement, lime, gypsum or Plaster of Paris.
  - (c) Smelting of cooper, iron or zinc ore.
- (4) [Reserved.]
- (5) Restaurants, which may include take out, drive-through lanes and/or alcoholic beverages, subject to the standards listed below. Outdoor seating is permitted after site plan approval for restaurants that do not serve alcohol, subject to the requirements listed in section 10.318(5). Special approval is required for outdoor seating at any restaurant that serves alcohol.
- a. Drive-through lanes are subject to the following standards:
    - i. Special approval is required for drive-through lanes located within the boundaries of the Southend Downtown Development Authority (DDA), subject to the procedures of section 10.201.
    - ii. Drive-through lanes are subject to the use-specific standards listed in section 10.318(5)b.
- (6) Accessory buildings, uses and storage uses customarily incident to the permitted uses, subject to requirements of section 10.504, accessory buildings, structures, and uses.
- (Ord. No. 2116, § 1, 1-23-17; Ord. No. 2128, § 15, 1-14-19; Ord. No. 2169, § 3, 9-13-21; Ord. No. 2174, § 9, 11-22-21)

### **Sec. 10.332A. Uses permissible on special approval.**

Under such conditions as the city council, after hearing finds the use as not being injurious to the M-2 Heavy Industrial District and environs and not contrary to the spirit and purpose of this Ordinance, the following uses may be permitted:

- (1) Automobile or other machinery assembly plants subject to adequate control of noise and/or other nuisances.
- (2) Painting, varnishing and undercoating shops when set back at least 75 feet from any adjacent residential districts and provided further that such operation be conducted within a completely enclosed building.
- (3) Metal plating, buffing and polishing, subject to appropriate measures to control the type of process to prevent noxious results and/or nuisances.
- (4) Other uses of a similar and no more objectionable character, and which will not be injurious or have an adverse effect on adjacent areas, and may therefore be permitted subject to such conditions, restrictions and safeguards as may be deemed necessary in the interest of public health, safety and welfare.
- (5) Retail or service uses which are harmonious with and have an industrial character in terms of either their outdoor storage requirements or activities (such as, but not limited to, building material outlets, lumber yards, new automobile or boat sales and service) or serve the convenience needs of the industrial district. Open storage of all building materials shall be subject to standards in section 10.509, performance standards. Approval of any retail or service use under the provisions of this section shall be contingent on a finding that the proposed use is in character with the development of the M-2 Heavy Industrial District.
- (6) Establishments that primarily serve alcohol beverages for consumption on the premises. Any facility that serves alcoholic beverages with outdoor seating subject to the conditions listed in section 10.318(5) for outdoor restaurants in general.



- 
- (7) Yard waste transfer, composting facilities, recycling facilities and junkyards are subject to the special approval requirements in section 10.508(5). For purposes of this section, junkyards shall meet the standards for recycling processing facilities as outlined in section 10.508(5)(f).
  - (8) Restaurants with drive-through lanes located within the boundaries of the Southend Development Authority (DDA), subject to the use-specific standards of section 10.318(5)b.

(Ord. No. 490, § 1, 3-12-73; Ord. No. 2116, § 2, 1-23-17; Ord. No. 2128, § 16, 1-14-19; Ord. No. 2169, § 4, 9-13-21; Ord. No. 2168, § 7, 9-13-21; Ord. No. 2174, § 10, 11-22-21)

### **Sec. 10.333. Required conditions.**

Any use established in the M-2 District after the effective date of this Ordinance shall be operated so as to comply with the performance standards set forth hereinafter in section 10.509.

### **Sec. 10.334. Area and bulk requirements.**

See section 10.400, "Schedule of Regulations," limiting the height and bulk of buildings, and the minimum size of lot by permitted land use.

## ***ARTICLE X. P-1 VEHICULAR PARKING DISTRICT***

PREAMBLE: The P-1 Vehicular Parking Districts are designed to accommodate the off-street parking for those nonresidential uses which are not able to provide adequate space within their own district boundaries.

### **Sec. 10.335. Uses permitted.**

Premises in such districts shall be used only for an off-street vehicular parking area and shall be developed and maintained subject to such regulations as are hereinafter provided except that existing residential buildings shall be permitted as a conforming use.

### **Sec. 10.336. Limitation of use.**

- (1) The parking area shall be accessory to, and for use in connection with, one or more business or industrial establishments, or in connection with one or more existing professional or institutional offices or institutions.
- (2) Parking area shall be used solely for parking of private passenger vehicles, for periods of less than one day.
- (3) No commercial repair work or service of any kind on sale or display thereof, shall be conducted in such parking area.
- (4) No signs of any kind, other than signs designating entrances, exits and conditions of use, shall be maintained on such parking area.
- (5) No building other than those for shelter of attendants shall be erected upon premises and they shall not exceed 15 feet in height.
- (6) Such parking lots shall be contiguous to an R-M, O-1, B-1, B-2, B-3, M-1 or M-2 District, and in all cases shall be adjacent successive lots from the above-mentioned use districts, or the adjacent successive lots from either end of a block where lots front on a street parallel to and at the rear of a business or industrial block. There may be a private driveway or public street or public alley between such P-1 District and such R-M, O-1, B-1, B-2, B-3, M-1 or M-2 Districts.

---

**Sec. 10.337. Entrance and exit.**

- (1) Adequate entrance and exit for vehicles to premises used as a parking area shall be provided and shall be by means of streets or alleys adjacent to or extending through R-M, O-1, B-1, B-2, B-3, M-1 or M-2 Districts, or by means of private roadways extending through such districts. All such roadways shall be surfaced in a manner at least equivalent with that which is hereinafter provided for the parking area.
- (2) Each entrance and exit to and from such parking lot shall be at least 20 feet distant from any adjacent property located in any residential district.

**Sec. 10.338. Minimum distances and setbacks.**

- (1) *Side yards:* Where the P-1 District is contiguous to side lot lines of premises within a residentially zoned district, the required wall shall be so located with respect to the side lot line as would a residential dwelling located on side lot for the particular residential zone.
- (2) *Front yards:* Where the P-1 District is contiguous to a residentially zoned district which has a common frontage on the same block with residential structures, or wherein no residential structures have been yet erected, there shall be a setback equal to the required residential setback for said residential district, or a minimum of 25 feet, or whichever is the greater. The required wall shall be located on this minimum setback line.

**Sec. 10.339. Screening and landscaping.**

- (1) The parking area shall be provided with a continuous and completely obscuring screening wall or fence, in accordance with the provisions of section 10.513. This wall or fence shall be provided on all sides where the next zoning district is designated as a residential district. Whenever such wall is required, all land between said wall and boundaries of the P-1 District shall be kept free from refuse and debris and shall be landscaped with deciduous shrubs, evergreen material and ornamental trees. Ornamental trees shall be planted at 30-foot intervals, six feet from said wall. The planting shall be maintained in a healthy growing condition neat and orderly in appearance.
- (2) All planting plans shall be submitted to the plan commission for approval as to suitability of planting material and arrangement thereof, in accordance with section 10.510 of this Ordinance.

**Sec. 10.340. Surface of parking area.**

The parking area shall be provided with pavement having an asphaltic or portland cement binder approved by the city engineer so as to provide a permanent, durable, and dustless surface and shall be graded and drained as to dispose of all surface water accumulated within the area.

**Sec. 10.341. Lighting.**

Lighting facilities shall be provided and shall be so arranged as to reflect the light away from all residential districts.

**Sec. 10.342. Approval and modifications.**

- (1) The board of appeals, upon application by the property owner of the parking area, may modify the yard and wall requirement where, in unusual circumstances no good purpose would be served by compliance with the requirements of this section.

- 
- (2) In all cases where a wall extends to an alley which is a means of ingress and egress to a parking area, it shall be permissible to end the wall not more than ten feet from such alley line in order to permit a wider means of access to the parking area.
  - (3) In addition to the above requirements, such parking area shall comply with such further requirements or conditions as may be prescribed by the board of appeals for the protection of the residence district abutting such parcel or parcels in which the parking area is to be located.

### **ARTICLE XA. P-2 VEHICULAR PARKING DISTRICT**

PREAMBLE: The P-2 Vehicular Parking Districts are designed to accommodate the off-street parking for those nonresidential uses which are not able to provide adequate space within their own district boundaries for the parking of passenger vehicles, delivery vans and trucks.

#### **Sec. 10.342A. Requirements.**

Each and every condition and requirements of all of the sections of the P-1 Vehicular Parking District are hereby incorporated into the P-2 Vehicular Parking District except those hereafter set forth which are contrary thereto:

- (1) *Limitation of use.* The parking areas shall be used solely for parking of licensed vehicles including, and not limited to, passenger cars, delivery vans and trucks.
- (2) *Minimum distances and setbacks:*  
Sideyards: Where the P-2 District is contiguous to side lot lines of premises within residentially zoned districts, the required wall may be located on the side lot line.
- (3) *Time limit.* There shall be a six-month time limit for parking of individual vehicles; violation of such time limitation shall be a misdemeanor.
- (4) *Classification limit.* There shall be classification limit to passenger vehicles, one-ton vehicles or vehicles of gross vehicle weight in excess of 12,000 pounds.

(Ord. No. 792, § 1, 12-8-86)

### **ARTICLE XI. H-M MOBILE HOMES DISTRICT**

PREAMBLE: The H-M Mobile Homes Districts are designed to provide sites for mobile homes or trailer coaches which will generally serve as zones of transition between the nonresidential industrial districts and multiple-family or the lower density single-family districts. The H-M District is further provided to serve the limited needs for the trailer type of unit in an otherwise single-family residential community.

#### **Sec. 10.343. Principal uses permitted.**

No building or land, except as otherwise provided in this Ordinance shall be erected or used except for one or more of the following specified purposes:

- (1) Mobile homes or trailer coaches, subject to the conditions outlined in section 10.344.
- (2) Publicly owned and operated parks, parkways and recreational facilities.
- (3) Accessory buildings and uses customarily incident to any of the above permitted uses.

---

### **Sec. 10.344. Required conditions.**

Trailer courts may be permitted subject to the following requirements and conditions:

- (1) *Greenbelt required.* Where such district abuts a Residential District, said trailer area must then provide a 20-foot greenbelt between the abutting residential district and the H-M District, and must further provide for a 20-foot greenbelt between itself and any abutting M-1 Industrial District.
- (2) *Setback.* No mobile home shall be located closer than 50 feet to the right-of-way line of a main public highway, or 20 feet to the mobile home park property line.
- (3) The trailer court shall have access to a major thoroughfare by abutting directly thereon.
- (4) *Rezoning, notice required.* Prior to the rezoning of a site to H-M a public hearing shall be held; notification of said hearing shall be given by the applicant by registered mail, return receipt requested, of the proposal for said rezoning and the date, time and place of public hearing to all parties living within 1,000 feet of the proposed site.
- (5) All trailer court developments shall further comply with Act 243 of Public Acts of the State of Michigan, 1959, as amended [MSA 5.278(31) et seq.].
- (6) The parking of a trailer coach for periods exceeding 24 hours on lands not approved for trailer courts shall be expressly prohibited, except that the building inspector may extend temporary permits allowing the parking of a trailer coach in a rear yard, on private property, not to exceed a period of two weeks. All trailer coaches owned by residents of the city and stored on their individual lots shall be stored only within the confines of the rear yard and shall further respect the requirements applicable to accessory buildings, section 10.504, insofar as distances from principal structures, lot lines, and easements are concerned. All trailer coaches parked or stored, shall not be connected to sanitary facilities and shall not be occupied. [Superseded by section 18-2 of the Code of Ordinances.]

### **Sec. 10.345. Area and bulk requirements.**

See section 10.400, "Schedule of Regulations," limiting the height and bulk of buildings, and the minimum size of lot by permitted land use.

## ***ARTICLE XII. PRIMARY CAREGIVER MARIHUANA GROW OVERLAY DISTRICT***

### **Sec. 10.346. Findings, purpose and intent.**

The Michigan Medical Marihuana Act (MMMA), Initiated Law 1 of 2008, MCL 333.26421 et seq., as amended, does not nullify a municipality's inherent authority to regulate land use under the Michigan Zoning Enabling Act (MZEA), MCL 125.3101 et seq. as long as (1) the municipality does not prohibit or penalize the cultivation of medical marihuana and (2) the municipality does not impose regulations that are unreasonable and inconsistent with regulations established by state law. MCL 333.26424(b)(2) states that primary caregivers and qualifying patients must keep their plants in an enclosed, locked facility in order for those individuals to be entitled to the MMMA protections in MCL 333.26424(a) and (b). Because an enclosed, locked facility may be found in various locations on various types of property, this ordinance, limiting where a primary caregiver can cultivate medical marihuana within the city, does not directly conflict with the MMMA's requirement that marihuana plants be kept in an enclosed, locked facility. The city finds that the average residence in the city is not aptly suited to the safe and favorable cultivation of 72 marihuana plants that a primary caregiver is permitted to grow under the MMMA. The city further finds that the cultivation of 72 marihuana plants by primary caregivers in residential districts creates potential hazards and potential adverse and detrimental effects on the neighboring properties that

---

endanger the public health, safety and welfare. The purpose and intent of this ordinance is to identify suitable locations for primary caregivers to cultivate medical marihuana, in compliance with the MMMA and this article, to mitigate the potential adverse and detrimental effects on neighboring properties to protect the public health, safety and welfare.

( Ord. No. 2158 , § 1, 7-13-20)

**Sec. 10.347. Definitions.**

For the purpose of the provisions of this article, all words and phrases herein shall be construed to have the meanings as provided for in the Michigan Medical Marihuana Act (MMMA), Initiated Law 1 of 2008, MCL 333.26421 et seq., as amended.

( Ord. No. 2158 , § 1, 7-13-20)

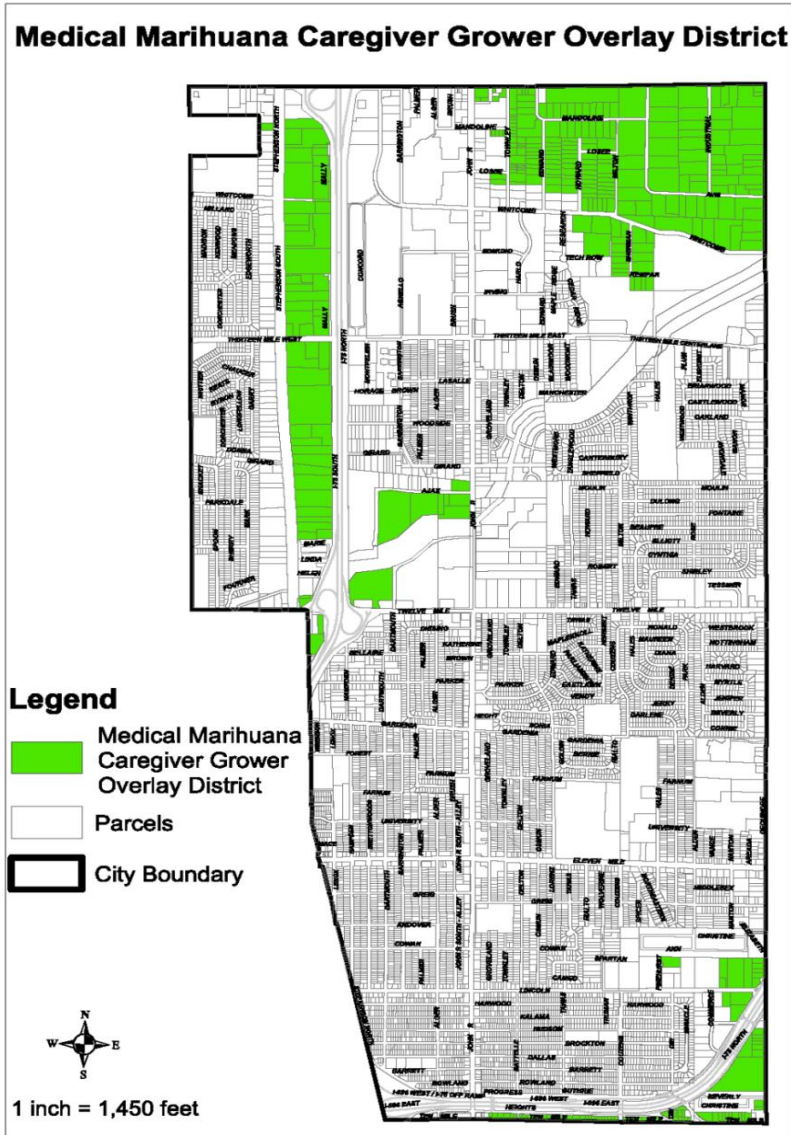
**Sec. 10.348. No effect on patients.**

This article does not apply to or regulate any qualifying MMMA patient activities or conduct that is in compliance with the MMMA. A qualifying patient, operating in compliance with the MMMA, shall be permitted to cultivate, at the patient's primary residence, who shall also be full-time resident of the dwelling, no more than the 12 allowed marihuana plants as permitted by the MMMA for the patient's personal use to treat their debilitating medical condition.

( Ord. No. 2158 , § 1, 7-13-20)

**Sec. 10.349. Caregiver Marihuana Grow Overlay District.**

The Caregiver Marihuana Grow Overlay District boundaries shall be the parcels indicated as established in the following overlay district map:



( Ord. No. 2158 , § 1, 7-13-20)

**Sec. 10.350. Caregiver Marihuana Grow Overlay District requirements.**

The following standards and requirements shall apply to any location at which the cultivation of medical marihuana is conducted by a primary caregiver.

- (a) A registered primary caregiver shall not cultivate medical marihuana at a parcel that is not located within the Caregiver Marihuana Grow Overlay District.
- (b) The cultivation of medical marihuana by a caregiver shall comply at all times with the MMMA and the MMMA General Rules, as amended.
- (c) Not more than one registered primary caregiver shall be permitted to operate at any one parcel located with the Caregiver Marihuana Grow Overlay District.

- 
- (d) The cultivation of medical marihuana by a primary caregiver shall be conducted entirely within an "enclosed, locked facility" (as that phrase is defined by the MMMA), up to 12 marihuana plants for each registered qualifying patient with whom the registered primary caregiver is connected through the registration process established by the Department of Licensing and Regulatory Affairs, and up to 12 additional marihuana plants for personal use, if the primary caregiver is also registered as a qualifying patient under the MMMA. The number of marihuana plants shall not exceed the number of marihuana plants permitted by the MMMA in total aggregate at any location or multiple locations whether located in the city or outside of the city.
  - (e) No sign identifying the location by word, image or otherwise, or indicating that the cultivation of medical marihuana is taking place on the premises, shall be permitted; nor shall any vehicle having such a sign be parked anywhere on the premises.
  - (f) Distribution of marihuana or use of items in the administration of marihuana shall not occur at or on the parcel where medical marihuana is cultivated. A qualifying patient shall not visit, come to, or be present at the parcel where medical marihuana is cultivated to purchase, smoke, consume, obtain or receive possession of any marihuana.
  - (g) No on-site consumption or smoking of marihuana shall be permitted within the parcel (or on the property) where medical marihuana is cultivated, except for lawful medical marihuana consumption by the primary caregiver if registered as a qualifying patient under the MMMA.
  - (h) Medical marihuana shall not be grown, processed, handled or possessed at the location where medical marihuana is cultivated beyond that which is permitted by law.
  - (i) A certificate of occupancy, together with a required site plan review, shall be obtained from the city and all necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of a building or structure in which equipment and devices that support the cultivation, growing or harvesting of marihuana are located or used.
  - (j) If marihuana is grown or located in a room with windows, all interior lighting shall be shielded to prevent ambient light from creating a distraction for adjacent properties.
  - (k) Related merchandise or products shall not be sold or distributed from the property.
  - (l) There shall be no exterior storage or parking of materials or equipment.
  - (m) No nuisance shall be generated by any heat, glare, noise, smoke, vibration, noxious fumes, odors, vapors, gases or matters at any time.
  - (n) The entire parcel and all enclosed, locked facilities shall be available for inspection upon request by the zoning administrator, building official, fire official or law enforcement official during reasonable business hours.

( Ord. No. 2158 , § 1, 7-13-20)

### **Sec. 10.351. Principal uses permitted.**

All principal uses permitted in the Underlying Zoning District(s) are permitted by right in the Overlay Districts, provided they comply with all applicable requirements of the Underlying Zoning District.

( Ord. No. 2158 , § 1, 7-13-20)

## ***ORDINANCE NO. 252 CONTINUED***

---

**Sec. 10.400. Schedule of regulations.**



**Sec. 10.401. Limiting height, bulk, density and area by land use.**

Use Districts	Minimum Size Lot per Dwelling Unit		Maximum Height of Principal Structures		Minimum Yard Setback (per lot in ft.)				Minimum Floor Area	Maximum Percentage of Lot Coverage
					Sides Least Total					
	Area in Sq. Ft.	Width in Ft.	In Stories	In Feet	Front	One	Two	Rear	Per Unit (sq. ft.)	(area of all buildings)
R-1 One-Family Residential (t)	43,560	150	2	25	25(r)	10	25	50	1,400(b) (p) (q)*	20%
R-2 One-Family Residential (t)	7,200	60	2	25	25(e), (r)	5(a)	14(s)	35	1,200(b) (p) (q)*	30%
R-3 One-Family Residential (t)	5,500	50	2	25	25(e), (r)	3(a)	12(s)	35	950(b) (p) (q)*	35%
R-T Two-Family Residential (t)	4,000	40	2	25	25(c)	10(a)	20	30	650(b)	35%
R-M Multiple-Family Residential (t)	(c)	(c)	3	35	25(e)	10	20	30	(c)	35%
O-1 Office Building (u)	—	—	2(h)	30(h)	20(c), (i)	(f)	(f)	20	—	—
B-1 Local Business (u)	—	—	2(h)	30(v)	5(e), (v)	(f), (v)	(f), (v)	20(g), (v)	—	—
B-2 Planned Business (u)	—	—	3(h)	40(h), (v)	75	20(j), (v)	(j), (v)	20(g), (j), (v)	—	—
B-3 General Business (u)	(w)	(w)	3(h), (w)	40(h)	5(e), (w)	(f)	(f)	20(g)	(w)	—
M-1 Light Industrial (u)	—	—	—	40(h)	50(e), (i), (j)	20(j), (l)	—	(j), (l)	—	—
M-2 Heavy Industrial (u)	—	—	—	60(h)	75(e), (i), (j), (k)	30(k), (l)	—	(j), (l)	—	—

\*In R-1 and R-2 Districts the minimum ground floor area shall be 750 sq. ft.; provided, however, that in computing a minimum of 650 sq. ft. shall be used as living area and the remaining 100 sq. ft. may be used for garage or utility purposes.

**Notes to section 10.401**

- (a) The side yard abutting upon a street shall not be less than ten feet when there is a common rear yard. In the case of a rear yard abutting a side yard of an adjacent lot, the side yard abutting a street shall not be less than the required front yard of that district.

- 
- (b) Where no basement is provided, an additional 100 square feet of floor area shall be provided for utilities (i.e., washer, dryer and workspace); provided, that the required area will not be located in more than two locations with one utility area not less than 75 percent of the total required. In the event of a divided utility area, the furnace and hot water heater shall be located in the smaller area.
- (c) No building shall be erected on a lot or parcel of land which has an area of less than 7,200 square feet or has a width of less than 60 feet. The following minimum lot sizes and floor areas shall be met:
- Four-bedroom unit*—7,250 square feet minimum lot size, and 1,000 square feet minimum floor area per unit.
- Three-bedroom unit*—6,250 square feet minimum lot size, and 850 square feet minimum floor area per unit.
- Two-bedroom unit*—4,250 square feet minimum lot size, and 700 square feet minimum floor area per unit.
- One-bedroom and efficiency unit*—3,250 square feet minimum lot size, and 550 square feet minimum floor area per unit.
- In addition, 64 contiguous square feet shall be provided for each unit for utility room space.
- (d) Reserved.
- (e) Where the front yards of 50 percent or more of the principal structures in any block in existence at the time of passage of this Ordinance, within the district zoned and on the same side of the street, are less than the minimum front yard indicated above, then any building subsequently erected on that side of the street shall not be less and need not be greater than the average depth of the front yards of said structures.
- (f) No side yards are required along the interior side lot lines, except as otherwise specified in the building code. Minimum required screening and landscaping requirements shall be met as listed in section 10.510 of this Ordinance.
- (g) Loading space shall be provided in the rear yard or, in the case of a lot with frontage on more than one road, the rear or an interior side yard in the ratio of at least ten square feet per front foot of building and shall be computed separately from the off-street parking requirements. The approving body may permit a reduction in minimum loading area requirements, if the applicant demonstrates that the minimum required area per the ordinance is excessive for the proposed use.
- (h) See Uses Permissible Upon Special Approval in the O-1, B-1, B-2, B-3 and M-1 Districts for additional building height and story options.
- (i) Parking shall be prohibited within the required front yard setback. Parking shall be permitted in the front yard, in areas in excess of the required setback, after approval of the parking plan layout, points of access and means of screening by the plan commission. The setback shall be measured from the nearest side of existing or proposed right-of-way lines as outlined in the city's master plan and master right-of-way plan.
- (j) No building shall be closer than 50 feet to the outer perimeter (property line) of such district when said property line abuts any residential district.
- (k) Those uses allowed in the M-2 District under article IX, section 10.332, subsection (3) shall meet all setback requirements of that section.
- (l) No building shall be closer to the outer perimeter (property line) than the herein required side yard, except that along the interior side lot line when said property line is adjacent to the M-1 or M-2 districts, the side yard may be reduced to the minimum permitted by the adopted building code.

- 
- (m) An open area shall be provided on each mobile home lot to ensure privacy, adjacent natural light and ventilation to each home, and to provide sufficient area for outdoor uses essential to the mobile home. 80 percent of the mobile home site shall contain a minimum area of at least 3,000 square feet. All such mobile home sites shall be computed exclusive of service drives, facilities and recreation space.
  - (n) The sum of the side yards at the entry and nonentry side of a mobile home stand shall not be less than 20 feet; provided, however, there shall be a side yard of not less than 15 feet at the entry side of the mobile home stand and a side yard of not less than five feet at the nonentry side of the mobile home stand.
  - (o) Reserved.
  - (p) All existing housing units now constructed and/or approved for construction prior to the adopting of this Ordinance which meet the following requirements for minimum floor area per unit shall be considered a conforming use of the land:

*R-1 Residential District*—1,300 square feet (b)\*.

*R-2 Residential District*—1,050 square feet (b)\*.

*R-3 Residential District*—750 square feet (b)\*.

The provision for utility areas in units which have no basement shall apply with respect to the addition of 100 square feet of floor area.

- (q) This Ordinance shall not be applicable to buildings which are owner-occupied in the City of Madison Heights and because of condemnation by a governmental unit the owner desires to move the building into a like zoning district for his own use. Provided further, that said building shall conform to all other requirements of the building code of the city and the requirements outlined in paragraph (p) above.
- (r) It shall be unlawful for any person, firm or corporation to park or store motor vehicles, recreational equipment, as defined in the Madison Heights Code at section 18-29, or other motorized equipment, in any front yard setback of a residential district (R-1 through R-3); provided, however, that currently licensed motor vehicles, exclusive of recreational equipment, in an operating condition may be parked on an improved driveway within the side yard setback or on an improved driveway extending from the street to a garage or upon an improved driveway commonly known as a "U" driveway as long as such improved driveway is in compliance with the other provisions of this Ordinance; said "U" driveways may be permitted only where an inside radius of 25 feet or greater is provided. The total driveway shall not occupy more than 33 percent of the required front yard setback area.

No paved surfaces of any type whatsoever, including, but not by way of limitation, surfaces consisting of concrete, asphalt or portland cement binder, will be permitted in front of the main building except a paved surface which constitutes a sidewalk and/or service walk for the purpose of pedestrian travel and which is not intended to be driven upon or parked upon. Anyone violating this section will be required to remove said paved surface from the front of the main building within 60 days from the date of notification by the community development department that a violation exists. Further, the front yard setback shall be restored to conform in appearance to the surrounding area. Failure to comply with this Ordinance will result in criminal prosecution. If a paved surface exists in violation of this Ordinance on the effective date of the Ordinance and is later altered and/or removed, the paved surface shall be completely removed or not replaced and the property shall be brought into conformity with this Ordinance.

- (s) The distance between houses located on adjacent lots shall not be less than the following:

*R-1 Districts*—15 feet.

*R-2 Districts*—14 feet.

---

*R-3 Districts—12 feet.*

- (t) In residential districts, all new buildings shall hereafter be constructed of brick or other stone or masonry materials which are harmonious with the neighborhood and approved by the building official except as noted below.
1. An area not to exceed ten percent of the face of any first story wall as well as all gable ends, dormers and second stories of single-family dwellings may be covered with maintenance free materials such as, but not limited to, aluminum or vinyl siding.
  2. If not less than 65 percent of the lots and frontage on both sides of the street in any block where the proposed improvement is contemplated, being the same side as the proposed improvement and the block facing the proposed improvement, contains structures made of material other than brick or other masonry material, the type and style of the remainder of the residences to be constructed, altered or relocated in such block shall be constructed of maintenance free materials and shall be substantially similar in type and style to the existing structures so as to be in harmony with the character of the neighborhood; provided, however, that nothing herein shall prevent any residential block from being upgraded. The building official, upon examining the plans and specifications and determining that the application for a variance will not in any way alter the harmony or character of the neighborhood, may grant such approval without the necessity of the applicant submitting an application to the zoning board of appeals. If, however, the building official, in his discretion, determines that the harmony or character of the neighborhood may be altered by granting such a variance, he shall submit the application to the zoning board of appeals, upon payment of the proper application fee. In all multiple-family residential districts, all sites are required to have architectural review of building materials by the plan review committee.
  3. Additions to residential structures shall be constructed of the same material(s) as the principal structure. Where the applicant desires to use alternate, maintenance free building materials, the building official, upon examining the plans and specifications and determining that the application for a variance will not in any way alter the harmony or character of the neighborhood, may grant such approval without the necessity of the applicant submitting an application to the zoning board of appeals.
  4. Requirements listed in section 10.401.u.3 related to rooftop equipment shall apply to multiple family residential structures.
- (u) In all office, commercial and industrial districts, all first story exterior walls shall be of brick, decorative block or other decorative masonry or stone veneers except as noted below. The approving body may waive facade material requirements of this section, Limiting height, bulk, density and area by land use, note u, if the selected facade materials will be consistent with and will enhance the building design concept and are in harmony or character of the neighborhood.
1. Where a building wall is located such that it will not be readily subject to damage from vehicles or passersby, other damage resistant, maintenance free materials may be substituted for masonry veneer on not more than 25 percent of said wall. The appropriateness and performance characteristics of all such materials shall be approved by the site plan review committee. Such approval shall be separate from, and in addition to, site plan approval.
  2. Glass may be substituted for any wall material without limitation.
  3. All roof top climate control equipment, elevator towers, transformer units and satellite dish antenna and similar items shall be screened from view so as not to be visible from any street, road or adjacent property.

- 
- i. The approving body may provide a waiver of this requirement as to satellite dishes where the requirement prevents the reception of satellite delivered signals or imposes costs on the user of such dish antenna that are excessive in light of the purchase and installation cost of the equipment.
  - ii. All wall mounted utility meters and utility outlets shall be enclosed and integrated into the design and color of the building, subject to safety and access requirements of respective utility companies.
  - iii. Roof top appurtenances, including mechanical and electrical equipment, shall not exceed the maximum permitted building height limits, unless the following conditions are met. For every one foot that a roof top appurtenance exceeds the maximum district building height, it shall be setback five feet from any and all building faces. No roof top appurtenance shall exceed five feet above the maximum district building height. In all instances, roof top appurtenances shall be screened, and shall not be visible from any street, road or adjacent property. All roof appurtenances shall be screened from view using materials and colors consistent with the building design.
- (v) When abutting a single-family residential district,
- 1. For all buildings in excess of 20 feet or one-story in B-1 district, the minimum yard building setback adjacent to a single-family residential district shall be increased by one foot for each one foot of building height in excess of 20 feet.
  - 2. For all buildings in excess of 30 feet or two-story in B-3 district, the minimum yard building setback adjacent to a single-family residential district shall be increased by one foot for each one foot of building height in excess of 30 feet.
  - 3. Where the parcel abuts any single-family residential district, the maximum front yard setback for new structures shall be five feet.
  - 4. For all buildings within 50 feet from the single-family district, the building façade facing a single-family residential district shall be designed to minimize views from the building into adjacent single family homes
  - 5. All required parking drives and service areas shall be located between the building and adjacent single-family districts. Where additions to existing structures are proposed, existing setbacks may be used for second and third floor additions, provided there are no further expansion(s) of non-conformity.
- (w) See section 10.325(10), Mixed use development standards in B-3 district for additional building height and setback options.

(Ord. No. 279, § 1, 2-28-66; Ord. No. 284, § 1, 5-9-66; Ord. No. 290, § 1, 9-26-66; Ord. No. 342, § 1, 4-8-68; Ord. No. 343, § 1, 4-8-68; Ord. No. 426, § 1, 11-2-70; Ord. No. 515, § 1, 7-25-74; Ord. No. 566, § 1, 12-8-75; Ord. No. 568, § 1, 1-12-76; Ord. No. 569, § 1, 1-12-76; Ord. No. 647, § 1, 1-14-80; Ord. No. 663, § 1, 3-9-81; Ord. No. 749, § 1, 1-28-85; Ord. No. 779, § 1, 5-12-86; Ord. No. 830, § 1, 7-11-88; Ord. No. 879, § 1, 5-28-91; Ord. No. 1014, § 2, 2-11-02; Ord. No. 1091, § 8, 1-28-13, eff. 2-7-13; Ord. No. 2128, § 17, 1-14-19; Ord. No. 2166, §§ 1, 2, 6-14-21)

### **Sec. 10.402. Subdivision open space plan.**

The intent of this section is to permit one-family residential subdivisions to be planned as a comprehensive unit allowing, therefore, certain modifications to the standards as outlined in the "Schedule of Regulations" to be made in R-1 and R-2 One-Family Residential Districts when the following conditions are met:

- 
- (1) Lot dimensions in R-1 and R-2 One-Family Residential Districts may be reduced in accord with the following schedule; provided, that the number of residential lots shall be no greater than if the land area to be subdivided were developed in the minimum square foot lot areas as required for such district under section 10.401.
    - (a) All calculations of density for residential development shall be predicted upon the R-1 and R-2 One-Family Districts having the following gross densities (including roads):
      - R-1 = 3.41 dwelling units per acre
      - R-2 = 4.54 dwelling units per acre
    - (b) Lot widths shall be not less than required in the "Schedule of Regulations."
    - (c) Lot depth shall be not less than 105 feet.
    - (d) Minimum yard setbacks shall be provided as required in the "Schedule of Regulations."
    - (e) Where lots have a rear yard abutting land dedicated to the common use of the subdivision as indicated in the following subparagraph (2), lot depths may be reduced to a minimum of 100-foot depth and rear yards may be reduced to a minimum of 20 feet.
  - (2) For each square foot of land gained, under the provisions of item (1) above, of this section 10.402, within a residential subdivision, through the reduction of lot size below the minimum requirements as outlined in the "Schedule of Regulations" equal amounts of land shall be dedicated to the City of Madison Heights. These dedications shall be either rights in fee or easement and retained as open space for park, recreation and related uses. All lands dedicated in fee or easement shall meet the requirements of the city council of the City of Madison Heights.
  - (3) The area to be dedicated for public park and recreation purposes only, shall in no instance be less than two acres and shall be in a location and shape approved by the plan commission in reviewing the proposed subdivision plat. Said land shall be so graded and developed as to have natural drainage, and shall provide access for the common use of the subdivision by means of streets or pedestrian easements.
  - (4) In approving the application of the "Subdivision Open Space Plan" technique, the plan commission must be cognizant of the following objectives:
    - (a) To provide a more desirable living environment by preserving the natural character of open fields, stands of trees, brooks, topography and similar natural assets;
    - (b) To encourage developers to use a more creative approach in the development of residential areas;
    - (c) To encourage a more efficient, aesthetic and desirable use of open area while recognizing a reduction in development costs, and by allowing the developer to bypass natural obstacles on the site;
    - (d) To encourage the provisions of open space within reasonable distance to all lot development of the subdivision and to further encourage the development of recreation facilities.
  - (5) This plan for reduced lot sizes shall only be permitted if it is mutually agreeable to the city council and the subdivider or developer.
  - (6) Application for approval of a "Subdivision Open Space Plan" shall be submitted at the time of submission of the proposed plat for approval as required by the State Plat Act and the Subdivision Regulations of Madison Heights.

- 
- (7) Under this "Subdivision Open Space Plan" the developer or subdivider shall dedicate the total park (see item (2)) at the time of filing of the area final plat on all or any portion of the plat.

**Sec. 10.500. General provisions.**

**Sec. 10.501. Conflicting regulations.**

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

**Sec. 10.502. Scope.**

No building or structure, or part thereof, shall hereinafter be erected, constructed or altered and maintained, and no new use or change shall be made or maintained of any building, structure or land, or part thereof, except in conformity with the provisions of this Ordinance.

**Sec. 10.502[A]. Regulated uses.**

1. *Purpose of Ordinance.* In the development and execution of the amendment to this Ordinance, 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 Ordinance, the planning commission and city council has received information from the community development department, the city assessor, and the police department, including information associating blight and increased crime with sexually-oriented businesses, including studies done in a number of cities. In connection with the adoption of this Ordinance, council has received further information that certain types of adult businesses, including tattoo parlors, pawnbrokers, and used goods businesses have, through studies, been found to have deleterious effect upon the use and enjoyment of adjacent areas, including information associating blight.

The regulations in this Ordinance are designed for locating these uses in areas where the adverse impact of their operation may be minimized by the separation of such uses from one another and from places of public congregation.

2. *Definitions.* As used in this section:
- (a) *Adult arcade* means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, internet, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "sexually explicit activities" or "specified anatomical areas."
  - (b) *Adult book store or adult video 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 of 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."

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 categorized as an adult book store or adult video store 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 this section, video cassettes or films which are x-rated or unrelated but of substantially equivalent content as x-rated films, shall be considered to depict or describe "specified sexual activities" or "specified anatomical areas" notwithstanding any more restrictive definition set forth herein.

- (c) *Adult cabaret* means a nightclub, bar, restaurant or similar commercial establishment which regularly features any of the following:
- (1) Persons who appear in a state of 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."
- (d) *Adult motel* means a hotel, motel, or similar commercial establishment which:
- (1) Offer accommodations to the public for any form of consideration; provide patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "sexually explicit activities" or "specified anatomical areas"; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or
  - (2) Permit patrons to be filmed or photographed performing "sexually explicit activities" or displaying "specified anatomical areas" for electronic transmission over the World Wide Web; or
  - (3) Advertises in any way sleeping room(s) for rent for a period of time that is less than ten hours; or
  - (4) Allow a tenant or occupant of a sleeping room to sublet the room for a period of time that is less than ten hours.
- (e) *Adult motion picture theater* means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "sexually explicit activities" or "specified anatomical areas."
- (f) *Adult retail store* means an establishment which sells or offers for sale any types of items, materials, gimmicks, or paraphernalia depicting, displaying, advertising or packaged, as "sexually explicit activities" or "specified anatomical areas."
- (g) *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."



- 
- (h) *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.
  - (i) *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.
  - (j) *Establishment* 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 a sexually oriented business, 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.
  - (k) *Massage parlor, sauna and/or spa* means a massage parlor as defined in Chapter 7 of the Madison Heights Code of Ordinances.
  - (l) *Nude model studio* means any place where a person appears in the state of nudity or displays "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.
  - (m) *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, of any part of the nipple or areola, or the showing of the covered male genitals in a discernibly turgid state.
  - (n) *Pawnbroker* means pawnbroker businesses as defined in Chapter 7 of the Madison Heights Code of Ordinances.
  - (o) *Person* means any individual, proprietorship, partnership, corporation, association or any other legal entity.
  - (p) *Pool or billiard hall* means a place providing pool or billiard tables for use on the premises to the public as defined in Chapter 4 of the Madison Heights Code of Ordinances.
  - (q) *Semi-nude* means a state of dress in which clothing covers no more than the genitals, pubic region and areola of the female breast as well as portions of the body covered by supporting straps or devices.
  - (r) *Sexual encounter center* means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:
    - (1) Physical contact in the form of wrestling or tumbling between persons of the same or opposite sex or any activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude or permits patrons to display or to be filmed or photographed performing "sexually explicit activities" or displaying "specified anatomical areas" for electronic transmission over the World Wide Web or any other media.
  - (s) *Specified sexual activities* means and includes any of the following:
    - (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
    - (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
    - (3) Masturbation, actual or simulated; or

- 
- (4) Excretory functions as part of or in connection with any of the activities set forth in i. through iii. above.
  - (5) Any activity intended to arouse, appeal to or gratify a person's lust, passions or sexual desires.
  - (t) *Regulated uses* 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 retail store";
    - (7) "Adult theaters";
    - (8) "Escort agencies";
    - (9) "Massage parlors, saunas or spas";
    - (10) "Nude model studios";
    - (11) "Pawnbrokers";
    - (12) "Pool and/or billiard halls";
    - (13) "Sexual encounter centers".
    - (14) "Tattoo parlors or uses";
    - (15) "Used good uses";
    - (16) "Any establishment that permits patrons to be filmed or photographed performing "sexually explicit activities" or displaying "specific anatomical areas" for transmission over the World Wide Web;
    - (17) Other sexually oriented business described herein or as determined by city council.
  - (u) *Specified anatomical areas* means and includes any of the following:
    - (1) Less than completely and opaquely covered human genitals, pubic region or pubic hair; buttock or female breast or breasts or any portion thereof that is situated below a point immediately above the top of the areola; or any combination of the foregoing; or
    - (2) Human genitals in a state of sexual arousal, even if opaquely and completely covered.
  - (v) *Tattoo parlors or uses* means a business or commercial establishment offering for sale or otherwise tattoos. A tattoo is defined as a permanent mark or design made on the skin by puncture, pricking and/or ingraining with pigment or by raising scars.
  - (w) *Used good uses* means businesses engaged with a substantial portion of their business comprising the sale of used goods, including, but not limited to, secondhand and junk dealers, as defined pursuant to Public Act 1970, No. 350, as amended, MCL 445.401 et seq., and persons engaged in substantially similar uses. Not included shall be the occasional resale of goods which is not a principal business purpose.

3. *Location of regulated uses:*

- 
- (a) The establishment of a regulated use as defined under this section within 1,000 feet of another regulated use, measured from property line to property line, is prohibited.
  - (b) Regulated uses shall be permitted in B-2 and B-3 Districts after special approval by city council, site plan review, if applicable, and obtaining a business license under Chapter 7, if and only if, it is determined that the regulated use meets all other criteria of B-2 and B-3 Districts under the Code of Ordinances and will not be located within 300 feet of the following:
    - (1) A church;
    - (2) A public or private elementary or secondary school;
    - (3) The boundary of a residential zoning district;
    - (4) A public park;
    - (5) The property line of a lot in residential use;
    - (6) A child care facility.

4. *Miscellaneous requirements.*

- (a) No person shall reside in, or permit any person to reside in, the premises of a regulated use.
- (b) All regulated uses shall be subject to all the same requirements of the Zoning Ordinance for the designated zoning district.

(Ord. No. 504, § 1, 6-25-73; Ord. No. 1064, §§ 4, 5, 10-12-09)

**Sec. 10.503. Nonconforming lots, uses and structures.**

All nonconforming lots, uses, structures, or combination of nonconforming uses of land or structures shall conform with the provisions of this section.

- (1) *Intent.*
  - (a) It is the intent of this Ordinance to permit legal nonconforming lots, uses, or structures to continue until they are removed but not to encourage their survival.
  - (b) It is recognized that there exists within the districts established by this Ordinance and subsequent amendments, lots, structures, and uses of land and structures which were lawful before this Ordinance was passed or amended which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments.
  - (c) Such uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
  - (d) A nonconforming use of a structure, land, or of a structure and land shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.
- (2) *Nonconformities under construction.* Nothing in this Ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently continued. Actual construction is hereby defined to include the placing of construction materials in permanent manner, except that where demolition or removal

---

of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until the completion of the building involved.

(3) *Nonconforming lots of record.*

(a) In any zoning district in which a single-family dwelling is permitted, a single-family dwelling may be erected on any substandard lot of record if the lot is in single ownership at the effective date of this Ordinance and is not in single ownership with other lots having continuous frontage. However, if two or more contiguous lots under the same ownership exist, a single-family home may be erected on any single lot of record provided that such lot meets the following criteria:

1. The lot is a legal lot of record.
2. The building official or his designee shall determine that the lot is the same size or larger than the majority (more than 50%) of developed lots in the area. For purposes of this section, the building official shall base determinations on the width, depth and area of the lot when determining conformance with the developed lots in the area. For purposes of this section, "area" shall mean at a minimum the lots on both sides of the street on the same block as the subject lot.
3. All other Ordinance requirements are met, including but not limited to, setbacks, minimum dwelling size, and height. A detailed plot plan shall be provided to determine compliance with this subsection.

If these three criteria are not met, such lot(s) shall not be developed, divided, utilized or sold in any manner that diminishes compliance with lot width and/or area requirements of this Ordinance.

(b) Any variance request to the zoning board of appeals for any provision of this section shall include a detailed plot plan for a proposed structure(s) that clearly indicates conformance or nonconformance with all Ordinance requirements including, but not limited to, yards, minimum dwelling size, maximum lot coverage and height.

(c) In addition to the criteria outlined in section 10.805, the zoning board of appeals, in hearing any appeals and/or variance requests from this section, shall consider the following in their decision:

1. The width, size and general character of the lots in the neighborhood and area.
2. The design of the proposed structure(s) is appropriate for the area, width and shape of the lot.
3. The extent to which other developed lots in the neighborhood and/or area have maintained required setbacks, lot area and width.
4. The extent to which the proposed structure(s) is in harmony with the character of the neighborhood and/or area.

(d) In all non-residential zoning districts, structures may be erected on any single lot of record, provided that such lot meets the criteria outlined in subsection (c)1. above and all restrictions outlined in the zoning district in which the lot or parcel is located.

(4) *Nonconforming uses of land.* When, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible under the terms of this Ordinance, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- 
- (a) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.
  - (b) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.
  - (c) If such nonconforming use of land ceases for any reason for a period of more than six (6) months, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.
- (5) *Nonconforming structures.* Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following:
- (a) No such structure may be expanded in a way that increases its nonconformity. A nonconforming structure may be expanded if the addition(s) conform(s) with all Zoning Ordinance requirements for the district in which the structure is located.
  - (b) Should such structure be destroyed by any means to an extent of more than 50 percent of its replacement value, it shall not be reconstructed except in conformity with the provisions of this Ordinance.
  - (c) Should such structure be moved for any reason, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
  - (d) A nonconforming structure may be altered to decrease its nonconformity, subject to issuance of necessary permits.
- (6) *Nonconforming uses of structures and land.* If a lawful use of a structure, or of structures and land in combination, exists at the effective date of adoption or amendment of this Ordinance that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:
- (a) No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except to accommodate a change in the use of the structure to a use permitted in the district in which it is located.
  - (b) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
  - (c) If no structural expansion is made, any nonconforming use of a structure or structures and premises, may be changed to another nonconforming use provided that the board of appeals, by making findings in the specific case, shall find that the proposed use is a legal nonconforming use, reduces the level of nonconformity on the site, and is more appropriate to the district than the existing nonconforming use. In permitting such change, the board of appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this Ordinance.
  - (d) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use for any period of time, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not be resumed.

- 
- (e) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or ceases to exist for six consecutive months, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.
  - (f) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.
- (7) *Repairs and maintenance.*
- (a) On any legal nonconforming structure or building, or on any building or structure devoted in whole or in part to any nonconforming use, ordinary repairs, or repair or replacement of nonbearing walls, fixtures, wiring or plumbing may be permitted, provided that the permitted maintenance or repair shall not increase the nonconformity.
  - (b) Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.
- (8) *Special land uses not nonconforming.* Special approval uses that are approved by the city council as provided in this Ordinance shall not be deemed a nonconforming use.
- (9) *Change in tenancy or ownership.* There may be a change of tenancy, ownership, or management of any existing nonconforming lots, structures, uses of land, or uses of structures and premises provided there is no change in the extent, size, nature or character of such nonconforming lot, structure, use of land or use of structure and premises.

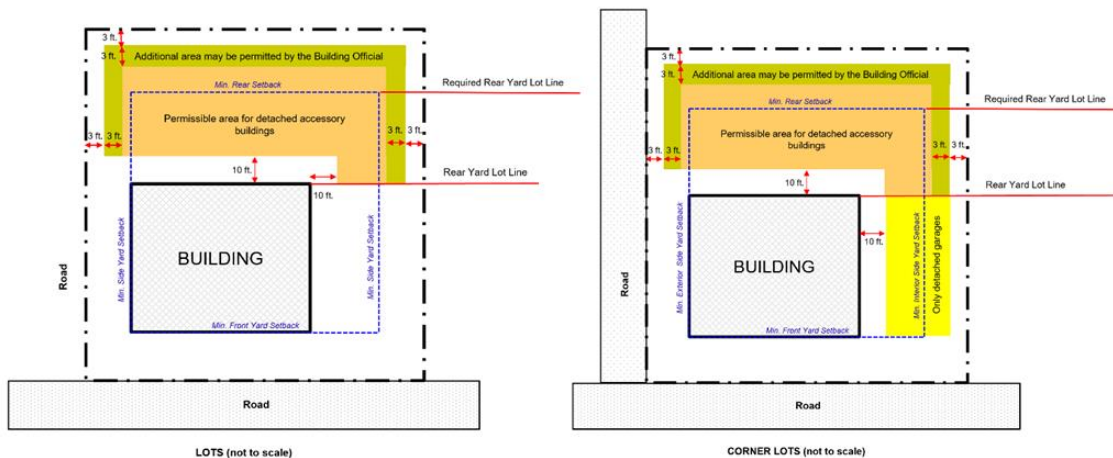
(Ord. No. 271, § 1, 11-22-65; Ord. No. 278, § 1, 5-16-66; Ord. No. 482, 11-25-72; Ord. No. 1004, § 2, 3-12-01)

#### **Sec. 10.504. Accessory buildings, structures, and uses.**

- (1) *Accessory buildings and structures.* Accessory buildings and uses, except as otherwise permitted in this Ordinance, shall be subject to the following regulations:
- (a) *Use.* Accessory buildings and uses are permitted only in connection with, incidental to and on the same lot with, a principal building, structure or use which is permitted in the particular zoning district. No accessory building, structure or use shall be occupied or utilized unless the principal structure to which it is accessory is occupied or utilized. A detached accessory building can be used for parking or storage of motor vehicles, but not for commercial servicing or repair.
  - (b) *Permit.* Any accessory building greater than 200 square feet in residential zoned districts and 120 square feet in commercial zoned districts shall require a building permit. All accessory buildings in non-residential districts also require a site plan, unless otherwise determined by the building official.
  - (c) *Location.* All detached accessory buildings are only permitted in rear yard subject to setbacks listed in this section. In case of corner lots, the building official may permit detached garages for parking cars in the side yard in single family residential districts.
  - (d) *Height.* All detached accessory building in all districts with a pitched roof shall not exceed one story or 15 feet with a maximum ceiling height of ten feet.
  - (e) All detached accessory building in all districts with a flat roof shall not exceed one story or ten feet.
  - (f) All detached accessory buildings in all other districts may be constructed to equal the permitted maximum height of structures in said districts subject to approval of the site plan review committee. The applicant shall submit supporting document justifying the reason for additional heights. Such

structures shall also comply with building material requirements that apply to a principal structure in such districts.

- (g) Lot coverage. The combined floor area of all accessory buildings on a lot or parcel shall not exceed 40 percent of the required rear yard. All attached accessory buildings shall be in compliance with zoning ordinance provisions concerning the maximum percentage of lot coverage for principal buildings.
- (h) Setbacks. All accessory buildings are subject to the following setbacks listed below:
  1. Where the accessory building is structurally attached to a main building, it shall be subject to, and must conform to all regulations of this Ordinance applicable to main buildings.
  2. No detached accessory building shall be located closer than ten feet to any main building nor shall it be located closer than six feet to any side or rear lot line with eaves no closer than four feet to any lot line.
  3. Detached accessory buildings or private garages may be located up to three feet to the rear lot line or side lot line subject to the building official determination that reduced setbacks would not negatively impact the surrounding uses or access to public or private streets.
  4. In those instances where the rear lot line is coterminous with an alley right-of-way, the accessory building shall not be closer than one foot to such rear lot line. In no instance shall an accessory building be located within a dedicated easement right-of-way. In those instances where the rear lot line abuts a street right-of-way, the accessory building shall be no closer to this line than the required front yard setback in the district in which the property is located.
  5. When an accessory building is located on a corner lot, the said lot line of which is substantially a continuation of the front lot line of the lot to its rear, said building shall not project beyond the front yard line required on the lot in rear of such corner lot. When an accessory building is located on a corner lot, the side lot line of which is substantially a continuation of the side lot line of the lot to its rear, said building shall not project beyond the side yard line on the lot in the rear of such corner lot, and in no case shall the entrance to a garage be less than ten feet from a lot line.



- (i) Design. When a permit is required, all attached and detached accessory buildings shall be designed and constructed of materials and design including roof style compatible with the principal structure and other buildings in the vicinity, as determined by the building official. The building official may allow modifications to the roof design if the alternate design is compatible with surrounding architecture.

- 
- (j) **Pavement.** All accessory buildings which are used as garages shall have paved driveways from the street to the garage. The paved driveway shall be a minimum of nine feet wide unless otherwise approved by the community development department. The community development department shall base its determination upon such factors as the narrowness, shallowness, shape or area of a specific piece of property, topographical conditions, or extraordinary or exceptional conditions of the property by which the strict application of this Ordinance would result in a practical difficulty; however, such practical difficulty shall not be self-created by the property owner.
  - (k) **Drainage.** All driveways and garages shall be paved with asphalt or concrete and drained in accordance with the requirements of and upon approval of the city engineer.
- (2) **Utility structures.** All ground-mounted transformers, generators, mechanical equipment, and similar equipment shall be subject to the following regulations.
- (a) They shall be permitted only in the rear yard
  - (b) In case of double frontage lots, the site plan review committee may permit such structures in the interior side yard, provided it is screened completely with an enclosure. Such enclosure shall be constructed of masonry materials similar/compatible to the buildings to which they are accessory and shall obscure all units within.
  - (c) They shall be subject to screening requirements listed in section 10.510(B)(8)b., landscaping and screening, unless otherwise as noted above.
- (3) **Swimming pools.** All zoning districts allow for swimming pools shall be subject to the regulations below.
- (a) Any artificially constructed portable or nonportable pool or container capable of being used for swimming, wading or bathing or any combination thereof, wholly outside a permanently enclosed and roofed building and designed to hold 2,500 gallons or more of water or a depth of two feet or more at any point. A swimming pool shall not be considered an accessory structure for purposes of computing lot coverage.
  - (b) For the protection of the general public, outdoor swimming pools shall be enclosed by a wall, fence or other type of enclosure which may consist in part of the residence to which the swimming pool is appurtenant. Such wall or fence shall be not less than four feet or more than six feet above the ground line of the abutting level. Such wall, fence or enclosure shall not be required for all or such part of the pool that is four feet or more above the abutting ground level; provided, that a suitable barrier is furnished to deter entrance to the pool by persons not having the permission of the pool owner to enter therein when pool is not in use. Any wall shall be of wood, brick or masonry and any fence may be solid or designed so as to permit circulation of air; provided, that any wall or fence shall not be designed of such a nature as to permit any child to pass over, under or through any such fence except at a gate or door when such gate or door shall be opened. All openings in any such fence shall be equipped with a self-closing, self-latching gate which shall be securely locked.
  - (c) Swimming pools, spas, hot tubs and similar devices are only permitted in the rear yard. No such structures shall be located closer than six feet to any lot line. The minimum setback may be reduced up to three feet subject to the building official determination that reduced setbacks would not negatively impact the surrounding uses or access to public or private streets.
  - (d) Construction shall be in accordance with the State Building Code.
- (4) **Flag poles.** All zoning districts allow for flags shall be subject to the regulations below.
- (a) Flagpoles shall be located within the property boundaries. The property owner shall determine the location of property lines and verify that the flagpole being installed is within those property lines.



- (b) Flagpoles shall be located in an area where they do not conflict with parking drives or pedestrian circulation areas.
- (c) The maximum height of the flagpoles including foundation, cannot exceed the maximum permitted height for principal structures of the respective zoning district. In any case, the height of any flagpole shall not be greater than the distance to the nearest property line.
- (d) There shall be no more than two flagpoles.
- (e) Flags bearing information that meet the definitions of a 'sign' as listed in section 10.511(I)(B)(10) cannot exceed 24 square feet and are limited to one such flag, subject to other conditions listed in this section. In instances, when such flag exceeds 24 square feet, they are considered as a sign for review and permitting purposes and shall comply with the sign ordinance requirements.
- (f) The limits in item (d), (e) above does not apply to single-family residences or any apartment dwelling when the flags are located within an area leased by the resident and not within any common area.
- (g) A maximum of one flagpole may be permitted in residential districts with a maximum height of 20 feet. The building official may permit an additional 30 feet based on his determination that the additional height would not negatively impact the surrounding uses or access to public or private streets. The maximum square footage of all flags on the flagpole shall not exceed a total of 30 square feet.
- (h) The maximum square footage of any number of flags per pole shall not exceed the recommended square footage listed below. Minor modifications to square footage requirements may be permitted by the building official if the appropriate structural analysis is provided.

Maximum Pole Height in Feet	Maximum Flag Area in Square Feet
60 and above as permitted in the zoning district	135
50—59	96
40—49	72
30—39	50
20—29	30
Under 20	15

- (i) All flagpoles shall be maintained in good condition, free of significant corrosion, tears, fraying, peeling paint or finish and other damage or deterioration.
  - (j) Prohibited. Banners, pennants, spinners and streamers are not allowed.
  - (k) When illuminated, the lighting shall be directed away from roadways, traffic areas and adjacent residential properties.
  - (l) A building permit is required for any new flagpole. A sign permit may be required if the flag meets the requirements of subsection e listed above.
- (5) *Accessory outdoor storage.* All types of outdoor storage in industrial districts are subject to following conditions.
- (a) Outdoor storage shall be accessory to the principal use of the property only and shall not be related to any off-site commercial business or activity.

- 
- (b) All storage shall be limited to the open storage areas on the approved site plan.
  - (c) All shall be located in the rear yard or an interior side yard. Storage yards shall not be located within the required front yard or in any required off-street parking, loading/unloading spaces or stacking spaces. All loading and truck maneuvering shall be accommodated on-site.
  - (d) All storage areas shall be setback a minimum of 20 feet from residential districts and ten feet from all other non-industrial districts.
  - (e) Lumber, including wood pallets or other combustible material, shall not be stored less than 20 feet from any interior lot line.
  - (f) In M-1 districts, the designated area may not exceed 50 percent of the gross floor area of the primary structure on the site.
  - (g) The approving body may permit such storage a lot which immediately adjoins the subject property and complies with all applicable standard listed in this section. Easements or other acceptable form of agreements shall be required for outdoor storage located on separate parcels.
  - (h) The open storage is of new materials used for operations taking place inside a building on the same lot, or of new finished product prior to shipment.
  - (i) Detached semi-trailers may not be stored or parked at any time except at an approved loading dock or storage area designated on an approved site plan.
  - (j) In no case shall open storage areas to be used to store waste, used or secondhand materials, or obsolete machinery or materials no longer used or intended to be used in the industrial operation.
  - (k) Openly stored materials shall be protected from damage due to weather precipitation as necessary. No racks for the holding of materials are permitted, except that pallets or low blocks may be used to keep materials from immediate contact with the ground.
  - (l) Any stockpiles of soils, fertilizer or similar loosely packaged materials is prohibited, unless they are sufficiently covered or contained to prevent dust or blowing of materials.
  - (m) Adequate fire protection and access for fire vehicles shall be provided at all times.
  - (n) All outdoor sales and display areas shall have an approved paved aggregate surface and a stormwater drainage system.
  - (o) Storage yards shall be screened from adjoining properties by an enclosure consisting of a wall not less than the height of the equipment, vehicles and all materials to be stored. A fence or alternative screening options such as landscape buffer that comply with related standards in section 10.510, landscape and screening, may be permitted if the subject property is surrounded by similar industrial uses.
- (6) *Contractors equipment storage.* In M-1 and M-2 districts, the use of any outside space for the storage or keeping of contractor's equipment or machinery, including building materials storage, construction equipment storage, or landscaping equipment, and associated materials is subject to follows:
- (a) Such storage is subject to all applicable standards related general outdoor storage in industrial districts as noted in the above section 10.504(3).
  - (b) Outdoor storage yards shall be strictly and clearly accessory to the contractor's principal office use of the property. Only products, materials and equipment owned and operated by the principal use shall be permitted for storage, with an exception as noted in section 10.504(3)g.
  - (c) Site plans shall specify if the facility will allow the storage of any vehicle over 30 feet in length. All construction vehicles and equipment shall be stored at their lowest height possible.

- 
- (d) The loading and unloading of equipment and construction materials shall be conducted entirely within the site and shall not be permitted within a public right-of-way.
  - (e) Such storage shall not be located within the required front yard or in any required off-street parking, loading/unloading spaces or stacking spaces. All loading and truck maneuvering shall be accommodated on-site.
- (7) *Above ground storage tanks.* In M-1 and M-2 districts, outdoor placement of above-ground storage tanks as follows:
- (a) It shall be accessory to an otherwise permitted use.
  - (b) It shall be located in a non-required rear or interior side yard.
  - (c) It shall be in compliance with the city's adopted Fire Prevention Code and any applicable State of Michigan and federal regulations related to such use.
  - (d) When abutting a residential district, it shall be enclosed and screened from public view with a greenbelt buffer or a screen wall that comply with related standards in section 10.510, landscape and screening. The approving body shall determine the minimum height for the required screening.
- (8) *General exceptions.* The site plan review committee or any approving body may modify the minimum standards of this subsections (5), (6) and (7) related to outside storage, if it finds that the proposed use will be compatible with, and will not have a material negative impact upon, existing and planned uses located on adjacent and surrounding properties, taking into consideration the size and configuration of the site and any other relevant aspects of the site.
- (Ord. No. 861, § 1, 4-9-90; Ord. No. 872, § 1, 11-13-90; Ord. No. 928, § 1, 11-13-95; Ord. No. 1026, § 1, 4-14-03; Ord. No. 2167, § 1, 7-26-21; Ord. No. 2168, § 4, 9-13-21)

### **Sec. 10.505. Parking requirements.**

- (A) *Intent.* The purpose of this article is to ensure the provision of off-street parking facilities that are sufficient in number, adequately sized and properly designed to meet the range of parking needs and demands that are associated with land uses now in place in the city or with land uses allowed by this chapter.
- (B) *General provisions.* There shall be provided in all districts at the time of erection or enlargement of any main building or structure, or at the time of change of use, an off-street vehicle parking area with adequate access to all spaces. The number of off-street parking spaces, in conjunction with all land or building uses, shall be provided prior to the issuance of a certificate of occupancy, as hereinafter prescribed.
1. *Use.* Except as specifically permitted in the P-1 and P-2 district, off-street parking or off-street parking lots shall not be permitted as the sole or principal permitted use in any zoning district.
  2. *Use of parking spaces.* The use of required parking spaces for material storage, refuse storage and containers, storage and display of vehicles and/or other merchandise, or for vehicle or machinery repair or maintenance is expressly prohibited.
  3. *Remote (off-site) parking facilities for non-residential uses.* Required off-street parking facilities, for other than residential use, shall be located on the same lot as the principal building, or on a lot within 300 feet thereof, measured from the nearest point of the property lines to the nearest point of the off-site parking lot.

Where parking is proposed to be located off-site, a remote parking agreement shall be submitted to the community and economic development department and shall be subject to approval by the city planner and city attorney. Pedestrian access between the remote parking facility and the served use(s)

---

shall be provided in a safe and convenient manner. If remote parking becomes unavailable and minimum parking is not able to be accommodated, the served use(s) shall be discontinued.

The shared parking agreement shall, at minimum, contain the following, and shall be recorded for the properties where the parking and served use(s) are located:

- a. A term of at least five years to protect the city's interest in providing long-term, stable parking for the served use.
  - b. Maintenance requirements.
  - c. Termination, violation and enforcement provisions.
4. *Off-street parking facilities for residential uses.* Residential off-street parking spaces shall occur on a driveway or in a garage, private parking area, or any combination thereof. A driveway must be at least nine feet wide. Both the driveway and the garage shall be located on the premises they are intended to serve and be subject to the provisions of section 10.504 of this Ordinance. All driveways or approaches within the public right-of-way shall be paved with concrete and all other driveways shall be paved with asphalt or concrete and drained in accordance with the requirements of, and upon approval of, the city engineer. Outdoor devices which facilitate the vertical stacking of vehicles shall be prohibited.
  5. *Modifications to existing parking.* Changes to a previously approved parking area or changes in tenants or land uses may be reviewed and approved administratively by the city planner provided the resulting parking changes meet ordinance requirements, unless otherwise noted in section 10.505.E. Such changes shall satisfy all the requirements of the zoning ordinance and shall not otherwise warrant additional public hearings or other significant changes in the approved site plan. Any area once designated as required off-street parking shall not be changed to any other use unless equal parking facilities are provided elsewhere.

(C) *Other vehicle parking requirements.*

1. *Parking of motor vehicles in residential districts.*
  - a. Such parking shall be limited to passenger vehicles and commercial vehicles of the light delivery type, such as a van or pick-up truck, not to exceed a three-quarter ton manufacturers rating.
  - b. Not more than one commercial vehicle shall be permitted per dwelling unit. Parking of commercial vehicle, trailer or truck over three-fourths-ton on private property within the R-1, R-2 and R-3 residential zoning districts, may be permitted as a special land use subject to the use-specific standards contained in section 10.307. - Principal uses permitted.
  - c. The parking of any other type of commercial vehicle, limousine, taxi or bus, except for school or church owned vehicles parked on the school or church's property, is prohibited in a residential zone. Parking spaces for all types of uses may be provided either in garages or parking areas conforming with the provisions of this Ordinance.
2. *Commercial vehicles in general.*
  - a. Unless otherwise permitted in this ordinance, the storage or parking of motor vehicles (licensed or unlicensed), including, but not limited to, automobiles, trucks, recreational vehicles and limousines for periods of longer than 24 hours is prohibited.
  - b. Parking or storage of any motor vehicle, including, but not limited to, automobiles, trucks, recreational vehicles and limousines, that is not on pavement having an asphaltic or Portland cement binder as approved by the city engineer is strictly prohibited. This paragraph shall apply to all districts other than residential and shall apply to all parking areas at all times. Residential districts are governed by other provisions in this Ordinance.

- 
- c. Trucks over three-quarters ton manufacturers rating, trailers and semi-trailers, licensed or unlicensed, may not be parked for periods of longer than four hours. Such parking, when associated with the primary use in the building, may be permitted in industrial districts in areas designated for such purpose on an approved site plan or as permitted elsewhere in this Ordinance.
  - d. Detached semi-trailers may not be stored or parked at any time except at an approved loading dock or storage area designated on an approved site plan in industrial districts.
  - e. The site plan review committee or any approving body may modify the minimum standards of this section related to outside storage if it finds that the proposed use will be compatible with, and will not have a material negative impact upon, existing and planned uses located on adjacent and surrounding properties, taking into consideration the size and configuration of the site and any other relevant aspects of the site.
3. *Fleet and company vehicles.* For the purpose this section, fleet and company vehicles shall include vehicles of a similar nature which are also of a type commonly used by electrical, plumbing, heating and cooling, and other construction-oriented contractors and may also include taxicabs and other rental passenger vehicles.
- a. Such vehicles which are over eight feet in width and/or 19 feet in length shall not be located in the front yard or in any required off-street parking, loading/unloading spaces or stacking spaces. Such vehicles shall be parked or stored in areas designated for such purpose on an approved site plan to the rear or interior side of the principal building when not in use or during non-business hours.
  - b. In case of a corner lot or lots with no available space to park in rear or interior side yard, the approving body may permit parking in alternate locations. The approving body shall have the right to impose other restrictions such as, but not limited to landscape buffer or screen wall as it may deem advisable for the welfare of the surrounding area.
  - c. Parking or storage areas for such vehicles shall be hard surfaced, paved with asphalt or concrete. Such areas shall comply with all applicable standards for regular parking areas, unless otherwise approved by the approving body.
  - d. Such parking shall be screened from adjoining properties by an enclosure consisting of a wall not less than the height of the equipment, vehicles and all materials to be stored. A fence or alternative screening options such as landscape buffer that comply with related standards in section 10.510, landscape and screening, may be permitted if the subject property is surrounded by similar non-residential uses.
4. *Delivery vehicles.* For the purpose this section, delivery vehicles shall include commonly used vehicles for the delivery of ice cream, milk, bread, fruit or similar vending supply or delivery trucks. Parking of such vehicles is permitted subject to the following conditions listed below
- a. Delivery vehicles for uses such as retail and restaurants may be permitted in the front yard during business hours in parking areas that are not directly adjacent to the public right-of-way.
- (D) *Minimum off-street parking requirements.*
- 1. *General standards.*
    - a. *For those uses not specifically mentioned.* The requirements for off-street parking facilities for such uses shall be in accordance with a use which the approving body considers is similar in type. If no use is deemed to be similar, the applicant shall propose a minimum count based on a parking study or another acceptable alternative, subject to the approval of the approving body.

- b. *Units and methods of measurement.* For the purpose of determining off-street parking requirements, the following units of measurement shall apply:
- i. *Floor area.* Where floor area is the unit for determining the required number of off-street parking spaces, said unit shall mean the usable floor area ('UFA'; see section 10.200 for definition), unless otherwise noted herein. For purposes of minimum parking calculations, when a floor plan is not available, usable floor area shall be considered 75 percent of total gross floor area.
  - ii. *Occupancy.* For requirements stated in terms of occupancy, the calculation shall be based upon the maximum permitted occupancy determined by the city fire marshal.
  - iii. *Places of assembly.* In stadiums, sports arenas, places of worship, theaters, auditoriums, and other places of assembly in which those in attendance occupy benches, pews, or other similar seating facilities, each 24 inches of such shall be counted as one seat. In cases where a place of assembly has both fixed seats and open assembly area, requirements shall be computed separately for each type and added together.
  - iv. *Number of employees.* For requirements stated in terms of number of employees, the calculation shall be based on the number of employees in the largest working shift.
- c. *Accessible parking.* Parking spaces for those with physical disabilities shall be provided as part of the minimum number of parking spaces required by this Ordinance, and shall be designed, constructed and marked in accordance with Title III of the Americans with Disabilities Act, Public Law 101-336 (ADA) and Section of Act 230 of the Public Acts of 1972, as amended (Michigan Barrier Free Design Standards).
- d. *Temporary construction parking.* Such parking shall be exclusive of any rights-of-way shall be provided for all construction workers during periods of construction.
2. *Off-street parking minimum requirements.* The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule. Requirements for accessory uses associated with the primary use shall also be met as established for such uses in the table below.

Type of Use	Minimum Spaces Required
<b>a. Housing</b>	
Convalescent Homes	1 per each 4 beds + 1 per employee
Independent Senior Living	1 per each unit + 1 per each employee; for detached units, requirements for one-family residential shall apply
Congregate Senior Facility	3 per each 4 units + 1 per each employee
Mobile home park	1 per unit + 1 per 10 units for guest parking
Residential, one-family and two-family	2 per dwelling
Residential, multiple family	1 per each one bedroom unit; 1.5 spaces for each two or more-bedroom units
<b>b. Assembly</b>	
Places of Assembly (Stadiums, banquet halls, etc.)	1 per each 4 seats (section 10.505(D)(1)b. for unit measurement) or in case of no seating, 1 per each 4 persons allowed within the maximum occupancy load as established by the fire marshal.

Places of Worship	1 per each 4 seats (section 10.505(D)(1)b. for unit measurement) or in case of no seating, 1 per each 4 persons allowed within the maximum occupancy load as established by the fire marshal.
<b>c. Office</b>	
General Office	1 per each 300 sq. ft. UFA
Medical Office	1 per each 200 sq. ft. UFA
<b>d. Institutional</b>	
High schools	1 per employee + 1 per each ten students, in addition to the requirements of any auditorium.
Higher education; trade or technical; all other adult education	1 per employee + 1 per each ten students, in addition to the requirements of any auditorium.
Hospitals	1 per each bed, plus as required for accessory uses
Pre-school and Daycare	1 per 350 sf of UFA + 1 per employee
Elementary and junior high schools	1 per employee + 1 per each ten students, in addition to the requirements of any auditorium.
<b>e. Commercial</b>	
Financial Institutions (Banks/credit unions)	1 per each 200 sq. ft. UFA
Personal Service Use	1 per each chair/booth or 1 per 250 sq. ft. UFA, whichever is greater.
Hotel, motel or other commercial lodging establishment	1 per each sleeping unit + 1 per employee.
Major Retail with display (similar to furniture and appliance sales)	1 per 250 sq. ft. UFA + 1 per 700 sq. ft. UFA for areas used for storage and processing.
Retail Shopping Center	1 per each 250 sq. ft. UFA + 1 per 700 sq. ft. of storage area
Self-storage	<i>Indoor unit access:</i> 5 per office +1 per every 50 units spread throughout (indoor access).
	<i>Outdoor unit access:</i> 5 per office + adequate space in front of exterior unit as long as access is not blocked
Pet Boarding Facilities	1 per 700 sq. ft. UFA
<b>f. Restaurants</b>	
Fast-food restaurants	1 per 2 seats + 1 per 2 employees
Sit-down Restaurants/Bars and Lounges	1 per 70 sq. ft. UFA (excluding kitchen areas) + 1 per each employee.
Fast-food carry out only	1 per 2 persons allowed per maximum occupancy
<b>g. Recreational</b>	

Private fitness facilities	1 per 250 sq. ft. UFA
Bowling Alleys	5 for each bowling lane
Indoor/Outdoor Recreational Facilities	To be determined by the site plan review committee based on parking demand data provided by the applicant.
<b>h. Auto related</b>	
Gasoline service stations which may include minor repair or retail	1 space at each pump + 2 spaces per service bay; 1 additional space at each service bay if towing service is offered; Retail is subject to retail standards listed in this section
Motor vehicle sales and service establishments	1 per 300 sq. ft. UFA plus 2 per each service bay
Auto Wash Facilities	Two plus 1 per each employee
<b>i. Industrial</b>	
Industrial Uses	1 per 300 sq. ft. UFA for office uses + 1 per 1,000 sq. ft. warehouse, storage, data. For speculative uses 1 per 550 sq. ft. GFA.
Medical Marihuana Caregiver	1 per 550 sq. ft. of UFA. A minimum of four spaces shall be provided.

(E) *Reduction from minimum off-street parking standards.* It is the intent of this subsection to recognize that, based on site-specific conditions, certain uses may function with less off-street parking than required in the table above. As such, reductions in the requirement for minimum parking spaces may be permitted as follows:

1. *Parking reduction waivers:*

- a. *Administrative waiver.* The site plan review committee may grant up to a 15 percent reduction in the minimum required number of parking spaces where the applicant can demonstrate that the project can satisfy the standards listed in subsection 10.505(E)(2), below.
- b. *DDA waiver.* The site plan review committee may grant up to a 25 percent parking reduction for properties located within the boundaries of the Southend Downtown Development Authority (DDA) where the applicant can demonstrate that the project can satisfy the standards listed in subsection 10.505(E)(2), below.
- c. *Planning commission waiver.* As part of the site plan review process outlined in section 10.514, the planning commission may grant up to a 30 percent reduction in the minimum required number of parking spaces where the applicant can demonstrate that the project can satisfy the standards listed in subsection 10.505(E)(2), below.
- d. *Adaptive reuse waiver:*
  - i. *Eligibility.* To qualify for a parking reduction, adaptive reuse projects shall satisfy the following criteria:
    - (a) The existing building(s) shall be at least 25 years old and constructed in accordance with building and zoning codes in effect at the time of construction; and



- 
- (b) A minimum of 50 percent of the total building area shall be converted to a land use category other than the land use category for which the building was originally designed.
    - ii. *Parking reduction:*
      - (a) Where the applicant can demonstrate that the project can satisfy the standards listed in subsection 10.505(E)(2), below, the site plan review committee/approving body may reduce the minimum number of parking spaces by up to 25 percent for eligible adaptive reuse projects. Where a mix of uses is proposed, the 25 percent reduction shall be applied to the minimum parking requirement for each individual land use type.
      - (b) Shared parking arrangements are encouraged for adaptive reuse projects pursuant to 10.505(E)(3), below. Shared parking studies for eligible adaptive reuse projects may apply the 25 percent reduction offered under this subsection to determine minimum parking requirements for each land use type.
      - (c) Expansions/additions to the floor area of a building(s) associated with an eligible adaptive reuse project shall comply with minimum parking requirements and shall not be included within the 25 percent parking reduction.
  - 2. *Standards for parking reductions.* As permitted by section 10.505(E), the approving body may reduce minimum parking requirements where the applicant can demonstrate that all of the following standards can be satisfied:
    - a. The applicant has demonstrated through substantial evidence that the specified occupant or building use would require less parking than what would typically be required by this section; and
    - b. Parking will not occur on any street or driveway; and
    - c. Parking will not occur on any area not approved and developed for parking; and
    - d. The requested parking reduction shall not create traffic or circulation problems on or off site; and
    - e. The approved waivers shall apply only to the proposed site use and shall not be carried over to another use or occupant of the site. Any substantial changes to the use mix or parking demand from the original approval shall require approval from the approving body prior to the issuance of a certificate of occupancy.
  - 3. *Shared parking.* Where multiple land uses occupy a single property, or properties in close proximity, the City of Madison Heights encourages the use of shared parking arrangements. Approval of shared parking shall be subject to the following conditions.
    - a. *Parking computation.* The number of shared spaces for two or more distinguishable land uses shall be determined by the following procedure:
      - i. Multiply the minimum parking required for each individual use, as set forth in section 10.505(D)(2), by the appropriate percentage indicated in the shared parking calculations table (below) for each of the six designated time periods.
      - ii. Add the resulting sums for each of the six columns.
      - iii. The minimum parking requirement shall be the highest sum among the six columns resulting from the above calculations.

Shared Parking Calculations						
General Land Use Classification	Weekdays			Weekends		
	2:00 a.m.—7:00 a.m.	7:00 a.m.—6:00 p.m.	6:00 p.m.—2:00 a.m.	2:00 a.m.—7:00 a.m.	7:00 a.m.—6:00 p.m.	6:00 p.m.—2:00 a.m.
Office	5%	100%	5%	0%	10%	0%
Retail sales and services	0%	90%	80%	0%	100%	60%
Restaurant	10%	70%	100%	20%	70%	100%
Residential	100%	60%	100%	100%	75%	90%
Theater	0%	40%	90%	0%	80%	100%
Hotel						
Guest rooms	100%	55%	100%	100%	55%	100%
Restaurant/lounge	40%	60%	100%	50%	45%	100%
Conference rooms	0%	100%	100%	0%	100%	100%
Religious institution	0%	25%	50%	0%	100%	50%
Reception or meeting hall	0%	70%	90%	0%	70%	100%
Museum	0%	100%	80%	0%	100%	80%
School, grades K—12	0%	100%	25%	0%	30%	10%

- b. *Other uses.* If one or all of the land uses proposing to make use of shared parking facilities do not conform to the general land use classifications in the shared parking calculations table, as determined by the approving body, then the applicant shall submit sufficient data to indicate the principal operating hours of the uses. Based upon this information, the approving body shall determine the appropriate shared parking requirement, if any, for such uses.
  - c. *Shared parking waivers.* The applicant may request an additional reduction of minimum shared parking requirements by employing one or more of the parking reduction waivers outlined in section 10.505(E)(1), above. The applicant shall demonstrate that the project can satisfy the standards listed in subsection 10.505(E)(2), above.
  - d. *Remote shared parking.* The approving body may consider off-site (remote) parking for shared parking arrangements, subject to the standards of section 10.505(B)(3), above.
- (F) *Bicycle parking facilities general requirements.* At the time of erection or enlargement of any principal building or structure, or at the time of change of use, a bicycle parking facility shall be required and be provided as part of site plan review in accordance with the following requirements:
1. **Minimum count.** A minimum of two bicycle parking spaces shall be provided. Auto wash uses and single-family and two-family uses are exempt from this requirement. Any use that requires bicycle parking and has more than 40 off-street vehicle parking spaces shall provide one additional bicycle parking space for each 20 vehicle parking spaces.
  2. **Location.** Bicycle parking facilities shall be no greater than 150 feet from the entrance being served.
  3. **Minimum required bicycle parking spaces** shall not be replaced by any other use unless and until equal facilities are provided elsewhere.

4. Layout and design standards. All bicycle parking spaces shall be paved and shall feature a bicycle rack of the inverted "U" design that is permanently affixed to the ground. Alternative installations and designs may be considered if the proposed rack design functions similar to the inverted "U" design and is easily visible and accessible.
5. Access. All bicycle parking facilities shall be accessible from adjacent street(s) and pathway(s) via a paved route that has a minimum width of five feet.
6. Waiver. Upon the written request of an applicant, the approving body may waive or modify the bicycle parking facility layout, location, and design requirements in this subsection upon a satisfactory showing by the applicant of a practical difficulty with complying with the requirement due to site constraints or other factors, and that the applicant's proposed plan will adequately serve the needs of the site and the bicycling public.

(Ord. No. 406, § 1, 10-20-69; Ord. No. 529, § 1, 8-12-74; Ord. No. 780, § 1, 5-12-86; Ord. No. 859, § 1, 3-12-90; Ord. No. 862, § 1, 4-9-90; Ord. No. 969, § 6, 4-27-98; Ord. No. 1014, § 3, 2-11-02; Ord. No. 1026, § 2, 4-14-03; Ord. No. 1076, § 10, 10-12-10; Ord. No. 1091, § 9, 1-28-13, eff. 2-7-13; Ord. No. 2116, §§ 3—17, 1-23-17; Ord. No. 2168, § 8, 9-13-21; Ord. No. 2173, § 2, 1-10-22)

**Sec. 10.506. Off-street parking space layout, standards, construction and maintenance.**

Wherever the off-street parking requirements in section 10.505 above require the building of an off-street parking facility, or where P-1 or P-2 Vehicular Parking Districts are provided, such off-street parking lots shall be laid out, constructed and maintained in accordance with the following standards and regulations.

- (A) No parking lot shall be constructed unless, and until, all required permits are issued by the building official after site plan review and approval.
- (B) Adequate ingress and egress to the parking lot shall be provided. All traffic directional signs and controls required by the approved site plan shall be established and maintained by the owner or lessee of the parking lot.
- (C) All drives and parking spaces shall be surfaced in a manner equivalent to that which is provided for the parking areas under section 10.340. Permeable asphaltic or concrete pavement or pavers may be permitted after review and approval of the design by the city engineer for conformance with city standards.
- (D) All spaces shall be provided adequate access by means of on-site maneuvering lanes.
- (E) Each off-street parking space shall be in accordance with the following table and shall be of usable shape and condition. Access drives shall be a minimum of 12 feet in width and where a turning radius is necessary it will be of an arc of sufficient size to reasonably allow an unobstructed flow of vehicles.

Parking Pattern	Minimum Maneuvering Lane Width <sup>b, c</sup>	Minimum Parking Space Width	Minimum Parking Space Length <sup>c, d</sup>	Minimum Total Width of One Tier of Spaces Plus Maneuvering Lane	Minimum Total Width of Two Tiers of Spaces Plus Maneuvering Lane
90°	22 ft.	9 ft.	20 ft.	42 ft.	62 ft.
60°	18 ft.	9 ft.	20 ft.	37 ft.	56 ft.

45°	15 ft.	9 ft.	20 ft.	30 ft.	53 ft.
Parallel	12 ft.	9 ft.	20 ft.	31 ft.	
45° Herringbone	12 ft.	9 ft.	20 ft.		50 ft.

- <sup>a</sup> All above dimensions are measured from back of curb to back of curb.
- <sup>b</sup> The minimum maneuvering lane width shall be increased to a minimum of 24 feet, if the lane is determined to be a fire lane by the city fire marshal.
- <sup>c</sup> The city engineer may require the maneuvering lane widths to be increased to 24 feet, when it is warranted to allow safe turning movements for larger vehicles. When the maneuvering lane width is proposed at a minimum of 24 feet, the parking space length can be reduced by two feet.
- <sup>d</sup> Two feet of the minimum parking space length may overhang a landscaped area or a sidewalk, where the walk is a minimum seven feet wide.

- (F) All maneuvering lane traffic shall permit only one-way movement, with the exception of the 90° and parallel patterns where two-way movement may be permitted.
- (G) Screening wall. On all sides where the adjacent zoning district is designated as a residential district, off-street parking areas shall be provided with a continuous and completely obscuring wall in accordance with the specifications of section 10.513.
- (H) Sidewalk. All principal uses shall be connected to the adjacent public sidewalk system with 5' wide concrete sidewalk(s) meeting the city's public sidewalk standards. Existing uses shall incorporate this requirement into any development or expansion that requires site plan review. The internal sidewalk design shall be designed to permit safe ingress and egress of pedestrians and encourage walkability and non-motorized access.
- (I) Drainage. Off-street parking areas shall be drained so as to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property or toward buildings.
- (J) End islands. In order to delineate on-site circulation, improve sight distance at the intersection of parking aisles, ring roads, and private roads, protect the vehicle at the end of a parking bay, and define the geometry of internal intersections, end islands (landscaped with raised curb) shall be required at the end of all parking bays that abut traffic circulation aisles in off-street parking lots. End islands with raised curbs and landscaping shall not be required in parking structures; however, painted islands must be provided. For surface lots where internal traffic circulation is forecast to be low or where the raised islands would not be appropriate, the site plan review committee or the approving body may waive the requirement for raised end islands and may allow for painted islands only. The end islands, whether raised or painted, shall generally be at least ten feet wide, have an outside radius of 15 feet, and be constructed three feet shorter than the adjacent parking stall.
- (K) Landscaping. Right-of-way screening and parking lot landscaping shall be provided in accordance with section 10.510.

(Ord. No. 1026, § 2, 4-14-03; Ord. No. 1091, §§ 10—12, 1-28-13, eff. 2-7-13; Ord. No. 2116, §§ 18, 19, 1-23-17; Ord. No. 2173, § 3, 1-10-22)

---

**Sec. 10.507. Off-street loading and unloading.**

On the same premises with every building, structure or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading in order to avoid undue interference with public use of dedicated streets or alleys. Such loading space(s) shall be subject to the following standards:

- (A) Loading dock approaches shall be provided with a pavement having an asphaltic or Portland cement binder so as to provide a permanent, durable and dustless surface.
- (B) Loading and unloading of freight shall be on those sides of the building which do not face on any street or proposed street.
- (C) Loading areas shall be designed so that maneuvering of vehicles will take place off the public right-of-way.
- (D) Minimum requirements. Such loading and unloading space(s), unless completely and adequately provided for within a building, shall be an area 12 feet by 50 feet, with clearance of 14 feet high, and shall be provided according to the following schedule:

Gross Floor Area of Building (square feet)	Required Loading and Unloading Spaces
First 2,000	None
2,000—20,000	1
20,000—100,000	1 + 1 for each 20,000 square feet in excess of 20,000 square feet
100,000—500,000	5 + 1 for each 40,000 square feet in excess of 100,000 square feet
Over 500,000	10 + 1 for each 80,000 square feet in excess of 500,000 square feet

- a. *Double count.* Off-street loading space areas shall not be counted as off-street parking spaces, nor shall they conflict with the maneuvering lanes required to access off-street parking.
- b. *Waiver.* In cases where the applicant has sufficiently demonstrated that the minimum loading and unloading requirements of this section are excessive for their use, the approving body may grant a waiver from the minimum standards listed in this subsection. The approved waiver shall apply only to the current site use and shall not be carried over to another use or occupant of the site.

(Ord. No. 268, § 1, 10-11-65; Ord. No. 1026, § 2, 4-14-03; Ord. No. 2173, § 4, 1-10-22)

**Sec. 10.508. Uses not otherwise included within a specific use district.**

Because the uses hereinafter referred to possess unique characteristics making it impractical to include them in a specific use district classification, they shall be permitted by the city council under the conditions specified, and after public hearing. In every case, the uses hereinafter referred to shall be specifically prohibited from any R-1, R-2, R-3, R-T, or R-M District. These uses require special consideration since they service an area larger than the city and require sizeable land areas, creating problems of control with reference to abutting use districts. Reference to those uses falling specifically within the intent of this section is as follows:

- 
- (1) *Outdoor theaters.* Because outdoor theaters possess the unique characteristic of being used only after darkness and since they develop a concentration of vehicular traffic in terms of ingress and egress from their parking area, they shall be permitted in M-1 Districts and B-3 Districts only when the site in question abuts an M-1 or M-2 District. Outdoor theaters shall further be subject to the following conditions:
    - (a) The proposed internal design shall receive approval from the building inspector and the city engineer as to adequacy of drainage, lighting, screening and other technical aspects.
    - (b) Points of ingress and egress shall be available to the outdoor theater from abutting major thoroughfares and shall not be available from any residential street.
    - (c) All vehicles, waiting or standing to enter the facility, shall be provided off-street waiting space. No vehicle shall be permitted to wait or stand within a dedicated right-of-way.
    - (d) The area shall be laid out so as to prevent the movie screen from being viewed from residential areas or adjacent major thoroughfares. All lighting used to illuminate the area shall be so installed so as to be confined within, and directed onto, the premises of the outdoor theater site.
  - (2) *Television and radio towers.* Radio and television towers and attendant facilities shall be permitted in M-1 Districts provided such use shall be located centrally on a parcel such that the distance from the base of the tower to any property line shall not be less than one and one-half times the height of the tower.
  - (3) *Race tracks (including midget auto and karting tracks).* Because race tracks develop a concentration of vehicular traffic in terms of ingress and egress from their parking area and cause noise levels which may project beyond the property so used, they shall be permitted in the M-1 Districts when located adjacent to a major thoroughfare (120 feet wide or greater) and shall be located on a parcel of land which is abutting land zoned for industrial purposes on all sides of the parcel in question, and shall be subject further to the following conditions and such other controls as the board of appeals deems necessary to promote health, safety and general welfare in the city.
    - (a) All parking shall be provided as off-street parking within the boundaries of the development.
    - (b) All access to the parking areas shall be provided from roads which have a right-of-way of not less than 120 feet in width.
    - (c) All sides of the development not abutting a major thoroughfare (120 feet of right-of-way or greater) shall be provided with a 20-foot greenbelt planting and fence or wall so as to obscure from view all activities within the development. Said planting shall be in accord with section 10.510.
  - (4) *Home offices and home occupations.*

*Home offices:* Home offices which are clearly incidental to the principal residential use, and carried on by permanent residents of the home, shall be a permitted accessory use in any residential district. Typical home offices include accounting, real estate, insurance, law and other similar offices, excluding any sales and/or service of weapons, guns, ammunition, fireworks or any components thereof and all regulated uses as defined in section 10.502(A). The following conditions for home offices shall be met.

    - (1) The office shall utilize no more than 25 percent of the total floor area of any one story of the residential structure therein located.
    - (2) Special use approval shall be required for a home office desiring to employ a non-resident employee. Not more than one non-resident employee shall be permitted.
    - (3) All home office activities shall be conducted wholly within the principal residence.

- 
- (4) No structural alterations or additions, or site improvements, which alter the residential character of the structure or property shall be permitted to accommodate a home office.
  - (5) There shall be no external evidence of such office. No signage shall be permitted.
  - (6) No commodity shall be sold on the premises.
  - (7) No home office shall be permitted which is injurious to the general character of the residential district or which creates a congested or otherwise hazardous traffic or parking condition.
  - (8) No more than two customers or clients shall be permitted to visit the site at any given time. All customer/client visits shall be between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. Adequate, conforming off street parking shall be provided for customers or clients.

*Home occupations:* Home occupations which are clearly incidental to the principal residential use shall be a special approval use in any single-family residential district. A home occupation is traditionally and customarily carried on in the home by permanent residents of the home and is clearly incidental and secondary to the principal residential use. Typical home occupations normally involve services such as hairdressing, clothing alterations and voice or music instruction, excluding any sales and/or service of weapons, guns, ammunition, fireworks or any components thereof and all regulated uses as defined in section 10.502(A). The following conditions shall apply to home occupations:

- (1) That such home occupation shall be conducted wholly within the dwelling.
  - (2) That no article or service shall be sold or offered for sale on the premises except such as is produced within the dwelling or is provided incidental to the service or profession conducted within the dwelling.
  - (3) That there shall be no exterior storage or parking of materials or equipment.
  - (4) That no nuisance shall be generated by any heat, glare, noise, smoke, vibration, noxious fumes, odors, vapors, gases or matters at any time and that no mechanical, electrical, or similar machinery or equipment, other than that used for normal domestic purposes, will be utilized in the home occupation.
  - (5) That no hazard of fire, explosion or radioactivity shall exist at any time.
  - (6) There shall be no external evidence of such home occupation. No signage shall be permitted.
  - (7) No home occupation shall be injurious to the general character of the residential district or create a congested or otherwise hazardous traffic or parking condition.
  - (8) As part of the special approval, city council may regulate all aspects of the home occupation without limitation, including the hours of operation and the maximum area of the dwelling utilized for the home occupation.
  - (9) The required site plan shall include a detailed floor plan of the residence showing all existing and proposed use areas.
  - (10) "Home occupation" shall not include "home offices" as defined above.
- (5) *Yard waste transfer and composting facilities; recycling facilities.*
- (a) *Definitions:*  
*Compostables:* means leaves, grass clippings, brush, woodchips, tree limbs under two inches in diameter, vegetative prunings, Christmas trees, and other garden or yard waste and other organic material as may be specified in conditions attached to a special approval.

---

*Recyclable materials:* means high grade paper, glass, plastic, newspaper, corrugated paper and other materials as may be specified in conditions established as part of a special approval.

*Recycling drop-off center:* means an unmanned site containing one or more self contained, fully enclosed containers for the deposit of approved, source separated, recyclable materials by the public.

*Recycling processing facility:* means a facility designed and used for the collection, sorting, processing and temporary storage of recyclable materials; and the redistribution of processed materials to off-site locations for re-use. As used herein processing means changing the physical or chemical character by separation, treatment or other means, so as to make it re-usable as a resource.

*Recycling transfer facility:* means a structure used for the transfer of recyclable materials from collection vehicles to bulk hauling vehicles. Operations are limited to unloading of collection vehicles and loading bulk hauling vehicles with collected recyclables.

*Source separated:* means recyclable materials that are separated at the source of generation.

*Yard waste transfer facility:* means an area used for the transfer of compostables from collection vehicles to bulk hauling vehicles. Operations are limited to unloading of collection vehicles and loading bulk hauling vehicles with collected compostables.

*Yard waste composting facility:* means a facility designed and used for the conversion of compostables into organic compost (humus) or where compostables are stored for transfer longer than 24 hours.

(b) *Yard waste transfer facilities:* Yard waste transfer facilities, including any expansion of an existing facility, shall be permissible only as a use by special approval in the M-1 and M-2 zoning districts subject to the following regulations:

1. If the site abuts property which is residentially zoned, a buffer zone shall be maintained where no storage, transfer or loading activities will take place within 150 feet of any existing residential district and within 100 feet of all adjoining property lines. All buffer areas shall be maintained as landscape strips to facilitate screening and buffering
2. All site access roads, drives, material handling, storage and transfer areas, and all areas for truck, visitor and employee parking shall be paved with asphalt or concrete.
3. Adequate parking shall be provided for all employees and visitors.
4. The site shall be controlled to prevent unauthorized access during non-business hours.
5. All transfer operations shall be screened from public view in a manner which provides complete screening between the site and all adjacent properties and rights-of-way.
6. No compostables may remain on-site longer than twenty-four (24) hours.
7. In order to contain windblown debris, chain link fencing shall be installed and maintained around all areas of the site which are utilized in any phase of the compostables transfer process. Council shall determine the appropriate location and height of required fencing during special approval review after consideration of the site characteristics, proposed design, adjacent land uses, and prevailing wind patterns.
8. Overnight storage or parking of loaded vehicles shall not be permitted.
9. If public access is provided to the site for the drop-off of compostable material the public drop-off area shall be fully separated from the transfer operation and the operator shall clearly demonstrate that the public health and safety are protected while on the site.



- 
10. The compostable transfer process shall be properly managed and maintained in an aerobic condition to prevent an odor nuisance beyond the property line.
- (c) *Yard waste composting facilities:* Yard waste composting facilities shall be permissible only as a use by special approval in the M-2 zoning district subject to the following regulations:
1. Items 2, 3, & 4 in Paragraph (b) above.
  2. The site shall be well drained and designed such that all natural or generated runoff is contained within the site.
  3. If the site abuts property which is residentially zoned, a buffer zone shall be maintained where no composting, storage, transfer or loading activities will take place within 300 feet of any existing residential districts and 100 feet of all adjoining property lines. All buffer areas shall be maintained as landscape strips to facilitate screening and buffering.
  4. The compost site, and all related operations, shall be screened from adjacent public rights of way, properties, and public view, by a land form buffer, buffer strip, screening wall and adjacent greenbelt, or a combination thereof. Council may require additional landscaping or screening where it determines it to be necessary to prevent negative impacts on adjacent properties.
  5. In order to contain windblown debris, chain link fencing shall be installed and maintained around all areas of the site which are utilized in any phase of the composting process. Council shall determine the appropriate location and height of required fencing during special approval review after consideration of the site characteristics, proposed design, adjacent land uses, and prevailing wind patterns.
  6. Only compostables shall be composted at such facilities.
  7. The decomposition process shall be managed and maintained in an aerobic condition to prevent an odor nuisance beyond the property line.
  8. Pondered water shall not be permitted to collect on a yard waste composting site.
  9. If public access is provided to the site for the drop-off, or pick-up of compostable material the public drop-off area shall be fully separated from the composting operation and the operator shall clearly demonstrate that the public health and safety are protected while on the site.
  10. Overnight storage or parking of loaded vehicles shall not be permitted.
  11. Copies of all Michigan Department of Environmental Quality applications and/or permits, if required, shall be provided with the application.
- (d) *Recycling drop-off center:* Drop-off centers are intended to serve the public by providing a convenient and safe place, in a location normally used by the public, to drop off their recyclable materials. Due to the area required for this type of facility, recycling drop-off centers shall be permissible only as a use by special approval in the B-2 and B-3 zoning districts subject to the following regulations:
1. If the site abuts property which is residentially zoned, a buffer zone shall be maintained where no drop-off activities will take place within 100 feet from any existing residential district, 25 feet from all adjoining property lines, behind the extended front line of any existing buildings and not within any required front yard.
  2. The site shall be well drained and designed such that all natural or generated runoff is contained within the site.

- 
3. The recycling drop-off center shall be screened from adjacent public rights of way and properties, and from public view, by a land form buffer, buffer strip, screening wall and adjacent greenbelt, or a combination of thereof. Council may require additional landscaping or screening where it determines it to be necessary to prevent negative impacts on adjacent properties.
  4. The types of recyclable materials to be collected shall be approved by council as part of the special approval process. No motor oil, batteries, paint, lead, mercury or other hazardous materials shall be collected.
  5. The operator shall provide plans showing all container locations and screening. Plans shall show the location of entrances, exits and unloading areas for the location as well as the distances to property lines and any adjacent residential districts.
- (e) *Recycling transfer facilities:* Recycling transfer facilities shall be permissible only as a use by special approval in the M-1 and M-2 zoning districts subject to the following regulations:
1. If the site abuts property which is residentially zoned, a buffer zone shall be maintained where no storage, transfer or loading activities will take place within 150 feet of any existing residential district and within 100 feet of all adjoining property lines. All buffer areas shall be maintained as vegetative strips to facilitate screening and buffering.
  2. All site access roads, drives, material handling, storage and transfer areas, and all areas for truck, visitor and employee parking shall be paved with asphalt or concrete.
  3. Adequate parking shall be provided for all employees and visitors.
  4. The site shall be controlled to prevent unauthorized access during non-business hours.
  5. All transfer operations shall be conducted inside a fully enclosed structure.
  6. No recyclable materials may remain on-site longer than seven calendar days.
  7. Overnight storage or parking of loaded vehicles shall not be permitted.
  8. If public access is provided to the site for the drop-off of recyclable materials the public drop-off area shall be fully separated from the transfer operation and the operator shall clearly demonstrate that the public health and safety are protected while on the site.
- (f) *Recycling processing facilities:* Due to the large volume of truck traffic, storage and recyclable material handling, combined with the increased possibility of odor, noise, dust and debris, recycling processing facilities shall be permissible only as a use by special approval in the M-2 zoning district subject to the following regulations:
1. Items 2, 3, 4, 5, 7 and 8 in Paragraph (e) above.
  2. All processing shall be conducted inside a fully enclosed building.
  3. If the site abuts property which is residentially zoned a buffer zone shall be maintained where no recycling, storage, transfer or loading activities will take place within 300 feet from existing residences and within 100 feet of all adjoining property lines. All buffer areas shall be maintained as vegetative strips to facilitate screening and buffering.
  4. The recycling processing center shall be screened from adjacent public rights of way and properties by a land form buffer, buffer strip, screening wall and adjacent greenbelt, or a combination of thereof. Council may require additional landscaping or screening where it determines it to be necessary to prevent negative impacts on adjacent properties.

- 
5. In order to contain windblown debris and provide security, chain link fencing shall be installed and maintained around all areas of the site which are utilized in any phase of the recycling process. Council shall determine the appropriate location and height of required fencing during special approval review after consideration of the site characteristics, proposed design, adjacent land uses, and prevailing wind patterns.
  6. The types of materials to be recycled shall be approved by Council as part of the Special Approval Process.
  7. Copies of all Michigan Department of Environmental Quality applications and/or permits, if required, shall be provided with the application.
- (g) Yard waste transfer facilities and composting facilities, and all recycling processing and transfer facilities and drop-off stations, shall utilize materials, equipment and processes which are clean, quiet and free from any objectionable or dangerous nuisance or hazard including odors and windborne dust or debris and shall comply with all other performance standards contained in section 10.509 of this Ordinance and any other standard imposed as a condition of special approval.
  - (h) Failure to maintain and operate the facility in a responsible manner that minimizes the potential for adverse impacts on neighboring properties, or in compliance with the conditions of the special use permit, shall constitute grounds for immediate revocation of the special use permit by the city.
  - (i) All facilities under this section shall include, as part of their application, a management plan detailing the operation, maintenance, cleaning, monitoring, removal of unmarketable products and waste, security and hours of operation. Council may limit the hours of operation as a condition of special approval.

(Ord. No. 973, § 2, 7-27-98; Ord. No. 1009, § 1, 9-24-01; Ord. No. 1010, § 1, 10-22-01; Ord. No. 2128, § 18, 1-14-19)

### **Sec. 10.509. Performance standards.**

- (1) *Reserved.*
- (2) *Reserved.*
- (3) *Open storage.* Where permitted, the open storage of any industrial equipment, vehicles and all materials including wastes shall be subject to applicable standards listed in section 10.504, accessory buildings, structures, and uses, section 10.505, parking requirements and section 10.510, landscaping and screening.
- (4) *Glare and radioactive materials.* Glare from any process (such as or similar to arc welding, or acetylene torch cutting) which emits harmful ultraviolet rays shall be performed in such a manner as not to be seen from any point beyond the property line, and as not to create a public nuisance or hazard along lot lines. Radioactive materials and wastes, and including electromagnetic radiation such as X-ray machine operation, shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, when measured at the property line.
- (5) *Fire and explosive hazards.*
  - (a) In the M-1 and M-2 Districts the storage, utilization or manufacture of materials or products ranging from incombustible to moderate burning, as determined by the fire marshal, is permitted, subject to compliance with all other performance standards above mentioned.
  - (b) The storage, utilization or manufacture of materials, goods or products ranging from free or active burning to intense burning, as determined by the fire marshal is permitted subject to compliance with

---

all other yard requirements and performance standards previously mentioned, and providing that the following conditions are met:

1. Said materials or products shall be stored, utilized or produced within completely enclosed buildings or structures having incombustible exterior walls, which meet the requirements of the Building Code of the City of Madison Heights.
  2. All such buildings or structures shall be set back at least 40 feet from lot lines, or in lieu thereof, all such buildings or structures shall be protected throughout by an automatic sprinkler system complying with installation standards prescribed by the National Fire Association.
  3. The storage and handling of flammable liquids, liquefied petroleum, gases and explosives shall comply with the State Rules and Regulations as established by Public Act No. 207 of 1941 [MSA 4.559(1) et seq.], as amended.
- (6) *Noise.* Objectionable sounds, including those of an intermittent nature, shall be controlled so as not to become a nuisance to adjacent uses. The permitted noise in M-1 Districts shall not exceed 75 decibels between the hours of 6:00 a.m. and 10:00 p.m. nor more than 70 decibels between the hours of 10:00 p.m. and 6:00 a.m. In all M-2 Districts the measurable noise shall not exceed 80 decibels. All measurements shall be made at the property line.
- (7) *Reserved.*
- (8) *Wastes.* Regulations:
- (a) No waste shall be discharged in the public sewer system which is dangerous to the public health and safety. The following standards shall apply at the point wastes are discharged into the public sewer.
  - (b) Acidity or alkalinity shall be neutralized within an average pH range of between five and one-half to seven and one-half as a daily average on the volumetric basis, with a temporary variation of pH 4.50 to 10.0.
  - (c) Wastes shall contain no cyanides. Wastes shall contain no chlorinate solvents in excess of .1 p.p.m.; no fluorides shall be in excess of 10 p.p.m.; and shall contain no more than 5 p.p.m. of hydrogen sulphide; and shall contain not more than 10 of sulphur dioxide and nitrates; and shall contain not more than 25 p.p.m. of chromates.
  - (d) Wastes shall not contain any insoluble substance in excess of 10,000 p.p.m. or exceed a daily average of 500 p.p.m. or fail to pass a number eight standard sieve or have a dimension greater than one-half inch.
  - (e) Wastes shall not have a chlorine demand greater than 15 p.p.m.
  - (f) Wastes shall not contain phenols in excess of 0.05 p.p.m.
  - (g) Wastes shall not contain any grease or oil or any oily substance in excess of 100 p.p.m. or exceed a daily average of 25 p.p.m.

(Ord. No. 874, § 1, 11-26-90; Ord. No. 2168, § 7, 9-13-21)

### **Sec. 10.510. Landscaping and screening.**

Screening and landscaping, where required, shall adhere to the following minimum standards where new development (or major redevelopment where existing buildings and/or parking areas are demolished) requires site plan review,

- (A) *General provisions.* In all zoning districts the following minimum standards apply:

- 
- (1) All landscaping as shown on the approved site / landscape plan shall be continuously maintained in a healthy condition.
  - (2) All required landscape plantings that are diseased or dead must be replaced in conformance with the approved landscape plan.
  - (3) All required landscape areas that abut vehicular drives, parking or other uses areas shall be separated from the vehicular use area with a 6" concrete curb.
  - (4) Landscaping shall be designed to maintain clear vision at intersection, drives, sidewalks and building entrances at time of planting as well as mature plant growth.
  - (5) Where greenbelts, landform buffers or buffer strips are required or proposed, they may be encroached upon or punctuated by approved driveways, sidewalks and structures, in conformance with applicable setback standards. Common driveways between two or more properties are encouraged. Where a common driveway serving two or more parcels is located on or adjacent to a property line no greenbelt, landform buffer or buffer strip is required adjacent to areas occupied by the common drive.
  - (6) Use of landscape areas for storm water management is encouraged. Design of storm water systems may include swales and infiltration areas to convey water to drainage structures and detention areas. Curbing requirements may be flexible to achieve storm water management objectives. Detention ponds, swales and infiltration areas may be considered in calculating minimum area requirements for parking lot landscaping, where they include required plantings and meet the applicable location and size requirements.
- (B) *Landscaping standards.* This subsection is intended to define the various types of landscaping required in specific instances by this Ordinance. These standards are applicable wherever they are specifically required in this Ordinance.
- (1) *Landform buffer.* A landform buffer is a combination of a raised earthen berm and plantings intended to form a visual barrier at least three feet above the surrounding grade and a visual buffer of varying additional height. All landform buffers shall also conform to the following:
    - a. Planting design standards:
      1. The landform buffer shall be comprised of soil and covered with grass, except for planting areas, which shall consist of planting materials, living groundcover, woodchips, mulch, stone, or any combination of the above.
      2. One two and one-half-inch caliper deciduous tree or one five-foot high evergreen tree for every 15 linear feet of required landform buffer.
      3. Four 24—30" high or wide evergreen or deciduous shrubs for every 15 linear feet of landform buffer.
      4. Plantings shall be a mixture of evergreen and deciduous trees, shrubs and groundcover.
    - b. The berm shall have a maximum side slope of 3:1 and a minimum height of three feet.
  - (2) *Buffer strip.* A buffer strip is a landscaped area of trees, shrubs and groundcover intended to form a visual buffer of varying height. All buffer strips shall conform to the following:
    - a. The buffer strip shall be a minimum of 15 feet wide.
    - b. Planting design standards:

- 
1. The buffer strip shall be covered with grass, except for planting areas, which shall consist of planting materials, living groundcover, woodchips, mulch, stone, or any combination of the above.
  2. One two and one-half-inch caliper deciduous tree or one five-foot high evergreen tree for every 20 linear feet of required buffer strip.
  3. Four 24—30" high or wide evergreen or deciduous shrubs for every 20 linear feet of buffer strip.
  4. Plantings shall be a mixture of evergreen and deciduous trees, shrubs and groundcover.
- (3) *Screen wall greenbelt.* A screen wall greenbelt is a combination screen wall and landscape area intended to form a complete visual barrier at least six feet in height. When a screen wall is required it shall meet the following standards:
- a. All walls shall conform to the following provisions:
    1. Screen walls shall be located where required by subsection (C) required minimum screening and landscaping below. Required walls shall be a minimum six feet high or, after approval by the site plan review committee, to a height which is in continuity with an existing adjacent screen wall. The site plan review committee may require screening walls up to eight feet where they find it necessary due to the nature and location of the use district, proposed use, or adjoining use(s) or district(s).
    2. Required screen walls shall be located on the property line except where underground utilities interfere and except in instances where this Ordinance requires conformance with front yard setback lines in abutting residential districts. Required screen walls may be located on the opposite side of an alley right-of-way from a nonresidential zone that abuts a residential zone.
    3. Screen walls shall have no openings for vehicular traffic or other purposes, except as approved after site plan review. All screen walls herein required shall be constructed only of poured concrete or masonry materials on a concrete foundation.
    4. Screen walls shall be reduced to a maximum three feet in height for 15 feet to maintain visibility at the intersection of driveways or alleys with rights of way and sidewalks.
  - b. Required screen walls shall include a minimum five-foot wide greenbelt adjacent to the required wall for its entire length, planted in accordance with the greenbelt planting standards below.
- (4) *Greenbelt.* A greenbelt is a landscaped planting area of trees, shrubs and groundcover. All greenbelts shall conform to the following planting design standards:
- a. The greenbelt shall be covered with grass, living groundcover, woodchips, mulch, stone, or any combination of the above.
  - b. One two and one-half-inch caliper deciduous tree or one five-foot high evergreen tree for every 30 linear feet of required greenbelt. No evergreen trees are permitted where a greenbelt is adjacent to a public or private road right-of-way.
  - c. Four 24—30" high or wide evergreen or deciduous shrubs for every 30 linear feet of greenbelt.

- 
- d. Minimum width for required greenbelts shall be five feet unless otherwise specified in this Ordinance.
- (5) *Right-of-way screen wall option.* Wherever a greenbelt is required in this Ordinance which is adjacent to a public street right-of-way, a masonry screen wall may substituted for the required greenbelt subject to the following:
- a. Approval of the right-of-way screen wall option is required as a part of site plan approval.
  - b. The wall shall be 30 inches in height and shall be of common or face brick, or a masonry material that is compatible with that of the principal building(s) on site and other existing walls in the area.
  - c. The wall shall be designed to maintain adequate separation from vehicular drives and parking areas.
  - d. Greenbelts are encouraged adjacent to right-of-way screen walls and, where installed, should meet the guidelines in subsection (B)(4) greenbelts above.
  - e. Concrete curbing, wheel blocks or guard posts may be installed where necessary to prevent vehicular damage to the wall.
- (6) *Interior landscaping.* For every new development that requires site plan review, except site condominiums as regulated in section 10.515, interior landscaping areas shall be provided, equal to at least five percent of the total impervious area (buildings and paved areas). These landscaped areas may be grouped near building entrances, building foundations, pedestrian walkways and service areas. All interior landscaping shall be designed to the following general design standards:
- a. The interior landscaping area shall be covered with grass, ground cover, wood chips, mulch, or any combination of the above.
  - b. One two and one-half-inch caliper deciduous tree; and then one two and one-half-inch caliper deciduous tree for every additional 400 square feet of required interior landscaping area.
  - c. Two 18-inch high or wide shrubs; and then two 18-inch high or wide shrubs for every additional 400 square feet of required interior landscaping area.
- (7) *Parking lot landscaping.* In addition to the interior landscaping above and the other required landscaping herein, within every parking area containing ten or more required spaces there shall be parking lot landscaping in accordance with this subsection. These landscaping areas shall be located so as to better define parking spaces, drives and required fire lanes. All required parking lot landscaping shall conform with the following:
- a. Any off-street parking areas containing ten or more parking spaces shall provide five square feet of parking lot landscaping per parking space.
  - b. All required parking lot landscaping shall be designed to conform to the following requirements:
    - 1. The parking lot landscaping area groundcover shall be grass, living ground cover, wood chips, mulch, or any combination of the above.
    - 2. One two and one-half-inch caliper deciduous canopy tree shall be required for every 100 square feet of required parking lot landscaping area.
    - 3. Parking lot landscaping areas shall be curbed with 6" concrete curbing.

(8) *Trash receptacle, transformer, and mechanical equipment screening.*

a. *Dumpsters and trash storage enclosures.* All areas used for the storage of trash, and other waste products or materials, shall be completely screened from view. The following standards shall apply to all such trash enclosures:

1. Enclosure shall be constructed of masonry materials similar to the buildings to which they are accessory.
2. Enclosures shall be at least six feet but not more than eight feet high and shall obscure all wastes and/or containers within. An obscuring gate shall be installed which forms a complete visual barrier the same height as that of the other three sides.
3. No enclosures shall be permitted within a required front yard or street-side side yard setback.
4. All dumpsters and the truck maneuvering area immediately in front of the dumpster shall be located on a minimum eight-inch concrete pad. Bollards shall be placed where necessary to protect walls.

b. *Transformer and mechanical equipment screening.* All ground mounted transformers, generators, mechanical equipment, and similar equipment shall be screened from view from any street or adjacent property by a wall constructed of the same exterior materials as the building and not less than the height of the equipment to be screened. As an alternative, the equipment may be screened by landscaping if approved as a part of site plan review.

(C) *Required minimum screening and landscaping.* The following table specifies the minimum required screening and landscaping between a subject parcel and adjacent properties, excluding those properties with common driveways as specified in subsection (A)(7) above:

Zoning/Use of Subject Parcel	Zoning of Adjacent Parcel									Adjacent Public ROW
	N-P	R-1, R-2, R-3	R-T, R-C, R-M	HM	H-R	O-1	B-1, B-2, B-3	M-1, M-2	P-1, P-2	
	Required Landscaping Options									
N-P / Natural Preservation	—	—	—	—	—	—	—	—	—	—
R-1, R-2, R-3 / Single Family Residential	—	—	—	—	—	—	—	—	—	—
R-T, R-C, R-M / Two Family & Multiple Family Residential	—	A, B or C	A, B or C	A, B or C	A, B or C	A, B or C	C	C	C	D
H-M / Mobile Home	See Section 10.344									
H-R / High Rise Mixed Use	—	C	A, B or C	A, B or C	A, B or C	A, B or C	A, B or C	A, B or C	A, B or D	D, E



O-1 / Office	—	C	A, B or C	A, B or C	A, B or D	A, B or D	A, B or D	A, B or D	D	D, E
B-1, B-2, B-3 / Commercial	—	C	A, B or C	A, B or C	A, B or D	A, B or D	A, B or D	A, B or D	D	D, E
M-1, M-2 / Industrial	—	C	A, B or C	A, B or C	A, B or D	A, B or D	A, B or D	A, B or D	D	D, E
P-1, P-2 / Parking Lots	See Section 10.339, 10.342A, and 10.506.6								D, E	

Key:

A = Land Form (Section 10.510(B)(1))

B = Buffer Strip (Section 10.510(B)(2))

C = Screen Wall Greenbelt (Section 10.510(B)(3))

D = Greenbelt (Section 10.510(B)(4))

E = Right-of-Way Screen Wall Option (Section 10.510(B)(5))

— = Not Required

(D) *Suggested and prohibited trees and shrubs for landscaping.* The city may maintain a list of suggested or prohibited trees and shrubs for landscaping, however, it is the responsibility of the professional site designer to determine appropriate plantings in compliance with city regulations.

(E) *Exceptions.* It is the intent of this Ordinance to promote development, redevelopment and/or reuse of sites that may be unable to meet the standards herein. Therefore, any of the forgoing requirements may be waived or modified, through the site plan review process, where cause can be shown that no good purpose would be served, due to site design, parking, parcel configuration, building location and/or other pertinent and relevant factors, by the strict application thereof.

(Ord. No. 2116, § 20, 1-23-17; Ord. No. 2168 , § 9, 9-13-21)

**Sec. 10.511. Sign regulations.**

(I) GENERAL PROVISIONS:

(A) *Findings and Purpose:* The purpose of this section is to regulate signs and outdoor advertising so as to protect the health, safety, general welfare, property values, aesthetics and the character of the various neighborhoods in the City of Madison Heights.

The principle features are the restriction of the location, height, and total area of signs permissible per site. Any sign placed on land or on a building for the purposes of identification or for advertising a use conducted on the premises shall be deemed an accessory use. It is intended that the display of signs will be appropriate to the land, building, or use to which they are appurtenant and be adequate, but not excessive, for the intended purpose of identification or advertisement. With respect to all signs, it is specifically intended, among other things, to reduce visibility blockages for motorists and pedestrians, avoid excessive visual competition and clutter among sign displays that distract motorists

---

and pedestrians, and to reduce the negative aesthetic impact on the city from excessive signage. The regulations contained in this section are the minimum amount of regulations necessary to achieve its purpose.

Nothing in this ordinance shall be construed to prevent the substitution or display of a non-commercial message on any permitted sign.

- (B) *Definitions:* In addition to the definitions found elsewhere in this section, the following definitions shall apply to sign regulations:
- (1) *Billboard.* An outdoor sign, whether placed individually or on a T-type, V-type, back to back or double-faced display, erected for the purpose of advertising a product, event, person, or subject not related to the premises on which the sign is located.
  - (2) *Building official.* The Building Official of the City of Madison Heights or his authorized representative.
  - (3) *Department.* The Community Development Department of the City of Madison Heights, its officers, inspectors and other employees.
  - (4) *Erect.* To build, construct, attach, hang, place, suspend, affix, paint or alter.
  - (5) *Noncombustible material.* Any material which will not ignite at or below a temperature of 1,200 degrees Fahrenheit and will not continue to burn or glow at that temperature.
  - (6) *Owner.* A person, firm, partnership, association or corporation and/or their legal successors.
  - (7) *Off-premises signs.* A sign other than an on-premises sign.
  - (8) *On-premises sign.* A sign which advertises or identifies only goods, services, facilities, events or attractions on the premises where located.
  - (9) *Person.* Any individual, firm, partnership, association or corporation and their legal successors.
  - (10) *Sign.* Any structure or wall or part thereof, or device attached thereto or painted or represented thereon, or any material or thing, illuminated or otherwise, which displays or includes any numeral, letter, word, model, banner, emblem, insignia, device, service mark, trade mark or other representation used as, or in the nature of, an announcement, advertisement, direction or designation, of any person, firm, organization, place, commodity, service, business, profession, or industry, or any backlit building area, which is located upon any land or in or on any building, in such a manner as to attract attention from outside the premises. The term "sign" shall also include any bulbs, string of lights, other lighting devices, streamers, pennants, hot and cold air balloon(s) or inflatable structures, propeller(s), flags (other than the official flag of any nation, state or city), other structure(s) conveying a message, any similar device(s) of any type or kind whether bearing lettering or not in any combination of the above. Nothing in this section shall be construed so as to prohibit noncommercial messages on any permitted sign.
    - (a) *Bench signs:* A bench, or chair or an attachment to a building which provides a bench, chair or seating device which also has painted, or in any other way attached to it, a sign.
    - (b) *Ground sign:* A freestanding sign supported by one or more uprights, braces, poles or pylons, located in or upon the ground and not attached to any building. A ground sign includes a pole or pylon sign.
    - (c) *Marquee sign:* A sign attached to or hung from a canopy or other structure projecting from and supported by the building and extending beyond the building wall, building line or street lot line.
    - (d) *Portable sign:* Any sign not permanently attached to the ground or a building.

- 
- (e) *Projecting sign*: A sign other than a marquee which is affixed to any building or structure or part thereof which extends beyond the building or structure wall and the horizontal sign surface is not parallel to the building wall.
  - (f) *Roof sign*: A sign which is erected, constructed, painted, placed or maintained on any portion or surface of the roof of a structure.
  - (g) *Temporary sign*: A free-standing sign, banner or other device, constructed of cloth, canvas, fabric, plastic, wood, paper or other material, with or without a structural frame, or any other sign intended for a limited period of display.
  - (h) *Wall sign*: A sign attached to, painted on or placed flat against the exterior wall or surface of any building, no portion of which projects more than 12 inches from the wall and which does not extend above the height of the building wall. The exposed face of the sign must be in a plane parallel to the building wall or structure. Wall signs shall also include signs placed on approved awnings and canopies.
- (11) *Sign erector*: Any person engaged in the business of erecting, altering, removing or painting signs on a contractual or other basis.
- (C) *Signs Not Requiring Permits*: No permit shall be required for signs enumerated as follows by this paragraph. Such exemptions, however, shall not be construed to relieve the owner of the sign from responsibility for its proper location, erection and maintenance:
- (1) *Temporary signs*: The following regulations shall be applicable to all exterior temporary signs:
    - (a) *Generally*. Temporary sign(s) may be located only on private property with the owner's permission.
    - (b) *Placement in public right-of-way prohibited*: Signs shall not be placed in the public right-of-way or between the public sidewalk and the road. Signs located in the public right-of-way will be removed and discarded.
    - (c) *Size (area) limitations*. The total combined area of all temporary signs shall not exceed 16 square feet per address.
    - (d) *Height limitation*. No sign shall be greater in height than four feet above the ground.
    - (e) *Number of signs*. In all R-1, R-2, R-3, R-T, R-C, R-M and H-M Districts, one or more temporary signs for each address may be displayed, up to the maximum permitted 16 square feet sign area. In all other zoning districts, one temporary sign for each address may be displayed, up to the maximum permitted 16 square feet sign area.
    - (f) *Method of display*: Signs shall not be attached to any utility pole, street sign, traffic signal pole, street light, hydrant or tree. Signs shall not block visibility at intersections, sidewalks or driveways.
    - (g) *Prompt removal of damaged signs*. Damaged temporary signs shall be removed promptly.
  - (2) *Interior building signs*. Signs located on the interior of buildings, which are not visible from the exterior of the building.
  - (3) *On-site directional signs*. Signs which direct traffic movement onto, or within, a property and which do not contain any advertising copy or logo. Said directional signs shall not exceed three feet in height or four square feet in area for each sign. A directional sign shall be located on the property to which it is directing traffic and shall be located behind the front right-of-way line.
- (D) *[Reserved.]*

---

(II) ADMINISTRATION:

(A) *Permits, Applications, Plans, Specifications and Revocation:*

- (1) *Permits generally.* It shall be unlawful for any person to erect, re-erect, repair, alter, paint or relocate or reconstruct on the same or another premises or to maintain within the city any sign as defined in this section unless a permit shall have been first obtained from the community development department, except as provided in subsection (I)(C), and a permit fee paid in accordance with the fee schedule adopted by resolution of the city council.

This section shall not be construed to prevent repair or restoration of any part of an existing sign when said sign is less than 50 percent destroyed or damaged by storm or other accidental emergency, and when the building official has ordered said repair or restoration of the sign to return that sign to a safe condition. If a sign is to be repaired or restored under this exception, the sign message must remain the same. If a different message is to be placed on the sign, a sign permit is required.

- (2) *Application.* Application for sign permits shall be made upon forms provided by the community development department for this purpose and shall contain the following information:
- (a) Name, address and telephone number of applicant.
  - (b) Location and dimensions of the building, structure or lot to which the sign is to be attached or erected.
  - (c) Position of the sign in relation to nearby buildings, structures, property lines and rights-of-way, existing or proposed.
  - (d) Two copies of the plans and specifications and method of construction and attachment to the building or in the ground.
  - (e) Copies of stress sheets and calculations if deemed necessary by the building official, showing the structure as designed for dead load and wind pressure in accordance with the regulations adopted by the City of Madison Heights.
  - (f) Name, address and phone number of the sign erector.
  - (g) Insurance policy as required herein.
  - (h) Such other information as the building official may require to show full compliance with this and other applicable laws of the City of Madison Heights and State of Michigan.
  - (i) The building official may require that the application containing the aforesaid material shall, in addition, bear the certificate or seal of a registered structural or civil engineer as a condition to the issuance of a permit.
  - (j) Indicate the zoning district in which the sign is located.
- (3) *Insurance requirements.* Permits may be issued to sign erectors only under the following conditions:
- (a) *Insurance certificates:* Before a permit is issued for the erection of a sign, the installing company shall submit for filing with the community development department a certificate of insurance, in a form acceptable to the city, for public liability in the amount of \$100,000.00 for injuries to one person and \$300,000.00 for injuries to more than one person, and property damage insurance in the amount of \$25,000.00 for damage to any property due to the actions of himself or any of his agents or employees.

- 
- (b) *Lapsing of insurance:* At any time the insurance of any sign erector is permitted to lapse, his contractor registration shall automatically be revoked.
  - (c) *Notification of change:* A sign erector shall notify the community development department of any change in address, and if a firm or corporation, any change in ownership or management if other than that indicated on the insurance certificates.
- (4) *Permit insurance and revocation.* All rights and privileges acquired under the provisions of this section, or any amendment thereto, are mere licenses and may be revoked by the city upon violation of this section.
- (a) *Compliance:* All signs shall be inspected for compliance at the time of installation. If work indicated to be done on the application for permit has not been started within six months the permit will expire and become null and void.
  - (b) *Concealed work:* All work shall remain accessible and exposed for inspection until approved. It shall be the duty of the permit applicant to cause said work to remain accessible and exposed for inspection purposes. Neither the building official nor the jurisdiction shall be liable for any expense entailed in the removal or replacement of any material required to allow inspection.
  - (c) *Removal of signs:* Should any sign be found unsafe, insecure, improperly constructed or not in accordance with the requirements of this section, the erector and/or owner shall be required to make the sign safe, secure and otherwise in compliance with the requirements of this section within 30 days of notice. Failure to comply shall result in an order to remove the sign, with costs charged to the permit holder, within 48 hours from the time of notification in writing. Exception: Existing signs determined to be unsafe and an immediate hazard to health or safety shall be removed or repaired at the owner's expense within 48 hours of notification by the building official.

(III) SIGN PLACEMENT AND MAINTENANCE REQUIREMENTS:

(A) *General Provisions:*

- (1) *Material requirements.* All signs shall be designed and constructed in conformity to the provisions for materials, loads and stresses of the latest adopted edition of the Michigan Building Code and the requirements of this section.
- (2) *Maintenance.* No sign shall be permitted to corrode, rust, peel, fade, break up or otherwise reach a state of disrepair that creates an unsightly or dangerous condition. No nails, tacks or wires shall be permitted to protrude from the front of any sign.
- (3) *Fire escapes.* No signs of any kind shall be attached to or placed upon a building or structure in such a manner to obstruct any fire escape.
- (4) *Support location.* No pole, cable or support of any nature shall be placed on, or over, any publicly owned property, street right-of-way, proposed street right-of-way or dedicated public easements unless otherwise specifically provided for in this section.
- (5) *Wall signs.* Wall signs shall be safely and securely attached to the building by means of metal anchors, bolts or expansion screws. In no case shall any wall sign be secured with wire, strips of wood or nails. All wall signs shall be constructed in accordance with the adopted building code. No wall sign shall cover wholly or partially any wall opening. No wall sign shall be erected to extend above the top of the wall to which it is attached, nor extend beyond the ends of the wall to which it is attached.

- 
- (6) *Lighting.* Internal and external lighting shall be permitted, but the illumination thereof shall not be anything other than a steady, continuously burning bulb or light. The movement, flashing or illusion of flashing, or turning on and off of the sign illumination or of any bulb or component part thereof is prohibited. In no case shall any sign illumination exceed a level of illumination of 0.08 foot-candles, when measured from the nearest or adjacent residential-zoned property. No sign shall be illuminated by other than electrical means and electrical devices and wiring shall be installed in accordance with the requirements of the Michigan Electrical Code. All electrically illuminated signs shall be certified as to wiring and devices by the electrical inspector and all wiring and accessory electrical equipment shall conform to the requirements of the Michigan Electrical Code.
  - (7) *Electronic message boards.* Electronic changeable message boards (signs) may be incorporated as part of any permitted sign. The message shall not change more than once every 30 seconds. Text displays shall conform to the requirements of paragraph (6) above and moving text and video displays shall not be permitted.
  - (8) *Revolving signs.* Revolving or moving signs shall be prohibited.
  - (9) *Public right-of-way.* All signs shall be expressly prohibited from within or above all public rights-of-way and dedicated public easements at all times, unless placed and maintained by a city, county or state governmental agency.
  - (10) *Traffic interference.* No advertising device shall be erected or maintained which simulates or imitates in size, color, lettering or design any traffic sign or signal or other word, phrase, symbol or character in such a manner as to interfere with, mislead or confuse traffic.
  - (11) *Intersections.* No sign shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision or any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, sign, or device or which makes use of the words "stop," "look," "danger," or any other word, phrase, symbol or character in such manner as to interfere with, mislead or confuse traffic. Nor shall any sign, signal, marking or device be placed, erected or operated in such a manner as to interfere with the necessary free and unobstructed view of vehicular or pedestrian traffic.
  - (12) *Rehanging - re-erection.* In case of rehanging or re-erection of any sign, the sign erector must place his name and address and the date on the sign.
  - (13) *Proximity to electrical conductors.* No sign shall be erected so that any part of it, including cables, guys, etc., will be in violation of the Electrical Code of Madison Heights or any utility company safety requirement.
  - (14) *Sanitation.* Property surrounding any ground sign shall be kept clean, sanitary, free from obnoxious and offensive substances, free from weeds, rubbish and inflammable material.
  - (15) *Responsibility of compliance.* The owner of any property on which a sign is placed, and the person maintaining said sign, are both responsible for the condition of the sign and the area in the vicinity thereof.
  - (16) *Erector's imprint.* Every sign shall have placed in a conspicuous place thereon, in letters not less than one half inch in height, the name of the person, firm or corporation owning, erecting or operating such sign, the date of erection, the permit number and the voltage of any electrical apparatus.
  - (17) *Shielding from adjacent property and rights-of-way.* Any lighting for the illumination of signs shall be directed away from and shall be shielded from any adjacent zoning districts and rights-of-way, and shall not adversely affect driver visibility on adjacent public thoroughfares.

---

(IV) REGULATIONS FOR PERMITTED SIGNS: The following conditions shall apply to all signs erected or located in any zoning district:

(A) *Prohibited Signs:*

- (1) Roof signs, marquee signs and projecting signs are prohibited. Further, in order to prevent, reduce or eliminate blight in the city caused by bench signs which often protrude into the city's right-of-way and are not maintained on a regular basis, bench signs are prohibited within the City of Madison Heights. Any other signs not specifically permitted by this Ordinance are prohibited.
- (2) Advertising vehicles: Except as specifically permitted elsewhere in this ordinance, no vehicle, or any type of trailer, which has attached thereto, or painted or placed thereon, any sign or advertising device displaying the name of any business, product or service shall be parked on private property, in any commercial or industrial district, between the structure(s) located thereon and any property line abutting any adjacent street, nor shall any such vehicles be parked on a public right-of-way, or on public property so as to be visible from a public right-of-way. Vehicles engaged in attended loading or unloading activities shall be exempt from this provision.  
  
Exception: Any property where no other parking exists, except in front of the building, may utilize not more than ten percent, but not less than one, of the existing spaces.
- (3) Off-premises signs: Except as specifically permitted elsewhere in this Ordinance off-premises signs are prohibited.
- (4) Searchlights: Except as may be specifically permitted elsewhere in this Ordinance, searchlights are prohibited.
- (5) Bulbs or strings of lights, except where permitted or required as part of a permitted outdoor sales area or for temporary holiday display, other lighting devices, streamers, hot and cold air balloon(s) or inflatable devices or structures, propeller(s), flags (other than the official flag of any nation, state or city, and not more than two corporate flags, or other structure(s) conveying a message.

(B) *Measurement of Signs:*

- (1) *Sign area.* For the purposes of this section, the sign area shall include the total area within any circle, triangle, rectangle or square, or combination of two shapes which are contiguous to each other, enclosing the extreme limits of writing, representation, emblem or any similar figure, together with any frame or other material forming an integral part of the display or used to differentiate such sign from the background against which it is placed. In the case of a broken sign, (a sign with open spaces between the letters or insignia) the sign area to be considered for size shall include all air space between the letters or insignia. Where more than one wall sign is used, each sign may be measured individually, using the procedure above, provided the signs are separated by a distance equal to, or greater than, the width of the largest sign. Any back-lit area of a building exterior shall be considered to be a sign area.

Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, except that where two such faces are placed back to back and less than 24 inches apart, the area of the sign shall equal the area of one face.

- (2) *Sign height.* The height of the sign is measured from the ground to the highest point of the sign from the ground.

(C) *Zoning District Sign Regulations:* Except as otherwise provided herein, signs shall only be permitted according to the following zoning district sign regulation:

- (1) *Use district:*

---

R-1 Single-Family Residential District;  
R-2 Single-Family Residential District;  
R-3 Single-Family Residential District;  
R-T Two-Family Residential District;  
R-M Multiple-Family Residential District;  
R-C Condominium Residential District;  
H-M Mobile Homes.

(a) *R-1, R-2, R-3, R-T, R-M, R-C and H-M districts:*

1. Signs advertising developments or subdivisions not exceeding 32 square feet in area, and six feet in overall height, may be erected in a common area as shown on the approved site plan or plat.
2. No sign shall be located closer than 30 feet to any property line of any adjacent residential district.

(2) *Use district:*

B-1 Local Business District;  
B-2 Planned Business District; and  
B-3 General Business District.

Each business development (that is, one or more uses within a building or buildings using common parking facilities) shall be permitted signs as follows:

(a) *Ground sign:* One ground sign for each business development.

1. Not over eight feet in height above the adjacent grade nor more than ten feet above the adjacent roadway.

*Note:* Ground signs may not obstruct visibility at driveways or intersections. The building official may require that the sign base or the height of the bottom of the sign be adjusted to protect the public safety.

2. No sign shall be located closer than 90 feet to any property line of an adjacent residential district.
3. The base of the sign be not less than 20 feet from a side lot line.
4. A ground sign under this section shall not exceed 0.5 square foot per each lineal foot of lot frontage to a maximum of 60 square feet in area.
5. Individual ground signs for each business tenant within a development shall not be permitted.

(b) *Wall sign:* The total sign area of any wall sign in this district shall not exceed 1½ square feet for each lineal foot of building frontage, not to exceed a total sign area of 600 square feet. The 600 square foot maximum area shall include all wall signs on all sides of a building or structure. No wall sign shall protrude more than 12 inches from the wall on which it is mounted. No portion wall sign shall be more than 20 feet above grade.



---

In a multi-tenant building, each additional tenant shall be permitted one identification sign. Such sign shall include only the name of the tenant business and shall consist only of block letters or numbers not in excess of six inches in height.

- (c) *Business sign displayed through or on glass:* Total signage placed on interior window glass of a building, whether or not carrying a message, shall not cover more than 25 percent of the total glass area, excluding doors, for that side of the building. Signs located inside a building that are visible from the front lot line shall be included in the total allowable sign area of this provision. No signage shall be placed on exterior window glass.

In an enclosed building in a B-1, B-2 or B-3 use district where the public is not allowed in the building and where food is offered to the public through a window for immediate consumption the maximum coverage shall be 50 percent.

(3) *Use district:*

O-1 Office District:

- (a) *Ground sign:* Each office development shall be permitted one ground sign.
1. Not over eight feet maximum height or ten feet above the adjacent roadway.
  2. The ground sign must be set back a minimum of one-half of the setback of the building.
  3. A ground sign under this section is not to exceed 0.5 square foot per each lineal foot of lot frontage to a maximum of 48 square feet in area.
  4. No sign shall be located closer than 30 feet to any property line of an adjacent residential district.
  5. Individual ground signs for each tenant within an office building shall not be permitted.
- (b) *Wall sign:* The total sign area of any wall sign in this district shall not exceed 1½ square feet for each lineal foot of building frontage, not to exceed a total sign area of 100 square feet. The 100 square foot maximum area shall include all wall signs on all sides of a building or structure. No wall sign shall protrude more than 12 inches from the wall on which it is mounted.

In a multi-tenant building, each additional tenant shall be permitted one identification sign. Such sign shall include only the name of the tenant business and shall consist only of block letters or numbers not in excess of six inches in height.

- (c) *Business sign displayed through or on glass:* Total signage placed on interior window glass of a building, whether or not carrying a message, shall not cover more than 25 percent of the total glass area, excluding doors, for that side of the building. Signs located inside a building that are visible from the front lot line shall be included in the total allowable sign area of this provision. No signage shall be placed on exterior window glass.

(4) *Use district:*

M-1 Light Industrial District; and

M-2 Heavy Industrial District.

- (a) *Ground sign:*
1. One ground sign which shall be located in the front yard and set back a minimum of one-quarter of the building setback.

- 
2. The ground sign shall not exceed six feet in total height nor more than ten feet in total length and contain not more than 40 square feet in sign area.
  3. No more than one sign is allowed for each principal structure on the property.
- (b) *Wall sign:* The total sign area of any wall sign in this district shall not exceed 1½ square feet for each lineal foot of building frontage, not to exceed a total sign area of 100 square feet. The 100 square foot maximum area shall include all wall signs on all sides of a building or structure. No wall sign shall protrude more than 12 inches from the wall on which it is mounted.

In a multi-tenant building, each additional tenant shall be permitted one identification sign. Such sign shall include only the name of the tenant business and shall only consist only of block letters or numbers not in excess of six inches in height.

- (c) *Business sign displayed through or on glass:* Total signage placed on interior window glass of a building, whether or not carrying a message, shall not cover more than 25 percent of the total glass area, excluding doors, for that side of the building. Signs located inside a building that are visible from the front lot line shall be included in the total allowable sign area of this provision. No signage shall be placed on exterior window glass.
- (5) *Use district:*  
H-R High-Rise district.

- (a) *Ground sign:*
1. One ground sign for each development may be permitted provided the sign is set back a minimum of one-half of the building setback with a maximum total height above grade of six feet.
  2. Maximum allowable sign area shall be determined on the basis of a maximum of ten square feet of sign area for each office unit within an office structure, said sign area not to exceed 48 square feet of total sign area per building.
- (b) *Wall sign:* The total sign area of any wall sign in this district shall not exceed 1½ square feet for each lineal foot of building frontage, not to exceed a total sign area of 100 square feet. The 100 square foot maximum area shall include all wall signs on all sides of a building or structure. No wall sign shall protrude more than 12 inches from the wall on which it is mounted.
- (c) *Business sign displayed through or on glass:* Total signage placed on interior window glass of a building, whether or not carrying a message, shall not cover more than 25 percent of the total glass area, excluding doors, for that side of the building. Signs located inside a building that are visible from the front lot line shall be included in the total allowable sign area of this provision. No signage shall be placed on exterior window glass.

(D) *[Reserved.]*

(E) *Billboards:*

- (1) Billboards shall be permitted only on parcels abutting interstate highways or freeways in the M-1 and M-2 zoning districts provided that such billboard shall not be placed on a parcel having any other structure within 100 feet of the billboard, and no other structure shall be placed on the parcel within 100 feet of the billboard, except that minimum distances from other billboards shall be regulated as set forth in subsection (2) following. A billboard shall not be located within any required setback of such parcel.

- 
- (2) Billboards shall not be less than 2,500 feet apart. A double face (back to back) or a V-type structure shall be considered a single billboard provided the two faces are not separated by more than ten feet, or the interior angle does not exceed 20 degrees, whichever is applicable.
  - (3) The total surface area, facing in the same direction, of any billboard, shall not exceed 700 square feet and shall be contained on a single panel.
  - (4) Billboards shall not exceed 60 feet in height from the adjacent grade.
  - (5) Billboards shall not be erected on the roof of any building.
  - (6) Billboards with any form of changeable messages, including but not limited to mechanical or electronic means, shall conform to the timing requirements contained in section 10.511(III)(A)(7).
  - (7) Billboards are deemed to constitute a principle use of a lot.

(V) NONCONFORMING SIGNS:

- (A) *Intention.* It is the intention of this section to encourage eventual elimination of signs that, as a result of the adoption of this section, become nonconforming. It is considered as much a subject of health, safety, and welfare as the prohibition of new signs in violation of this section. It is the intention, therefore, to administer this section to realize the removal of illegal, nonconforming signs and to avoid any unreasonable invasion of established private property rights by providing for removal of nonconforming signs.
- (B) *Continuance.* A nonconforming sign may be continued but shall be maintained in good condition, and shall not be:
  - (1) Replaced by another nonconforming sign.
  - (2) Rebuilt or re-erected after it has been removed or destroyed for any reason.
  - (3) Structurally altered so as to prolong the life of the sign.
  - (4) Expanded or substantially added to, changed or reconstructed after damage or destruction if the estimated expense of reconstruction exceeds 50 percent of the estimated replacement cost.
  - (5) Continued after the sale of the building on which the sign is placed or erected.
- (C) *Removal of Nonconforming Signs.* Any non-conforming sign now or hereafter existing which currently advertises, or at the time of construction advertised, a business being conducted or a product sold or produced on the premises on which the sign is located, but no longer does so, shall be taken down and removed pursuant to paragraph (VII)(B).

(VI) SIGNS ON MOTOR VEHICLES:

*For Sale or for Lease:* No person, corporation, partnership or other legal business entity shall stand or park a motor vehicle on public or private property in the City of Madison Heights for the purpose of advertising same "for sale" or "for trade."

- (A) A sign containing a phone number in or on a parked motor vehicle which was or is visible constitutes a presumption that the sign was for the purpose of offering the vehicle for sale or trade.
- (B) Proof that the vehicle described in the complaint was parked in violation of this section, together with proof that the defendant named in the complaint was at the time of the parking the registered owner of the vehicle, constitutes a presumption that the registered owner is responsible for the violation.
- (C) The owner of a motor vehicle may place a "for sale" or "for trade" sign within the vehicle provided:
  - (1) The vehicle is legally parked on the owner's residential premises only.

- 
- (2) This section shall not apply to properly licensed auto dealerships and properly licensed used car lots.

(VII) REMOVAL OF SIGNS:

- (A) The building official shall order the removal of any sign erected or maintained in violation of this Ordinance except for legal non-conforming signs. In the case of permanent signs, written notice shall be given to the owner of such sign or of the building, structure, or premises on which said sign is located ordering removal of the sign or such action as is necessary to bring the sign into compliance with this Ordinance and specifying a reasonable period of time for removal and/or compliance. Upon failure to remove the sign or to comply with this notice within the specified time, the city may remove the sign immediately and without further notice, at its discretion. Any sign deemed a safety hazard, signs prohibited under the provisions of paragraph (IV)(A), above, and signs improperly erected in any public right-of-way, may be removed without notice. Any cost of removal incurred by the city may be assessed to the person or business displayed on said sign, or to owner of the property on which such sign is located and such charge shall be a lien on the property.
- (B) A sign, including any supporting structure or pole, shall be removed by the owner or lessee of the premises upon which the sign is located within 30 days after the business which it advertises is no longer conducted on the premises. If the owner or lessee fails to remove the sign, the city may remove it in accordance with the provisions stated in section (VII)(A) preceding. These removal provisions shall not apply where a subsequent owner or lessee conducts the same type of business and agrees to maintain the signs to advertise the type of business being conducted on the premises and provided the signs comply with the other provisions of this Ordinance.

(VIII) SEVERABILITY: Should any section, subdivision, clause, or phrase of this section be declared by the courts to be invalid, the validity of the section as a whole, or in part, shall not be affected other than the part invalidated.

(Ord. No. 577, 5-8-78; Ord. No. 626, § 1, 5-14-79; Ord. No. 648, § 1, 1-14-80; Ord. No. 658, § 1, 9-8-80; Ord. No. 750, § 1, 1-28-85; Ord. No. 832, § 1, 8-1-88; Ord. No. 867, §§ 1, 2, 10-8-90; Ord. No. 889, § 1, 4-13-92; Ord. No. 892, § 1, 6-8-92; Ord. No. 970, §§ 1, 2, 4-27-98; Ord. No. 1016, § 1, 5-13-02; Ord. No. 1032, § 1, 4-26-04; Ord. No. 1050, § 1, 6-25-07; Ord. No. 1064, §§ 6, 7, 10-12-09; Ord. No. 1076, §§ 12—17, 10-12-10; Ord. No. 1091, § 13, 1-28-13, eff. 2-7-13; Ord. No. 2102, § 1, 6-21-14; Ord. No. 2123, §§ 1—11, 1-8-18)

Charter reference(s)—Specific authority to regulate signs and billboards, Ch. 2, § 2.2.(I).

**Sec. 10.512. Exterior lighting.**

- A. All lighting for parking areas or for the external illumination of buildings and uses shall be of full cut-off design, mounted horizontally, directed downward, away, from and shall be shielded from adjacent residential districts properties and shall not adversely affect driver visibility on adjacent thoroughfares.
- B. Shields shall be full cut-off design on all lighting fixtures to prevent lighting from extending onto adjacent properties and rights of way. Lighting shall not exceed 0.5-foot candles as measured at any residentially-zoned property line and 1-foot candle as measured at any other property line.
- C. Internal lights that are directed outside are prohibited.
- D. Internal or external lights that frame windows are permitted, but shall be limited to accent lighting, where the source of illumination is not visible from the exterior of the building.
- E. Maximum maintained lighting level in any parking lot, canopy area or site lighting shall not exceed 5 foot-candles as measured horizontally at grade.

- 
- F. Maximum height of any parking lot light pole fixture or wall-mounted fixture shall be 20' as measured from grade at base of light pole.
  - G. Motion detector or photocell activated fixtures are permitted but shall adhere to all shielding and light intensity standards in this section.
  - H. All accent and spot lighting that is directed onto buildings, signs, flags or other focus points shall be shielded from direct view of the source of illumination and shall be directed in such a fashion that the lighting does not extend beyond the confines of the focus of the illumination.
  - I. Prohibited lighting: Search lights, lasers, flashing, moving or intermittent lighting is prohibited.
  - J. Exemptions: Street lighting and emergency lighting installed and maintained by a public road authority, holiday decorations and lighting that was legally installed prior to the adoption of this section are exempt from the standards in this section.

(Ord. No. 2128, § 19, 1-14-19)

### **Sec. 10.513. Screen walls.**

Screen walls shall be constructed in accordance with section 10.510(B)(3).

(Ord. No. 635, § 1, 8-13-79; Ord. No. 889, § 1, 4-13-92; Ord. No. 2116, § 21, 1-23-17)

### **Sec. 10.514. Site plan review.**

This section sets forth the requirements for the application, review, approval and enforcement of site plans in the City of Madison Heights.

- (A) *Developments, uses or activities requiring site plan review.* A site plan shall be submitted to the city in accordance with the procedures in this section for any of the following activities, uses or developments except single-family and two-family dwellings constructed on a single lot or parcel.
  - (1) All new construction, structural alterations or substantial changes in use, as determined by the site plan review committee. Substantial changes may include the following:
    - a. Remodeling or altering an existing structure that increases the building footprint by ten percent or more.
    - b. Remodeling or altering an existing structure that increases the interior or leasable floor area by ten percent or more.
    - c. Grading, filling or excavation of a site that is inconsistent with an approved site plan.
  - (2) All condominium or site condominium developments in any district.
  - (3) All special land uses in any district.
  - (4) All rezoning requests in any district.
  - (5) Any use, or change of use, that requires a change in traffic circulation pattern that impacts ingress/egress, parking layout or pedestrian circulation in all districts except M-1 and M-2, unless otherwise determined by the city planner or the building official.
  - (6) All proposed accessory outdoor storage areas, unless otherwise determined by the city planner or the building official.
  - (7) All multiple family residential developments and mobile home parks.

---

(Supp. No. 30)

Created: 2022-05-12 08:49:08 [EST]

- 
- (8) The improvement, expansion, extension, or abandonment of any public or private overhead or underground utility or utility lines or easement.
  - (9) All public buildings.
  - (10) The addition or modification of accessory outdoor dining, sales or display to an otherwise permitted principal use when such area results in the need for additional parking.
  - (11) Any non-residential accessory structures such as canopies, dumpsters, decks, and gazebos.
  - (12) Establishment of a new use requiring a new structure or requiring additional off-street parking or other significant improvement as determined by the city planner.
- (B) *Site plan review committee.*
- (1) There is hereby established a site plan review committee consisting of representatives or designees from department of public services, economic development, fire and police, city building official, city planner, city engineer representative from the economic development department shall be an ex officio member without vote. A minimum of three affirmative votes is required to approve any motion.
  - (2) The site plan review committee shall have the authority to approve site plans for all principal permitted uses, except site condominium projects and site plans for uses that abut residential districts, which are subject to action by the planning commission;
  - (3) The site plan review committee meets weekly, unless there are no site plans for review. Upon receipt of a site plan the site plan review committee shall review and approve all site plans prior to issuance of any permits for any construction.
  - (4) In addition to the review of site plans, the site plan review committee also reviews the following and makes a recommendation to the approving body:
    - a. Proposed ordinance amendments
    - b. Special land use requests
    - c. All rezoning requests
  - (5) At the committee's discretion or upon direction by the planning commission, any site plan may be referred to the planning commission for review and approval. All site plans for properties abutting a residential district and meeting the following criteria shall require planning commission's approval.
    - a. Any residential developments with more than 50 units
    - b. Any non-residential developments with more than 5,000 square feet or expansion of an existing non-residential development by more than 2,500 square feet.
  - (6) The site plan review committee may waive particular site plan submittal items if the proposed changes are minor in nature and do not warrant detailed plans.
  - (7) The site plan review committee may waive facade material requirements of section 10.401, limiting height, bulk, density and area by land use, note u, if the selected facade materials will be consistent with and will enhance the building design concept and are in harmony or character of the neighborhood.
- (C) *Site plan review process.* Site plans shall be reviewed in conformance with the following process:
- (1) *Preliminary site plan.* A preliminary site plan is required for all items listed in section 10.514. A and shall comply with the following requirements listed below.

- 
- a. Applicant requests pre-application conference with community development department to discuss the proposed site plan, review procedures, design elements, and ordinance requirements. The city planner may waive the pre-application conference requirement for smaller site plans such as, but not limited to, medical marihuana caregiver applications, accessory structures . and parking lot modifications.
  - b. Applicant initiates site plan review process by submitting the following materials and fees to the community development department:
    1. One copy of the completed site plan application form.
    2. One legible 24" × 36" copy of the site plan. A site plan submitted to the city for preliminary site plan review must contain all of the information set forth in paragraph (D) below.
    3. One 11" × 17" original reduction of the site plan.
    4. One copy of the site plan in full size in digital (PDF) format.
    5. One copy of the "Hazardous Substance Reporting Form" and "Environmental Permits Checklist" (provided by city).
    6. All applicable fees as established by city council.
    7. The city planner or a designee may require additional copies of the site plan.
  - b. The city planner can review the following permitted uses administratively. For all other site plans, the city planner will schedule the next available date of the site plan review meeting. Site plans are distributed to site plan review committee for preliminary site plan review.
    1. All medical marihuana caregiver applications within the marihuana overlay district. Such applications [may be reviewed and approved by the city planner].
    2. Any non-residential accessory structures such as canopies, dumpsters, decks, and gazebos. The city planner may waive this requirement for structures less than 250 square feet or ten percent of principal structure if there comply with ordinance requirements. Such applications may be reviewed and approved by the city planner.
  - c. Site plan review committee conducts preliminary site plan review and determines if planning commission review is required based on conditions listed in section 10.514(B)(2).
  - d. Preliminary site plan review comments sent to applicant.
  - e. Applicant revises plans and submits revised site plans (one 24" × 36" size , one 11" × 17" size and one digital copy) that identify the revision date and any additional required information to community development department.
  - f. Site plan review committee conducts site plan review of the revised site plans and if acceptable takes final action on the site plan.
  - g. If a site plan is referred to the planning commission by the site plan review committee, the applicant will be notified of the date, time and place of the meeting at which the planning commission will consider the application.
  - h. The site plan review committee, and planning commission if required, shall approve, approve with conditions, or deny the preliminary site plan.
  - i. If revisions to the final site plan are necessary to meet conditions of approval, ordinance requirements or standards, the approved preliminary site plan shall be revised by the

---

applicant and resubmitted to the community development department for verification of compliance with necessary plan revisions.

- j. All denials, along with the reasons for denial, shall be indicated in writing. If the applicant desires to prepare an alternative plan, the same procedure as outlined above beginning with submittal of site plans review shall be followed.
  - k. When all conditions of final site plan approval are met by the applicant two copies of the final version of the approved site plan shall be stamped "APPROVED", with the date of approval. One 24" × 36" copy and the 11" × 17" copy will be kept on file in the community and economic development department and one 24" × 36" copy will be returned to the applicant. An electronic copy of the approved site plan will be transmitted to the city engineer, department of public services and fire department. The city planner or a designee may require additional copies of the site plan.
- (2) At the time of preliminary site plan review, the site plan review committee shall determine if the proposed site plan requires a submittal for final engineering plan submittal. After receiving the approval for a preliminary site plan, the applicant shall submit a final engineering plan set for administrative review and approval by the city engineer.
- a. Applicant initiates final engineering plan review process by submitting the following materials and fees to the community development department:
    - 1. One copy of the completed site plan application form.
    - 2. One legible 24" × 36" copy of the site plan. A site plan submitted to the city for preliminary site plan review must contain all of the information set forth in paragraph (D) below.
    - 3. One 11" × 17" original reduction of the site plan.
    - 4. One copy of the site plan in full size in digital (PDF) format.
    - 5. All applicable fees.
    - 6. The community and economic development may require additional copies of the site plan.
  - b. Final engineering plan review comments sent to applicant.
  - c. If revisions are required, then the applicant submits revised site plans (one 24" × 36" size , one 11" × 17" size and one digital copy) and any additional required information to community development department.
  - d. The city engineer consultant conducts a review of the revised site plans and if acceptable takes final action on the site plan. In the process of reviewing and approving a final engineering plan, the various reviewing agencies and departments shall consider:
    - 1. That all local, county and state requirements as may apply to the proposed use are met.
    - 2. All applicable engineering requirements are met.
    - 3. The final site plan remains substantially unchanged from the approved preliminary site plan.
  - e. Once the plan is ready to be approved, the city engineer shall approve, approve with conditions, or deny the final engineering site plan.



- 
- f. All denials, along with the reasons for denial, shall be indicated in writing. If the applicant desires to prepare an alternative plan, the same procedure as outlined above beginning with submittal of site plans review shall be followed.
  - g. When all conditions of approval are met by the applicant two copies of the final engineering plan shall be stamped "APPROVED", with the date of approval. One 24" × 36" copy and the 11" × 17" copy will be kept on file in the community and economic development department and one 24" × 36" copy will be returned to the applicant. An electronic copy of the approved site plan will be transmitted to the city engineer, department of public services and fire department. The community and economic development may require additional copies of the site plan.

(D) *Submission requirements.*

- (1) *Site plan application form.* Applications for site plan review shall be made on forms available at the community development department.
- (2) *Site plan submission; data requirements.* The following information shall be required on all site plans:
  - a. Title block with name of proposed development, and the name, address and phone number of the property owner, developer and architect/engineer. All sheets of the plan shall bear a stamped, countersigned seal of the registered professional who prepared the plan.
  - b. Location map showing the proposed site location, zoning classifications and major roads.
  - c. The site plan shall be drawn to scale not less than one-inch equals 50 feet.
  - d. Date, north arrow, and scale.
  - e. Property identification number(s) and the dimensions of all lot and property lines, showing the relationship of the subject property to abutting properties.
  - f. Location of all existing and proposed structures, uses, number of stories, gross building area, required and proposed setback lines, and distances between structures on the subject property.
  - g. All existing and proposed structures, roadways, drives, landscaping, trees, parking areas, and pedestrian paths within 50 feet of the subject property lines.
  - h. Number of parking spaces and location of loading areas and handicap parking spaces and access routes on the subject property. The total number of parking and loading/unloading spaces to be provided and the method by which the required parking was calculated shall be noted.
  - i. Location and height of all walls, fences, and landscaping, including a landscaping plan.
  - j. Location and widths of all abutting streets, existing and proposed rights-of-way, easements, and pavement.
  - k. Type of existing and proposed surfacing of all drives, parking areas, loading areas and roads.
  - l. Elevations (front, sides, and rear views) of all sides of the building(s), including types of facing materials to be used on structures.
  - m. A floor plan drawing showing the specific use areas of all existing and proposed buildings on-site.

- 
- n. Density calculations (for multiple family projects).
  - o. Principal and accessory buildings.
  - p. Designation of units by type of buildings.
  - q. Interior walks and pedestrian or bicycle paths within rights-of-way.
  - r. Exterior lighting locations, type of fixtures, and methods of shielding from projecting onto adjoining properties. Details of all lighting fixtures shall be provided. For new parking lots and vehicle canopies a photometric plan shall be provided, demonstrating conformance with section 10.512.
  - s. Trash receptacle and transformer locations and method of screening.
  - t. Drive or street approaches including acceleration, deceleration and passing lanes, where appropriate.
  - u. All utilities located on or serving the site, including sizes of water and sewer lines, wells, proposed hydrants, and proposed fire suppression line into building. Proposed sanitary leads and sanitary sewers must also be shown, as applicable.
  - v. Designation of fire lanes.
  - w. Location, size and types of all proposed signs.
  - x. Preliminary storm system layout and flow arrows demonstrating that storm flow connections and disposal methods are feasible.
  - y. Typical existing and proposed cross-sections for streets, roads, alleys, parking lots, etc., as applicable, including right-of-way.
  - z. Existing and proposed ground contours at intervals of two feet, or spot elevations sufficient to review the proposed grading and drainage plan, as determined by the city's consulting engineer.
  - aa. Location of all tree stands and measures to be taken to protect existing on-site trees not proposed for removal as part of the development.
  - bb. Landscape plan showing species, spacing, and size of each tree and plant material and ground cover.

- (E) *Site plan review criteria.* The approving body shall consider and require compliance with the following:
- (1) All application and site plan review submittal criteria have been met.
  - (2) The site plan is in full conformance with all applicable Zoning Ordinance requirements.
  - (3) The location of development features, including principal and accessory buildings, open spaces, parking areas, driveways, and sidewalks minimize possible adverse effects on adjacent properties and promote pedestrian and vehicular traffic safety.
  - (4) On-site and off-site circulation of both vehicular and pedestrian traffic will achieve both safety and convenience of persons and vehicles using the site.
  - (5) Landscaping, earth berms, fencing, signs, and obscuring walls are of such a design and location that the proposed development's impact on existing and future uses in the immediate area and vicinity and on residents and occupants is minimized and harmonious.
  - (6) Utility service, including proposed water, sanitary sewer and the development and the recommendation of the city's consulting engineer. Approvals required from any state or county

---

department having jurisdiction, such as the department of health, drain commission or road commission, are a prerequisite to approval.

- (7) Notwithstanding any other provisions of this Ordinance, the city may require as a condition of final site plan approval, landscaping, berming, fencing, walls, drives or other appurtenances as necessary to promote the health, safety, and welfare of the community and achieve compliance with the standards of this Ordinance.
- (F) *Site plan review standards for groundwater and stormwater protection.* The following provisions shall apply to all uses and facilities that require site plan review under the provisions of this Ordinance.
- (1) *Site plan review information requirements.*
- a. The applicant for site plan review shall complete and submit the "Hazardous Substances Reporting Form for Site Plan Review" and the "Environmental Permits Checklist" at the time of application for site plan review (forms provided by city).
  - b. The city may require a listing of the type and quantity of all hazardous substances and polluting materials which will be used, generated, produced or stored on the site.
  - c. The site plan shall detail the location of the following:
    1. Public or private wells on-site and on adjacent sites.
    2. Septic systems and other wastewater treatment systems, including the location of all sub-components of the system.
    3. Interior and exterior areas to be used for the storage, use, loading, recycling, production or disposal of any hazardous substances and polluting materials.
    4. Existing and proposed underground and above-ground storage tanks and the material stored therein.
    5. Exterior and interior drains, dry wells, catch basins, retention/detention areas, sumps, and other facilities designed or intended to collect, store, or transport stormwater or wastewater. The point of discharge for all drains and pipes shall be specified on the site plan.
    6. Wetlands, watercourses, and drains.
    7. Soil characteristics of the parcel, at least to the detail provided by the U.S. Soil Conservation Service—Soil Survey.
    8. Areas on the site which are known or suspected to be contaminated, along with a report on the nature of the contamination and the status of clean-up efforts, if applicable.
- (2) *Groundwater and surface water protection standards.*
- a. *General.*
    1. The project shall be designed to protect the natural environment, including wetlands, surface water and groundwater, and to insure the absence of an impairment, pollution, and/or destruction of the air, water, or other natural resources.
    2. Stormwater management and drainage facilities shall be designed to retain the natural retention and storage capacity of any wetland, water body, or watercourse, and shall not increase flooding or the potential for pollution of surface water or groundwater, on-site or off-site.

- 
3. Floor drains shall be connected to a public sanitary sewer system, an on-site holding tank without an outlet, or a system authorized by a state groundwater discharge permit.
  4. Sites shall be designed to prevent spills and discharges of hazardous substances and polluting materials to the air, surface of the ground, groundwater, or surface water.
  5. State and federal agency requirements for storage, spill prevention, record-keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharges to surface water or groundwater, whether direct or indirect, shall be allowed without required permits and approvals.
  6. In determining compliance with the standards in this Ordinance, the city may utilize appropriate and applicable reference standards regarding best management practices for groundwater protection.
- b. *Above-ground storage and use areas for hazardous substances and polluting materials.*
1. Secondary containment of hazardous substances and polluting materials shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
  2. Outdoor storage of hazardous substances and polluting materials shall be prohibited except in product-tight containers that are protected from weather, leakage and vandalism.
  3. Secondary containment structures shall not have floor drains or other outlets, except as necessary for connection to pumping trucks for removal of spilled product.
  4. Areas and facilities for loading, handling, production, use or disposal of hazardous substances and polluting materials shall be designed and constructed to prevent discharge or run-off to floor drains, wetlands, surface water, groundwater or soils.
- c. *Underground storage tanks for the storage of hazardous substances and polluting materials.*
1. Existing and proposed underground storage tanks shall be registered with the authorized state or federal agency in accordance with applicable state and federal law.
  2. Installation, operation, maintenance, closure, and removal of underground storage tanks shall be in accordance with requirements of the authorized agencies. Leak detection, corrosion protection, spill prevention, and secondary containment requirements shall be met.
  3. Out-of-service or abandoned underground tanks shall be emptied and removed from the ground in accordance with requirements of the authorized state and federal agencies.
- d. *Sites with contaminated soils and/or groundwater.*
1. Site plans shall detail the nature of, location and extent of any contaminated soils or groundwater on the site.

- 
2. Written verification from authorized state agencies shall be provided as a part of site plan review application that indicates their approval of the proposed use or activity in relation to the contamination on-site and clean-up efforts underway or anticipated.

(G) *Expiration of site plan approval.*

- (1) *Expiration of preliminary site plan approval.* The approval of any preliminary or final site plan under the provisions of this Ordinance shall expire and be void one year after the date of such approval unless an extension is approved as noted in section 10.514(G)(3)c. A preliminary site plan that has been submitted for final site plan review shall not be deemed expired.
- (2) *Expiration of final engineering plan approval expiration.* Approval of any final engineering plan under the provisions of the Ordinance shall expire and be void one year after the date of such approval unless actual physical construction of a substantial nature of the improvements included in the approved site plan has commenced and proceeded meaningfully toward completion during that period , and if a written request for extension of the approval has been submitted by the applicant as noted in section 10.514(G)(3)c. Upon expiration of a final site plan approval, all preliminary site plan approvals shall expire.
- (3) *Extension of site approval.* The time limit set forth in subpart 10.514(G)(1) and (2), above, may be extended subject to the following:
  - a. All applicable fees and bonds are paid.
  - b. The applicant shall request an extension in writing, at least 30 days prior to the expiration of the approval period and shall demonstrate that construction of the project has been delayed by factors beyond the reasonable control of the applicant and that construction of the project is likely to proceed within the extension period
  - c. The approved plan to be extended shall comply with all current site plan criteria and current ordinances, laws, codes and regulations.
  - d. There shall be no pending zoning ordinance which would substantially change the requirements of the approved plan; In such instance, the applicant should submit a revised site plan.
  - e. The site plan review committee may grant the first extension for up to six months. Any subsequent extensions would require approval of the original approving body. No more than a total of three six-month extensions shall be granted.

(H) *Fees.* Any application for site plan approval shall be accompanied by a fee as determined from time to time by resolution of the city council.

(I) *Approval and issuance of building permits.*

- (1) The applicant shall not submit for building permits until a site plan permit has been issued unless otherwise permitted by the building official subject to the following:
  - a. The preliminary site plan is approved, and;
  - b. The applicant shall make a request, at his own discretion, demonstrating the financial, seasonal or other limitations.
- (2) Building permits shall not be issued until site plan approval has been granted by the site plan review committee, planning commission (if applicable) and the city engineering consultant has approved the final engineering plans for the site.

- 
- (J) *Amendments of approved site plans.* An approved site plan may be amended by written application in accordance with the submittal and review procedures for preliminary site plan review. Where the changes are minor, the site plan review committee may complete the site plan review process and act upon the proposed amendment. Major changes, as determined by the site plan review committee, to plans which received planning commission approval shall be reviewed and approved by the planning commission. For purposes of interpretation, the following shall be considered minor changes:
- (1) The size of approved principal or accessory structures may be reduced or increased by up to five percent provided the overall density of units does not increase. One accessory structure may be added, provided that it is no greater than 250 sq. ft. in area.
  - (2) Movement of a building or buildings by no more than ten feet which does not significantly alter other aspects of the site.
  - (3) Plantings approved in the landscape plan may be replaced by similar types and sizes of landscaping which provides a similar screening effect on a one-to-one or greater basis.
  - (4) Improvements to site access or circulation, such as deceleration lanes, boulevards, curbing, pedestrian/bicycle paths, etc.
  - (5) Changes of building materials to another of higher quality, as determined by the community development department.
  - (6) Changes in floor plans which do not alter the character of the use.
  - (7) Slight modification of sign placement or reduction of size.
  - (8) Changes required or requested by the city, county, state or federal agency for safety reasons.
  - (9) Situations similar to the above.
- (K) *Conformity with approved site plan required.* Sites shall be built in conformance with approved site plans. Where modified by subsequent amendment or zoning board of appeals action, approved site plans shall be modified to reflect said action. Maintenance of the property in conformance with the approved site and landscaping plan(s) shall be a continuing obligation of the owner.
- (L) *Appeals to site plan decisions.* Any person aggrieved by the decision of the site plan review committee or the planning commission or denial of a site plan approval shall have the right to appeal the decision to the zoning board of appeals.
- (M) *Accuracy of information.* The applicant for site plan approval shall be responsible for the accuracy and completeness of all information provided on the site plan.
- (N) *Revocation of site plan approval.* The planning commission may, upon hearing, revoke approval of a site plan if the commission determines that any information on the approved site plan is erroneous. Upon revocation, work on the affected part of the development, or on the entire development, as determined by the planning commission, shall cease. The planning commission may direct the community development department to issue a stop work order to enforce its determination. Upon revocation, the planning commission may require the applicant to amend the site plan in a manner appropriate to reflect the corrected information. Any work so suspended shall not be resumed until an amended site plan is approved by the planning commission.
- (O) *Site plan guarantee.*
- (1) Prior to the issuance of any building permit for any project or development which requires site plan review under this Ordinance, the applicant for same shall provide a site plan completion guarantee deposit to the city. Said deposit shall guarantee completion of all site improvements shown on the approved final site plan. For the purpose of this section, completion shall mean

---

inspection by the appropriate city officials and approval for compliance with the approved final site plan, not less than six months after the last occupancy certificate has been issued.

- (2) Site improvements shall mean, but shall not be limited to, drives and streets, curbs and gutters, sidewalks, water and sanitary sewer systems, drainage facilities and retention/detention basins, final grading and swales, retaining walls, landscaping and parking lots.
- (3) The amount of the guarantee shall be as established from time to time by city council resolution.
- (4) In the event the applicant fails to correct any deficiencies within 30 days of written notice from the city, the city shall have the authority to use the guarantee to complete the site improvements, or repairs to said improvements, within a period of nine months following the issuance of the last certificate of occupancy unless good cause can be shown by the applicant for the delay in completion. The city may, at its sole discretion, agree in writing to a specific extension of the nine month period. The city may use the completion guarantee to hire sub-contractors to complete work, fund inspections and for the administration of the required work including legal fees.
- (5) The guarantee or portion thereof, shall be promptly released upon the inspection and approval of all improvements in compliance with the approved final site plan or conditional use permit and all applicable city standards and specifications. Portions of the guarantee may be released, in not more than three installments, provided:
  - a. The project or approved phase of a project has been completed for six months and the improvements for which the release is requested have been inspected and approved in accordance with the above standards, and the remaining balance is sufficient to cover the remaining improvements, including administrative and contingency expenses.
  - b. The guarantee shall not be reduced below the minimum amount required in subsection (o)(3) above.
- (6) Types of completion guarantees. The applicant may provide a guarantee in the form of a cash deposit, certified check, surety bond or letter of credit in a form acceptable to the city. Surety bonds and letters of credit shall be valid for a period of one year past the anticipated request for the last certificate of occupancy for the entire project and, if required, shall be renewed by the applicant not less than 30 days prior to expiration.

(Ord. No. 297, § 1, 2-27-67; Ord. No. 315, § 1, 10-9-67; Ord. No. 606, § 1, 4-10-78; Ord. No. 878, § 1, 5-28-91; Ord. No. 1001, § 1, 12-11-00; Ord. No. 2102, § 2, 6-21-14; Ord. No. 2128, § 20, 1-14-19; Ord. No. 2165, §§ 1—9, 6-14-21)

### **Sec. 10.515. Site condominium regulations.**

The review, design, development and maintenance of a site condominium project shall conform with the provisions of this section.

- (A) *Review process.* Review and approval as provided in this section shall be required to construct, expand or convert a site condominium project. The review process shall involve three phases: preliminary plan review, site plan review, and final engineering plan review.
  - (1) *Preliminary plan review and approval.*
    - a. *Application.* A developer of a proposed site condominium project shall submit to the city an application for preliminary plan approval on an application form provided by the city. The application form shall include all information called for on the form and shall be

---

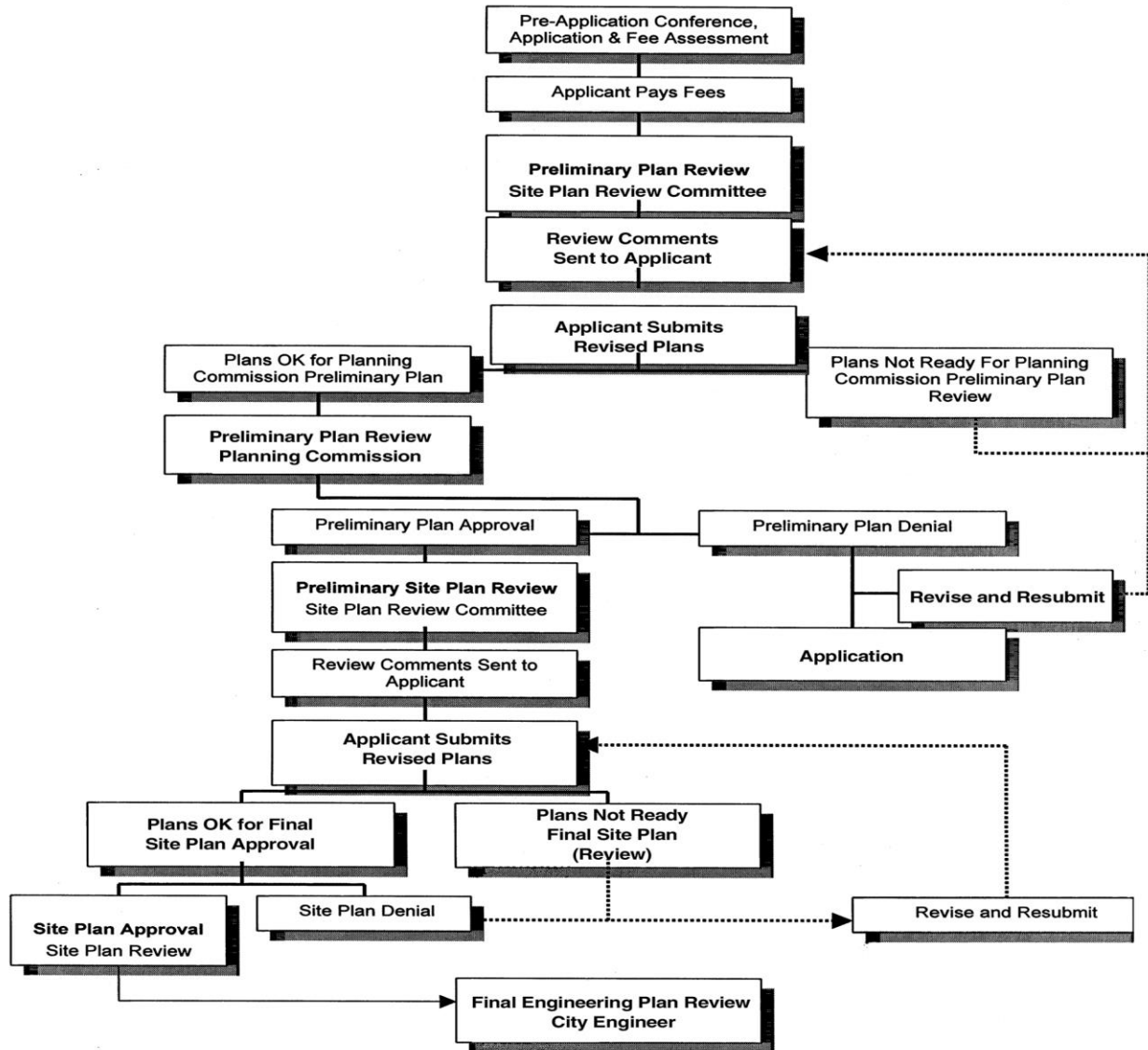
accompanied by 12 copies of a preliminary plan, the application and review fee, and any supplemental information the applicant desires to be considered during the preliminary plan review process. The city may require electronic (digital) submittal of applications and plans as the city develops the technological capabilities.

- b. Preliminary plan content. The preliminary plan shall include:
1. Project name and location.
  2. Name, address and phone number of the developer and the name, address, phone number and seal of the surveyor or engineer who prepared it.
  3. The plan and layout shall be of sufficient detail on a topographic plan to determine whether the project meets requirements for lot size, lot shape, drainage, and the design of the proposed street network.
  4. Scale of not more than 100 feet to one inch.
  5. Legal description of the parcel of land to be developed.
  6. Proposed layout of the individual building sites, streets, wetlands and schematic location of proposed drainage, water and sanitary sewer service.
  7. Location of existing streets, lots, buildings, walls, utilities, major landscaping and wooded areas within 100' of the site.
  8. In addition, the application and plan shall include other information deemed necessary by the planning commission for preliminary review.
- c. Preliminary plan review process.
1. The application form and preliminary plan shall be forwarded to the site plan review committee for their review. Review comments shall be forwarded to the developer to be addressed prior to planning commission review.
  2. Following review and recommendation by the site plan review committee, the preliminary plan shall be reviewed by the planning commission for conformance with all applicable laws and Ordinances, including design standards relative to density, building site size and layout, streets and drainage.
  3. The planning commission shall ascertain whether, based upon the submitted application and preliminary plan, the preliminary plan will conform with all applicable Ordinance requirements relative to building site size, shape and layout, and street design.
  4. If the preliminary plan conforms with all applicable Ordinance standards, it shall be approved by the planning commission. If the preliminary plan fails to conform, the planning commission may either deny the application or grant approval with conditions. This provision does not authorize the planning commission to grant variances from this Ordinance.
  5. Preliminary plan approval shall confer upon the developer an approval, for a period of one year, of the proposed size and shape of building sites and street layout. Such preliminary plan approval may be extended if applied for by the proprietor within one year of the initial approval and approved by the planning commission.

(2) *Site plan review and approval.*



- 
- a. After preliminary plan approval by the planning commission, the developer shall submit an application for site plan review in accordance with section 10.514. Site plan review.
  - b. Application for site plan review shall include a copy of the proposed master deed, by-laws and any additional documentation to be recorded with the register of deeds for review and approval. The master deed shall be reviewed with respect to all matters subject to regulation by the city, including, without limitation, ongoing preservation and maintenance of drainage, detention, landscaping, wetland and other natural areas, and maintenance of general and limited common elements.
  - c. The site plan review committee shall review the site plan, master deed and by-laws and shall approve the proposed condominium project if it conforms with all applicable Ordinance standards and conditions of preliminary plan approval. If the proposed condominium project does not conform with said standards and conditions, the site plan review committee may deny the proposed condominium project or refer the proposal back to the planning commission for reconsideration of the preliminary plan.
  - d. Site plan approval shall be effective for a period of one year.



Site Condominium Review Process—City of Madison Heights

(3) *Final engineering plan review and approval.*

- a. Following site plan approval, the developer shall submit an application for final engineering approval to the city. The application shall include plans and information in sufficient detail to determine compliance with all applicable laws, codes, Ordinances, rules and regulations enforceable by the city subject to applicable provisions of subsection b below.
- b. The city's engineering consultant shall review the final engineering plans and shall approve the plans when they conform with all applicable Ordinance standards, requirements, and conditions of site plan approval.
- c. A building permit for construction of individual condominium units may be applied for when the final engineering plan has been approved, all applicable permits and approvals have been secured from other government entities, and all improvements for the project

---

have been constructed. The city may determine that certain improvements need not be constructed prior to issuance of building permit for an individual condominium unit, provided that all improvements shall be completed prior to issuance of a certificate of occupancy for any condominium unit and the developer posts a performance guarantee for the timely completion of such improvements.

(B) *Additional site condominium regulations.*

- (1) Each condominium building site shall front on and have direct access to a public street constructed to City of Madison Heights and applicable Road Commission for Oakland County standards.
- (2) There shall be compliance with all requirements of sections 10.400 and 10.401 Schedule of regulations, and other provisions of this Ordinance and other applicable ordinances, with the understanding that reference to "lot" in such regulations shall mean and refer to "condominium building site" or "building site," and reference to "building" (meaning principal building) or "structure" (meaning principal structure) shall mean and refer to "condominium unit." In the review of preliminary plans, site plans and engineering plans, it is recognized that it may not be feasible to precisely apply traditional definitions and measures which would be made for developments proposed under, for example, the Land Division Act. However, the review of plans submitted under this section shall be accomplished with the objective and intent of achieving the same results as if the improvements were being proposed pursuant to the Land Division Act.
- (3) Prior to any grading or land development activity and/or the issuance of building permits, the developer shall demonstrate approval by county and state entities having jurisdiction with regard to any aspect of the development, including, without limitation, roads, water supply, sewage disposal and storm water drainage.
- (4) Prior to issuance of any certificates of occupancy, the developer shall demonstrate approval by any other governmental entities having jurisdiction that all improvements have been completed in accordance with approved plans.
- (5) Within 60 days following final inspection and approval of all improvements, the developer shall submit to the city an "as-built" survey, including dimensions and elevations of each improvement and the boundaries of the building sites. The corners of each condominium building site shall be staked in the customary manner in connection with a survey performed for the project.
- (6) The fees for all reviews shall be established by resolution adopted by the city council.
- (7) Amendments of plans or the master deed which have received final approvals and which would have substantive impact upon any matter reviewed or approved under this section shall be reviewed and approved by the planning commission prior to recording.

(Ord. No. 1001, § 1, 12-11-00)

**Sec. 10.516. Fences.**

- (a) *Definitions.* The following words and phrases, when used in this article [section], shall have the following meanings respectively ascribed to them:

*Adjacent owner* shall mean any person whose property is adjacent to or immediately across from the proposed location of a fence or privacy screen.

*Construction-site barrier* shall mean a structure erected, with approval of the building official, on a temporary basis to protect a permitted construction-site from vandalism and unauthorized entry.

---

(Supp. No. 30)

Created: 2022-05-12 08:49:08 [EST]

---

*Delinquent owner* shall mean any party who owns a lot or parcel or land, either as deed holder or contract purchaser, who refuses or neglects to build or assist in building, completing, repairing or maintaining a partition fence in accordance with the provisions of this article [section].

*Department* shall mean the community development department of the city.

*Fence* shall mean a structure erected for the purpose of separating properties, or enclosing or protecting or screening the property within its perimeter. A fence shall not include construction-site barriers, or a chain link fence enclosure wholly within the property to which it pertains and which conforms to the setbacks for an accessory structure and which is used for the purpose of containing a domestic animal(s) which does not exceed six feet in height.

*Inspector* shall mean the building official of the city or his designee.

*Ornamental fence* shall mean a fence designed in such a manner, and of such material, that the main purpose is to decorate or enhance the appearance of the front or side yard setback in a residential area. Ornamental fences shall include hedges. Fences consisting of chain link mesh, welded or woven wire or sheet metal are excluded under this definition.

*Partition fence* shall mean a fence located along the line dividing two lots or parcels of land whether subject to an easement or not.

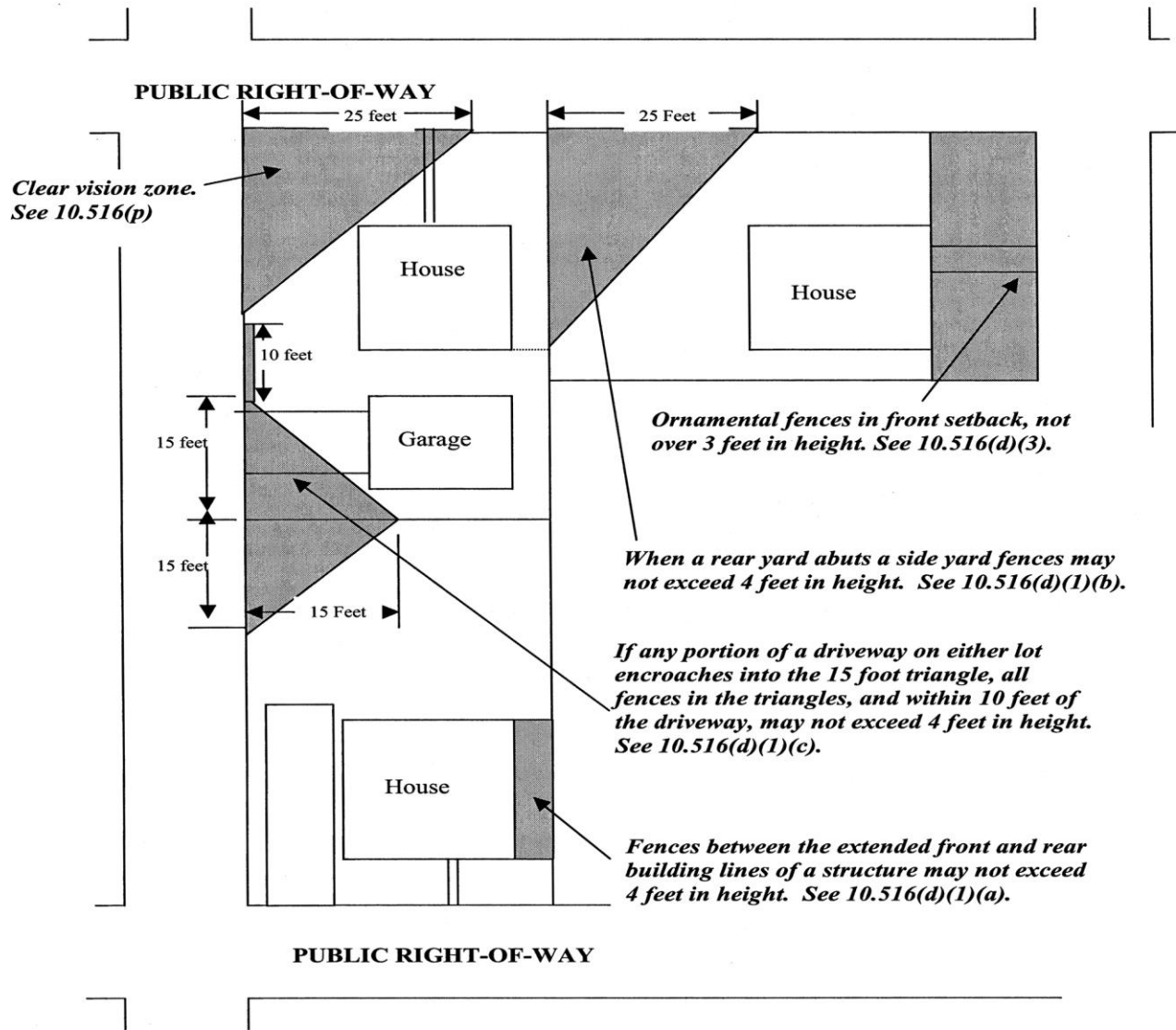
*Privacy fence* shall mean a sight-obscuring fence used to block the area enclosed by the fence from view from neighboring properties or public rights-of-way.

*Privacy screen* shall mean a non-sight-obscuring decorative structure, erected adjacent to or around a patio, deck, court yard or swimming pool designed to screen the area behind it or within its confines from observation by persons outside its perimeter.

*Sight-obscuring* shall mean opaque or having such qualities as to constitute a complete visual barrier to persons outside the perimeter of the sight-obscuring object. A fence which partially obscures sight shall not be considered sight-obscuring if the distance or open space between boards, slats, rails, stanchions, or balusters (which shall not exceed four inches in width) equals or exceeds the width of said boards, slats, etc., measured at 90 degree angles.

- (b) *Right to build partition fence at owner's expense.* Notwithstanding anything in this article [section] to the contrary, the owner of any land in the city is hereby authorized and empowered to build and maintain a partition fence at his sole expense if the location of such proposed fence is established in accordance with the provisions of this article [section].
- (c) *Duty of adjacent owners.* The owners of lots adjacent to each other in the city may construct and shall maintain a partition fence on the partition lines between such adjacent lots, subject to the provisions of this article [section]; or extend such fence pursuant to section 10.516(d)(1)(a).
- (d) *Type and location—Residential districts.*
  - (1) A partition fence may be built only on the rear partition line, and on that portion of the side partition line extending from the rear lot or alley line to the rear of the house line extended, which rear house line is the closer to the street where two houses are on adjacent lots. The maximum height for a partition fence shall be four feet except for a privacy fence which shall be six feet. Partition fences shall not be located in a required front setback.
    - (a) Partition and privacy fences up to six feet in height may be extended to the front house line or along a portion of such partition line not beyond the extended front house line pursuant to the requirements of this code. Where the side or rear lot line is adjacent to another residential parcel the maximum height for any such fence between the extended front and rear house lines on the subject parcel or the adjacent parcel shall be four feet.

- 
- (b) Where the rear yard of a corner lot is immediately adjacent to the side yard of another lot, fences may not exceed four feet in height within, or adjacent to, the side yard partition line of the adjacent lot from the front line of the adjacent lot to the extended rear line of the house, or along the right-of way within 25 feet of the common lot line.
  - (c) Where the rear yard of a corner lot is immediately adjacent to the rear yard of an abutting lot upon which is located a driveway accessing the street through the side yard within 15 feet of the rear lot line, fences may not exceed four feet in height within the triangular area formed by the intersecting side and rear partition lines and a straight line joining the rear partition line and the street lines at points which are 15 feet distant from the point of intersection, measured along the street right-of-way lines in both directions, or within ten feet of the edge of the driveway.
  - (d) For chain link fences on all streets running generally east and west, fence posts shall be placed contiguous to and on the westerly side of the dividing line, and the woven wire on the easterly side of the posts; and on all streets running generally north and south, the posts shall be placed on the northerly side of the dividing line and woven wire on the southerly side of the posts; provided, however, if the owners of adjacent lots mutually agree in writing, the posts can be placed on either side of the partition line.
  - (e) For fences of other materials the posts shall be located on the inside of the lot being fenced and the fence material shall be placed on the outside of the posts.
  - (f) Not more than one fence, of any type, may be installed on, or within two feet of, any partition line. If an adjacent owner desires to install a privacy fence as a partition fence, any existing partition fence shall be removed. If an existing conforming partition fence exists on the partition line which can not be removed, the privacy fence shall comply with all the setback requirements for an accessory structure in the district therein located. Sufficient access shall be provided to the area between fences to facilitate maintenance.
  - (g) No fences shall be placed in the public right-of-way, including, but not limited to, that area between the curb and the sidewalk.
- (2) *Privacy screen; privacy fences.* Privacy screens and privacy fences, which are not a partition fence, shall not encroach upon the required setbacks for accessory structures for the district therein located but may encroach into easements if the setback requirements are met.
- (3) *Ornamental fences.* A non-sight obscuring ornamental fence, purely decorative in nature, may be located in the required front yard in any residential district as follows:
- (a) No ornamental fence shall exceed three feet in height.
  - (b) All ornamental fences must be located a minimum distance of one foot inside all property lot lines, or two feet from any public sidewalk, whichever is greater.
  - (c) No fences shall be placed in the public right-of-way, including, but not limited to, that area between the curb and the sidewalk.
  - (d) Materials used in ornamental fences shall be limited to wood, wrought iron, vinyl or other materials approved by the building official and shall not contain any sharp or pointed projections of any kind or in any other way be detrimental to the public health and safety. Fences consisting of chain link, woven or welded wire or sheet metal are strictly prohibited.



Illustrations of Maximum Height and Clear Vision Requirements

- (e) *Entry onto premises of delinquent owner permitted.* Any person building, installing or maintaining any fence, or a part of a fence, for a delinquent owner may enter upon the premises of the delinquent owner to the extent reasonably necessary to build, complete, repair or maintain the fence.
- (f) *Materials, minimum/maximum height.* Partition fences constructed of chain link material shall be not less than three, nor more than four feet in height. All fences built or repaired shall use materials made and approved for fencing. Fencing shall be constructed of metal posts and rails erected in compliance with the manufactures specifications and shall consist of galvanized or vinyl coated wire mesh. Mechanical devices approved by the manufacturer may be used to secure line posts in the ground. Materials such as, but not limited to, metal, plastic, wood, or fabric may not be inserted into, attached to, or hung over chain link fences.

---

Partition fences, including privacy fences, constructed of wood or similar materials shall not exceed six feet in height. Support posts or beams used for such fences must be placed on the inside of the fence toward the premises owned by the person causing the fence to be erected and, if wood, be of a minimum four inch by four inch construction firmly imbedded in concrete not less than 24 inches in depth, with a minimum thickness of three inches on all sides. Posts other than wood shall be not less than 24 inches deep and installed to the manufacturers instructions. Privacy fences shall not be attached to any other fence or structure.

- (g) *Sharp projections prohibited.* No owner or lessee, or his or her respective agent, of any building in the city shall erect or cause to be erected or maintained on or about the stairway to the entrance of such building, or on or about its exterior building line, or upon fences or upon any portion of the sidewalk adjacent to such building, any railing, fence, guard or other projection on which there shall be affixed or placed or in any manner attached any spike, nail or other sharp pointed instrument of any kind or description. No wire or other fence materials shall be affixed to the fence with the top edge having any sharp or pointed projections of any kind; provided, however, if such fence is constructed of pickets, such pickets shall be made of not less than one inch by three inch material and shall have angle at the top of not less than 90 degrees.
- (h) *Barbed wire prohibited; exception; razor wire strictly prohibited.*
- (1) No owner or lessee, or his or her respective agent, shall construct or maintain a barbed wire fence partially or wholly around any area along any street, avenue, alley, lane or public highway, public space or place, or nail or cause such barbed wire fence to be nailed or fastened in any form or manner upon fences or fence posts.
- (2) Exception: fences in industrial districts, which are adjacent to industrial districts, may have barbed wire subject to the following:
- (a) Fences shall be a minimum of eight feet high.
- (b) Barbed wire shall be attached to arms or brackets extending inward over such private property.
- (c) No barbed wire shall be placed at any point nearer to the ground than eight feet.
- (d) No barbed wire is permitted on any fence which abuts any property zoned for a use other than industrial use(s).
- (3) Razor wire is prohibited.
- (i) *Electrical fences.* Electrical and electrified fences shall be strictly prohibited.
- (j) *Industrial or business zoned property; maximum height; location; ornamental fences.* Fences may be erected on property zoned for industrial or business uses subject to the following:
- (1) *Maximum height:*
- a. Fences in industrial and commercial districts, which are adjacent to industrial or commercial districts, shall not exceed ten feet in height in side and rear yards, and shall not exceed six feet in height along any street or alley.
- b. Fences in industrial and commercial districts, which are adjacent to any residential districts, shall not exceed six feet in height.
- (2) *Location:*
- a. Fences in industrial and commercial districts, which are adjacent to industrial or commercial districts, shall not occupy any required front setback and must be five feet setback from any right-of-way property line.

- 
- b. Fences in industrial and commercial districts, which are adjacent to any residential districts, shall not occupy any required front setback and shall not extend closer to a street side or street rear yard than the adjacent residential front or street side yard requirement.
  - c. All fences shall conform to the setback requirements in section 10.516(p), visibility at intersections.
  - d. Ornamental fences shall be permitted only as shown on the approved site plan.
- (k) *Heights along school yards and public playfields.* Where a partition fence is constructed along a school yard or public playfield, fences up to eight feet in height as specified in this article [section] may be permitted if the lines along which such fences are to run have been determined in accordance with the provisions of this article [section] and the details of construction as to public safety have been approved by the building official.
- (l) *Encroachment.* The property owner who is erecting the fence (or having it erected) shall be responsible for determining the location of property lines.
- (m) *Compliance with other ordinances and state law.* All fences shall comply with the relevant sections of the zoning ordinance, all other ordinances of the City of Madison Heights and all applicable state law.
- (n) *Denial of responsibility of city.* The City of Madison Heights shall not be responsible for the enforcement of any agreement relative to mutual or separate payment for the cost of construction or maintenance of fences, nor shall the city be responsible for the determination of the location of any fence to be erected, built or constructed on a lot line.
- (o) *Maintenance and repair.*
- (1) Any person who erects, builds or constructs, or contracts with another or causes another to erect, build or construct, any fence or privacy screen upon property which such person owns or leases shall be responsible for the repair, upkeep and maintenance of the fence or privacy screen, and any area adjacent thereto.
  - (2) Any person who owns property upon which a fence or privacy screen has been constructed by a previous owner shall be responsible for the care, upkeep and maintenance of the fence or privacy screen. If a previously constructed fence is located upon a lot line, each successive owner of the fence shall be responsible for its care, upkeep and maintenance. If ownership of the fence located upon a lot line is joint or cannot be determined, then each party owning property adjacent to the fence shall be responsible for the care, upkeep and maintenance of the fence facing his property. For purposes of this paragraph, the owner of a fence shall be deemed to be any person, persons or their successors who purchase or otherwise acquire the property from the person who originally erected or caused a fence to be erected thereon.
  - (3) The building official or his designee shall have the sole discretion to determine whether or not the fence is properly maintained, structurally sound or creates a potential safety hazard. Upon a finding by the building official that the fence is not maintained or not structurally sound or creates a potential safety hazard, he shall notify the owner to make necessary repairs to maintain the fence or to make it structurally sound and safe. The owner shall have 30 days from the date of notice by the building official to bring the fence in compliance with this section. Should the owner fail to comply with the directive of the inspector, the owner will be held to be in violation of this section and the fence shall be removed immediately.
- (p) *Visibility at intersections.* No fence, wall, hedge, screen, structure, vegetation or planting shall be higher than three feet on any corner lot or parcel in any zoning district requiring front and side yards within the triangular area formed by the intersecting street right-of-way lines and a straight line joining the two street lines at points which are 25 feet distant from the point of intersection, measured along the street right-of-



---

way lines. Trees may be planted in this triangular area, provided that the lowest foliage is six feet or higher from the ground.

- (q) *Non-conforming fences.* Where a lawful fence exists at the effective date of adoption or amendment of this Ordinance [section] that could not be built under the terms of this Ordinance [section] by reason of restrictions on height, materials, required yards or other characteristics of the fence, or its location on the lot, such fence may be continued so long as it remains otherwise lawful, subject to the following provisions:
- (1) No such fence may be enlarged or altered in a way which increases its nonconformity.
  - (2) Should such fence be destroyed by any means to an extent of more than 50 percent of its replacement cost at time of destruction it shall not be reconstructed except in conformity with the provisions of this Ordinance [section].
  - (3) No such fence may be structurally altered or improved so as to prolong the life of the fence or so as to change the shape, size, type or design of the fence.
- (r) *Administration and enforcement.* The provisions of this chapter [section] shall be administered and enforced by the building official or his designee.

(Ord. No. 1005, § 1, 6-26-01; Ord. No. 1076, § 18, 10-12-10; Ord. No. 1091, § 14, 1-28-13, eff. 2-7-13; Ord. No. 2123, §§ 12, 13, 1-8-18)

## **Sec. 10.600. General exceptions.**

### **Sec. 10.601. Area, height and use exceptions.**

The following regulations of this Ordinance shall be subject to the following interpretations and exceptions:

- (1) *Essential services.* Essential services shall be permitted as authorized and regulated by law and other ordinances of the City of Madison Heights; it being the intention hereof to exempt such essential services from the application of this Ordinance.
- (2) *Voting place.* The provisions of this Ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other election.
- (3) *Height limit.* The height limitations of this Ordinance shall not apply to farm buildings, chimneys, church spires, flag poles or public monuments; provided, however, that the board of appeals may specify a height limit for any such structure when such structure requires authorization as a use permitted on special approval.
- (4) *Residential yard fences.* Fences or walls in residential districts may be constructed within a required rear or side yard, e.g., along the property line.
- (5) *Lots adjoining alleys.* In calculating the area of a lot that adjoins an alley or lane, for the purpose of applying lot area requirements of this Ordinance, one-half the width of such alley abutting the lot shall be considered as part of such lot.
- (6) *Yard regulations.* When yard regulations cannot reasonably be complied with, as in the case of a planned development in the multiple-family district, or where their application cannot be determined on lots existing and of record at the time this Ordinance became effective, and on lots of peculiar shape, topography, or due to architectural or site arrangement, such regulations may be modified or determined by the board of appeals.
- (7) *Multiple dwelling side yard.* For the purpose of side yard regulations, a two-family, a terrace, a row house, or a multiple dwelling shall be considered as one building occupying one lot.

- 
- (8) *Porches, terraces and barrier free access.* A roofed, or un-roofed, open porch (i.e., one which is not enclosed by walls), or paved terrace may project into a required front yard setback for a distance not to exceed six feet. Ramps for access by handicapped persons, which provide a direct route from the ground to a porch, may encroach into the front yard setback in a residential district to the extent necessary to provide reasonable access as determined by the building official.
- (9) *Projections into required yards.* Architectural features such as, but not limited to, window sills, cornices, eaves, bay windows and fireplaces, may extend or project into a required side yard not more than two inches for each one foot of width of the required side yard; and may extend or project into a required front yard or rear yard not more than three feet. The total width of the projection(s) shall not exceed 25 percent of the total width of that side of the structure. Architectural features shall not include those details which are removable. Accessory items such as, but not limited to, air conditioners and stand-by generators may not occupy a required front or side yard.
- (10) *Antennas:*
- (A) (1) *Types of antennas to be regulated.* The following antennas, as well as those antennas not specified below but hereafter classified by the building inspector, are hereby regulated as grouped into three general wind surface area categories:

*Category 1.* Radio antennas, television antennas and antenna towers, such as amateur radio antennas for ham/short-wave operations, and fixed-station antennas for business-band radio, citizens band radio, general mobile radio service and two-way radio;

*Category 2.* Dish antennas, such as satellite television antennas, also known as satellite dishes, earth stations, television receive-only (TVRO) antennas, earth terminals, and earth terminal antennas; other parabolic dish antennas and parabolic reflectors;

*Category 3.* Antenna towers, poles, and related buildings and facilities not exceeding 75 feet from established grade, customarily though not necessarily housing multiple antennas, such as radio broadcasting towers, television broadcasting towers, microwave antenna towers, studio-to-antenna links, except as exempted for government use as provided by local ordinance, state or federal law.

Equipment which falls into Category 3 may be permitted in M-1 and M-2 districts only after obtaining prior special approval by the city council and any necessary variances from the zoning board of appeals.

*Category 4.* Wireless cellular and Personal Communications Service (PCS) antenna towers and related building and facilities.

Equipment which falls into Category 4 may be permitted in M-1 and M-2 districts only after obtaining special approval by the city council subject to other conditions which the city council determines are necessary to provide adequate protection to the neighborhood and abutting properties and upon confirmation by the community development department that the equipment and related buildings and facilities would be in compliance with the following conditions:

- (a) Except as otherwise provided in this section, telecommunications towers and related buildings and facilities shall meet the area, bulk, height and setback requirements of the zoning district in which they are located. Except as otherwise provided in this section, telecommunications towers may not be permitted within 500 feet of a residential use.

- 
- (b) Telecommunications towers and related buildings and facilities shall be surrounded by a six-foot cyclone fence to prevent unauthorized access and vandalism.
  - (c) The site shall comply with all applicable city standards, including, but not limited to drainage, lighting, landscaping, and general safety.
  - (d) Telecommunication towers and related buildings and facilities shall be designed and constructed to blend into the surrounding environment to the maximum extent feasible.
  - (e) Telecommunication towers shall be of monopole design unless satisfactory evidence is submitted to the city that a tower of other design is required to provide the height or capacity necessary for the proposed telecommunications use.
  - (f) Telecommunication towers shall be designed and operated to prevent broadcast interference with any equipment located on nearby properties.
  - (g) Lighting associated with telecommunication towers shall comply with all applicable FAA regulations. Where tower lighting is required, it shall be shielded or directed to the maximum extent possible to minimize the amount of light that falls onto nearby properties.
  - (h) A 20-foot access drive constructed of material approved by the city shall be provided and maintained in good condition to provide access for service and emergency vehicles.
  - (i) The site shall be designed to maintain and enhance existing vegetation. The tower and related buildings and facilities shall be landscaped to minimize the visual impact of the telecommunications tower and related facilities on nearby properties.
  - (j) All telecommunications towers and related buildings and facilities shall be designed to minimize the visual impact to the greatest extent feasible, considering technological advancements by means of placement, screening and camouflage, to be compatible with existing architectural elements and building materials, and other site characteristics. Colors and materials shall be selected to minimize visual impact.
  - (k) No height variance shall be required for a telecommunication tower reviewed and approved by the city council as a special use if the height does not exceed 75 feet.
  - (l) Notwithstanding any other provision of the City Code, new or additional wireless cellular PCS antennas may be installed on any existing building, structure or telecommunications tower without special approval. A telecommunications tower and related buildings and facilities may be permitted as an accessory use to a principally permitted use on publicly owned property if the telecommunications tower is available for use by the city. No height variances shall be required for a telecommunication tower on publicly owned property if the tower is available for use by the city and is designed, engineered and constructed for two or more wireless cellular or PCS antenna arrays and the tower does not exceed 200 feet in height. All wireless cellular or PCS antennas shall be in compliance with all other applicable codes and ordinances.

- 
- (m) The city shall receive compensation for use of land for all wireless cellular or PCS antenna on city property. A negotiated agreement concerning compensation and other terms shall be presented to city council.
- (2) *Exception.* Television antennas not exceeding 28 square feet in area, customarily though not exclusively erected for residential use, such as microwave-receiving antennas, and dipole rod and mast VHF-UHF antennas, i.e., conventional television antennas;
- (B) *Building permit:*
- (1) [*Types of antennas for which permits required.*] A building permit shall be secured for:
- (a) All antennas and antenna towers the height of which exceed 12 feet when ground-mounted or roof-mounted.
- (b) All dish antennas which exceed two feet in diameter or four square feet in area.
- (2) *Exception.* Antennas which do not exceed four square feet in area or two feet in dish diameter and which do not exceed 12 feet in height may be erected and maintained in the rear yard and on the roof of any building without a building permit.
- (3) *Permit application.* Applications for a building permit to erect an antenna or antenna tower shall be submitted to the building inspector, who shall determine whether the proposed antenna or antenna tower complies with the requirements of this Ordinance [subsection (10)]. Applicants denied a building permit shall have the right to appeal such denial to the zoning board of appeals pursuant to section 10.803 of the Madison Heights Zoning Ordinance. Application forms shall indicate at least the following:
- (a) The category and type of antenna, as listed in subsection (10)(A)(1);
- (b) The proposed location of the installation on the property;
- (c) Dimensions, shape and sketch of the antenna or antenna tower;
- (d) Total height of the proposed installation measured from the ground or roof to the upper-most element of the antenna or antenna tower;
- (e) The number and type of all other existing antennas and antenna towers on the same property;
- (f) Applicable UL listings and approvals; and
- (g) Category 1 applicants who intend to erect an amateur radio antenna or antenna tower, in excess of 25 feet, for ham/short-wave operations shall demonstrate proof of current, valid Federal Communications Commission (FCC) certification/licensure for such operations.
- (C) *Size restrictions:*
- (1) *Height—Category 1 antennas.* Category 1 antennas or antenna towers, as defined in subsection 10.601(10)(A)(1), shall not exceed 75 feet in height if ground-mounted or 25 feet in height if roof-mounted.
- (2) *Diameter—Category 2 antennas.* Category 2 antennas and antenna towers, as defined in subsection 10.610(10)(A)(1), shall not exceed six feet in diameter or 28 square feet in area.
- (D) *Placement:*
- (1) *Rear yard only.* Antennas and antenna towers shall not be located in any front yard or any side yard. Antennas and antenna towers shall only be located behind the principal

---

structure. Roof-mounted category 2 antennas shall only be placed in the rear-half of the roof. On a corner lot, any such accessory structures shall not occupy any of the side yard abutting upon a street. Guy wires or other structural supports shall be no closer than three feet relative to any right-of-way, adjoining property, easement or yard areas abutting a street.

- (2) *Minimum distance from electrical conductors.* Antennas and lead-in conductors from an antenna or antenna tower to a building shall not cross over open conductors of electric light or power circuits and shall be kept well away from all such circuits so as to avoid the possibility of accidental contact. Where proximity to open electric light or power service conductors of less than 250 volts between conductors can be avoided, the installation shall be such as to provide a clearance of not less than three feet. Self-supporting outdoor antennas shall be located away from overhead conductors of electric light and power circuits of over 150 volts to ground, so as to avoid the possibility of the antenna falling or making accidental contact with such circuits. Lead-in conductors shall be installed so that they cannot swing closer than ten feet to the conductors or circuits of over 250 volts between conductors.
- (E) *Installation.* All antennas and antenna towers regulated by this Ordinance [subsection (10)] shall, at a minimum, comply with the requirements of sections 621.3 through 621.5 of the 1990 BOCA Building Code, said sections adopted by reference herein, and with article 810 of the 1990 National Electrical Code (NEC), said article adopted by reference herein. Specifically, all antennas must meet the following minimum requirements:
  - (1) *Materials.* Antennas and antenna towers shall be constructed of corrosion-resistant, noncombustible material.
  - (2) *Loads.* Antennas and antenna towers shall be designed to resist wind loads; consideration shall be given to conditions involving wind load on ice-covered sections. Antennas shall be designed for dead load plus the ice load.
  - (3) *Uplift.* Adequate foundations and anchorage shall be provided to resist twice the calculated wind uplift.
  - (4) *Grounding.* All antennas and antenna towers shall be permanently and effectively grounded. At a minimum, the grounding shall comply with the provisions set forth in section 810-21 of the NEC, said section adopted by reference herein.
- (F) *Penalty.* Any person violating any of the provisions of this Ordinance [subsection (10)] shall be guilty of a misdemeanor, punishable by a fine in an amount not exceeding \$500.00 or imprisonment for a term not exceeding 90 days, or both.
- (11) *Pedestrian benches.* The provisions of this Ordinance shall not be construed to prevent the placement of pedestrian benches on private property, where said benches do not block required accessible routes.

(Ord. No. 752, § 1, 8-26-85; Ord. No. 880, § 1, 7-8-91; Ord. No. 973, § 4, 7-27-98; Res. of 9-14-98; Ord. No. 1026, § 3, 4-14-03; Ord. No. 1049, § 1, 6-11-07; Ord. No. 1076, § 19, 10-12-10; Ord. No. 2107, § 2, 6-8-15)

## **Sec. 10.700. Administration.**

---

### **Sec. 10.701. Establishing of administrative official.**

Except where herein otherwise stated, the provisions of this Ordinance shall be administered by the building official or such other official or officials as may be designated by the city council. The building official shall have the power to:

- (1) Issue certificates of occupancy.
- (2) Make inspections of buildings and premises necessary to carry out the duties of administration and enforcement of this Ordinance.
- (3) Perform such other further functions necessary and proper to enforce and administer the provisions of this Ordinance.

(Ord. No. 1076, § 20, 10-12-10)

### **Sec. 10.702. Building permits.**

- (1) No building or structure within the City of Madison Heights, shall hereafter be erected, moved, repaired, altered or razed, or have a change of use, nor shall any work be started to erect, move, repair or raze or change the use unless such work is in compliance with this Ordinance and all applicable building codes and until all required zoning and construction permits have been issued by the city.
- (2) Upon completion of the work authorized by a building permit, the holder thereof shall apply for an occupancy certificate.

(Ord. No. 1076, § 21, 10-12-10)

### **Sec. 10.703. Certificate of occupancy.**

A building or structure shall not be used or occupied in whole or in part until a certificate of occupancy has been issued by the city. A building or structure erected or altered in whole or in part shall not be used or occupied until such a certificate has been issued, except that a use or occupancy in an already existing building or structure that was not discontinued during its alteration may be continued for 30 days after completion of the alteration without issuance of a certificate of use and occupancy. A certificate of occupancy shall be issued when the work covered by a building permit has been completed in accordance with the permit, the code and other applicable laws and ordinances. On request of a holder of a building permit the city may issue a temporary certificate of use and occupancy for a building or structure, or part thereof, before the entire work covered by the building permit has been completed, if the parts of the building or structure to be covered by the certificate may be occupied before completion of all the work in accordance with the permit, the code and other applicable laws and ordinances, without endangering the health or safety of the occupants or users. When a building or structure is entitled thereto, the city shall issue a certificate of use and occupancy within five business days after receipt of a written application on the prescribed form and payment of the fee to be established by city council. The certificate of occupancy shall certify that the building or structure has been constructed in accordance with the building permit, the code and other applicable laws and ordinances. Certificates of occupancy shall be issued to the occupant. In a multi-tenant building each individual occupant shall obtain a certificate. A copy of the certificate of occupancy shall be conspicuously posted in public view on the premises used for any purpose other than residential.

The following shall apply in the issuance of any certificate:

- 
- (1) *Certificates not to be issued.* No certificate of occupancy pursuant to the Building Code of the City of Madison Heights shall be issued for any building, structure or part thereof, or for the use of any land, which is not in accordance with all the provisions of this Ordinance.
  - (2) (a) *Expiration:* Certificates shall expire immediately upon any change in the use, ownership or occupancy of the structure, or a portion thereof.
    - (b) *Ownership changes:* Where only the ownership of a multi-tenant building changes the building owner shall be responsible for obtaining a new certificate for each tenant. The fee for each new tenant certificate shall be 20 percent of the regular fee.
  - (3) *Certificates including zoning.* Certificates of occupancy as required by the Building Code for new buildings or structures, or parts thereof, or for alterations to or changes of use of existing buildings or structures, shall also constitute certificates of occupancy as required by this Ordinance.
  - (4) *Certificates for existing buildings.* Certificates of occupancy will be issued for existing buildings, structures, or parts thereof, or existing uses of land, if, after inspection, it is found that such structures, buildings, or parts thereof, or such use of land are in conformity with the provisions of this Ordinance. It shall hereafter be unlawful for any person to occupy any existing commercial and/or industrial building or premises located within the City of Madison Heights which has been vacated by a tenant, lessee or owner, unless such person desiring to reoccupy such building or premises shall first make application for and obtain a certificate of occupancy from the building official.
  - (5) *Temporary certificates.* Nothing in this Ordinance shall prevent the city from issuing a temporary certificate of occupancy for a portion of a building or structure in process of erection or alteration, provided that such temporary certificate shall not be effective for a period of time in excess of six months and may not be renewed more than once for a total of one year provided that such portion of the building, structure or premises is in conformity with the provisions of all applicable ordinances. The applicant for a temporary certificate of occupancy shall, prior to the issuance of said temporary certificate, deposit with the City of Madison Heights the required fees and performance guarantees established by resolution of city council.

(Ord. No. 620, § 1, 2-26-79; Ord. No. 1076, § 22, 10-12-10; Ord. No. 2177 , § 1, 2-28-22)

### **Sec. 10.800. Board of appeals.**

### **Sec. 10.801. Creation and membership.**

- (1) There shall be established and appointed by council of the City of Madison Heights, in accordance with Act 207 of the Public Acts of 1921, as amended, a zoning board of appeals. The zoning board of appeals shall consist of nine members, who shall be appointed by the council for terms of three years each.
- (2) Council may also appoint, in accordance with the procedure specified in the Zoning Ordinance, not more than two alternate members for the same term as regular members of the board of appeals. The alternate members may be called on a rotating basis as specified in the Zoning Ordinance to sit as regular members of the board of appeals in the absence of a regular member. An alternate member may also be called to serve in place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the board of appeals.
- (3) The board of appeals shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official or body charged with the enforcement of an ordinance

---

adopted pursuant to this Ordinance. The board of appeals shall also hear and decide matters referred to it or upon which it is required to pass under an ordinance of the legislative body adopted pursuant to this Ordinance.

- (4) In the first instance, three of said members shall be appointed for a one-year term, three of said members shall be appointed for a two-year term, and three of said members shall be appointed for a three-year term; except that the term of any elected officer who may be appointed to the board shall expire upon the expiration of his term in office, or the expiration of his term upon the board of appeals, whichever event is first. All members of the board of appeals appointed to said board prior to the enactment of this Ordinance shall continue in office for the remaining portion of their term. All of the members of the board shall be citizens of the United States and resident of the City of Madison Heights for a full two-year period prior to appointment. Members of the board may be removed only as provided in section 5.4 of the City Charter. Any vacancy in the board shall be filled by the council for the remainder of the unexpired term.

(Ord. No. 659, § 2, 10-13-80; Ord. No. 771, § 1, 11-25-85; Ord. No. 868, § 1, 9-10-90; Ord. No. 917, § 1, 1-9-95)

### **Sec. 10.802. Procedure of zoning board of appeals.**

Meetings of the board shall be heard at the call of the chairman and at such other times as the board may determine by rule. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

All meetings of the board shall be open to the public. The board shall adopt its own rules or procedures and shall maintain a record of its proceedings which shall be a public record. The fees to be charged for appeals shall be set by resolution of the city council.

### **Sec. 10.803. Appeals; how taken.**

An appeal to the zoning board of appeals based in whole or in part on the provisions of this Ordinance may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, board or bureau affected by the decision of the building inspector. Such appeal shall be taken by filing a notice of appeal with the board of zoning appeals on appropriate forms provided by the building inspector, payment of the required fee, and shall specify the grounds for such appeal. The building inspector shall transmit all papers constituting the records of such appeal to the board. The board may require the applicant to furnish such surveys, plans or other information as may be reasonably required for the proper consideration of the matter. Upon a hearing before the board, any person or party may appear in person, or by agent, or by attorney.

The board of appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to all persons to whom any real property within 500 feet of the premises in question shall be assessed, and to the occupants of all single- and two-family dwellings within 500 feet of the subject property; such notice to be delivered personally or by mail, and decide on the same within a reasonable time. Provided, further, however, that notice of such hearing together with a short resume of the petition coming before the board shall be published at least ten days prior to such hearing in a newspaper qualified to accept legal publications and of general circulation in the city. The board may reverse or affirm wholly or partly or may modify the order, requirement, decision or determination as, in its opinion, ought to be made in the premises and, to that end, shall have all the powers of the officer from whom the appeal is taken. The concurring decision of a majority of the members of the board shall be necessary to reverse an order, requirement, decision or determination of an administrative officer or body, or to decide in favor of the applicant a matter upon which they are required to pass under an ordinance, or to effect a variation in an ordinance. An appeal shall stay all proceedings in furtherance of the action appealed from unless the building inspector certifies to the board of zoning appeals after notice of appeal shall have been filed with him that by reason of facts stated in the certificates a stay would cause imminent peril to life and property, in which case the proceedings shall not be stayed otherwise than by a restraining order which shall be granted by the



---

zoning board of appeals or by the Circuit Court on application, on notice of the building inspector and on due cause shown.

(Ord. No. 256, § 1, 2-22-65; Ord. No. 659, § 3, 10-13-80; Ord. No. 686, § 1, 4-12-82)

### **Sec. 10.804. Power of zoning board of appeals.**

The zoning board of appeals shall not have the power to alter or change the Zoning District Classification of any property, nor to make any change in the terms of this Ordinance, but does have power to act on those matters where this Ordinance provides for an administrative review, interpretation, exception or special approval permit and to authorize a variance as defined in this section and laws of the State of Michigan. Said powers include:

- (1) *Administrative review.* To hear and decide appeals where it is alleged by the applicant that there is an error in any order, requirement, permit, decision or refusal made by the building inspector or any other administrative official in carrying out or enforcing any provisions of this Ordinance.
- (2) *Variance.* To authorize upon an appeal, a variance from the strict applications of the provisions of this Ordinance where by reason of exceptional narrowness, shallowness, shape or area of a specific piece of property at the time of enactment of this Ordinance or by reason of exceptional topographic conditions or other extraordinary or exceptional conditions of such property, the strict application of the regulations enacted would result in peculiar or exceptional practical difficulties to, or exceptional undue hardship upon the owner of such property, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purposes of this Ordinance. In granting a variance the board may attach thereto such conditions regarding the location, character and other features of the proposed uses as it may deem reasonable in furtherance of the purpose of this Ordinance. In granting a variance, the board shall state the grounds upon which it justifies the granting of a variance.
- (3) *Temporary permits.* The board may issue the following temporary permits:
  - (a) Permit the following temporary uses, subject to such restrictions and limitations as the zoning board of appeals may deem necessary, in areas classified as residential by the Code of Ordinances, and upon properties not less than ten acres in area: Outdoor recreation facilities, commercial or otherwise, such as golf driving ranges, par 3 golf courses, golf courses and recreational activities of that nature. Such use shall expressly not include go-kart tracks, or activities of a similar nature.
    1. Such temporary use shall be for a period not to exceed five years and the permit therefor shall be restudied and reevaluated by the zoning board of appeals on each annual anniversary of the granting thereof. Such temporary use permit may be extended by the city council for additional periods not to exceed two years, provided all of the requirements, restrictions and limitations have been substantially complied with; and provided there is a proper showing at a public meeting that such extension will not be detrimental to the health, safety or general welfare of the city for the period of such extension.
    2. Such temporary use permit may be revoked by the zoning board of appeals at any time upon a proper showing that the operation of such temporary use has become detrimental to the health, safety and general welfare of the city.
    3. No structures of a permanent nature appurtenant to such temporary use shall be allowed to be erected pursuant to such temporary use permit upon any area classified as residential.

- 
4. Any action by which a temporary use permit is granted shall be by the affirmative vote of five members of the zoning board of appeals, the reasons for granting such temporary permit and the restrictions and limitations thereon shall be succinctly stated in the resolution and a copy of the affirmative action taken shall be made available to the applicant.
  5. The zoning board of appeals shall require the posting and depositing with the city of such adequate bonds as may be necessary to guarantee the performance of the provisions of the temporary use permit, and to guarantee the removal of the use permit, and to guarantee the removal of the use thereby permitted upon the expiration of the permit, or any extension thereof.
  6. The zoning board of appeals shall require compliance with such setbacks, off-street parking provisions, lighting, hours of operation and such health and safety or other measures as may be necessary to protect the health, safety and general welfare of the people.
  7. The zoning board of appeals may refer the application for such temporary use permit to any office or department of the city for study, recommendation and report to the board.
- (b) In other cases, the zoning board of appeals may grant a permit for temporary buildings, tents or uses for periods determined by the ZBA. ZBA approval is not required where a tent has been approved in conjunction with an application for a temporary seasonal business license, or for a tent for a charitable, religious or non-profit event two days or less in duration.
- (c) The granting of permits under (a) and (b) shall be done under the following conditions:
1. The granting of a temporary permit shall in no way constitute a change in the basic Zoning District and principal uses permitted therein.
  2. The granting of the temporary permit shall be granted in writing stipulating all conditions as to time, nature of development permitted and arrangements for removing the use at the termination of said temporary permit.
  3. All setbacks, land coverage, off-street parking, lighting and other necessary requirements to be considered in protecting the public health, safety and general welfare of the people of the City of Madison Heights shall be made at the discretion of the zoning board of appeals or as otherwise provided in this Ordinance.
- (4) *Public utility buildings.* Permit the erection and use of a building or use of premises for public utility purposes and make exceptions therefor to the height and bulk requirements herein established which said board considers necessary for the public safety and welfare.

( Ord. No. 2107 , § 3, 6-8-15

### **Sec. 10.805. Standards.**

Each case before the city council, zoning board of appeals or plan commission shall be considered as an individual case and shall conform to the detailed application of the following standards in a manner appropriate to the particular circumstances of such case. All uses as listed in any district requiring approval for a permit shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is situated and will not be detrimental to the orderly development of adjacent districts. Consideration shall be given to the following:

- (1) The location and size of the use.

- 
- (2) The nature and intensity of the operations involved in or conducted in connection with it. (See section 10-319(4).)
  - (3) Its size, layout and its relation to pedestrian and vehicular traffic to and from the use.
  - (4) The assembly of persons in connection with it will not be hazardous to the neighborhood or be incongruous therewith or conflict with normal traffic of the neighborhood.
  - (5) Taking into account, among other things, convenient routes of pedestrian traffic, particularly of children.
  - (6) Vehicular turning movements in relation to routes of traffic flow, relation to street intersections, site distance and the general character and intensity of development of the neighborhood.
  - (7) The location and height of buildings, the location, the nature and height of walls, fences and the nature and extent of landscaping of the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.
  - (8) The nature, location, size and site layout of the uses shall be such that it will be a harmonious part of the district in which it is situated taking into account, among other things, prevailing shopping habits, convenience of access by prospective patrons, the physical and economic relationship of one type of use to another and related characteristics.
  - (9) The location, size, intensity and site layout of the use shall be such that its operations will not be objectionable to nearby dwellings, by reason of noise, fumes or flash of lights to a greater degree than is normal with respect to the proximity of commercial to residential uses, not interfere with an adequate supply of light and air, not increase the danger of fire or otherwise endanger the public safety.

(Ord. No. 597, § 6, 4-10-78)

### **Sec. 10.806. Miscellaneous.**

No order of the zoning board of appeals permitting the erection or alteration of buildings shall be valid for a period longer than one year, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is commenced and proceeds to completion in accordance with the terms of such permit.

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

### **Sec. 10.900. Zoning Commission.**

The city plan commission is hereby designated as the Commission specified in section 4, of Act 207 of the Public Acts of 1921 [MSA 5.2934], and shall perform the duties of said Commission as provided in the statute in connection with the amendments of this Ordinance.

### **Sec. 10.1000. Changes and amendments.**

The city council may, from time to time, on recommendation from the plan commission, or on its own motion, or on petition, amend, supplement, modify or change this Ordinance in accordance with the authority of

---

Act 207 of the Public Acts of 1921 [MSA 5.2931 et seq.], as amended. Upon presentation to the plan commission of a petition for amendment of said ordinance by an owner of real estate to be affected, such petition shall be accompanied by a fee. The amount of such fee shall be set by resolution of the city council and shall be used to defray the expense of publishing the required notices and the expenses of said plan commission.

**Sec. 10.1100. Repeal of prior ordinance.**

The Zoning Ordinance adopted by the City of Madison Heights known as Ordinance No. 96 and all amendments thereto, are hereby repealed insofar as they conflict with this Ordinance. The repeal of the above ordinance and its amendments does not affect or impair any act done, offense committed or accruing, accrued or acquired or liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted or inflicted.

**Sec. 10.1200. Interpretation.**

In the interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience or general welfare. It is not intended by this Ordinance to repeal, abrogate, annul or in any way impair or interfere with any existing provision of law or ordinance other than the above described Zoning Ordinance, or with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises; provided, however, that where this Ordinance imposes a greater restriction than is required by existing ordinance or by rules, regulations or permits; the provisions of this Ordinance shall control.

**Sec. 10.1300. Vested right.**

It is hereby expressly declared that nothing in this Ordinance shall be held or construed to give or grant to any person, firm or corporation any vested right, license, privilege or permit.

**Sec. 10.1400. Enforcement, penalties and other remedies.**

**Sec. 10.1401. Violations.**

Any person, firm or corporation violating any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than \$25.00 nor more than \$500.00 for each such conviction, or shall be punished by imprisonment for a period not exceeding 90 days for each offense, or by both such fine and imprisonment in the discretion of the court, together with the costs of such prosecution.

**Sec. 10.1402. Public nuisance per se.**

Any building or structure which is erected, altered or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this Ordinance and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se.

**Sec. 10.1403. Fines, imprisonment, etc.**

The owner of any building, structure or premises or part thereof, where any condition in violation of this Ordinance shall exist or shall be created, any person who has assisted knowingly in the commission of such violation shall each be guilty of a separate offense and upon conviction thereof shall be liable to the fine and imprisonment herein provided.

---

**Sec. 10.1404. Each day a separate offense.**

A separate offense shall be deemed committed upon each day during or when a violation occurs or continues.

**Sec. 10.1405. Rights and remedies are cumulative.**

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

**Sec. 10.1500. Severance clause.**

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

**Sec. 10.1600. Effective date.**

Public hearing having been held herein, the provisions of this Ordinance are hereby given immediate effect upon its publication, pursuant to the provisions of section 4 of Act 207 of the Public Acts of 1921 [MSA 5.2934], as amended.

**Secs. 10.1701—10.1705. Reserved.**

Editor's note(s)—Sections 10.1701—10.1705 of App. A, pertaining to B-T districts, were deleted in their entirety by § 2 of Ord. No. 828, enacted July 11, 1988. Said §§ 10.1701—10.1705 were derived from the following ordinances:

Ord. No.	Sec.	Date	Ord. No.	Sec.	Date
307	1	6-26-67	480	1	6-5-72
344	1	5-6-68	489	1	8-13-73

HIGH RISE DISTRICTS

**Sec. 10.1800. Preamble.**

The High Rise Zoning District is intended to provide for the combination of high rise office and limited commercial, or high rise multiple and limited commercial and office uses in a planned development. This district is established in order that the public health, safety and general welfare will be furthered in an era of increasing urbanization and of growing demand for office and multiple-family residential facilities of all types and design. This district is provided to encourage innovations and variety in type, design and arrangement of such uses.

Local convenience or service establishments as set forth below shall be permitted subject to the restrictions set forth in this Ordinance. Such uses are permitted to reduce the dependence of office and multiple-family occupants of the High Rise District, upon goods and services outside of the district and to reduce traffic congestion in such areas of intensive development.

Because the arrangement of such diversified land uses in the High Rise District may not be predetermined in detail, site plan approval of each development is an absolute necessity to assure a compatible arrangement of the varied land uses which are permitted to be mixed. Emphasis will be placed upon the review of pedestrian and

---

vehicular circulation facilities such as sidewalks, parking, interior streets, pavement widths and rights-of-way because of the anticipated high volumes of pedestrian and vehicular traffic which will be generated.

(Ord. No. 329, § 1, 12-11-67)

**Sec. 10.1801. Purpose.**

There is hereby created a new Zoning District in the City of Madison Heights to be known as a High Rise Zoning District.

(Ord. No. 329, § 1, 12-11-67)

**Sec. 10.1802. Principal uses permitted.**

In the High Rise District no building or land, except as otherwise provided in this Ordinance, shall be erected or used except for one or more of the following specified purposes which shall be permitted subject to the review and approval of the site plan by the plan commission. Such review of the site plan is required to establish a relationship between the development features as they relate to pedestrian and vehicular traffic patterns and further, to minimize the possibility of any adverse effects upon adjacent properties, service roads, driveways, parking areas, accessory buildings and to provide the necessary open space.

- (1) Business and professional offices.
- (2) Hotels and motels.
- (3) Multiple dwelling units.
- (4) Private clubs or lodges.
- (5) Public utility buildings, transformer stations, substations and telephone exchanges, not to include outside storage.
- (6) Local convenience or service establishments as follows:
  - (a) Beauty and barber shops.
  - (b) Drugstores.
  - (c) Laundry and dry cleaning pick up stations.
  - (d) Business or trade schools.
  - (e) Party stores and delicatessens.
  - (f) Package liquor stores.
  - (g) Personal service establishments, such as not limited to shoe or hat repair, tailor or dressmaking shops, including custom tailor shops.
  - (h) Uses customarily accessory to any of the above permitted uses, not to include outside storage.
- (7) (a) Indoor theaters may be constructed in or immediately adjacent to an office structure.
  - (b) Overlapping parking may be permitted when a theater office complex is constructed provided said overlap shall not exceed 80 percent of the amount of total parking provided for the office structure as is required by the Zoning Ordinance, and provided further that the hours of operation shall not overlap by more than one hour.

- 
- (8) Restaurants, which may include take out, drive-through lanes and/or alcoholic beverages, subject to the standards listed below. Outdoor seating is permitted after site plan approval for restaurants that do not serve alcohol, subject to the requirements listed in section 10.318(5). Special approval is required for outdoor seating at any restaurant that serves alcohol.

a. Drive-through lanes are subject to the following standards:

- i. Special approval is required for drive-through lanes located within the boundaries of the Southend Downtown Development Authority (DDA), subject to the procedures of section 10.201.
- ii. Drive-through lanes are subject to the use-specific standards listed in section 10.318(5)b.

(Ord. No. 466, § 1, 11-8-71; Ord. No. 522, § 4, 5-28-74; Ord. No. 1076, § 11, 10-12-10; Ord. No. 2128, § 21, 1-14-19; Ord. No. 2170, § 7, 10-25-21; Ord. No. 2174, § 11, 11-22-21)

### **Sec. 10.1803. Applicable district requirements.**

The following conditions shall apply to any combination of uses permitted in the High Rise Zoning District:

- (1) The commercial or office use shall not interfere with the surrounding uses of land or with traffic flow on adjacent streets.
- (2) Off-street parking and off-street loading shall be provided according to section 10.505, as amended, section 10.506 and section 10.507 of the Zoning Ordinance.

Section 10.505, subsection (10) of the Zoning Ordinance shall be amended with reference to the High Rise Zoning District only regarding the provisions of off-street parking as follows:

*Subsection (10)4. Business and Professional Offices*—One space for each 200 square feet of usable floor area.

*Subsection (10)26. Hotels and Motels*—One space for each unit plus one space for each service and/or management person.

All other sections of section 10.505 of the Zoning Ordinance shall remain in force and effect.

- (3) The commercial, retail or office use is located on the first (ground) floor within a permitted multiple residential structure having no fewer than 40 dwelling units therein.
- (4) Commercial or retail use is located on the first (ground) floor within a permitted office structure.
- (5) The commercial, retail or office use shall not exceed 20 percent of the total floor area of any multiple residential structure.
- (6) The commercial or retail use shall not exceed 20 percent of the total floor area of any office structure.
- (7) Signs shall be regulated by section 10.511 of the Zoning Ordinance.
- (8) Greenbelts and walls shall be regulated by section 10.513 of the Zoning Ordinance when abutting single-family residential.

(Ord. No. 329, § 1, 12-11-67; Ord. No. 466, § 1, 11-8-71)

### **Sec. 10.1804. Limiting height, bulk, density and area by land use.**

*Size of lot.* Minimum lot size shall not be less than 20,000 square feet in this district. The maximum allowable height of any structure shall be regulated by the setback requirements of this section. Heights in excess of 30 feet

---

will be permitted when additional setback area is provided on the following basis: For each additional foot in height, add one foot to all required setback for said structure, except that where a lot line abuts a street, one-half of the width of the right-of-way of said street may be considered as yard setback; but in no instance shall any yard setback from the property line be less than the required minimum yard setbacks listed below:

Minimum yard setback—(per site in feet)

Front—75\*, Sides—20\*, Rear—20\*

*Notes:*

- (1) \*These setbacks shall apply to all structures whose height is less than 30 feet. Structures in excess of 30 feet shall conform to the additional setback requirements provided for in this Ordinance. The fire chief shall establish adequate fire lanes on each site plan.
- (2) In such instances where low rise (30 feet in height or less) structures are proposed abutting a high rise, structures shall be considered as separate structures for purposes of calculating setbacks, and that both the high rise and low rise portions must meet the setback requirements of the High Rise Zoning District individually. In calculating setbacks of the high rise, low rise structures may be located within the required setback distance.
- (3) The required setback areas may be used for the following purposes, excluding the first 25 feet of the front yard setback area relative to the location of off-street parking areas:
  - (a) Off-street parking areas.
  - (b) Traffic circulation.
  - (c) Lighting for illumination of the area of building.
  - (d) Necessary traffic control devices and directional signals.
  - (e) Landscaping.
- (4) When the provisions of the High Rise Zoning District are applied to any other zoning district, the High Rise Zoning District provisions relating to height and setbacks shall apply to all structures. The parking requirements of the High Rise Zoning District shall apply to the high rise structure only. The only uses permitted within the high rise structure shall be those permitted within the High Rise Zoning District.

(Ord. No. 329, § 1, 12-11-67; Ord. No. 483, § 1, 9-25-73)

### **Sec. 10.1805. Uses permissible on special approval.**

Under such conditions as the city council, after public hearing, finds the use is not injurious to the H-R High Rise Zoning District and its environs and not contrary to the spirit and purpose of this Ordinance subject to the additional conditions provided herein, the following may be permitted:

- (1) Senior Citizen Housing Project. Provided that such projects shall be located on a minimum site of two acres in size; that the setbacks of the R-M Multiple-Family District shall apply to any building constructed hereon; that off-street parking be provided in a ratio of one parking space for each two units; that the number of units per acre be limited to not more than 40 units with the provision that any structure built under these density requirements shall have a maximum lot coverage of 35 percent; that all living units above the first story shall be serviced by an elevator; and that upon approval of such a use in a properly zoned area by the city council, the site plan shall be presented to the plan commission for review and approval as provided for in section 10.514 of the Zoning Ordinance.



- 
- (2) Establishments that primarily serve alcoholic beverages for consumption on the premises. Any facility that serves alcoholic beverages with outdoor seating, subject to the conditions listed in section 10.318(5) for outdoor restaurants in general.
  - (3) Restaurants with drive-through lanes located within the boundaries of the Southend Downtown Development Authority (DDA), subject to the use-specific standards of section 10.318(5)b.

(Ord. No. 417, § 1, 6-29-70; Ord. No. 522, § 4, 5-28-74; Ord. No. 529, § 1, 8-12-74; Ord. No. 2128, § 22, 1-14-19; Ord. No. 2170, § 8, 10-25-21; Ord. No. 2174, § 12, 11-22-21)

**Secs. 10.1900—10.1904. Reserved.**

Editor's note(s)—Sections 10.1900—10.1904 of App. A, pertaining to Office Transitional districts, and derived from Ord. No. 341, § 1, adopted May 6, 1968; and Ord. No. 489, § 1, adopted Aug. 13, 1973, were deleted by Ord. No. 828, § 3, adopted July 11, 1988.

CONDOMINIUM DISTRICTS

**Sec. 10.2000. Purposes.**

There is hereby created and added to the Zoning Ordinance of the City of Madison Heights a new Zoning District to be known as R-C Condominium Residential Zoning District.

(Ord. No. 445, § 1, 8-30-71)

**Sec. 10.2001. Preamble.**

The provisions of this district are to promote greater flexibility and a design and placement of large scale housing projects within a planned area and to ensure a proper relationship to adjacent portions of the community. Within this district it is the intent of this Ordinance to provide for a desirable living environment through the preservation of open space and natural foliage.

Taking into consideration the natural topography of the site in question, and the location of surrounding land uses, it is further intended that each residential unit permitted within this district shall have ample recreation space provided for same and that appropriate parking areas be created to serve the needs of each specified project.

(Ord. No. 445, § 1, 8-30-71)

**Sec. 10.2002. Principal uses permitted.**

Within the residential condominium district no building or land except as otherwise provided in this Ordinance shall be erected or used except for a condominium or condominium project as defined by statutes of the State of Michigan and subject to review and approval of the site plan by the plan commission. Such review of the site plan is required to establish a proper relationship between the development features of the proposal as they relate to pedestrian and vehicular traffic patterns and, further, to minimize the possibilities of any adverse effects upon adjacent properties, service roads, driveways, parking areas, accessory buildings, and also to ensure the provision of an appropriate amount of open space for each living unit.

(Ord. No. 445, § 1, 8-30-71; Ord. No. 826, § 1, 7-11-88)

---

**Sec. 10.2003. Standards of the R-C District.**

- (1) *Parking requirements.* Off-street parking shall be provided in accordance with section 10.505 of the Zoning Ordinance which regulates the amount of parking area required for each unit within the district. Parking lots shall be provided in those areas where they will effectively minimize any adverse physical impact upon the adjacent and surrounding residential areas. In all cases where a parking lot shows a common property line with an adjacent single-family residential district, a landscape planting shall be required to screen the parking area and driveway areas.
- (2) *Building requirements.* No building shall contain more than eight contiguous dwelling units. The maximum number of dwelling units per acre shall be as follows:

No building shall be erected on a lot or parcel of land which has an area of less than 7,200 square feet or has a width of less than 60 feet. The following minimum lot sizes and floor areas shall be met:

Four-bedroom unit—6,200 square feet minimum lot size.

Three-bedroom unit—5,450 square feet minimum lot size.

Two-bedroom unit—3,700 square feet minimum lot size.

One-bedroom unit—3,000 square feet minimum lot size.

Buildings within the condominium district shall comply with the same requirements as those listed in section 10.400, "Schedule of Regulations," and section 10.401, in particular those provisions relating to R-M Multiple-Family districts and, further, that each unit within the condominium district shall contain a minimum of 800 square feet of floor area exclusive of stairways, stairwells, utility areas and public hallways. Where a condominium development is adjacent to a single-family residential district, the minimum setback on all principal buildings shall be 30 feet as measured from the property line of the abutting residential district. If there is a conflict between section 10.400, section 10.401, and the condominium district provisions, the condominium district provisions shall apply.

(Ord. No. 445, § 1, 8-30-71; Ord. No. 468, § 1, 1-31-72; Ord. No. 826, § 1, 7-11-88)

NATURAL PRESERVATION DISTRICTS

**Sec. 10.2100. Preamble.**

The purposes of this Ordinance [sections 10.2100 through 10.2104] are:

- (a) To provide for the protection, preservation, proper maintenance and use of trees, woodlands and other natural lands located in the City of Madison Heights in order to minimize disturbance to them and to prevent damage from erosion and siltation, a loss of wildlife and vegetation, and/or from the destruction of the natural habitat;
- (b) To protect the woodlands (including trees and other form of vegetation) of this city for their economic support of local property values when allowed to remain uncleared and/or unharvested and for their natural beauty, wilderness character, or geological, ecological or historical significances;
- (c) To provide for the paramount public concern for these natural resources in the interest of health, safety and general welfare of the residents of this city.

(Ord. No. 640, § 1, 11-12-79)

---

## Sec. 10.2101. Definitions.

The following terms, phrases, words and their derivatives shall have the meaning given herein, unless the context otherwise requires:

- (a) *Remove and removal* shall include the cutting of trees and the injury and/or destruction of any form of vegetation, by whatever method, on any lands subject to this Ordinance [sections 10.2100 through 10.2104] under section three of this Ordinance [not included herein.]
- (b) *Person* shall include any individual, firm, partnership, association, corporation, company, organization or legal entity of any kind, including governmental agencies conducting operations within the city.
- (c) *Locate* shall mean construct, place, insert or excavate.
- (d) *Owner* shall mean any person who has dominion over, control of, or title to woodlands or other natural areas.
- (e) *Structure* shall mean any assembly of materials above or below the surface of the land or water, including but not limited to houses, buildings, bulkheads, piers, docks, landings, dams, waterway obstructions, towers, utility transmission devices.
- (f) *Development* shall include any lawful land use authorized under the Zoning Ordinance of the City of Madison Heights.
- (g) *Material* shall include soil, sand, gravel, clay, peat, mud, debris and refuse, or any other material, organic or inorganic.
- (h) *Operations* shall include the locating, moving or deposition [depositing] of any material, or any construction use or activity, or a combination thereof which in any way modifies the conditions on lands subject to this Ordinance [sections 10.2100 through 10.2104] as they exist on the effective date hereof.

(Ord. No. 640, § 1, 11-12-79)

## Sec. 10.2102. Standards.

The following specific standards are hereby established to guide the use and development of woodlands and other natural areas designated as N-P in this city, including the spacing of trees, the clearing of shrubs and brush, the density of vegetation growth and preservation per acre, forestry and tree replacement practices. However, since the environmental values, soil characteristics, tree growth, and related natural resource parameters will remain unique for each parcel of land and for each development application, each site shall be reviewed on an individual basis. Nonetheless, the following criteria must be considered and balanced with respect to each proposal under this Ordinance [sections 10.2100 through 10.2104]:

- (1) Residential living units shall blend into the natural setting of the landscape for the enhancement of sound, orderly economic growth and development and for the protection of property values in this city.
- (2) The preservation of woodlands, trees, similar wood vegetation and related natural resources and values shall take priority over all forms of development.
- (3) The protection and conservation of irreplaceable natural resources from pollution, impairment or destruction shall remain the paramount factor.

- 
- (4) No proposal shall be denied solely on the basis that some trees are growing on the private or public property under consideration. Other factors which demonstrate a public need for woodland preservation must be stated.
  - (5) The total acreage of woodlands and other natural areas per capita existing in the city shall be considered.
  - (6) The relationship of streets, highways and other transportation corridors to the natural area shall be considered, along with alternatives for new transportation routes and for the location of the proposed development.

(Ord. No. 640, § 1, 11-12-79)

### **Sec. 10.2103. Principal uses permitted.**

The following operations and uses are permitted on lands subject to the provisions of this Ordinance [sections 10.2100 through 10.2104]:

- (1) Conservation of soil, vegetation, water, fish and wildlife in their natural state.
- (2) Natural areas: Including related display or educational facilities, field trails for nature study and hiking as well as other uses normally associated with nature areas.
- (3) Driveways and roads where alternative means of access are proven to be impractical.
- (4) Construction of buildings which serve to house restroom facilities or educational displays.

(Ord. No. 640, § 1, 11-12-79)

### **Sec. 10.2104. Uses permitted upon private property on special approval.**

- (1) One-family detached dwelling with minimum site size of one acre. Minimum site with width to be 150 feet.

(Ord. No. 640, § 1, 11-12-79; Ord. No. 736, § 1, 7-9-84)

Made and passed by the City Council of the City of Madison Heights, Oakland County, Michigan, on this 11th day of January, A.D. 1965.

/s/ Herbert A. Smith  
Mayor

/s/ Dorothy McGuire Lents  
City Clerk

CERTIFICATE OF CLERK:

I, Dorothy McGuire Lents, the duly elected and qualified Clerk of the City of Madison Heights, Oakland County, Michigan, do hereby certify that the foregoing Ordinance was published in full on January 21, 1965 in the Madison News, a newspaper circulated within said City.

/s/ Dorothy McGuire Lents  
City Clerk