Chapter 770

ZONING

[HISTORY: Adopted by the City Commission of the City of Royal Oak 10-29-2001 by Ord. No. 2001-9; amended in its entirety 9-10-2007 by Ord. No. 2007-15. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Downtown development — See Ch. 52.

Historic preservation — See Ch. 82.

Plan Commission — See Ch. 134.

Amusements — See Ch. 188.

Sale of books, magazines and videos — See Ch. 213.

Christmas tree sales — See Ch. 244.

Construction code enforcement — See Ch. 260.

Fences — See Ch. 323.

Flood damage prevention — See Ch. 351.

Gasoline service stations — See Ch. 363.

Hotels, boardinghouses, bed-and-breakfasts and tourist homes — See Ch. 394.

Abandoned lands — See Ch. 412.

Massage establishments — See Ch. 447.

Drive-in restaurants — See Ch. 580.

Signs — See Ch. 607.

Smoke pollution — See Ch. 619.

Subdivision regulations — See Ch. 658.

Trees — See Ch. 710.

Vehicle dealers — See Ch. 727, Art. I.

ARTICLE I
Title; Purpose; Scope; Validity; Conflicts

§ 770-1. Title.

This chapter shall be known and cited as the "City of Royal Oak Zoning Ordinance."

§ 770-2. Purpose.

A. The purpose of this chapter is to promote, protect, regulate, restrict and provide for the use of land and buildings within the City of Royal Oak; to meet the needs of the state's residents for places of residence, recreation, industry, trade, service, and other uses of land; to insure that uses of the land shall be situated in appropriate locations and relationships in accordance with the Master Plan; to implement the goals, objectives and strategies of the Master Plan; to limit the inappropriate overcrowding of land and congestion of population and transportation systems and other public facilities; to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility needs; and to promote public health, safety and welfare.

B. For those purposes set for forth herein, the City is divided into districts. For each of those districts, regulations are imposed designating the uses for which buildings or structures shall or shall not be erected or altered, and designating the trades, industries, and the land uses or activities that shall be permitted or excluded or subjected to special regulations.

C. It is also the purpose of this chapter to provide for the establishment of a Board of Appeals and its powers and duties; to provide for the administration and enforcement hereof and for penalties for its violation; and to provide for the repeal of any and all ordinances inconsistent herewith.

§ 770-3. Scope and construction of regulations.

A. This chapter shall be liberally construed in such manner that implements its purpose. In interpreting and applying the provisions of this chapter, the requirements shall be held with the intended purpose to be for the promotion of the public health, safety, convenience, comfort, prosperity and general welfare.

B. No building or structure, or part thereof, shall hereafter be erected, constructed, reconstructed or altered, and no new use or change shall be made of any building, structure or land, or part thereof, except as permitted by the provisions of this chapter.

C. Where a condition imposed by a provision of this chapter upon the use of any lot, building, or structure is conflicting with a condition imposed by any other provision of this chapter, or by the provision of an ordinance adopted under any other law, the provision which is more restrictive, shall govern.

D. Nothing within this chapter shall be construed to prevent compliance with an order by the appropriate authority to correct, improve, strengthen, or restore to a safe or healthy condition, any part of a building or premises declared unsafe or unhealthy.

§ 770-4. Validity and severability clause.

A. If a court of competent jurisdiction shall declare any part of this chapter to be invalid, such ruling shall not affect any other provisions of this chapter not specifically included in said ruling.

B. If a court of competent jurisdiction shall declare invalid the application of any provision of this chapter to a particular land, parcel, lot, district, use, building, or structure, such ruling shall not affect the application of said provision to any other parcel, lot, district, use, building, or structure not specifically included in said ruling.

§ 770-5. Conflict with other laws, regulations and agreements.

A. Where any condition imposed by any provision of this chapter upon the use of any lot, building, or structure is either more restrictive or less restrictive than any comparable conditions imposed by any other provision of this chapter or by the provision of any ordinance adopted under any other law, the provision which is more restrictive or which imposes a higher standard or requirement shall govern.

B. This chapter is not intended to modify or annul any easement, covenant, or other private agreement, provided that where any provision of this chapter is more restrictive or imposes a higher standard or requirement than such easement, covenant, or other private agreement, the provision of this chapter shall govern.

C. Uses for enterprises or purposes that are contrary to local, state, and/or federal laws or ordinances are prohibited. This prohibition shall not apply to the medical use of marihuana as defined by and in accordance with the Michigan Medical Marihuana Act, MCLA 333.26421 et seq., as amended. **[Added 1-24-2011 by Ord. No. 2010-03; amended 4-21-2014 by Ord. No. 2014-04]**

§ 770-6. Vested right.

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

ARTICLE II
Definitions; Rules Applying to Text

§ 770-7. Rules applying to text.

The following rules shall apply to the text and language of this chapter:

A. The particular shall control the general.

B. In case of any difference of meaning or implication between the text of this chapter and any caption, the text shall control.

C. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.

D. Words used in the present tense shall include the future, words used in the singular number shall include the plural, and the plural shall include the singular, unless the context clearly indicates the contrary.

E. The word "used" or "occupied," as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied."

F. Any word or term not defined herein shall be used with a meaning of common or standard utilization.

§ 770-8. Definitions.

For the purpose of this chapter, certain words and terms are herewith defined.

ACCESSORY BUILDING — A supplementary building or structure on the same lot or parcel of land as the principal building, occupied by or devoted exclusively to an accessory use.

ACCESSORY USE — A use reasonably and customarily incidental and subordinate to the principal use of the premises.

ADULT FOSTER CARE FACILITY — A governmental or nongovernmental establishment that provides foster care to adults. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. An adult foster care facility does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation centers, residential centers for persons released from or assigned to a correctional facility, or any other facilities which have been exempted from the definition of adult foster care facility by the Adult Foster Care Facility Licensing Act, MCLA § 400.701 et seq.; MSA 16.610(61) et seq., as amended. The following additional definitions are provided:

A. ADULT FOSTER CARE FAMILY HOME — A private residence with the approved capacity to receive six or fewer adults to be provided with foster care for five or more days a week and for two or more consecutive weeks. The adult foster care family home licensee shall be a member of the household and an occupant of the residence.

B. ADULT FOSTER CARE SMALL GROUP HOME — A facility with the approved capacity to receive 12 or fewer adults who are provided supervision, personal care, and protection in addition to room and board, for 24 hours a day, five or more days a week, and for two or more consecutive weeks for compensation.

C. ADULT FOSTER CARE MEDIUM GROUP HOME — A facility with the approved capacity to receive between seven and 12 adults who are provided supervision, personal care, and protection in addition to room and board, for 24 hours a day, five or more days a week, and for two or more consecutive weeks for compensation.

D. ADULT FOSTER CARE LARGE GROUP HOME — A facility with approved capacity to receive at least 13 but not more than 20 adults to be provided supervision, personal care, and protection in addition to room and board, 24 hours a day, five or more days a week, and for two or more consecutive weeks for compensation.

E. ADULT FOSTER CARE CONGREGATE FACILITY — An adult foster care facility with the approved capacity to receive more than 20 adults to be provided with foster care.

ADULT-ORIENTED COMMERCIAL ENTERPRISE — An establishment which draws its customers from one or more classes of the public, including, but not limited to the following:

A. ADULT BOOKSTORE — An establishment which has a substantial or significant portion of its stock-in-trade sexually explicit verbal material. "Sexually explicit verbal material" is defined as a book, pamphlet, magazine, video, movie, printed matter reproduced in any manner, or sound recording that contains an explicit and detailed verbal description or narrative account of sexually explicit activity.

B. ADULT CABARET — An establishment whose principal activity is the conducting or presenting of any sexually explicit performance. "Sexually explicit performance" is defined as a motion picture, video, digital presentation, exhibition, show, representation, or other presentation that, in whole or in part, depicts sexually explicit activity.

C. ADULT VIDEO/MOTION-PICTURE THEATER — An establishment which, as its principal activity, presents or offers for sale or rents any sexually explicit visual material. "Sexually explicit visual material" is defined as a picture, photograph, drawing, sculpture, motion-picture film, or similar visual representation that depicts sexually explicit activity, or a book, magazine, or pamphlet that contains such a visual representation. An undeveloped photograph, mold or similar visual material may be sexually explicit material notwithstanding that processing or other acts may be required to make its sexually explicit content apparent.

D. ADULT RETAIL STORE — An establishment which has a substantial or significant portion of its stock-in-trade in items used or advertised as sexually explicit entertainment gimmicks, novelties, paraphernalia, any sexually explicit matter or any combination thereof. "Sexually explicit matter" is defined as any sexually explicit verbal material, sexually explicit visual material, or sexually explicit performance.

E. BODY PAINTING or NUDE MODELING STUDIO — Any building, structure, premises or part thereof used primarily as a place which offers as its principal activity the providing of models to exhibit, display or perform any sexually explicit performance for a fee, or which provides the services of body painting of the human body in conjunction with any sexually explicit activity.

F. SEXUALLY EXPLICIT ACTIVITY — Any presentation, exhibition, narrative, show, representation, depiction, or other description of any of the following:

(1) EROTIC FONDLING — The touching of a person's clothed or unclothed genitals, pubic area, buttocks or, if the person is female, breasts, for the purpose of sexual gratification or stimulation.

(2) NUDITY — The showing of the male or female genitals, pubic area, vulva, anus, the showing of the female breast with less than a fully opaque covering of any part of the nipple, the showing of the covered male genitals in a discernibly turgid state or any lewd display of the human male or female genitals or pubic area.

(3) SADOMASOCHISTIC ABUSE — Either of the following:

(a) Flagellation, or torture, for sexual stimulation or gratification, by or upon a person who is nude or clad only in undergarments or in a revealing costume; or

(b) The condition of being fettered, bound, or otherwise physically restrained for sexual stimulation or gratification, of a person who is nude or clad only in undergarments or in a revealing costume.

(4) SEXUAL EXCITEMENT — The condition of human male or female genitals when in a state of sexual stimulation or arousal.

(5) SEXUAL INTERCOURSE — Intercourse, real or simulated, whether genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between a human and an animal; or any intrusion, however slight, into the genital or anal openings of another's body.

G. ESCORT — A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

H. ESCORT AGENCY — A person or business association that furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

I. PAWNBROKERS and PAWNSHOPS —

(1) PAWNBROKER — Any person, corporation or member or members of a copartnership or firm, who loans money on deposit, or pledge of personal property, or other valuable things, other than securities or printed evidence of indebtedness, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price.

(2) PAWNSHOP — Any location where a pawnbroker conducts business.

J. TATTOO, BODY PIERCING, BRANDING PARLOR — An establishment which provides external body modification, through the application of a tattoo, body-piercing, or branding.

K. BODY PIERCING — The perforation of human tissue other than an ear for a nonmedical purpose.

L. BRANDING — A permanent mark made on human tissue by burning with a hot iron or other instrument.

M. TATTOO — An indelible mark made upon the body of another individual by the insertion of a pigment under the skin or an indelible design made upon the body of another by production of scars other than by branding.

ALLEY — Any dedicated public way other than a street, providing a secondary means of access to a property.

AUTOMOBILE — Unless specifically indicated otherwise, "automobile" shall mean any vehicle, including, by way of example, cars, trucks, vans, motorcycles, and the like.

AUTOMOBILE DEALERSHIP — A building or premises used primarily for the sale of new or used automobiles.

AUTOMOBILE FILLING STATION — A place used for the retail sale and dispensing of fuel or lubricants together with the fixed equipment from which the fuel is dispensed directly into motor vehicles. Automobile filling stations may also incorporate additional uses as permitted and regulated by this chapter.

AUTOMOBILE REPAIR GARAGE — An enclosed building where the following services may be carried out: general repairs, engine rebuilding, reconditioning of motor vehicles; collision services, such as frame or fender straightening and repair; painting and undercoating of automobiles; and similar repair activities.

AUTOMOBILE SERVICE STATION — A place used for the retail sale and dispensing of fuel or lubricants together with the fixed equipment from which the fuel is dispensed directly into motor vehicles, including the sale of minor accessories (such as tires, batteries, brakes, shock absorbers, window glass) and the servicing of and minor repair of automobiles.

AUTOMOBILE WASH ESTABLISHMENT — A building, or portion thereof, the primary purpose of which is the washing of vehicles either by automatic or self-service means.

A. AUTOMATIC WASH — Any facility, its structures, accessory uses, or paved areas used wholly or partly to wash, clean and dry the exterior of automobiles, using conveyors to move the vehicle, or equipment that moves over or around the vehicle, or other automated equipment intended to mechanically wash such vehicles.

B. SELF-SERVICE WASH — Any facility, its structures, accessory uses or paved areas used wholly or partly to wash, clean and dry the exterior of automobiles using hand-held equipment.

BASEMENT — That portion of a building having more than one-half of its height below finished grade. (See Figure 1.[1])

BED-AND-BREAKFAST OPERATIONS — A use which is subordinate to the principal use of a dwelling unit as a single-family dwelling unit and a use in which transient guests are provided a sleeping room and board in return for payment.

BILLBOARD or OFF-PREMISES SIGN — As defined in Chapter 607, Signs, Article II, Sign Regulations.**[Added 3-16-2015 by Ord. No. 2015-07]**

BROADCAST OR RECORDING STUDIO — A facility for the production and broadcasting of television, radio, or internet programs and similar products, or the recording of music, including, but not limited to, sound stages, sets, recording and broadcasting studios, production facilities, and administrative offices.**[Added 1-24-2011 by Ord. No. 2011-01]**

BUILDING — A structure having a roof supported by columns or walls.

BUILDING AREA — The horizontal area measured from the outside of the exterior wall of the ground floor of all principal and accessory buildings on the lot, including all covered porches.

BUILDING CODE — The currently adopted code or codes regulating building construction in the City of Royal Oak.

BUILDING HEIGHT — The vertical distance measured from the finished grade level to the roof surface as follows: 1) the top of the roof for flat roofs, 2) the deck lines for a mansard roof and 3) the average height of the highest roof peak as measured between the eaves and ridge of a gable, hip and gambrel roof, including dormer additions. Where the building may be situated on sloping terrain, this height shall be measured from the average level of the finished grade at the building wall. (See Figure 2.[2])

BUILDING OFFICIAL — The administrative official designated by the City Commission to enforce the Building Code.

BUILDING SETBACK LINE — The line established by the minimum required setbacks forming the area within a lot in which a building may be located. (See Figure 3.[3])

CHILD FOSTER CARE FACILITY — A private home or residence which is used for any of the following categories of foster care:

A. CHILD FOSTER FAMILY HOME — A private home or residence, other than a hospital, hotel, or motel, and which is licensed by the State of Michigan as a full-time foster family home pursuant to Public Act 116 of 1973[4] for one but not more than four minor children who are unrelated to the other occupants thereof and are given care and supervision for 24 hours a day, for four or more days a week, for two or more consecutive weeks, and unattended by parent or legal guardian, by or under the supervision of the licensee under said state law, who is a resident of the facility.

B. CHILD FOSTER FAMILY GROUP HOME — A private home or residence, other than a hospital, hotel, or motel, and which is licensed by the State of Michigan

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1. **Editor's Note: Figure 1 is included at the end of this chapter.**
2. **Editor's Note: Figure 2 is included at the end of this chapter.**
3. **Editor's Note: Figure 3 is included at the end of this chapter.**
4. **Editor's Note: See MCLA § 722.111 et seq.**

as a full-time foster family group home pursuant to Public Act 116 of 1973[5] for more than four but less than seven minor children who are unrelated to the other occupants thereof and are given care and supervision for 24 hours a day, for four or more days a week, for two or more consecutive weeks, and unattended by a parent or legal guardian, by or under the supervision of the licensee under said state law, who is a resident of the facility.

CIGAR BAR — An indoor establishment or area within an indoor establishment that is open to the public and is designated for the smoking of cigars, purchased on the premises or elsewhere, or as otherwise defined in the Dr. Ron Davis Smoke-Free Air Law, Michigan Public Act 188 of 2009.[6] **[Added 10-1-2012 by Ord. No. 2012-15]**

CLINIC, OUTPATIENT MEDICAL — A building or portion thereof providing diagnostic, therapeutic, or preventive medical care, surgical or invasive procedures not requiring inpatient admission, and/or emergency or urgent care to ambulatory patients on an outpatient basis only, including customary laboratories and pharmacies incidental or necessary to its operation or the service of its patients, but without facilities for inpatient care or surgical procedures that require inpatient admission. **[Added 10-1-2012 by Ord. No. 2012-16]**

CONVALESCENT CENTER — A state-licensed facility for the care of children, of the aged or infirm, or a place of rest for those suffering bodily disorders. Said home shall conform to and qualify for license under state law even though state law has different size regulations.

DAY-CARE FACILITIES — The following definitions shall apply in the construction and application of this chapter:

A. FAMILY DAY-CARE HOME, CHILD — A private residence in which one but not more than six minor children are received for care and supervision for periods less than 24 hours a day unattended by a parent or legal guardian, excepting children related to an adult member of the family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four weeks in a calendar year.

B. GROUP DAY-CARE HOME, CHILD — A private residence in which seven but not more than 12 children are received for care and supervision for periods less than 24 hours a day unattended by a parent or legal guardian, excepting children related to an adult member of the family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four weeks in a calendar year.

C. DAY-CARE CENTER, CHILD — A facility, other than a private residence, receiving one or more children for care and supervision for periods less than 24 hours, and where the parents or guardians are not immediately available to the child.

D. DAY-CARE, ADULT — A facility providing care for the elderly and/or functionally impaired adults in a protective setting for a portion of a twenty-four-hour day.

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5. **Editor's Note: See MCLA § 722.111 et seq.**

6. **Editor's Note: See MCLA § 333.12601 et seq.**

DENSITY — The number of dwelling units per gross acre of land.

DENSITY BONUS — The granting of the allowance of additional density in a development as regulated by this chapter.

DISTRICT — A portion of the City within which certain uses of land and/or buildings are permitted and within which certain regulations and requirements apply under the provisions of this chapter.

DRIVE-THROUGH — An establishment that dispenses products or services to patrons who remain in vehicles.

DRIVEWAY — A passageway (primarily for use by vehicles) over private property, leading from a street or other public way to a garage or parking area. A horseshoe-shape drive or a T-shape drive located within a front yard is included within this definition.

DWELLING — A building or portion thereof which is used exclusively as a residence, and containing no less than a kitchen, bathroom and bedroom/living quarters. The following additional definitions are provided:

A. DWELLING, MULTIPLE-FAMILY — A building consisting of three or more dwellings.

B. DWELLING, SINGLE-FAMILY DETACHED — A detached building designed for, or occupied exclusively by, one family.

C. DWELLING, SINGLE-FAMILY ATTACHED — An attached building consisting of no more than eight dwelling units, each with individual entries and designed for or occupied exclusively by one family.

D. DWELLING, TWO-FAMILY — A building consisting of two dwellings.

E. SITE-BUILT DWELLING — A structure constructed in accordance with the Michigan State Construction Code as promulgated by the Michigan State Construction Code Commission under the provisions of 1972, PA 230, as amended,[7] in which elementary building materials and parts are transported to the building site where they are used to construct the total dwelling unit, including its major individual components and systems.

F. MANUFACTURED DWELLING — A structure constructed in accordance with Michigan State Construction Code, as promulgated by the Michigan State Construction Code Commission under the provisions of 1972, PA 230, as amended,[8] in which individual components, none of which in and of itself is suitable for occupancy, are preconstructed and transported to the building site where they are in need of further assembly in order to constitute a complete dwelling ready for occupancy.

EASEMENT — The right of an owner of property, by reason of such ownership, to use the property of another for purposes of ingress, egress, utilities, drainage and similar uses.

ELECTRONIC MESSAGE — A billboard or off-premises sign, or portion thereof,

7. **Editor's Note: See MCLA § 125.1501 et seq.**

8. **Editor's Note: See MCLA § 125.1501 et seq.**

that can be electronically changed by remote or automatic means, or that appears to change or have movement caused by any method other than manually removing and replacing the billboard or its components, whether the apparent movement or change is in the display, the billboard's structure, or any other component of the billboard. This includes any video display, revolving, flashing, or animated displays, and displays that incorporate rotating or swinging panels, intermittent illumination or the illusion of such illumination, light-emitting diodes (LEDs) manipulated through digital input, "digital ink," or any other method or technology that allows the billboard face to present a series of images.**[Added 3-16-2015 by Ord. No. 2015-07]**

ESSENTIAL SERVICES — Services that are erected, constructed, altered, or maintained by public utilities or municipal agencies of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, poles, and other similar equipment or accessories reasonably in connection therewith for the furnishing of adequate service by such public utilities or municipal agencies.

FAMILY — A family shall mean either of the following:

A. A domestic family, that is one or more persons living together and related by the bonds of consanguinity, marriage or adoption, together with servants of the principal occupants and not more than two additional unrelated persons, with all of such individuals being domiciled together as a single, domestic, housekeeping unit in a dwelling.

B. The functional equivalent of the domestic family, that is, persons living together in a dwelling unit whose relationship is a permanent and distinct character and is the functional equivalent of a domestic family with a demonstrable and recognizable bond which constitutes the functional equivalent of the bonds which render the domestic family a cohesive unit. All persons of the functional equivalent of the domestic family must be cooking and otherwise housekeeping as a single, nonprofit unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization or group where the common living arrangement and/or the basis for the establishment of the functional equivalency of the domestic family is likely or contemplated to exist for a limited or temporary duration. There shall be rebuttable presumption enforceable by the Zoning Administrator in the first instance that the number of persons who may reside as a functional equivalent family shall be limited to four. Such presumption may be rebutted by application to the Plan Commission for a special land use based upon the applicable standards in this chapter.

FIREARM — Any device, by whatever name known, which is designed to expel a projectile or projectiles by the action of an explosion, expansion of gas or escape of gas, excluding, however:

A. Any pneumatic gun, spring gun, or BB gun which expels a single globular projectile not exceeding 0.18 inch in diameter.

B. Any device used exclusively for signaling or safety and required or recommended by the United States Coast Guard or the Interstate Commerce Commission.

C. Any device used exclusively for the firing of stud cartridges, explosive rivets, or

similar industrial ammunition.

D. Model rockets designed to propel a model vehicle in a vertical direction.

FLOOR AREA — The sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings.**[Amended 5-20-2013 by Ord. No. 2013-08]**

A. In the case of residential uses, "usable floor area" is defined as the sum of the gross horizontal areas of each story, floor or level of a building measured from the exterior faces of the exterior walls without deduction for interior walls, closets, stairways, openings to lower floors, mechanical or utility rooms, or shafts at any level, excluding areas of unfinished attics, breezeways, basements, and unenclosed porches and areas within the building utilized for the required off-street parking spaces. **[Amended 4-21-2014 by Ord. No. 2014-04]**

B. Nonresidential uses.

(1) In the case of nonresidential uses, "usable floor area" is defined as the sum of the gross horizontal areas of each story, floor or level of a building measured from the exterior faces of the exterior walls without deduction for interior walls, closets or shafts at any level, but excluding the following: common or multitenant hallways; stairways, stairwells, and elevator shafts; toilet rooms; mechanical equipment rooms; vaults; walk-in coolers and freezers; dressing or changing rooms; locker rooms; employee lounges or break rooms; demonstration rooms; and other similar areas not utilized for continuous occupancy, as determined by the Zoning Administrator.

(2) In determining "usable floor area" for nonresidential uses, portions of each story, floor or level of a building may be divided into their separate and respective uses (sales, services, manufacturing, offices, storage, etc.) when calculating required off-street parking, as determined necessary by the Zoning Administrator.

(3) In the absence of floor plans or other detailed documentation, "usable floor area" for nonresidential uses may be calculated as a percentage of not less than 80% of the sum of the gross horizontal areas of each story, floor or level of a building measured from the exterior faces of the exterior walls without deduction for interior walls, closets or shafts at any level, as determined necessary by the Zoning Administrator.

FOOTCANDLES — The unit of illumination when the foot is the unit of length.

GARAGE, PARKING — A space or structure or series of structures for the temporary storage or parking of motor vehicles.

GARAGE, PRIVATE — An accessory building or portion of a main building designed or used primarily for the storage of motor-driven vehicles, boats, house trailers, and similar vehicles owned and used by the occupants of the building to which it is accessory.

GARDEN, COMMUNITY — An area of land managed and maintained by an individual or a group of individuals, and owned and operated in trust by the City, another governmental entity or a recognized nonprofit organization to grow and harvest food

crops and/or non-food, ornamental crops, such as flowers, for personal or group use, consumption, donation, or sale, either through cooperative shares, a publically owned and operated farmers' market or directly to local grocers and restaurants. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members.**[Added 4-19-2010 by Ord. No. 2010-04]**

GARDEN, DOMESTIC — An area of land managed and maintained by the owner or occupant of a dwelling to grow and harvest food crops for personal use, consumption or donation. The growing of non-food, ornamental crops, such as flowers or other decorative plants, by the owner or occupant of a dwelling shall not be considered a domestic garden.**[Added 4-19-2010 by Ord. No. 2010-04]**

GARDEN, MARKET — An area of land managed and maintained by a business, an individual or group of individuals to grow and harvest food crops and/or non-food, ornamental crops, such as flowers, for sale, use or consumption by the business, individual or group.**[Added 4-19-2010 by Ord. No. 2010-04]**

GRADE — The degree of rise or descent of a sloping surface.

GRADE, FINISHED — The final elevation of the ground surface after development.

GREENHOUSE — An accessory structure for a domestic, community or market garden constructed chiefly of glass, glass-like translucent material, plastic, fiberglass, cloth or lath, which is devoted to the protection or cultivation of food crops and/or non-food, ornamental crops, such as flowers, or other plants; including any hoop-house structure made of pipes or other material covered with translucent plastic, constructed in a half-round or hoop shape; or any unheated cold-frame structure consisting of a wooden or concrete frame and a top of glass or clear plastic, used for protecting seedlings and plants from the cold.**[Added 4-19-2010 by Ord. No. 2010-04]**

GUNSHOP —

A. Any place, premises, room, building, or part thereof, from which there is conducted the retail sale, repairing or renting of firearms, or the sale of ammunition therefor;

B. Any place, premises, room, building, or part thereof, from which there is conducted the wholesale sale of firearms, and which also includes within the place, premises, room, building, or part thereof, the storage of firearms or ammunition.

HOME OCCUPATION — An occupation, profession, activity, or use that is clearly a customary incidental use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood.

HOSPITAL — A building or group of buildings providing diagnostic, therapeutic, or preventive medical care, surgical procedures, trauma centers, emergency and urgent care, and other health care services to patients on primarily an inpatient basis, including such related facilities as laboratories, outpatient departments, training facilities, staff offices and residences, central services facilities, gift shops, pharmacies, and restaurants.**[Added 10-1-2012 by Ord. No. 2012-16]**

HOTEL — A building or group of buildings containing rooms designed to provide transient lodging for compensation for periods of 30 days or less, with one or more common entrances for each building(s) serving all lodging units, where each lodging unit is accessed from interior lobbies, courts, or halls within the building(s), and in which

building(s) there is a general kitchen and dining room for the accommodation of the occupants.**[Amended 10-1-2012 by Ord. No. 2012-13]**

KENNEL — Any place or premises where dogs, cats, or other domestic pets are boarded, bred, or cared for for a twenty-four-hour period in return for remuneration, or are kept for the purpose of sale. "Kennel" shall also mean the keeping of four or more pets over the age of four months.

LANDSCAPING — The following definitions shall apply in the construction and application of this chapter:**[Amended 2-12-2018 by Ord. No. 2018-02]**

A. BERM — A landscaped mound of earth which blends with the surrounding terrain. (See Figure 4.[9])

B. BUFFER — A landscaped area composed of living material, wall, berm, or combination thereof, established and/or maintained to provide visual screening, noise reduction, and transition between zones. (See Figure 4.[10])

C. CALIPER — The diameter of a deciduous tree's perennial trunk measured at 12 inches above the existing grade.

D. CONFLICTING NONRESIDENTIAL ZONES — Any nonresidential zone which abuts a residential zone. (See Figure 5.[11])

E. CONFLICTING RESIDENTIAL ZONES — Any residential zone designated at a higher density (greater units per acre) or greater bulk (increased lot coverage) which abuts a residential zone designated at a lower density. (See Figure 5.[12])

F. DIAMETER AT BREAST HEIGHT — The diameter of a deciduous tree's perennial trunk measured at 4 1/2 feet above the existing grade.

G. DRIP LINE — An imaginary vertical line that extends downward from the outermost tips of a tree's branches or stems to the ground.

H. GREENBELT — A landscaped area, established at a depth of the minimum required front yard setback within a zoning district, which is intended to provide a transition between a public road right-of-way and an existing or proposed land use. (See Figure 6.[13])

I. OPACITY — The state of being impervious to sight.

J. PLANT MATERIAL — A collection of living evergreen and/or deciduous, woody-stemmed trees, shrubs, vines and ground cover.

K. SHRUB — A woody plant of up to six feet in height with several erect, spreading, or prostrate stems and a general bushy appearance.

L. TREE, DECIDUOUS — A woody plant with an erect perennial trunk, a height of

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9. **Editor's Note: Figure 4 is included at the end of this chapter.**
10. **Editor's Note: Figure 4 is included at the end of this chapter.**
11. **Editor's Note: Figure 5 is included at the end of this chapter.**
12. **Editor's Note: Figure 5 is included at the end of this chapter.**
13. **Editor's Note: Figure 6 is included at the end of this chapter.**

greater than six feet at maturity, and exhibiting a more or less definite crown of leaves or other foliage that is shed on a seasonal basis.

M. TREE, EVERGREEN — A woody plant with an erect perennial trunk, a height of greater than six feet at maturity, and several erect, spreading or prostrate stems that retain their foliage throughout the year.

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/or unloading merchandise or materials.

LOT — A parcel of land, excluding any portion in a street or other right-of-way, of at least sufficient size to meet minimum requirements for use, coverage, lot area, and to provide such yards and other open spaces as herein required. Such lot shall have frontage on a public street, or on an approved private street, and may consist of a single lot of record; a portion of a lot of record; any combination of complete and/or portions of lots of record; or a parcel of land described by metes and bounds. (See Figure 7.[14]) Two or more contiguous lots under the same ownership shall be considered a lot for purposes of this chapter. The following additional definitions are provided:

A. LOT, CORNER — A lot with frontage on two intersecting streets. The narrower lot frontage shall be considered the front in determining building siting and side and rear yard setbacks.

B. LOT, THROUGH or DOUBLE FRONTAGE — A lot other than a corner lot having frontage on two more or less parallel streets. In the case of a row of double frontage lots, one street will be designated as the front street for all lots in the plat and in the request for a zoning compliance permit. If there are existing structures in the same block fronting one or both of the streets, the required front yard setback shall be observed on those streets where structures presently front.

C. LOT, INTERIOR — A lot other than a corner lot with only one lot line fronting on a street.

LOT AREA — The total horizontal area within the lot lines of a lot, but excluding that portion within a street right-of-way.

LOT COVERAGE — The percentage of the lot area covered by the building area.

LOT DEPTH — The mean horizontal distance from the front line to the rear lot line.

LOT LINE — Any line dividing one lot from another or from a public right-of-way, and thus constitutes the property lines bounding a lot.

LOT OF RECORD — A lot, the dimensions of which are shown on a subdivision plat recorded in the office of the Register of Deeds for Oakland County, or a lot or parcel described by metes and bounds, the accuracy of which is attested to by a professional engineer or registered surveyor, so designated by the State of Michigan, and said description so recorded with the Register of Deeds.

LOT WIDTH — The required horizontal distance between the side lot lines measured at the two points where the required front yard setback line intersects the side lot lines. For lots located on the turning circle of a cul-de-sac, the lot width may be reduced to 80% of

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14. Editor's Note: Figure 7 is included at the end of this chapter.

the required lot width.

MANUFACTURING — The use of land, buildings or structures for the purpose of manufacturing, assembling, making, preparing, inspecting, finishing, treating, altering, repairing, fabricating or adapting for sale of any goods, substance, article, thing or service.

MARIHUANA ESTABLISHMENT — As defined in Chapter 435, Marihuana, Article I, Recreational Marihuana Establishments, including, but not limited to, the following: designated consumption establishment; event organizer; excess grower; grower; microbusiness; processor; retailer; safety compliance facility; secure transporter; and temporary event.**[Added 7-27-2020 by Ord. No. 2020-07]**

MASSAGE ESTABLISHMENT — As defined in Chapter 447, Massage Establishments, as amended.

MECHANICAL AMUSEMENT ARCADE — Any place, premises, room or establishment in which:

A. A substantial and significant portion of the business carried on involves the operation of mechanical amusement devices; or

B. Three or more mechanical amusement devices are located.

MECHANICAL AMUSEMENT DEVICE — Any machine which, upon the insertion of a coin, slug, token, plate or disc, or the payment of a price, may be operated by the public generally for use as a game, entertainment or amusement, whether or not registering a score. It shall include such devices as marble machines, pinball machines, skill ball machines, mechanical grab machines, coin-operated motion-picture machines, shuffle board game machines or devices, whether played with discs, weights, pucks, or balls, and all games, operations or transactions similar thereto under whatever name they may be indicated, and whether operated by hand or electric power, or a combination thereof.

MEZZANINE — An intermediate floor in any story occupying but not to exceed more than 1/3 of the floor area of such story.

MOBILE HOME — A detached portable single-family dwelling, prefabricated on its own chassis and intended for long-term occupancy. The unit contains sleeping accommodations, a flush toilet, a wash basin, a tub or shower, eating and living quarters. It is designed to be transported on its own wheels or flatbed arriving at the site where it is to be occupied as a complete dwelling without permanent foundation and connected to existing utilities.

MOBILE HOME PARK — Any parcel of land intended and designed to accommodate more than one mobile home for living use which is offered to the public for that purpose; and any structure, facility, area, or equipment used or intended for use incidental to that living use.

MOTEL — A building or group of buildings of rental units, in which each rental unit contains a bedroom and a bathroom, designed to provide transient lodging for compensation for periods of 30 days or less, where any number of lodging units may be accessed from a direct, independent entrance, and/or where off-street parking is provided directly adjoining any unit, provided that provision for cooking may be made in no more than 10% of the individual rooms or units within a building.**[Amended 10-1-2012 by Ord. No. 2012-13]**

MOTION-PICTURE STUDIO — A facility for the production of motion pictures, television programs, and similar products, including, but not limited to, sound stages, sets, cafeterias, production studios and facilities, research and development operations, training or education areas, and administrative offices.**[Added 1-24-2011 by Ord. No. 2011-01]**

MULTIMODAL TRANSPORTATION FACILITY — A facility intended to provide a transfer station for multiple modes of transportation, including but not limited to buses, trains, cabs, and cars.

NONCONFORMING STRUCTURE — A nonconforming building is a building or portion thereof lawfully existing at the effective date of this chapter, or amendments thereto, and which does not conform to the provisions of this chapter in the zoning district in which it is located.

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

OFFICE, BUSINESS, ADMINISTRATIVE, OR PROFESSIONAL — A building or portion thereof used for general administrative offices of any of the following occupations: executive, administrative, or professional; accounting or financial management; writing, clerical, or stenographic; data processing and computer centers; design; sales; architectural and engineering; federal, state and local administration; and similar professions. Business, administrative, and professional offices shall not include medical offices, outpatient medical clinics, hospitals, veterinary hospitals, or automotive brokers and wholesalers.**[Added 10-1-2012 by Ord. No. 2012-16]**

OFFICE, MEDICAL — A building or portion thereof providing diagnostic, therapeutic, or preventive medical, osteopathic, chiropractic, dental, psychological and similar or related treatment by a practitioner or group of practitioners licensed to perform such services to ambulatory patients on an outpatient basis only, but without facilities for inpatient care, major surgical procedures, or emergency and urgent care.**[Added 10-1-2012 by Ord. No. 2012-16]**

OFF-STREET PARKING AREA — A hard-surfaced 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 automobiles.

PARKING LOT, ACCESSORY — A tract of land other than a street, designed and used for the parking or storage of motor vehicles, for the use of occupants, employees and patrons of the building or premises to which it is accessory.

PARKING LOT, PUBLIC — A tract of land, other than an accessory parking lot or a street, used for the parking or storage of motor vehicles for general public use, either free or for remuneration.

PARKING SPACE — One unit of a parking area provided for the parking of one vehicle, and shall be exclusive of driveways, aisles, or entrances giving access thereto and shall be fully accessible for the storage or parking of permitted vehicles.

PAVEMENT, IMPERVIOUS — A surface material for parking lots, maneuvering aisles, driveways, loading areas, sidewalks, pedestrian pathways, and other areas which prevents the infiltration of surface water, including, but not limited to, asphalt, concrete, brick, stone, or similar materials. **[Added 10-14-2019 by Ord. No. 2019-11]**

PAVEMENT, PERVIOUS or PERMEABLE — A surface material for parking lots, maneuvering aisles, driveways, loading areas, sidewalks, pedestrian pathways, and other areas which allows the infiltration, treatment, and/or storage of surface water, including, but not limited to, porous asphalt, pervious concrete, permeable interlocking pavers, reinforced turf, or similar materials.**[Added 10-14-2019 by Ord. No. 2019-11]**

PORCH — A covered or uncovered floor, deck or platform at the entrance to a building, the height of which is eight inches or more above the average grade.

PRINCIPAL BUILDING OR STRUCTURE — The main building or structure in which the primary use is conducted.

PUBLIC UTILITY — Any person, firm, corporation, or municipal agency authorized under federal, state, county or municipal regulations to furnish electricity, gas, transportation, water, or sewer services.

RECREATIONAL VEHICLE/TRAILER — A motor vehicle (or trailer to be towed by a motor vehicle) constructed or altered to provide living quarters, including permanently installed cooking and sleeping facilities, and is used for recreation, camping, or other noncommercial use.

RECYCLING CENTER — A facility which recovers resources, such as newspapers, glassware, and metal cans, and collects, stores, flattens, crushes, or bundles, essentially by hand, and within a completely enclosed building.

RESTAURANT — Any 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 carry-out, drive-in, drive-through, fast-food, standard restaurant, or bar/lounge, or combination thereof, as defined below:

A. RESTAURANT, CARRY-OUT — A restaurant whose method of operation involves sale of food, beverages, and/or frozen desserts in disposable or edible containers or wrappers in a ready-to-consume state for consumption primarily off the premises.

B. RESTAURANT, DRIVE-IN — A restaurant whose primary business is serving food to the public for consumption on the premises by order from and service to vehicular passengers outside the structure.

C. RESTAURANT, FAST-FOOD — A restaurant whose method of operation involves minimum waiting for delivery of ready-to-consume food to the customer at a counter or cafeteria line for consumption at the counter where it is served, or at tables, booths, or stands inside or outside of the structure, for consumption off the premises, but not in a motor vehicle at the site.

D. RESTAURANT, STANDARD — A restaurant whose method of operation involves either:

   (1) The delivery of prepared food by servers to customers seated at tables; or

   (2) The acquisition by customers of prepared food at a cafeteria line and its subsequent consumption by the customers at tables.

E. BAR or LOUNGE — A type of restaurant which is operated primarily for the dispensing of alcoholic beverages although the sale of prepared food or snacks may

also be permitted. If a bar or lounge is part of a larger dining facility, it shall be defined as that part of the structure so designated or operated.

RETAIL ESTABLISHMENT — A commercial enterprise devoted in whole or in part to the sale, rental, and/or servicing of goods or commodities, where such goods or commodities are available for immediate purchase and removal from the premises by the purchaser.**[Added 5-20-2013 by Ord. No. 2013-08]**

RETAIL ESTABLISHMENT, LARGE-SCALE — A retail establishment with 100,000 square feet or more of gross floor area, with or without limited and/or separate accessory uses within the same building.**[Added 5-20-2013 by Ord. No. 2013-08]**

RIGHT-OF-WAY — A legal right of passage over real property typically associated with roads and railroads.

SELF-SERVICE STORAGE FACILITY — A building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled access stalls or lockers to be leased or owned for the storage of customer's goods or wares.

SENIOR HOUSING — A building or group of buildings containing dwellings intended to be occupied by elderly persons, as defined by the Federal Fair Housing Act, as amended. Housing for the elderly may include independent and/or assisted living arrangements but shall not include nursing or convalescent homes regulated by the State of Michigan. Independent and assisted living housing are defined as follows:

A. SENIOR INDEPENDENT LIVING — Housing that is designed and operated for elderly people in good health who desire and are capable of maintaining independent households. Such housing may provide certain services such as security, housekeeping and recreational and social activities. Individual dwellings are designed to promote independent living and shall contain kitchen facilities.

B. SENIOR ASSISTED LIVING — Housing that provides twenty-four-hour supervision and is designed and operated for elderly people who require some level of support for daily living. Such support shall include meals, security, and housekeeping, and may include daily personal care, transportation and other support services, where needed. Individual dwellings may contain kitchen facilities.

SETBACK — The minimum required horizontal distance between the building or structure and the front, side, and rear lot lines. (See Figure 3.[15])

SHOPPING CENTER — Three or more commercial establishments with a total gross floor area of more than 10,000 square feet, planned, developed, owned, managed, and functioning as a single property or unit, with off-street parking provided on the property.**[Amended 5-20-2013 by Ord. No. 2013-08]**

SIGN — As defined in Chapter 607, Article II, Sign Regulations.

SITE CONDOMINIUM — A condominium development containing residential, commercial, office, industrial, or other structures or improvements for uses permitted in the zoning district in which located, in which each co-owner owns exclusive rights to a volume of space within which a structure or structures may be constructed, herein defined as a condominium unit, as described in the master deed. The following

15. Editor's Note: Figure 3 is included at the end of this chapter.

additional definitions are provided:

A. CONDOMINIUM ACT — Act 59, Public Acts of 1978, as amended.[16])

B. CONDOMINIUM DOCUMENTS — The master deed, recorded pursuant to the Condominium Act, and any other instrument referred to in the master deed or bylaws which affects the rights and obligations of a co-owner in the condominium.

C. CONDOMINIUM LOT — The condominium unit and the contiguous limited common element surrounding the condominium unit, which shall be the counterpart of "lot" as used in connection with a project developed under the Subdivision Control Act, Act 288 of the Public Acts of 1967, as amended.[17]

D. CONDOMINIUM UNIT — The portion of a condominium project designed and intended for separate ownership and use, as described in the master deed.

E. GENERAL COMMON ELEMENTS — The common elements other than the limited common elements.

F. LIMITED COMMON ELEMENTS — A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.

G. MASTER DEED — The condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan for the project, and all other information required by the Condominium Act.

SMOKING LOUNGE — An indoor establishment or area within an indoor establishment primarily used for the smoking of tobacco, tobacco products, cigars, or cigarettes, and/or the use of smoking paraphernalia, whether purchased or leased on the premises or elsewhere, where the more substantial and significant portion of the establishment's stock-in-trade and gross floor area is dedicated to smoking and/or the use of smoking paraphernalia instead of the retail sale of tobacco, tobacco products, cigars, cigarettes, smoking paraphernalia, and other related items, and such retail sales are reasonably and customarily incidental and subordinate to smoking and/or the use of smoking paraphernalia. A "smoking lounge" shall have a valid exemption certificate from the Michigan Department of Community Health for a "tobacco specialty retail store," comply with all required standards of the Dr. Ron Davis Smoke-Free Air Law, Michigan Public Act 188 of 2009,[18] and not be included as part of any outdoor cafe or outdoor dining area.**[Added 10-1-2012 by Ord. No. 2012-15]**

SOLAR ENERGY SYSTEM — An aggregation of parts including any base, mounts, tower, solar collectors, and accessory equipment such as utility interconnections and solar storage batteries, etc., in such configuration as necessary to convert solar radiation into thermal, chemical or electrical energy. The following additional definitions are provided:**[Added 6-15-2009 by Ord. No. 2009-06]**

A. SOLAR COLLECTOR — A photovoltaic cell, panel or array, or a heated air or water collection device, which relies upon solar radiation as an energy source for

16. **Editor's Note: See MCLA § 559.101 et seq.**

17. **Editor's Note: See MCLA § 560.101 et seq.**

18. **Editor's Note: See MCLA § 333.12601 et seq.**

the generation of thermal, chemical or electrical energy, i.e., solar cells or solar panels.

B. SOLAR STORAGE BATTERY — A device that stores energy from solar radiation and makes it available in the form of thermal, chemical or electrical energy.

SPECIAL LAND USE — A use which is subject to special approval by the Plan Commission. A special land use may be granted only when there is a specific provision in this chapter. A special land use is not considered to be a nonconforming use.

STORY — That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it and including those basements used for the principal use. (See Figure 8.[19])

STORY, ONE-HALF — A space under a sloping roof that has the line of intersection of the roof and wall face not more than three feet above the floor level and in which space the possible floor area with head room of five feet or less, and occupies at least 40% of the total floor area of the story directly beneath.

STREET or HIGHWAY — The entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel or as a principal means of access to abutting property.

STRUCTURAL ALTERATION — Any change in the supporting members of a building such as bearing walls, columns, beams, or girders, or any substantial changes in the roof and exterior walls.

STRUCTURE — Anything constructed or erected above ground level or which is permanently attached to something located on the ground.

TENT — Any structure used for living or sleeping purposes or for sheltering a public gathering constructed wholly or in part from canvas, tarpaulin, or other similar material, and shall include shelter provided for circuses, carnivals, side shows, revival meetings, camp meetings, and all similar meetings or exhibitions in temporary structures.

TOBACCONIST — An indoor establishment primarily used for the retail sale of tobacco, tobacco products, cigars, cigarettes, smoking paraphernalia, and other related items. A "tobacconist" may include a "smoking lounge" as an accessory use, provided:**[Added 10-1-2012 by Ord. No. 2012-15]**

A. The establishment has a valid exemption certificate from the Michigan Department of Community Health for a "tobacco specialty retail store" and complies with all required standards of the Dr. Ron Davis Smoke-Free Air Law, Michigan Public Act 188 of 2009;[20]

B. The smoking lounge is reasonably and customarily incidental and subordinate to the retail sale of tobacco, tobacco products, cigars, cigarettes, smoking paraphernalia, and other related items; and

C. The more substantial and significant portion of the establishment's stock-in-trade and gross floor area is dedicated to retail sales instead of a smoking lounge.

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19. Editor's Note: Figure 8 is included at the end of this chapter.

20. Editor's Note: See MCLA § 333.12601 et seq.

TOBACCO SPECIALTY RETAIL STORE — An indoor establishment in which the primary purpose is the retail sale of tobacco products and smoking paraphernalia, and in which the sale of other products is incidental, or as otherwise defined in the Dr. Ron Davis Smoke-Free Air Law, Michigan Public Act 188 of 2009.[21] A "tobacco specialty retail store" does not include a tobacco department or section of a larger commercial establishment or any establishment with any type of liquor, food, or restaurant license.**[Added 10-1-2012 by Ord. No. 2012-15]**

WAREHOUSE — A building used primarily for the storage of goods and materials.

WIND ENERGY SYSTEM — An aggregation of parts including the base, tower, generator, turbine, rotor, blades, and accessory equipment such as utility interconnections and battery banks, etc., in such configuration as necessary to convert the power of wind into mechanical or electrical energy, i.e., wind charger, windmill, or wind turbine. The following additional definitions are provided:**[Added 6-15-2009 by Ord. No. 2009-06]**

A. ANEMOMETER TOWER — An aggregation of parts including the base, tower, anemometer or wind speed recorder, wind direction vanes, data logger, and accessory equipment such as any telemetry devices, etc., in such configuration as necessary to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

B. NACELLE — The component of a wind energy system that sits atop the tower and houses the turbine.

C. ROTOR — A multiple-bladed airfoil assembly of a wind energy system that extracts through rotation kinetic energy directly from the wind.

D. TOWER — The vertical component of a wind energy system that elevates the turbine, rotor and blades above the ground.

E. TURBINE — The component of a wind energy system that converts kinetic energy directly from the wind into mechanical or electrical energy, or the generator.

WIRELESS COMMUNICATIONS FACILITIES — All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, microwave relay towers, telephone transmission equipment, building and commercial mobile radio service facilities. Not included within this definition are citizen band radio facilities; short-wave facilities; ham, amateur radio facilities; satellite dishes; and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority. For purposes of this chapter, the following additional terms are defined:**[Amended 10-1-2012 by Ord. No. 2012-14]**

A. ATTACHED WIRELESS COMMUNICATIONS FACILITIES — Wireless communication facilities that are affixed to existing structures, such as existing buildings, towers, water tanks, utility poles, and the like, including distributed antenna systems (DAS) or small cells. A wireless communication support structure

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21. Editor's Note: See MCLA § 333.12601 et seq.

proposed to be newly established shall not be included within this definition. **[Amended 3-30-2020 by Ord. No. 2020-03]**

B. WIRELESS COMMUNICATION SUPPORT STRUCTURES — Structures designed, erected, or modified to support, or are capable of supporting, wireless communication equipment including antennas. Support structures within this definition include, but shall not be limited to, monopoles, self-supporting lattice towers, light poles, wood poles and guyed towers, water towers, utility poles, or buildings, or other structures which appear to be something other than a mere support structure.

C. CO-LOCATION — The placement or installation of wireless communication equipment on an existing wireless communication support structure, tower, water tower, utility pole, building, or other structure, or within an existing wireless communication equipment compound, with the view toward reducing the overall number of wireless communication support structures required to support wireless communication antennas within the City. **[Amended 3-30-2020 by Ord. No. 2020-03]**

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

E. WIRELESS COMMUNICATION EQUIPMENT COMPOUND — An area surrounding or adjacent to the base of a wireless communications support structure and within which wireless communications equipment is located.

YARD — An open space on the same lot with a building, unoccupied and unobstructed by any structure or portion of a structure from 30 inches above the general ground level of the graded lot, except as otherwise provided herein; provided, however, that fences and walls may be permitted in any yard, subject to the height limitation as indicated herein and in the Building Code. The measurement of a yard shall be construed as the minimum horizontal distance between the lot line and the building or structure.

YARD, FRONT — A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the principal building and the front lot line, and measured perpendicular to the building at the closest point to the front lot line. In all cases, the front lot line shall be considered to be that portion of the lot which abuts a public road right-of-way or private road easement. (See Figure 3.[22])

YARD, REAR — A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the principal building. In the case of a lot which comes to a point at the rear, the rear lot line shall be that imaginary line parallel to the front lot line, not less than 10 feet long, lying wholly within the lot and the farthest from the front lot line. (See Figure 3.[23])

YARD, SIDE — A yard between any building and the side lot line, extending from

22. **Editor's Note: Figure 3 is included at the end of this chapter.**

23. **Editor's Note: Figure 3 is included at the end of this chapter.**

the front yard to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line to the nearest point of principal building. (See Figure 3.[24])

ZONE — A section of the City for which the regulations governing the height, area, use, structure, or size of buildings and premises are the same.

24. Editor's Note: Figure 3 is included at the end of this chapter.

ARTICLE III
Administration and Enforcement

§ 770-9. Zoning Administrator.

A Zoning Administrator, or such deputies, shall be appointed by the City Manager and designated to administer and enforce the provisions of this chapter.

§ 770-10. Duties.

The Zoning Administrator shall:

A. Receive and review for completeness all applications for site plan review and special land use permits which the Plan Commission is required to decide under this chapter and refer such applications to the Plan Commission for determination.

B. Receive and review for completeness all applications for appeals, variances, or other matters which the Zoning Board of Appeals is required to decide under this chapter and refer such applications to the Zoning Board of Appeals for determination.

C. Receive and review for completeness all applications for amendments to this chapter and refer such applications to the Plan Commission for determination.

D. Implement the decisions of the Plan Commission and City Commission related to this chapter.

E. Coordinate enforcement of this chapter with the Enforcement Officer.

§ 770-11. Special land uses; permit procedures.

A. Application. Applications for special land use permits authorized in this chapter shall be submitted to the Zoning Administrator on a form provided by the City. In addition to a complete application form, the applicant is required to submit a site plan, building floor plans and elevations prepared in accordance with § 770-12, Site plan review, and pay all associated fees. Incomplete submittals shall not be accepted by the Zoning Administrator.

B. Procedures.

(1) Special land use permits may be granted by the Plan Commission at its discretion.

(2) The Zoning Administrator shall review the proposed application and site plan pursuant to § 770-12, Site plan review, to determine if all required information has been supplied, and forward the complete application, site plan, and supporting data to the Plan Commission.

(3) Prior to a decision by the Plan Commission, a public hearing shall be held in accordance with § 770-13, Public hearings.

(4) Following the public hearing the Plan Commission may deny, approve, or approve with conditions a request for a special land use. The decision of the

Plan Commission shall be incorporated in a statement of conclusions relative to the special land use under consideration. Any decision which denies a request or imposes conditions upon its approval shall specify the basis for the denial or the conditions imposed. The Plan Commission may impose such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights, and for insuring that the purposes of this chapter and the general spirit and purpose of the district in which the special land use is proposed will be observed.

C. Basis of determinations. The Plan Commission shall review the proposed special land use in terms of the standards stated within this chapter and shall establish that such use and the proposed location:

(1) Will be harmonious and in accordance with the general objectives or any specific objectives of the Master Plan.

(2) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the area.

(3) Will not be hazardous or disturbing to existing uses or uses reasonably anticipated in the future.

(4) Will be an improvement in relation to property in the immediate vicinity and to the City as a whole.

(5) Will be served adequately by essential public services and facilities or that the persons responsible for the establishment of the proposed use will provide adequately any such service or facility.

(6) Will not create excessive additional public costs and will not be detrimental to the economic welfare of the City.

(7) Will be consistent with the intent and purposes of this chapter, and comply with all applicable provisions and standards which are established for said use by this chapter and other applicable codes.

D. Duration, voiding and extensions of permit.

(1) Unless otherwise specified by the Plan Commission, any special land use permit granted under this section shall be null and void unless the development proposed shall have its first building permit within one year from the date of granting of the permit. The Zoning Administrator may grant an extension thereof for good cause.

(2) The Zoning Administrator may suspend or revoke a permit issued under the provisions of this chapter whenever the permit is issued erroneously on the basis of incorrect information supplied by the applicant or his agent and is in violation of any of the provisions of this chapter or of any other ordinances or regulations of the City.

E. Reapplication. No application for a special land use permit which has been denied

wholly or in part shall be resubmitted until the expiration of one year or more from the date of such denial, except on grounds of newly discovered evidence or change of conditions found to be sufficient as determined by the Zoning Administrator to justify a new application being considered by the Plan Commission.

§ 770-12. Site plan review.

The Plan Commission shall have the authority to review and to approve, approve with conditions or reject all site plans.

A. Where required.

(1) Site plan review is required for all proposed uses and certain existing uses within the City where an alteration, addition, expansion, change or conversion constitutes an increase or reduction to the existing structure or use. Site plan review shall also be required for the paving of any off-street parking for any use for which off-street parking is required by this chapter.

(2) Site plan review shall not be required for one- and two-family residential, or their customary accessory storage buildings.

(3) The City shall not issue a building permit until a site plan has been approved and is in effect. A use, not involving a building or structure, shall not be commenced or expanded, nor shall the Zoning Administrator or duly appointed agent issue an occupancy permit for such use until a site plan has been approved and is in effect.

B. Site plan.

(1) Application. An applicant shall submit a request for site plan review by filing with the Zoning Administrator the required number of copies of a site plan as well as the data and exhibits required in the application, the review fee, and a complete application form. The Administrator, upon receipt of the complete application, shall transmit the site plan drawing(s) to the Plan Commission prior to its next regular meeting.

(2) Information required. A site plan submitted for review and approval shall contain all of the information identified on the site plan review data check list prior to its submission to the City for review. Site plans shall consist of an overall plan for the entire development. Sheet size shall be 24 inches by 36 inches with plan view drawn to a scale of no greater than one inch equals 50 feet. The Zoning Administrator may also request copies of all plans and drawings in electronic form and at a reduced size format.

(3) Standards for review. In reviewing the site plan, the Plan Commission shall determine whether the plan meets the following specifications and standards:

(a) The plan conforms to the approved preliminary site plan, when applicable, and with all Zoning Ordinance regulations;

(b) All required information is provided;

(c) The proposed use will not be injurious to the surrounding neighborhood

and protects the general health, safety, welfare and character of the City;

(d) There is a proper relationship between major thoroughfares and proposed service drives, driveways and parking areas. Proper access to all portions of the site and all sides of any structure is provided. All structures or groups of structures shall be so arranged as to permit emergency vehicle access by some practical means to all sides;

(e) The location of buildings is such that the adverse effects of such uses will be minimized for the occupants of that use and surrounding areas;

(f) Natural resources will be preserved to the maximum extent possible in the site design;

(g) Sites which include storage of hazardous materials or waste, fuels, salt, or chemicals will be designed to prevent spills and discharges of polluting materials to the surface of the ground, groundwater or nearby water bodies in accordance with Article VII, county and state standards;

(h) Landscaping, including grass, trees, shrubs and other vegetation, are provided to maintain and improve the aesthetic quality of the site and area; and

(i) The proposed use is in compliance with all City ordinances and any other applicable laws.

C. Supplemental information requirements.

(1) The following supplemental information shall be submitted in connection with all site plan applications for nonresidential uses:

(a) A scaled drawing of the interior layout, showing the total square footage of floor space, and the location and use of all rooms. If the use has several floors or areas with typical design, such design may be submitted along with an explanation of its general application in specified areas of the building.

(b) On the drawing, or on separate sheets that may be referenced to particular areas of the drawing, for each use there shall be a description with regard to the specific services provided and/or goods to be stored, sold or displayed, and a specification relative to each type of services or goods as it relates to each type of services or goods:

[1] The approximate percentage of the total square footage space to be used for each type of service and goods; and

[2] The approximate percentage of total gross receipts anticipated to be generated with regard to each type of service and goods.

(c) A written business plan, which shall be in narrative or other format, describing all uses and business activities to be undertaken on the premises.

(d) Additional reasonable information required by the Planning Department

for the purpose of determining the nature of the use planned for the premises.

(2) Following submission and approval of the site plan based upon the information provided in accordance with this subsection, the Planning Department shall retain the supplemental application on file in connection with the property. In the event there is a material change in the information that would indicate a new or different use, a different percentage of space or receipts, or otherwise alter the understanding of the various aspects of the use and/or business, the applicant shall provide the Planning Department with a revision of the earlier submission so as to ensure a file that is current in its reflection of the use of the property. The revised information shall be filed with the Planning Department within 30 days following the applicant's knowledge of such change.

(3) Plan Commission action. The Plan Commission shall study the site plan and shall determine whether the site plan be approved, approved with conditions or denied. The Plan Commission may suggest and/or require modifications to the proposed site plan as are needed to gain approval. The Plan Commission shall state in the record of its proceedings the grounds for the action taken upon each site plan submitted for its approval.

(4) Effect of approval. Approval of a site plan authorizes issuance of a building permit or, in the case of uses without buildings or structures, issuance of a certificate of zoning compliance. All plans submitted for building permit review shall incorporate all contingencies required by the Plan Commission as part of its approval. No plans shall be accepted by the Building Department that do not contain all site plan contingencies.

(5) Expiration of approval. Unless otherwise specified by the Plan Commission, any site plan approved or approved with contingencies under this section shall be null and void unless the development proposed shall have its first building permit within one year from the date of the granting of the permit. The Zoning Administrator may grant an extension(s) thereof for good cause.

D. Administrative review for site plans involving minor modifications. Administrative review may be conducted by the Zoning Administrator for site plans that involve minor modifications, as defined herein. Such minor modifications shall constitute an alteration, addition or expansion to the existing structure and/or use of less than 500 square feet or 10% of the gross floor area, whichever is less. Minor modifications involving the change or conversion of a use shall be allowed if determined to be less intense by the Zoning Administrator. All plans submitted for administrative review shall comply with § 770-12B, Site plan, and § 770-12C, Supplemental information requirements. However, the Zoning Administrator shall have the authority to take any site plan before the Plan Commission.

E. Amendment of approved site plan. The Zoning Administrator shall have the authority to determine if a proposed change requires an amendment to an approved site plan. A site plan may be amended upon application and in accordance with the procedure herein for a site plan. The Zoning Administrator may approve minor changes in an approved site plan, provided that a revised site plan drawing(s) be submitted showing such minor changes, for purposes of record.

F. Modification of site plan during construction. All improvements shall conform to the site plan. It shall be the responsibility of the applicant to notify the Zoning Administrator of any such changes. If the applicant makes any changes during construction in the development in relation to the approved site plan, such changes are at the applicant's risk without any assurances that the Zoning Administrator or Plan Commission will approve the changes. The Plan Commission or Zoning Administrator may require the applicant to correct the changes so as to conform to the approved site plan.

G. Phasing of development. The applicant may, at his or her discretion, divide the proposed development into two or more phases. In such case, the site plan shall cover the entire property involved and shall clearly indicate the location, the size, timing, and character of each phase.

H. Inspection. The Building Inspector shall be responsible for inspecting all improvements for conformance with the approved site plan. All subgrade improvements such as utilities, a subbase installation for drives and parking lots, and similar improvements shall be inspected and approved prior to covering. The applicant shall be responsible for requesting the necessary inspection.

I. Violations. The approved site plan shall regulate development of the property and any violation of this article, including any alteration or improvement not in conformance with the approved site plan, and any use of the property inconsistent with the file information provided as required under § 770-12C, Supplemental information requirements, above, shall be deemed a violation of this chapter as provided in § 770-18, Violations and penalties; abatement of nuisances, and shall be subject to all penalties specified therein.

J. Public hearing requests. A public hearing for a site plan shall be established in accordance with Public Act 110 of 2006,[25] as amended, or in either of the following events:

(1) When at least three members of the Plan Commission deem it necessary; or

(2) When requested by the applicant seeking site plan review and approval.

§ 770-13. Public hearings.

A. A public hearing plan shall be established as permitted by this chapter and in accordance with Public Act 110 of 2006, as amended.[26]

B. Procedures for public hearings. A public hearing date shall be set and a notification published in at least one newspaper of general circulation within the City and sent by mail or personal delivery to the owners of the property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased

25. Editor's Note: See MCLA § 125.3101 et seq.

26. Editor's Note: See MCLA § 125.3101 et seq.

by different individuals, partnerships, businesses, or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance of the structure. The notice shall be given not less than 15 days before the date of the public hearing. The notice shall:

(1) Describe the nature of the request.

(2) Indicate the property which is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exists within the property. If there are no street addresses, other means of identification may be used.

(3) State when and where the request will be considered.

(4) Indicate when and where written comments will be received concerning the request.

§ 770-14. Site condominium project regulations.

A. Intent. Pursuant to the authority conferred by Section 141 of the Condominium Act,[27] preliminary and final site plans shall be regulated by the provisions of this chapter and approved by the Plan Commission.

B. General requirements.

(1) Each condominium lot shall be located within a zoning district that permits the proposed use.

(2) Each condominium lot shall have direct access to a public or private street or easement which has been approved by the City and constructed to City standards.

(3) For the purposes of this chapter, each condominium lot shall be considered equivalent to a single lot and shall comply with all regulations of the zoning district in which located, and the provisions of any other statutes, laws, ordinances, and/or regulations applicable to lots in subdivisions.

(4) In the case of a condominium containing single-family detached dwelling units, not more than one dwelling unit shall be located on a condominium lot, nor shall a dwelling unit be located on a condominium lot with any other principal structure or use. Required yards shall be measured from the boundaries of a condominium lot.

C. Site plan approval requirements. Preliminary approval of the site plan and final approval of the site plan and condominium documents by the Plan Commission shall be required as a condition to the right to construct, expand or convert a site condominium project. No permits for erosion control, building construction,

27. Editor's Note: See MCLA § 559.241 et seq.

grading, or installation of public water or sanitary sewerage facilities shall be issued for property in a site condominium development until a final site plan has been approved by the Plan Commission and is in effect. Preliminary and final approval shall not be combined.

(1) Preliminary site plan review. The purpose of such preliminary review is to confirm general compliance with City standards as well as to suggest changes, if necessary, for final site plan approval. The applicant shall submit a site plan pursuant to the standards and procedures set forth in § 770-12B(2), Information required, and § 770-12C, Supplemental information requirements, of this chapter for preliminary site plan review and approval. Approval of the preliminary site plan by the Plan Commission shall indicate its general acceptance of the proposed layout of buildings, streets and drives, parking areas, other facilities and overall character of the proposed development. Approval of the preliminary site shall be valid for a period of one year from the date of approval and shall expire and be of no effect unless an application for a final site plan is filed with the Zoning Administrator within that time period.

(2) Final site plan review. The applicant shall submit a final site plan to include the following:

(a) Preliminary site plan revised to reflect all contingencies required by the Plan Commission as part of its approval.

(b) Draft condominium documents for the review by the City Attorney and other appropriate staff.

(c) Detailed engineering plans.

(3) The Plan Commission shall approve or deny the final site plans based upon conformance with all applicable laws, ordinances and design standards.

(4) The Plan Commission, as a condition of final approval of the site plan, shall require the applicant to deposit a performance guarantee as set forth in § 770-16, Performance guaranty, for the completion of improvements associated with the proposed use.

(5) The final condominium documents and engineering plans may be administratively approved following approval of the final site plan by the Plan Commission.

(6) All other provisions of § 770-12, Site plan review, shall apply to final site plan review and approval.

D. Required improvements.

(1) All design standards and required improvements that apply to a subdivision, under Chapter 658, Subdivision Regulations, adopted by the City Commission, shall apply to any condominium development.

(2) Each condominium unit shall be connected to the City water, sanitary and storm sewers. Utility standards stated in the Building Code shall apply to all

condominium units proposed for location on property which is not subdivided and recorded, or property which is to be further subdivided.

(3) Monuments shall be set at all boundary corners and deflection points and at all road right-of-way intersection corners and deflection points. Lot irons shall be set at all condominium lot corners and deflection points of condominium lot lines. The City may grant a delay in the setting of required monuments or irons for a reasonable time, but not to exceed one year, on condition that the developer deposit with the City Clerk cash, a certified check, or an irrevocable bank letter of credit running to the City, whichever the developer selects, in an amount as determined from time to time by resolution of the Plan Commission. Such deposit shall be returned to the developer upon receipt of a certificate by a surveyor registered in the State of Michigan that the monuments and irons have been set as required, within the time specified. If the developer defaults, the Plan Commission shall promptly require a registered surveyor to set the monuments and irons in the ground as shown on the condominium site plans, at a cost not to exceed the amount of the security deposit.

(4) Road rights-of-way shall be described separately from individual condominium lots, and shall be accurately delineated by bearings and distances on the condominium subdivision plan and the final site plan. The right-of-way shall be for roadway purposes and for the purposes of locating, installing, maintaining, and replacing of public utilities. The developer shall declare easements to the City for all public water and sanitary sewer lines and appurtenances.

(5) All improvements in a site condominium shall comply with the design specifications as adopted by the City and any amendments thereto.

E. Information required prior to occupancy. Prior to the issuance of occupancy permits for any condominium units, the applicant shall submit the following to the Zoning Administrator:

(1) A copy of the recorded condominium documents (including exhibits).

(2) A copy of any recorded restrictive covenants.

(3) A copy of the site plan on laminated photostatic copy or Mylar sheet.

(4) Evidence of completion of improvements associated with the proposed use, including two copies of an as-built survey.

F. Revision of site condominium plan. If the site condominium subdivision plan is revised, the final site plan shall be revised accordingly and submitted for review and approval or denial by the Plan Commission before any building permit may be issued, where such permit is required.

G. Amendment of condominium documents. Any amendment to a master deed or bylaws that affects the approved preliminary or final site plan, or any conditions of approval of a preliminary or final site plan, shall be reviewed and approved by the City Attorney and Plan Commission before any building permit may be issued, where such permit is required. The Plan Commission may require its review of an

amended site plan if, in its opinion, such changes in the master deed or bylaws require corresponding changes in the site plan.

H. Relocation of boundaries. Relocation of boundaries between adjoining condominium units, if permitted in the condominium documents, as provided in Section 48 of the Condominium Act,[28] shall comply with all regulations of the zoning district in which located and shall be approved by the Zoning Administrator. These requirements shall be made a part of the bylaws and recorded as part of the master deed.

I. Subdivision of condominium lot. Each condominium lot that results from a subdivision of another condominium lot, if such subdivision is permitted by the condominium documents, as provided in Section 49 of the Condominium Act,[29] shall comply with all regulations of the zoning district in which it is located, and shall be approved by the Zoning Administrator. These requirements shall be made a part of the condominium bylaws and recorded as part of the master deed.

§ 770-15. Use of consultants.

From time to time, the City Commission may employ planning, engineering, legal, traffic or other special consultants to assist in the review of special land use permits, site plans, rezonings or other matters related to the planning and development of the City.

§ 770-16. Performance guaranty.

In the interest of insuring compliance with the Zoning Ordinance provisions, protecting the natural resources and the health, safety, and welfare of the residents of the City and future users or inhabitants of an area for which an application for a proposed use has been submitted, the City official administering the application shall require the applicant to deposit a performance guaranty as set forth herein. The performance guaranty shall be required for the following purposes: to insure completion of improvements connected with a proposed use as required by this chapter, including but not limited to streets, lighting, utilities, sidewalks, drainage, fences, screens, walls, and landscaping; to ensure that property is secured and stabilized in the event active development ceases; and to provide security in connection with the issuance of a temporary certificate of occupancy in order to ensure completion of development plans.

A. In general. Subject to the exceptions and special provisions set forth in Subsection B, below, a performance guaranty shall mean a cash deposit, certified check or irrevocable bank letter of credit in the amount of 125% of the estimated cost of the improvements for which the guaranty is required, as determined by the applicant and verified by the City. If the amount of such estimated cost is not reasonably ascertainable by the City, the applicant may be required by the department administering the performance guaranty to submit a certified estimate prepared by the applicant's licensed engineer or architect; or, alternatively, a bona fide contract for the work to be performed, including a provision authorizing enforcement of the contract by the City in the event of a default by the applicant. To the extent that amounts required to be deposited are in excess of $250,000, such amounts may be

28. Editor's Note: See MCLA § 559.148 et seq.

29. Editor's Note: See MCLA § 559.149 et seq.

posted in the form of a corporate surety bond approved as to form and substance by the City official administering the application, such bond to contain terms and provisions to promote a certain and efficient entitlement to such funds by the City in the event of the need for such funds in order to carry out the intent of the security. A letter of credit and corporate surety bond shall cover a time period equal to or longer than the time anticipated to complete improvements or take other actions, as applicable, and shall require 30 days' advance written notice to the City official administering the application prior to termination. The City shall be authorized to employ the City Engineer and Building Official to review cost estimates and conduct periodic inspections of progress relative to required improvements and/or actions.

B. Exceptions and special provisions.

(1) Commercial, multifamily residential and mixed-use projects.

(a) The performance guaranty posted in connection with the proposed construction shall be in an amount equal to 20% of the amount estimated and certified by the applicant's licensed engineer or architect for completion of improvements to streets, lighting, utilities, sidewalks, drainage (including retention or retention facilities, if any), fences, screens, walls and landscaping, or any other portion of the project determined by the Building Official to have an impact upon the public interest, infrastructure or upon the health, safety or welfare of the general public.

(b) The 20% shall be posted either in cash or by letter of credit, the form and substance of which shall be approved by the Building Official, whose approval shall not unreasonably be withheld. As a condition of approval of a site plan, special land use, and/or planned unit development, the Plan Commission may require a higher performance guaranty be posted prior to building permits being issued but in no case shall it exceed 125% of the estimated costs of improvements. The first 20% of any such amount shall be posted either in cash or by letter of credit, and the balance, 80% shall be in the form of cash, letter of credit or a surety bond, the form and substance of which shall be approved by the Building Official, whose approval shall not unreasonably be withheld.

(2) One- and two-family dwellings. In connection with the issuance of a building permit for one single-family detached dwelling or a two-family dwelling, the Building Official shall be authorized to require a performance guaranty in an amount not to exceed 5% of estimated construction cost. Such amount may be utilized by the City to secure and stabilize the property and avoid hazards in the event construction ceases, and to complete any improvements specified in the introductory paragraph to this section.

(3) City-funded projects. In connection with the issuance of a building permit for a City-funded project, the Building Official shall be authorized to require no performance guaranty.

C. Building occupancy. If the person to whom a building permit has been issued requests a temporary certificate of occupancy or is approved to occupy the building

during site improvements, the condition for such issuance shall include the posting of a performance guaranty in the form of cash or letter of credit as contemplated in this section. The amount of the performance guaranty shall be equal to 125% of the cost of satisfying all conditions specified for securing a permanent certificate of occupancy. The first 20% of any such amount shall be posted either in cash or by letter of credit, and the balance, 80% shall be in the form of cash, letter of credit or a surety bond, the form and substance of which shall be approved by the Building Official, whose approval shall not unreasonably be withheld. Such amount shall be determined by the applicant and verified by the City, and, if such amount is not reasonably ascertainable by the City, the applicant may be required by the department administering the certificate of occupancy to provide a certification of amount by the applicant's licensed engineer or architect, or, alternatively, a bona fide contract for the work to be performed, including a provision authorizing enforcement of the contract by the City in the event of a default by the applicant. The posting of a performance guaranty under this Subsection C shall be accompanied by an agreement, as referenced in Subsection E, below. If a performance guaranty enforceable by the City is otherwise posted for one or more of the purposes for which a performance guaranty is required under this subsection, the amount of the guaranty under his subsection may be reduced accordingly in order to avoid a duplication of security for identical purposes.

D. Terms and provisions of performance guaranties.

(1) An acceptable surety bond shall be issued:

(a) By a company licensed to do business in the State of Michigan by the Department of Consumer and Industry Services, Office of Financial and Insurance Services;

(b) By a company with a rating of not less than "A" as determined by A.M. Best Company or a similarly recognized rating agency;

(c) In a form that does not require the City of Royal Oak to expend money to complete the project bonded and thereafter seek reimbursement from the surety company;

(d) By a company with additional qualifications or in a form containing additional provisions or restrictions as may reasonably be required by the Building Official based upon the need for provisions to protect the City under the particular facts and circumstances; and

(e) With a provision specifying that any dispute on whether and/or the amount of payment to be made by the surety, shall be resolved by binding arbitration.

(2) A performance guaranty under this section shall be deposited with the City Treasurer prior to the issuance of the requested permit or certificate.

(3) The approval by the City, building permit, temporary certificate of occupancy, and the like, shall prescribe the period of time before completion of the improvements and/or actions for which the performance guaranty has been required.

(4) The City, upon written request of the applicant, shall rebate portions of the performance guaranty upon determination by the City that the improvements and/or actions for which the rebate has been requested have been satisfactorily completed in accordance with the approved plans, permits, temporary certificate of occupancy, and all other applicable laws, regulations and ordinances.

(5) Upon satisfactory completion of all performance for which the guaranty was required, as determined by the City, the City shall return to the applicant the performance guaranty deposited, and any interest accrued thereon, provided the City generally is not anticipated to deposit the performance guaranty in an interest-bearing account.

(6) If the applicant fails to timely complete all improvements and/or timely take the required action for which the performance guaranty was required, the applicant shall be deemed to be in default. Unless a shorter period has been specified by building permit, ordinance or code, "timely" completion of improvements shall mean not longer than two years from the date of issuance of the building permit; provided, however, a longer period of time may be specified in an agreement entered into as provided in Subsection E, below, or in an amendment of such agreement.

(7) In the event of a default, the City shall, following notice to the applicant, have the right to use the performance guaranty deposited, including any interest earned thereon, to complete the improvements or take the appropriate actions to achieve completion, and the application for site plan approval, building permit, temporary certificate of occupancy, or the like, shall be deemed to have authorized the right of the City to enter upon the property to bring about such completion. A notice to an applicant given under this section may be provided by one or more of the following methods: regular mail, to the address on the application for permit; and/or by delivery of the notice to the applicant at such address, and/or by posting the property.

(8) In the event the performance guaranty posted is insufficient in amount to allow the City to complete the improvements and/or actions, the applicant shall be required to pay the City such additional costs as needed for the completion of such improvements and/or actions. Should the City use the performance guaranty, or a portion thereof, to achieve such completion, any amounts remaining shall first be applied to the City's administrative costs, including, without limitation, attorneys' fees, planning consultant fees, engineering consultant fees, and the like, utilized in connection with securing the guaranty and completing the improvements and/or actions, and the balance remaining thereafter shall be refunded to the applicant.

(9) If the applicant has been required to post a performance guaranty with another governmental agency other than the City for the purpose of ensuring completion of an improvement, and the amount and terms of such performance guaranty are deemed adequate by the City, and are enforceable by the City, the applicant shall not be required to deposit with the City a duplicate performance guaranty for the same improvement.

E. Written agreement. At the time the performance guaranty is deposited with the City, and prior to the issuance of permits, approved occupancy of the building or temporary certificates of occupancy, the applicant may be required to enter into an agreement executed by the applicant and the City relative to the terms and provisions applicable to the use of the performance guaranty; provided, however, in the absence of such agreement, the terms and provisions of this section shall govern.

§ 770-17. Fees.

The City Commission shall establish a schedule of fees, charges, and expenses, for matters pertaining to this chapter, certificates of occupancy, appeals, and other matters pertaining to this chapter. The City shall have the authority to include fees for the use of engineering, planning, legal or other special consultants. The schedule of fees shall be posted in the City offices, and may be altered or amended only by the City Commission. No permit, certificate, special land use on approval, or variance shall be issued unless or until such costs, charges, fees, or expenses have been paid in full, nor shall any action be taken on proceedings before the Board of Appeals, unless or until preliminary charges and fees have been paid in full.

§ 770-18. Violations and penalties; abatement of nuisances.

Uses of land, buildings, or structures, erected, altered, razed, or converted in violation of any provisions of this chapter are hereby declared to be nuisances per se. The court having jurisdiction shall order such nuisance abated, and the owner and/or agent in charge shall be adjudged guilty of maintaining a nuisance per se. Any person, persons, firm or corporation, or any other acting on behalf of said person, persons, firm or corporation, violating or failing to comply with any of the provisions of this chapter, or any of the regulations adopted in pursuance hereof, or who shall hamper, impede or interfere with the performance of the duties of the official or agent of the City of Royal Oak or other officer under the provisions of this chapter, shall be guilty of a municipal civil infraction, and upon being found responsible therefor, shall be punished by a fine not exceeding $250 for the first offense and $500 for a subsequent violation following the first offense. Each act of violation and every day upon which such violation shall occur shall constitute a separate offense.

ARTICLE IV
Zone Regulations and General Provisions

§ 770-19. Zone designations.

For the purpose of this chapter, the City of Royal Oak is hereby divided into the following zones:

One-Family Residential
One-Family Large Lot Residential
Two-Family Residential
Multiple-Family Residential
Office Service
Neighborhood Business
Neighborhood Business II
Central Business District
Regional Business
General Business
General Industrial
Mixed Use 1
Mixed Use 2
Planned Unit Development
Special Redevelopment

§ 770-20. Zoning Map.

A. Identified. The zoning districts as provided in § 770-19, Zone designations, are bounded and defined as shown on the map entitled "Zoning Map of the City of Royal Oak." The Zoning Map, along with all notations, references, and other explanatory information, shall accompany and be made a part of this chapter.

B. Authority. Regardless of the existence of purported copies of the Zoning Map which may be published, a true and current copy of the Zoning Map available for public inspection shall be located in and maintained by the office of the City Clerk. The Clerk's copy shall be the final authority as to the current status of any land, parcel, lot, zone, use, building, or structure in the City.

C. Interpretation of district boundaries. Where uncertainty exists with respect to the boundaries of any of the districts indicated on the Zoning Map, the following rules shall apply:

(1) A boundary indicated as approximately following the center line of a street, highway, alley, easement, or right-of-way shall be construed as following such center line. Upon vacation of a public right-of-way, the adjacent zone district to which the vacated land is distributed shall govern the zone designation for the vacated land.

(2) A boundary indicated as approximately following a recorded lot line or the line bounding a parcel shall be construed as following such line.

(3) A boundary indicated as approximately following a municipal boundary line shall be construed as following such line.

(4) A boundary indicated as following a railroad line shall be construed as being located at the center line of said right-of-way. Upon vacation of a public right-of-way, the adjacent zone district from which the vacated land is distributed shall be construed as the new boundary line.

(5) Where an existing physical feature is at variance with that shown on the Official Zoning Map or any other circumstances not covered by Subsection C(1) through (4) preceding, the Zoning Administrator shall determine the boundary line.

§ 770-21. Application of Zoning District regulations.

The regulations herein established within each zoning district shall be the minimum regulations for promoting and protecting the public health, safety, and general welfare and shall be uniform for each class of land, buildings, structures, or uses throughout each district. Except as hereinafter provided, district regulations shall be applied in the following manner:

A. Uses in zoning districts.

(1) Permitted uses. Permitted uses shall be permitted by right only if specifically listed in the various zones or as determined in compliance with Subsection A(4).

(2) Accessory uses. Accessory uses are permitted only if such uses are clearly incidental to the permitted principal uses and specifically permitted in the zone district.

(3) Special land uses. Special land uses are permitted at the discretion of the Plan Commission, or as otherwise specified herein, according to the terms of § 770-11, Special land uses; permit procedures, and only if specifically listed in the various zones.

(4) Determination of similar use.

(a) In recognition that every potential land use cannot be specifically addressed in this chapter, land uses may also be permitted in a given zone if the Zoning Administrator determines that the use is similar to a permitted or special land use within the respective zone; the use is not specifically listed as either a permitted or special land use in any other zone; and, the use is not specifically prohibited by this chapter.

(b) The Zoning Administrator shall select the use listed in that zone which most closely resembles the proposed use and the proposed use shall comply with all requirements and standards applicable to that similar use. The determination as to whether a proposed use is similar in nature and class to another permitted or special land use within a zone shall be

considered an expansion of the use regulations. Any use determined by the Zoning Administrator to be a similar use shall thereafter be included in the enumerations of permitted or special land uses in that zone.

(5) Outdoor uses and activities. All permitted uses, special land uses, and accessory uses shall be conducted entirely and completely within an enclosed building, except as expressly permitted by this chapter. **[Added 4-21-2014 by Ord. No. 2014-04]**

B. Application of area, width and frontage regulations.

(1) The area and width of a lot shall not be reduced below the minimum requirements herein established for the zone in which such lot is located, except as set forth in Subsection B(2). For purposes of this chapter, two or more contiguous lots held under common ownership shall be considered one lot.

(2) In One-Family Residential and One-Family Large Lot Residential Zoning Districts, a single lot of record or two or more contiguous lots under the same ownership shall not be further divided for the purpose of erecting a single-family dwelling unless the following conditions are met:

(a) The Zoning Administrator shall determine that the proposed lot(s) are the same size or larger than the majority (50% or more) of the developed lots in the area. The Zoning Administrator shall evaluate the width, depth and area of the lot(s) when determining compatibility with the developed lots in the area. The proposed lot shall be equal to or greater in width, depth and area than the developed lots in the area to be considered under this provision. For purposes of this subsection, "area" shall mean the following:

[1] Lots with the same zoning; and

[2] The "area" shall be determined as follows:

[a] Interior lots, within a defined block: analysis shall include interior lots on both sides of a street upon which the subject property is located; or

[b] Interior lots, when no defined block exists: analysis shall include interior lots on both sides of the street within 300 linear feet upon which the subject property is located; or

[c] Corner lots: analysis shall include the corner lots located at the same intersection upon which the property is located.

(b) All other ordinance requirements shall apply.

(c) If all the criteria are not met, such lot(s) shall not be developed, divided, utilized or sold in a matter which diminishes compliance with lot and/or area requirements of this chapter.

(3) Every lot shall have direct access to and required frontage upon a public or

private street which has been approved by the City and constructed to City standards.

C. Application of setback regulations.

(1) No part of a required setback for any building or use shall be included as a part of a required setback for another building or use.

(2) All required front yard setback lines shall be the minimum perpendicular distance measured from the right-of-way of the road upon which a lot or parcel fronts to the nearest point of the principal structure.

(3) All required side and rear yard setback lines shall be the minimum perpendicular distance between the nearest point on the side or rear of the structure and the side or rear lot line parallel thereto.

(4) On all corner lots, the required front setbacks shall be provided along both street frontages, unless otherwise noted herein.

(5) Exceptions.

(a) Terraces, patios, decks and similar structures that are unroofed, without walls or other continuous enclosure and located at grade: no setback shall be required. Terraces, patios, decks and similar structures that are unroofed, without walls or other continuous enclosure and located six inches or more above grade shall be located a minimum of three feet from the rear lot line and a minimum of three feet from the side lot line if located entirely within the rear yard. If located in the side yard, all required setbacks for the principal structure shall apply.

(b) Unenclosed porches and steps may extend from the face of the building into a required front yard setback a distance not more than seven feet, and shall not exceed one story in height. Enclosed porches and other enclosed appurtenances shall be considered an integral part of the building to which they are attached and shall be subject to all yard requirements thereof.

(c) Chimneys, flues, belt courses, leaders, sills, pilasters, cornices, eaves, gutters, bay windows, buttresses and similar features may project into any required yard setback a maximum of 24 inches. Cantilevers, bays and other similar projections containing floor area shall meet the minimum setbacks for the building.

D. Application of height regulations.

(1) No building shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height limit hereinafter established for the zone in which the building is located.

(2) Measuring height. The height of a building is the distance between the average of the finished grade at the base of the front of the building to the mid-point of the roof surface for pitched roofs and to the roofline for flat roofs. (See § 770-8, definition of "building height," Figure 2.[30])

(3) Exceptions. Roof structures for the housing of elevators, stairways, tanks, ventilating fans, or similar equipment required to operate and maintain the building, and fire or parapet walls, skylights, towers, steeples, screens, chimneys, smokestacks, water tanks, television, radio and satellite antennae, belfries, stage towers or scenery lofts, ornamental spires, flagpoles, wind or solar energy systems, or similar structures may be erected above the height limits herein prescribed, but shall remain proportional to the principal building. To reduce the impact on adjacent properties and public rights-of-way, all roof structures shall be effectively screened and setback from the building edge a distance equal to its height or a distance as determined necessary by the Zoning Administrator. No such structure shall exceed by more than 15 feet above the height limit of the district in which it is located. **[Amended 6-15-2009 by Ord. No. 2009-06]**

E. Location and number of buildings on a lot of record.

(1) Every building erected, altered, or moved shall be located on a lot of record as defined herein.

(2) There shall be only one single-family dwelling permitted per lot, unless otherwise permitted elsewhere in this chapter. Where there is more than one single-family dwelling located on a lot of record at the time of adoption of this chapter, said lot shall not be divided except in conformity with the requirements of this chapter.

F. The location and number of buildings within a site condominium shall be subject to the standards set forth in § 770-14, Site condominium project regulations.

§ 770-22. Accessory buildings.

A. Requirements applicable to accessory buildings within residential districts.

(1) No accessory building shall be built upon a lot or parcel unless and until a principal building is erected, and shall not exceed two accessory structure(s) per lot.

(2) Accessory buildings shall only be located within the side or rear yards. Accessory buildings not located entirely within the rear yard shall comply with all setbacks required for the principal building.

(3) The accessory building may extend beyond the first floor of the front building line by no more than seven feet, provided it does not encroach into the required front yard setback.

(4) Accessory buildings shall be located a minimum of three feet from the adjacent rear lot line and a minimum of three feet from the side lot line when located entirely within the rear yard.

(5) The sum total floor area of all accessory buildings shall not exceed 10% of the lot area, provided that in no instance shall the total ground floor area of all

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30. Editor's Note: Figure 2 is included at the end of this chapter.

accessory buildings exceed 800 square feet.

(6) Accessory buildings shall be included in the total lot coverage limitations.

(7) Accessory buildings shall not exceed 13 feet in height. Additional height may be permitted of up to 15 feet, provided one additional foot of setback is provided beyond the minimum required setback for each additional one foot in height.

(8) The width of an accessory building shall not be greater than 50% of the total width of the principal building's primary facade as determined by the Zoning Administrator.

(9) Where a corner lot adjoins the side boundary of a lot in a residential zone, no part of any accessory building within 25 feet of the common lot line shall be nearer the street bounding the front lot line than the required front yard setback along such street.

(10) Where a public alley lies to the rear of the lot and a garage is entered at right angles to a public alley, it shall be setback no less than 10 feet from the rear lot line. Accessory buildings shall comply with § 770-29, Visibility at intersections.

(11) An accessory building does not include a combination of services, which makes it easily convertible to habitable space. The combination of services may include water, sewer, gas, electric, telephone, and/or cable as determined by the Zoning Administrator.

(12) All accessory buildings shall have either a mansard, hip, gambrel or gable roof and shall be compatible with the principal structure.

B. Requirements applicable to accessory buildings within all other zones. Accessory buildings shall be subject to the same placement, coverage and height requirements as principal buildings in the zone district in which it is located.

§ 770-23. Minimum floor area of dwelling units.

A. One-Family Residential and One-Family Large Lot Residential Zones. The minimum usable floor area for a single-family dwelling unit shall be determined by the minimum usable floor area of the existing adjacent single-family dwelling units. The adjacent single-family dwelling unit with the smallest usable floor area shall establish the minimum usable floor area; however, in no case shall the minimum usable floor area as contained in the records of the City Assessor's office be less than 1,000 square feet for a one-family dwelling or 1,300 square feet for a one-family large lot dwelling. Adjacent dwelling units shall be those units located to the side or front of the subject parcel. The front and side property line of the subject parcel shall be extended in either direction, crossing no more than one street right-of-way until an adjacent parcel with an existing structure is reached. Single-family dwelling units adjacent to the rear property line shall not be considered and are hereby specifically excluded from consideration when determining minimum usable floor area.

B. Two-Family Residential Zone. Every building hereafter erected or structurally altered for a one-family dwelling shall conform to the usable floor area requirements given in Subsection A; for two-family residences the usable floor area for each dwelling shall be determined by the minimum usable floor area of the existing adjacent two-family residences. The adjacent two-family dwelling unit with the smallest floor area in an individual unit shall establish the minimum usable floor area; if none exists, the adjacent single-family dwellings shall be used, and each dwelling unit within the proposed two-family unit shall be 80% of that required for the one-family dwelling as determined by Subsection A. However, in no case shall a two-family dwelling unit have an individual unit with a usable floor area below 800 square feet. Adjacent two-family dwelling units shall be those units located to the side or front of the subject parcel. The front and side property line of the subject parcel shall be extended in either direction, crossing no more than one street right-of-way until an adjacent parcel with an existing two-family dwelling unit is reached. Two-family dwelling units adjacent to the rear of property line shall not be considered and are hereby specifically excluded from consideration.

C. Multiple-Family Residential Zone. Every building hereafter erected or structurally altered for a one-family dwelling shall conform to the usable floor area requirement given in Subsection A; for two-family residences, the usable floor area for each unit shall conform to the requirements established in Subsection A; for multiple dwellings other than special group-housing developments, the minimum square feet of living space for each family shall be subject to the following space requirements:

Number of Bedrooms	Minimum Living Space (square feet)
Efficiency	250
1-bedroom unit	450
2-bedroom unit	600
3-bedroom unit	750

§ 770-24. One-family dwelling unit standards.

No site built, mobile homes, modular housing, or prefabricated housing located outside a mobile home park shall be permitted unless said dwelling unit conforms to the following standards:

A. Square footage. A dwelling unit shall comply with the minimum floor area requirements of this chapter.

B. Dimensions. A dwelling unit shall have a minimum width across any front, side, or rear elevation of 20 feet.

C. Foundation. A dwelling unit shall be firmly attached to a permanent foundation constructed on the site in accordance with the Building Code and shall be securely anchored to the foundation in order to prevent displacement during windstorms. Dwelling units shall not be installed with attached wheels. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage, or chassis.

§ 770-25. Home occupations.

All home occupations shall be subject to the following requirements:

A. A home occupation must be clearly incidental to the principal use of the dwelling unit for dwelling purposes. No more than 10% of the floor area of the dwelling shall be devoted to a home occupation. All activities shall be carried on within an enclosed structure. There shall be no outside display of any kind, or other external or visible evidence of the conduct of a home occupation.

B. A home occupation shall not change the residential character of the premises or surrounding residential area, both in terms of use and appearance.

C. A home occupation use shall not create a nuisance or endanger the health, safety, welfare, or enjoyment of any other person in the area, by reason of noise, vibration, glare, fumes, odor, unsanitary or unsightly conditions, fire hazards, or the like, involved in or resulting from such home occupation.

D. Only a resident of the dwelling shall be engaged or employed in the home occupation.

E. There shall be no vehicular traffic permitted for the home occupation, other than domestic trips and routine deliveries normally expected for a single dwelling in a residential area.

F. The home occupation shall be carried on wholly within the dwelling, and no such occupation may be conducted in any accessory building whether detached or attached. There shall be no exterior operations, storage or display of materials, products, inventory or equipment of any kind, and no exterior signage, except one commercial vehicle may be parked on the premises pursuant to the requirements of § 770-28, Restrictions on parking of commercial vehicles.

G. The home occupation shall not require, or result in, any interior or exterior alterations to the dwelling or property upon which the dwelling is located.

H. No material or mechanical or electrical equipment may be utilized except that which is necessarily, customarily and ordinarily used for household or leisure purposes.

I. Direct sales of products to individuals on the premises of a home occupation shall not be permitted.

J. No storage or display of goods within the dwelling unit shall be visible from outside the dwelling unit.

K. The home occupation shall not require additional off-street parking spaces or loading/unloading areas.

§ 770-26. Family day-care homes.

A. The intent of this section is to establish standards for day-care facilities which will insure compatibility with adjacent land uses and maintain the character of the neighborhood.

B. Standards for family day-care homes. Family day-care homes are subject to the following requirements:

(1) The subject parcel shall meet the minimum lot area requirements for the zone in which it is located.

(2) The property is maintained in a manner that is consistent with the character of the neighborhood.

(3) There shall be an outdoor play area of at least 300 square feet provided on the premises. Said play area shall not be located within the front yard setback.

(4) All outdoor play areas shall be enclosed by a fence that is designed to discourage climbing, and is at least four feet in height, but no higher than six feet.

(5) The hours of operation shall not exceed 16 hours within a twenty-four-hour period. Activity between the hours of 10:00 p.m. and 6:00 a.m. shall be limited so that the dropoff and pickup of children is not disruptive to neighboring residents.

(6) Applicable licenses with the State of Michigan shall be maintained.

§ 770-27. Essential services.

Essential services shall be permitted as authorized and regulated by law and other ordinances of the City. The construction of buildings associated with essential services shall be subject to the provisions of § 770-12, Site plan review. Otherwise, the construction, maintenance, and alteration of essential services shall be exempt from the provisions of this chapter.

§ 770-28. Restrictions on parking of commercial vehicles.

In districts zoned One-Family, Two-Family or Multiple-Family Residential, for each dwelling unit on a lot not more than one commercial vehicle, owned by an occupant, and having a weight fully equipped of not more than 6,000 pounds may be parked on the premises.

§ 770-29. Visibility at intersections.

No structure, wall, fence, or landscaping shall be erected, maintained or planted on any lot which will obstruct the view of the driver of a vehicle approaching an intersection of a street, highway, alley or a driveway. A ten-foot triangular area measured along the public right-of-way line and driveway line shall be provided from the intersection of any street, highway, alley and driveway. Landscaping under 30 inches and deciduous trees where all branches are not less than 12 feet above the street level may be permitted within the triangular area. (See Figure 9, Visibility at Intersections.[31]) All landscaping shall comply with City of Royal Oak Chapter 710, Trees, Art. I, Tree, Shrub and Plant Protection, Planting in Public Areas. The Plan Commission, at its discretion and as part of site plan review, may approve an alternate setback if deemed necessary based on the

31. Editor's Note: Figure 9 is included at the end of this chapter.

site conditions.

§ 770-30. General building design and project compatibility.

A. Intent.

(1) The intent of this section is to ensure that the physical characteristics of proposed new commercial and multiple-family building(s), construction or significant facade renovations are compatible when considered within the context of the surrounding area. Facade renovations determined by the Zoning Administrator to be a significant change in character and materials shall require site plan review to ensure compatibility. Design guidelines are further intended to ensure building designs are compatible with and/or enhance the characteristics of the surrounding area in terms of scale, mass, building patterns, facade articulation, and incorporating design elements of prevalent neighborhood architectural style; and that building additions are compatible with the principal building.

(2) These standards are further intended to:

(a) Stabilize and reinforce property values to protect private and public investment.

(b) Preserve and reinforce the natural, historic, and architectural qualities of neighborhoods.

(c) Establish and enhance aesthetic and architectural compatibility within neighborhoods and commercial areas.

(d) Attract residential, business and industrial development and redevelopment by establishing neighborhood and commercial conditions that make for an aesthetic and pleasant living and working environment.

B. General standards.

(1) Architectural character. New buildings and expansion and/or alteration of existing buildings in or adjacent to existing developed areas shall be compatible with and/or enhance the established architectural character of such areas by using a design that is complementary. Compatibility may be achieved through techniques related to rooflines, building mass, outdoor spaces, relationships to the street, window and door patterns, and/or the use of building materials.

(2) Building orientation and entrances. To the maximum extent feasible, primary facades and entries shall face the adjacent street. Primary building entrances shall be readily identifiable and accessible, with at least one main entrance facing and open directly onto a connecting walkway with pedestrian frontage.

(3) Quality of materials. Building materials used shall be an enhancement of the area in terms of durability, appearance and performance and shall be appropriate for the function of the building. In the selection of materials, the following additional considerations shall apply:

(a) Low maintenance shall be a major consideration.

(b) Materials shall blend with or enhance those existing on adjacent properties.

(c) One dominate material shall be selected, with a preference towards masonry and stone. Exterior insulation and finish systems (EFIS) are discouraged at the ground floor building level.

(4) Variation in massing. To avoid large and dominant building mass, the following measures shall be applied:

(a) Horizontal masses shall not exceed a height/width ratio of 1:3 without substantial variation in massing that may include a change in height and/or projecting or recessed elements.

(b) Changes in mass shall be related to entrances, the integral structure and/or the organization of interior spaces and activities and not merely for cosmetic effect. False fronts or parapets create an insubstantial appearance and are prohibited.

(5) Character and image. Building design shall contribute to the uniqueness of a district, and/or the community as a whole with predominant materials, elements, features, color range and activity areas tailored specifically to the site and its context.

C. Standards specific to multiple-family uses.

(1) Architectural character.

(a) In the case of a multiple-building development, each individual building shall include predominant characteristics shared by all buildings in the development so that the development forms a cohesive place within the zoning district or community.

(b) Exterior building walls shall be subdivided and proportioned to human scale, using offsets, projections, overhangs and recesses, in order to add architectural interest and variety and avoid the effect of a single, massive wall with no relation to human size.

(2) Privacy considerations. Elements of the development shall be arranged to maximize the opportunity for privacy by the residents of the project and minimize infringement on the privacy of adjoining land uses.

(3) Outdoor spaces. Buildings and extensions of buildings shall be designed to form outdoor spaces such as balconies, arcades, terraces, decks or courtyards, and to integrate development with the landscape to the extent reasonably feasible.

D. Standard specific to office and commercial uses outside of the Central Business District.

(1) Facade treatment.

(a) In order to add architectural interest and variety and avoid the effect of a single, long or massive wall with no relation to human size, the following standards shall apply:

[1] Architectural interest shall be provided through the use of repetitious patterns of color, texture and material modules, at least one of which shall repeat horizontally.

[2] Building facades shall incorporate recess projections, cornice work, decorative finish or spandrel windows. Blank walls shall not face a public street. The ground floor windows, awnings, and arcades shall be incorporated to encourage pedestrian activity at the street facing level.

[3] Primary building entrances shall be clearly defined and recessed or framed by a sheltering element such as an awning, arcade or portico in order to provide shelter from the summer sun and winter weather.

(b) Base and top treatments. All facades shall have:

[1] A recognizable "base" consisting of (but not limited to) thicker walls, ledges or sills; integrally textured materials such as stone or other masonry; integrally colored and patterned materials such as smooth-finished stone or tile; lighter or darker colored materials, mullions or panels; or planters.

[2] A recognizable "top" consisting of (but not limited to) cornice treatments, other than just colored "stripes" or "bands," with integrally textured materials such as stone or other masonry or differently colored materials; sloping roof with overhangs and brackets; or stepped parapets.

E. Standard specific to uses within the Central Business District.

(1) Storefronts.

(a) Storefronts shall be integrally designed with the upper floors to be compatible with the overall facade character. Buildings with multiple storefronts shall be unified though the use of architecturally compatible materials, colors, details, awnings, signage and lighting fixtures.

(b) Ground floor retail, service and restaurant uses shall have large pane display windows. Such windows shall be framed by the surrounding wall and relate to the original building's architecture.

(2) Awnings. Awnings shall be no longer than a single building front.

(3) Build-to lines for streetfront buildings. Build-to lines based on a consistent relationship of buildings to the street sidewalk shall be established for new buildings and, to the extent reasonably feasible, for additions or modifications of existing buildings, in order to form visually continuous, pedestrian-oriented streetfronts with no vehicle use area between building faces and the street.

(a) To establish build-to lines, buildings shall be built to the front right-of-way line, and in case of corner lots, both street rights-of-way, or located and designed to align or approximately align with any previously established building/sidewalk relationships that are consistent with this standard. **[Amended 4-21-2014 by Ord. No. 2014-04]**

(b) Exceptions to the build-to line standards shall be permitted in the following circumstances:

[1] In order to form an outdoor space such as a plaza, courtyard, patio or garden between a building and the sidewalk; such a larger front yard area shall have landscaping, low walls, fencing or railings, a tree canopy, and/or other similar site improvements along the sidewalk designed for pedestrian interest, comfort and visual continuity.

[2] If the building is adjacent to a full arterial or major arterial street, and the City has determined that an alternative streetfront building should be considered due to high volume and/or speed of traffic on the adjacent street(s); and/or an established pattern of existing buildings that makes a pedestrian-oriented streetfront nonfeasible.

[3] In the case of a large building with employment, vehicle-related or other uses that have little relationship to pedestrians, or that have a need to limit ground floor windows, where the build-to line is not feasible for the entire building.

[4] Such an alternative to the street sidewalk must include a connecting walkway(s) and may include internal walkways or other directly connecting outdoor spaces such as plazas, courtyards, squares or gardens.

(4) Facade orientation. The front facades of all structures shall be oriented towards the streets they front, with a principal, functional entrance for the public or direct-entry access into the structure from the street frontage. A secondary access may be provided to the side or rear facade. In the case of corner lots, a corner entrance may be provided in lieu of a front entrance, or a second entrance may be provided to the side street. **[Added 4-21-2014 by Ord. No. 2014-04[32]]**

(5) Streetfront width. The entire streetfront of a property shall be occupied by a structure or building, unless a lesser percentage is determined to be necessary and advisable by the Planning Commission in the course of its site plan review process, but in no case shall such percentage be less than 50%. **[Added 4-21-2014 by Ord. No. 2014-04]**

(6) Parking structure design. To the extent reasonably feasible, all parking structures shall meet the following design criteria:

(a) Where parking structures front streets, retail and other uses shall be

32. Editor's Note: This ordinance also redesignated former Subsection E(4) as Subsection E(6).

required along the ground level frontage to minimize interruptions in pedestrian interest and activity. The Plan Commission may grant an exception to this standard for all or part of the ground level frontage on streets with low pedestrian interest or activity.

(b) Awnings, signage and other architectural elements shall be incorporated to encourage pedestrian activity at the street facing level.

(c) Architectural elements, such as openings, sill details, emphasis on vertical proportions such as posts, recessed horizontal panels and other architectural features shall be used to establish human scale at the street facing level.

(d) The architectural design of structures shall be compatible in architectural design with adjacent buildings in terms of style, mass, material, height, roof pitch and other exterior elements.

(e) Auto entrances shall be located to minimize pedestrian/auto conflicts.

F. Plan Commission modifications to requirements. The Plan Commission in the course of its site plan review process may determine design standards as deemed necessary and advisable to ensure compliance with this chapter and/or minimize impact on the surrounding area and existing characteristics and development patterns.

§ 770-31. (Reserved)

§ 770-32. (Reserved)

§ 770-33. (Reserved)

§ 770-34. One-Family Residential.

A. Purpose. This zone is composed in those areas of the City where the principal use is intended to be single-family detached dwellings. In addition to the dwellings permitted in this zone, there are certain nonresidential uses which may be compatible with and supportive of a medium-density residential environment and may be permitted either by right or through the special land use approval.

B. Permitted uses.

(1) A single-family detached dwelling, subject to the requirements set forth in § 770-23, Minimum floor area of dwelling units, and § 770-24, One-family dwelling unit standards.

(2) Public parks and playgrounds.

(3) Home occupations, subject to the requirements set forth in § 770-25, Home occupations.

(4) Public and private schools with curriculum equivalent to kindergarten through 12th grade.

(5) Publicly owned and operated museums or libraries.

(6) Accessory buildings and structures, subject to the requirements set forth in § 770-22, Accessory buildings.

(7) Family day-care homes as an accessory use and subject to the requirements set forth in § 770-26, Family day-care homes.

(8) Adult foster care family homes and small group homes with a capacity to receive six or fewer adults, child foster care family homes and child foster care family group homes subject to the conditions of the state regulatory agencies.

C. Special land uses.

(1) Group family day-care homes and day-care centers, when incorporated with an existing church or school, subject to the requirements set forth in § 770-59, Day-care facilities.

(2) Police and fire stations, public safety buildings, public utility buildings, telephone exchange buildings, electric transformer stations and gas regulator stations, but not including service or storage yards.

(3) Churches and other institutions for religious worship, subject to the requirements set forth in § 770-74, Churches and other institutions for religious worship.

(4) Bed-and-breakfast operations, subject to the requirements set forth in § 770-78, Bed-and-breakfast facilities.

(5) Residential accessory parking lots, subject to the requirements set forth in § 770-73, Residential accessory off-street parking lots.

(6) Senior accessory housing subject to the requirements set forth in § 770-71 Senior accessory housing.

(7) Golf courses and country clubs.

(8) Cemeteries subject to the requirements set forth in § 770-50, Cemeteries.

(9) Community centers subject to the requirements set forth in § 770-51, Community centers.

(10) Those uses/parcels located in the One-Family (Single-Family) Residential Overlay District, subject to the requirements set forth in § 770-58, Single-Family Residential Overlay District.

(11) Reuse of school facilities when the existing principal building(s) are maintained, subject to the requirements set forth in § 770-87, Special redevelopment projects.

D. Area and bulk regulations. The following minimum requirements shall apply to all permitted and special land uses unless a more restrictive requirement is provided for in this chapter:

(1) Lot size. No lot shall be less than 6,000 square feet in area, unless otherwise

modified by § 770-21B, Application of area, width and frontage regulations.

(2) Lot width. No interior lot shall be less than 50 feet in width, while a corner lot shall be no less than 60 feet in width unless otherwise modified by § 770-21B, Application of area, width and frontage regulations.

(3) Lot depth. No lot shall have a depth of less than 100 feet, unless otherwise modified by § 770-21B, Application of area, width and frontage regulations.

(4) Height. No principal building shall exceed a height of 30 feet.

(5) Front yard setback.

(a) Interior lot. All principal buildings shall be set back the greater of 25 feet or the average setback of adjacent dwellings, but shall not exceed 50 feet from the front property line.

(b) Corner lot. A front yard abutting the side street of a corner lot where the adjacent lot does not front upon said side street shall not be less than 10 feet in width; provided a lot with frontage of less than 50 feet in width may have the side yard abutting the street reduced to not less than eight feet. A front yard abutting the side street of a corner lot where the adjacent lot does front upon said side street shall maintain the minimum setbacks as required for an interior lot.

(6) Side yard setback.

(a) For lots equal to or greater than 45 feet in width at the building line, all principal buildings shall be set back no less than five feet from the side property line. The total of the two side yard setbacks shall equal no less than 15 feet if no attached accessory building is provided in the side yard.

(b) For lots less than 45 feet in width at the building line, the side yard setback shall be a minimum of four feet. The total of the two side yard setbacks shall be no less than 12 feet if no attached accessory building is provided.

(c) For all lots without accessory buildings located in the side yard, an open area a minimum of eight feet in width unoccupied and unobstructed from the ground upward and suitable for a driveway shall be provided in one side yard.

(7) Rear yard setback. All principal buildings shall be set back no less than 35 feet from the rear property line.

(8) Lot coverage. On lots less than 6,000 square feet, the lot coverage of all buildings shall not exceed 35% of the site, provided that in no instance shall the total ground floor area of all buildings exceed 1,800 square feet. On lots equal to or larger than 6,000 square feet, the lot coverage of all buildings shall not exceed 30% of the site. **[Amended 5-20-2013 by Ord. No. 2013-08]**

(9) Maximum floor area. No single-family residential structure shall exceed 3,500 square feet of usable floor area. **[Amended 4-21-2014 by Ord. No. 2014-04]**

§ 770-35. One-Family Large Lot Residential.

A. Purpose. This zone is composed of those areas of the City where the principal use is intended to be single-family detached dwellings on large lots. In addition to the dwellings permitted in this zone, there are certain nonresidential uses which may be compatible with and supportive of a low-density residential environment and may be permitted either by right or through special land use approval.

B. Permitted uses.

(1) All permitted uses allowed in the One-Family Residential Zone.

C. Special land uses.

(1) All special land uses allowed in the One-Family Residential Zone.

D. Area and bulk regulations. The following minimum requirements shall apply to all permitted and special land uses unless a more restrictive requirement is provided for in this chapter:

(1) Lot size. No lot shall be less than 13,000 square feet in area, unless otherwise modified by § 770-21B, Application of area, width and frontage regulations.

(2) Lot width. No interior lot shall be less than 70 feet in width, unless otherwise modified by § 770-21B, Application of area, width and frontage regulations.

(3) Lot depth. No lot shall have a depth of less than 100 feet, unless otherwise modified by § 770-21B, Application of area, width and frontage regulations.

(4) Height. No principal building shall exceed a height of 30 feet.

(5) Front yard setback.

(a) Interior lot. All principal buildings shall be set back the greater of 25 feet or the average setback of adjacent dwellings, but shall not exceed 50 feet from the front property line.

(b) Corner lot. A front yard abutting the side street of a corner lot where the adjacent lot does not front upon said side street shall not be less than 10 feet in width A front yard abutting the side street of a corner lot where the adjacent lot does front upon said side street shall maintain the minimum setbacks as required for an interior lot.

(6) Side yard setback.

(a) All principal buildings shall be set back no less than five feet from the side property line. The total of the two side yard setbacks shall equal no less than 15 feet if no attached accessory building is provided in the side yard.

(b) For all lots, an open area a minimum of eight feet in width, unoccupied and unobstructed from the ground upward and suitable for a driveway, shall be provided in one side yard.

(7) Rear yard setback. All principal buildings shall be set back no less than 35 feet

from the rear property line.

(8) Lot coverage. The lot coverage of all buildings shall not exceed 30%.

(9) Maximum floor area. No single-family residential structure shall exceed 3,500 square feet of usable floor area. **[Amended 4-21-2014 by Ord. No. 2014-04]**

§ 770-36. Two-Family Residential.

A. Purpose. This zone is composed of those areas of the City where the principal use is intended to be two-family dwellings. The regulations of this zone are designed to permit a higher density than is allowed in the One-Family Residential Zone. In addition to the dwellings permitted in this zone, there are certain nonresidential uses which may be compatible with and supportive of a residential environment and may be permitted either by right or through special land use approval.

B. Permitted uses.

(1) All permitted uses allowed in the One-Family Residential Zone. Single-family detached dwellings shall be subject to the standards set forth in the One-Family Residential Zone.

(2) Two-family dwellings, subject to the requirements set forth in § 770-23, Minimum floor area of dwelling units.

C. Special land uses.

(1) All special land uses allowed in the One-Family Residential Zone.

D. Area and bulk regulations. The following minimum requirements, shall apply to all permitted and special uses unless a more restrictive requirement is provided for in this chapter:

(1) Lot size. No lot shall be less than 9,000 square feet in area.

(2) Lot width. No interior lot shall be less than 50 feet in width, while a corner lot shall be no less than 60 feet in width.

(3) Lot depth. No lot shall have a depth of less than 100 feet.

(4) Height. No principal buildings shall exceed a height of 30 feet.

(5) Front yard setback.

(a) Interior lot. All principal buildings shall be set back the greater of 25 feet or the average setback of adjacent dwellings, but shall not exceed 50 feet from the front property line.

(b) Corner lot. A front yard abutting the side street of a corner lot where the adjacent lot does not front upon said side street shall not be less than 10 feet in width. A front yard abutting the side street of a corner lot where the adjacent lot does front upon said side street shall maintain the minimum setbacks as required for an interior lot.

(6) Side yard setback.

(a) All principal buildings shall be set back no less than five feet from the side property line. The total of the two side yard setbacks shall equal no less than 15 feet if no attached garage is provided.

(b) For all lots, an open area a minimum of eight feet in width, unoccupied and unobstructed from the ground upward and suitable for a driveway, shall be provided in one side yard.

(7) Rear yard setback. All principal buildings shall be set back no less than 35 feet from the rear property line.

(8) Lot coverage. The lot coverage of all buildings shall not exceed 30%.

§ 770-37. Multiple-Family Residential.

A. Purpose. This zone is composed of those areas of the City where the principal use is intended to be multiple-family dwellings at a higher density than permitted in Two-Family Residential Zone. These areas would be located near major streets for good accessibility and be designed to be compatible with adjacent single-family areas. Various types and sizes of residential units, for ownership or rental, would thereby be provided to meet the needs of the different age and family groups in the community without creating an unreasonable burden to existing community facilities, utilities, or services. In addition to the dwellings permitted in this zone, there are certain nonresidential uses which may be compatible with and supportive of a residential environment and may be permitted either by right or through special land use approval.

B. Permitted uses.

(1) All permitted uses allowed in the Two-Family Residential Zone.

(2) Multiple-family dwellings, subject to the requirements set forth in § 770-23, Minimum floor area of dwelling units, including maintenance and management buildings, community buildings, and private swimming pools intended to serve the occupants of the multiple-family dwelling complex.

(3) Single-family attached dwellings, subject to the requirements set forth in § 770-23, Minimum floor area of dwelling units.

C. Special land uses.

(1) All special land uses allowed in the Two-Family Residential Zone.

(2) Senior housing, convalescent centers and adult foster care congregate facilities subject to the requirements set forth in § 770-72, Senior housing, adult foster care congregate facility and convalescent centers.

(3) Small, medium and large adult foster care group homes subject to the requirements set forth in § 770-60, Adult foster care facilities.

(4) Group day-care homes and day-care centers subject to the requirements set forth in § 770-59, Day-care facilities.

(5) Community centers subject to the requirements set forth in § 770-51,

Community centers.

D. Area and bulk regulations. The following minimum requirements shall apply to all permitted and special land uses unless a more restrictive requirement is provided for in this chapter:

(1) Single-family detached dwellings. Single-family detached dwellings shall be subject to the requirements set forth in the One-Family Residential Zone.

(2) Two-family dwellings. Two-family dwellings shall be subject to the requirements set forth in the Two-Family Zone.

(3) Multiple-family dwellings shall be subject to the following:

(a) Lot size. Multiple-family dwellings shall provide 9,000 square feet for the first two units and 3,000 square feet for each additional unit.

(b) Height. No principal building shall exceed a height of 36 feet. **[Amended 12-6-2021 by Ord. No. 2021-11]**

(c) Setbacks. All building shall be setback from the front, side and rear property line no less than 25 feet or a setback as may be determined to be necessary and advisable by the Plan Commission during the course of its site plan review process.

(d) Distance between buildings. No principal buildings shall be closer than 20 feet from another principal building or a distance as may be determined to be necessary and advisable by the Plan Commission during the course of its site plan review process.

§ 770-38. Office Service.

A. Purpose. This zone is intended to provide locations for uses which primarily consist of office uses. The Office Service Zone is intended to provide for a compatible transition between commercial and residential areas and/or between thoroughfares and residential areas. The uses within the zone shall be characterized by the following: either operates during normal business hours or has operating characteristics which do not adversely affect adjacent residential areas; produce a low volume of traffic; and are located in buildings which are architecturally compatible with the surrounding area.

B. Permitted uses.

(1) Business, administrative, and professional offices. **[Amended 10-1-2012 by Ord. No. 2012-16]**

(2) Medical and dental offices, including outpatient medical clinics, medical laboratories, and home health care services, subject to the requirements set forth in § 770-79, Hospitals and outpatient medical clinics, if applicable. **[Amended 10-1-2012 by Ord. No. 2012-16]**

(3) Banks, credit unions, savings and loan associations without drive-through facilities.

(4) Public buildings, parks and playgrounds.

(5) Retail sale of drug and health care products, when occupying no more than 25% of the floor area or 5,000 square feet, whichever is less, of a building containing medical and dental offices, clinics and medical laboratories.

(6) Business, technical or trade schools and automobile driving schools.

(7) Libraries, museums and fine art centers.

(8) Churches and other institutions for religious worship, subject to the requirements set forth in § 770-74, Churches and other institutions for religious worship.

C. Special land uses.

(1) Hospitals subject to the requirements set forth in § 770-79, Hospitals and outpatient medical clinics. **[Amended 10-1-2012 by Ord. No. 2012-16]**

(2) Veterinary offices and hospitals, including accessory boarding, provided no outdoor exercise runs or pens are permitted.

(3) Day-care centers subject to the requirements set forth in § 770-59, Day-care facilities.

(4) Public utility transformer stations and substations, telephone exchanges, and public utility offices.

(5) Research laboratories, provided that no heavy mechanical equipment is used.

(6) Drive-through facilities for banks, credit unions, savings and loan associations.

(7) Funeral homes.

(8) Heliopad when accessory to a hospital and subject to the requirements set forth in § 770-80, Heliopads.

(9) Ambulance services.

D. Area and bulk regulations. The following minimum requirements shall apply to all permitted and special land uses unless a more restrictive requirement is provided for in this chapter:

(1) Height. No principal building shall exceed a height of 36 feet. **[Amended 12-6-2021 by Ord. No. 2021-11]**

(2) Setbacks.

(a) Front yard setback. All buildings shall be set back no less than 25 feet.

(b) Side yard setback. All buildings shall be set back no less than 10 feet, except when a property abuts a street, upon which the abutting property is a residential zone that fronts on said street, the side and/or rear yards as measured from said street shall be not less than the lesser of 25 feet or the average of the actual setbacks of said adjacent residence(s) from said

street.

(c) Rear yard setback. All buildings shall be set back no less than 25 feet, unless one additional foot is granted within the front yard setback for each foot decreased from the rear yard setback, not to be less than 15 feet.

(d) Alternately, the Plan Commission during the course of its site plan review process may establish a greater or lesser setback as it determines necessary and advisable. In determining such yard setbacks, the Plan Commission shall consider the size and configuration of the proposed buildings, their relationship to the existing and proposed buildings and uses of land, and their relationship to existing and proposed thoroughfares; in order to maximize vehicular and pedestrian safety and reduce any negative impact on adjacent land uses.

§ 770-39. Neighborhood Business.

A. Purpose. This zone is designed primarily for the convenience of persons residing in the City by providing office, limited retail and service-oriented businesses that serve the adjacent and surrounding neighborhoods. It is the purpose of these regulations to permit development of the enumerated functions in a manner which is compatible with the adjacent residences. Specifically excluded from this zone are uses which are regulated by § 770-82 of this chapter as large scale retail establishments or uses that may generate significant nuisance conditions.

B. Permitted uses.

(1) All permitted uses allowed in the Office Service Zone.

(2) Food and beverage sales, including convenience grocery stores without sales of packaged alcoholic beverages. **[Amended 4-21-2014 by Ord. No. 2014-04]**

(3) Photographic, art and music lesson studios.

(4) Retail sales of flowers, gifts, antiques, art and collectibles.

(5) Small appliance and electronic sales and repair, such as vacuum cleaners, lamps, television and video and audio equipment and computers and other nonmotorized home and garden equipment.

(6) Standard and carry-out restaurants that do not dispense alcoholic beverages and are not located within a shopping center. **[Amended 5-20-2013 by Ord. No. 2013-08]**

(7) Retail sales of drug and health care products, music, books and personal attire, musical instruments, sporting goods, pet shops, hardware, paint and home decorating supplies, home accessories, floor coverings, furniture, automotive parts and accessories.

(8) Laundromats and dry-cleaning outlets.

(9) Personal service establishments, such as barber, hair salons, nail salons, tanning salons, watch and jewelry repair, small electronic appliance and

computer repair, tailors and alteration shops, shoe repair, locksmith, exterminators, janitorial services, carpet and upholstery cleaning services, copy shops without off-set printing, dog grooming facilities with no outdoor exercise runs or pens.

(10) Video rental and sales.

(11) Photographic film processing and camera shops.

(12) Fitness centers/training studios including use of equipment or space for the purpose of physical exercise, including activities such as aerobics, court sports, weight lifting/strength training and dance and martial arts training with a gross floor area of 2,500 square feet or less.

(13) Nonmotorized vehicle, such as bicycles and skateboards, sales and repair.

(14) Rental leasing storefronts for consumer electronics, appliances, attire, home health care and small-scale personal recreational equipment.

(15) Surface parking lots, subject to requirements set forth in Article IX.

(16) Tobacconists, provided they comply with the Dr. Ron Davis Smoke-Free Air Law, Michigan Public Act 188 of 2009. **[Added 10-1-2012 by Ord. No. 2012-15]**

(17) Shopping centers without standard or fast-food restaurants. **[Added 5-20-2013 by Ord. No. 2013-08]**

C. Special land uses.

(1) Veterinary offices and hospitals, including accessory boarding, provided no outdoor exercise runs or pens are permitted.

(2) Public utility transformer stations and substations, and telephone exchanges.

(3) Outdoor cafe service operated by a restaurant or other food establishment which sells food or drinks for immediate consumption, subject to the requirements set forth in § 770-70, Outdoor cafe service.

(4) Establishments serving alcohol, such as, but not limited to, restaurants, bars, and lounges, subject to the requirements set forth in § 770-52, Sale of alcoholic beverages. **[Amended 4-21-2014 by Ord. No. 2014-04]**

(5) Residential dwelling units above a first floor of a permitted use when the ground floor street frontage is a permitted use other than parking or a special land use.

(6) Bed-and-breakfast operations, subject to the requirements set forth in § 770-78, Bed-and-breakfast facilities.

(7) Day-care centers subject to the requirements set forth in § 770-59, Day-care facilities.

(8) Funeral homes.

(9) Drive-through facilities for any permitted or special land use.

(10) Interior decorators, upholsterers, design and building contractors with workshops and repair facilities and similar professions conducted entirely within an enclosed building.

(11) Temporary or transient outdoor sales of seasonal goods, subject to the requirements set forth in § 770-69, Seasonal and transient display of products or materials intended for sale.

(12) Caterers.

(13) Fitness centers/training studios including use of equipment or space for the purpose of physical exercise, including activities such as aerobics, court sports, weight lifting/strength training, swimming and dance and martial arts training with a gross floor area greater than 2,500 square feet.

(14) Cigar bars, provided they comply with the Dr. Ron Davis Smoke-Free Air Law, Michigan Public Act 188 of 2009. **[Added 10-1-2012 by Ord. No. 2012-15]**

(15) Standard or fast-food restaurants located within a shopping center. **[Added 5-20-2013 by Ord. No. 2013-08]**

(16) Food and beverage sales, including convenience grocery stores with sales of packaged alcoholic beverages, subject to the requirements set forth in § 770-52, Sale of alcoholic beverages. **[Added 4-21-2014 by Ord. No. 2014-04]**

(17) Sales of packaged alcoholic beverages by any permitted or special land use, subject to the requirements set forth in § 770-52, Sale of alcoholic beverages. **[Added 4-21-2014 by Ord. No. 2014-04]**

D. Area and bulk regulations. The following minimum requirements shall apply to all permitted and special land uses unless a more restrictive requirement is provided for in this chapter:

(1) Height. No principal building shall exceed a height of 36 feet. **[Amended 12-6-2021 by Ord. No. 2021-11]**

(2) Setbacks.

(a) No setback shall be required except where the property is adjacent to a residential zone. If a setback is to be provided, it shall not be less than five feet. Where the property is adjacent to a residential zone, the setback shall be as follows:

[1] Front yard setback. Where the property is on the same side of a street, in the same block, as a property zoned residential, with or without an intervening alley, the required front yard setback shall be equal to that setback required in the residential zone.

[2] Rear and side yard setback. Where there is no intervening alley, the side and rear yard setbacks shall be 25 feet. Where a public alley is

adjacent to a side or rear lot line, the setback shall be 25 feet measured from the center line of said public alley.

(b) Alternately, the Plan Commission during the course of its site plan review process may establish a greater or lesser setback as it determines necessary and advisable. In determining such yard setbacks, the Plan Commission shall consider the size and configuration of the proposed buildings, their relationship to the existing and proposed buildings and uses of land, and their relationship to existing and proposed thoroughfares; in order to maximize vehicular and pedestrian safety and reduce any negative impact on adjacent land uses.

§ 770-40. Neighborhood Business II.

A. Purpose. This zone is designed to primarily benefit persons residing in the adjacent neighborhoods by providing office, limited retail and service-oriented businesses. The land uses within this district should have limited impact on the adjacent neighborhood regarding the number of vehicle trips per day, parking demands, and similar land use related issues. Specifically excluded from this zone are uses which are regulated by § 770-82 of this chapter as large scale retail establishments or uses that may generate significant nuisance conditions.

B. Permitted uses.

(1) Business, administrative, and professional offices. **[Amended 10-1-2012 by Ord. No. 2012-16]**

(2) Public buildings, parks and playgrounds.

(3) Photographic, art and music lesson studios.

(4) Small appliance and electronic sales and repair, such as vacuum cleaners, lamps, television and video and audio equipment and computers and other nonmotorized home and garden equipment.

(5) Retail sales of drug and health care products, music, books and personal attire, musical instruments, sporting goods, pet shops, hardware, paint and home decorating supplies, home accessories, floor coverings, furniture, automotive parts and accessories and 2,500 square feet or less of gross floor area.

(6) Laundromats and dry-cleaning outlets.

(7) Personal service establishments, such as barber, hair salons, nail salons, tanning salons, watch and jewelry repair, small electronic appliance and computer repair, tailors and alteration shops, shoe repair, locksmith copy shops without off-set printing

(8) Video rental and sales.

(9) Photographic film processing and camera shops.

(10) Nonmotorized vehicle, such as bicycles and skateboards, sales and repair.

C. Special land uses.

(1) Food and beverage sales, including convenience grocery stores, with or without sales of packaged alcoholic beverages, subject to the requirements set forth in § 770-52, Sale of alcoholic beverages. **[Amended 4-21-2014 by Ord. No. 2014-04]**

(2) Standard and carry-out restaurants, with or without service of alcoholic beverages, subject to the requirements set forth in § 770-52, Sale of alcoholic beverages. **[Amended 4-21-2014 by Ord. No. 2014-04]**

(3) Outdoor cafe service operated by a restaurant or other food establishment which sells food or drinks for immediate consumption, subject to the requirements set forth in § 770-70, Outdoor cafe service.

(4) Residential dwelling units above a first floor of a permitted use when the ground floor street frontage is a permitted use other than parking or a special land use.

(5) Bed-and-breakfast operations, subject to the requirements set forth in § 770-78, Bed-and-breakfast facilities.

(6) Retail sales of drug and health care products, music, books and personal attire, musical instruments, sporting goods, pet shops, hardware, paint and home decorating supplies, home accessories, floor coverings, furniture, automotive parts and accessories and 2,500 square feet or greater of gross floor area.

(7) Interior decorators, upholsterers, design and building contractors with workshops and repair facilities and similar professions conducted entirely within an enclosed building.

(8) Temporary or transient outdoor sales of seasonal goods, subject to the requirements set forth in § 770-69, Seasonal and transient display of products or materials intended for sale.

(9) Fitness centers/training studios including use of equipment or space for the purpose of physical exercise, including activities such as aerobics, court sports, weight lifting/strength training, swimming and dance and martial arts training with a gross floor area no greater than 2,500 square feet.

(10) Sales of packaged alcoholic beverages by any permitted or special land use, subject to the requirements set forth in § 770-52, Sale of alcoholic beverages. **[Added 4-21-2014 by Ord. No. 2014-04]**

D. Area and bulk regulations. The following minimum requirements shall apply to all permitted and special land uses unless a more restrictive requirement is provided for in this chapter:

(1) Height. No principal building shall exceed a height of 36 feet. **[Amended 12-6-2021 by Ord. No. 2021-11]**

(2) Setbacks.

(a) No setback shall be required except where the property is adjacent to a residential zone. If a setback is to be provided, it shall not be less than

five feet. Where the property is adjacent to a residential zone, the setback shall be as follows:

[1] Front yard setback. Where the property is on the same side of a street, in the same block, as a property zoned residential, with or without an intervening alley, the required front yard setback shall be equal to that setback required in the residential zone.

[2] Rear and side yard setback. Where there is no intervening alley, the side and rear yard setbacks shall be 25 feet. Where a public alley is adjacent to a side or rear lot line, the setback shall be 25 feet measured from the center line of said public alley.

(b) Alternately, the Plan Commission during the course of its site plan review process may establish a greater or lesser setback as it determines necessary and advisable. In determining such yard setbacks, the Plan Commission shall consider the size and configuration of the proposed buildings, their relationship to the existing and proposed buildings and uses of land, and their relationship to existing and proposed thoroughfares; in order to maximize vehicular and pedestrian safety and reduce any negative impact on adjacent land uses.

§ 770-41. General Business.

A. Purpose. This zone is intended to accommodate office, business service, and retail uses at a larger scale than the Neighborhood Business Zone, including the City and portions of the surrounding communities. It is the purpose of these regulations to permit development of the enumerated functions in a manner which is compatible with uses in the surrounding area. To these ends, certain uses are excluded which would function more effectively in other zones.

B. Permitted uses.

(1) All permitted and special land uses, unless specifically listed herein as a special land use, allowed in the Neighborhood Business Zone.

(2) Multimodal transportation facilities.

(3) Retail garden centers, when all sales and activities are conducted entirely within an enclosed building.

(4) Retail sale and service of motorized home and garden equipment, such as lawnmower and lawn maintenance equipment conducted entirely within an enclosed building.

(5) Printing shops and newspaper plants.

(6) Radio broadcasting and television stations, studios and offices.

(7) Recreation centers, such as amusement arcades, theaters, bowling alleys, roller and ice skating rinks, conducted within an enclosed building.

(8) Research labs, provided no heavy mechanical equipment is used.

C. Special land uses.

(1) Adult business and entertainment subject to the requirements set forth in § 770-76, Adult-oriented commercial enterprises and specified services.

(2) Adult day-care centers which are stand-alone facilities not associated with a permitted principal use subject to the requirements set forth in § 770-59, Day-care facilities.

(3) Vehicle dealers and leasing agencies, subject to requirements set forth in § 770-63, Vehicle dealers.

(4) Automobile filling stations, subject to requirements set forth in § 770-64, Automobile filling stations.

(5) Automobile service and installation stations, subject to requirements set forth in § 770-65, Automobile service stations.

(6) Automobile repair garage, subject to requirements set forth in § 770-66, Automobile repair garage.

(7) Automobile washes, subject to requirements set forth in § 770-67, Automobile washes.

(8) Gunshops subject to the requirements set forth in § 770-77, Gunshops.

(9) Outdoor recreation such as driving ranges and miniature golf courses, subject to the requirements set forth in § 770-81, Miniature golf courses.

(10) Residential dwelling units above a first floor of a permitted use when the ground floor street frontage is a permitted use other than parking or a special land use.

(11) Drive-through or drive-in facilities for any permitted or special land use.

(12) Wholesale sales, storage and service/repair of home center building materials, power equipment, contractor's equipment, furniture, food, fabrics, hardware, garden nursery and similar goods contained within an enclosed building or displayed, stored or serviced outside.

(13) Large scale retail establishments subject to the requirements set forth in § 770-82, Large scale retail facilities.

(14) Establishments serving alcohol, such as, but not limited to, restaurants, bars, lounges, theaters, clubs or lodges and recreation centers, subject to the requirements set forth in § 770-52, Sale of Alcoholic Beverages. **[Amended 4-21-2014 by Ord. No. 2014-04]**

(15) Public utility transformer stations and substations, telephone exchanges, and public utility offices.

(16) Bed-and-breakfast operations, subject to the requirements set forth in § 770-78, Bed-and-breakfast facilities.

(17) Temporary or transient outdoor sales of seasonal goods, subject to the

requirements set forth in § 770-69, Seasonal and transient display of products or materials intended for sale.

(18) Pet day-care facilities with no overnight boarding and no outdoor exercise runs or pens.

(19) Temporary employment agencies that require day laborers to meet on-site.

(20) Hotels, provided they are no less than two stories. **[Added 10-1-2012 by Ord. No. 2012-13]**

(21) Smoking lounges, when not conducted as an accessory use to a tobacconist, provided they comply with the Dr. Ron Davis Smoke-Free Air Law, Michigan Public Act 188 of 2009. **[Added 10-1-2012 by Ord. No. 2012-15]**

(22) Standard or fast-food restaurants located within a shopping center. **[Added 5-20-2013 by Ord. No. 2013-08]**

(23) Food and beverage sales, including convenience grocery stores with sales of packaged alcoholic beverages, subject to the requirements set forth in § 770-52, Sale of alcoholic beverages. **[Added 4-21-2014 by Ord. No. 2014-04]**

(24) Sales of packaged alcoholic beverages by any permitted or special land use, subject to the requirements set forth in § 770-52, Sale of alcoholic beverages. **[Added 4-21-2014 by Ord. No. 2014-04]**

(25) Outdoor display and sales by a large-scale retail establishment or retail garden center, subject to the requirements set forth in § 770-84, Outdoor display and sales. **[Added 4-21-2014 by Ord. No. 2014-04]**

(26) Outdoor cafe service operated by a restaurant or other food establishment which sells food or drinks for immediate consumption, subject to the requirements set forth in § 770-70, Outdoor cafe service. **[Added 4-21-2014 by Ord. No. 2014-04]**

(27) Marihuana retailers or microbusiness, subject to the requirements set forth in § 770-52.1, Marihuana establishments. All other marihuana establishments shall be prohibited. **[Added 7-27-2020 by Ord. No. 2020-07]**

D. Area and bulk regulations. The following minimum requirements shall apply to all permitted and special land uses unless a more restrictive requirement is provided for in this chapter.

(1) Height. No principal building shall exceed a height of 36 feet. **[Amended 12-6-2021 by Ord. No. 2021-11]**

(2) Setbacks.

(a) No setback shall be required except where the property is adjacent to a residential zone. If a setback is to be provided, it shall not be less than five feet. Where the property is adjacent to a residential zone the setback shall be as follows:

[1] Front yard setback. Where the property is on the same side of a street, in the same block, as a property zoned residential, with or without an intervening alley, the required front yard setback shall be equal to that setback required in the residential zone.

[2] Rear and side yard setback. Where there is no intervening alley, the side and rear yard setbacks shall be 25 feet. Where a public alley is adjacent to a side or rear lot line, the setback shall be 25 feet measured from the centerline of said public alley.

(b) Alternately, the Plan Commission during the course of its site plan review process may establish a greater or lesser setback as it determines necessary and advisable. In determining such yard setbacks, the Plan Commission shall consider the size and configuration of the proposed buildings, their relationship to the existing and proposed buildings and uses of land, and their relationship to existing and proposed thoroughfares; in order to maximize vehicular and pedestrian safety and reduce any negative impact on adjacent land uses.

§ 770-42. Central Business District.

A. Purpose. This zone is designed to provide for a variety of office, business service, entertainment and retail uses which occupy the prime retail frontage, by serving the comparison, convenience, and service needs of the market area which includes the City and surrounding communities. The regulations of the Central Business District are designed to promote convenient pedestrian shopping and the stability of retail development by encouraging a continuous retail frontage and by prohibiting automotive-related services and nonretail uses which tend to break up such continuity.

B. Permitted uses.

(1) All permitted uses allowed in the Neighborhood Business Zone.

(2) Private service clubs, social organizations and lodge halls, subject to requirements set forth in § 770-52, Sale of alcoholic beverages.

(3) Hotels, provided they are no less than four stories.

(4) Residential dwelling units above a first floor of a permitted use when the ground floor street frontage is a permitted use other than parking.

(5) Retail sale of used clothing and furniture.

(6) Standard and carry-out restaurants, provided that they are located with direct access to a public alley and able to provide adequate provisions for loading and unloading and refuse collection.

C. Special land uses.

(1) Residential dwelling units on a ground floor or on an aboveground floor of parking or a special land use.

(2) Outdoor cafe service or dining, operated by a restaurant or other food establishment which sells food or drinks for immediate consumption, subject to the requirements set forth in § 770-52, Sale of alcoholic beverages, if applicable, and § 770-70, Outdoor cafe service.

(3) Entertainment facilities, including performing arts and cinematic theaters, and billiard halls, excluding mechanical amusement arcades with all activities conducted within an enclosed building.

(4) Licensed dance hall when associated with a restaurant.

(5) Funeral homes.

(6) Multimodal transportation facilities.

(7) Senior housing, adult foster care congregate facility and convalescent centers, subject to the requirements of § 770-72, Senior housing, adult foster care congregate facility and convalescent centers.

(8) Bed-and-breakfast operations, subject to the requirements set forth in § 770-78, Bed-and-breakfast facilities.

(9) Establishments serving alcohol, such as, but not limited to, restaurants, bars, lounges, theaters, clubs or lodges and recreation centers, provided that they are located with direct access to a public alley and able to provide adequate provisions for loading and unloading and refuse collection and subject to the requirements set forth in § 770-52, Sale of alcoholic beverages. **[Amended 4-21-2014 by Ord. No. 2014-04]**

(10) Convention and exhibition halls and conference and banquet centers.

(11) Food and beverage sales, including convenience grocery stores with sales of packaged alcoholic beverages, subject to the requirements set forth in § 770-52, Sale of alcoholic beverages. **[Amended 4-21-2014 by Ord. No. 2014-04]**

(12) Fitness centers/training studios including use of equipment or space for the purpose of physical exercise, including activities such as aerobics, court sports, weight lifting/strength training, swimming and dance and martial arts training with a gross floor area greater than 2,500 square feet.

(13) Private parking structure, when not associated with a permitted use.

(14) Cigar bars, provided they comply with the Dr. Ron Davis Smoke-Free Air Law, Michigan Public Act 188 of 2009. **[Added 10-1-2012 by Ord. No. 2012-15]**

(15) Sales of packaged alcoholic beverages by any permitted or special land use, subject to the requirements set forth in § 770-52, Sale of alcoholic beverages. **[Added 4-21-2014 by Ord. No. 2014-04]**

D. Area and bulk regulations. The following minimum requirements shall apply to all permitted and special land uses unless a more restrictive requirement is provided for in this chapter:

(1) Height. Subject to a determination of the Plan Commission, height shall be subject to the following:

(a) All buildings, or portions of buildings, on lots immediately adjacent to a residentially zoned parcel and not separated by any street, alley, or other right-of-way, or separated by only an alley, shall be maintained at no greater than 30 feet in height; **[Added 5-20-2013 by Ord. No. 2013-08[33]]**

(b) All buildings, or portions of buildings, less than 100 feet from a residentially zoned parcel shall be maintained at no greater than 50 feet in height;

(c) All buildings, or portions of buildings, between 100 and 150 feet from a residential zoned parcel shall be maintained at no greater than 75 feet in height;

(d) All buildings, or portions of buildings, between 150 feet and 300 feet from a residential zoned parcel shall be maintained at no greater than 100 feet in height;

(e) All buildings, or portions of buildings, greater than 300 feet from a residential zoned parcel shall be maintained at no greater than 125 feet in height;

(f) Or, a total height as determined to be advisable by the Plan Commission in the course of its site plan review process.

(2) Setbacks. When a property is abutting or adjacent to a One-Family Residential Zone with or without an intervening alley or street, the setback shall be 25 feet or a setback as may be determined to be necessary and advisable by the Planning Commission in the course of its site plan review process. Portions of a structure or building over 40 feet in height shall be set back a minimum of 15 feet from any right-of-way, except for a public alley, or a distance as may be determined to be necessary and advisable by the Planning Commission in the course of its site plan review process. **[Amended 4-21-2014 by Ord. No. 2014-04]**

§ 770-43. Regional Business.

A. Purpose.

(1) The Regional Business Zone is intended to provide for the combining of office, high-density multiple-family, and hotels in a planned development, and to provide for the combining of ancillary retail and service uses with the office, hotel and/or residential development. The zone is established in order that the public health, safety and general welfare will be furthered through redevelopment efforts intended to correct and prevent physical deterioration and obsolescence, and promote economic growth in the City. The zone is also established to further the public health, safety and general welfare of the

33. **Editor's Note: This ordinance also provided for the renumbering of former Subsection D(1)(a) through (e) as Subsection D(1)(b) through (f), respectively.**

Detroit region through the provision of regionally oriented facilities in an urbanized area where necessary infrastructure improvement already exists, thus relieving the general public of the costs of providing such improvements in rural or semi-rural areas.

(2) It is further intended that this zone complement and enhance the City's Central Business District, rather than competing with it. Therefore, secondary retail business or service establishments are permitted only as set forth below and subject to the requirements set forth in subsequent sections of this chapter.

B. Permitted uses.

(1) Business, administrative, and professional offices. **[Amended 10-1-2012 by Ord. No. 2012-16]**

(2) Hotels with no less than two stories and 100 units/suites, each containing no less than 300 square feet. All hotels shall also contain conference/banquet room facilities to accommodate at least 500 persons, or a lesser number of people determined necessary and advisable by the Planning Commission. **[Amended 10-1-2012 by Ord. No. 2012-13]**

(3) Multiple-family dwellings at a density of no less than 10 units per acre.

(4) Enclosed theaters, assembly halls, concert halls, auditoriums, convention halls, exhibition halls and, fitness centers/training studios including use of equipment or space for the purpose of physical exercise, including activities such as aerobics, court sports, weight lifting/strength training, swimming, and similar activities. Such uses shall contain a minimum of 20,000 square feet or be associated and ancillary to a permitted use.

C. Special land uses.

(1) Outdoor cafe service, operated by a restaurant or other food establishment which sells food or drinks for immediate consumption subject to the requirements set forth in § 770-52, Sale of alcoholic beverages, if applicable, and § 770-70, Outdoor cafe service.

(2) The following uses shall be considered secondary uses and shall not exceed 10% of the total combined square footage of all primary and secondary uses:

(a) Standard restaurants, for on-site consumption, provided that establishments serving alcohol are subject to the requirements set forth in § 770-52, Sale of alcoholic beverages, if applicable.

(b) Retail sale of prepackaged food and beverages, including sales of packaged alcoholic beverages, drug and health care products, jewelry, tobacco, clothing, clothing accessories, shoes, eyeglasses, books, newsstands, prerecorded music, luggage, hobby, toy, games, gifts, small electronics, office and household supplies. **[Amended 4-21-2014 by Ord. No. 2014-04]**

(c) Florists shops.

(d) Retail sales of gifts, books and jewelry.

(e) Personal service establishments: small scale postal, courier and messenger services drop-off centers, photographic studios, barber and hair salons, nail shops, and tanning salons, watch and jewelry repair, tailors and alteration shops and shoe repair, laundry or dry cleaning outlets, print shops or copiers without off-set printing, and similar establishments.

(f) Day-care centers or nursery schools which are ancillary to a principal use.

(3) Hospitals and outpatient medical clinics, subject to the requirements set forth in § 770-79, Hospitals and outpatient medical clinics. **[Amended 10-1-2012 by Ord. No. 2012-16]**

(4) Heliopad subject to the requirements set forth in § 770-80, Heliopads.

(5) Automobile dealerships subject to the requirements set forth in § 770-63, Vehicle dealers.

(6) Motels with no less than two stories and 100 units/suites, each containing no less than 300 square feet. All motels shall also contain conference/banquet room facilities to accommodate at least 500 persons, or a lesser number of people determined necessary and advisable by the Planning Commission. **[Amended 10-1-2012 by Ord. No. 2012-13]**

D. Area and bulk regulations. The following minimum requirements shall apply to all permitted and special land uses unless a more restrictive requirement is provided for in this chapter:

(1) Lot size. No lot shall be less than 15 acres in area.

(2) Height. No principal building shall be taller than 50 feet unless the Plan Commission determines that the following conditions have been met:

(a) The number of buildings so excepted shall not be detrimental to the site or surrounding properties and shall be consistent with an approved Master Plan for the area.

(b) The excepted buildings are consistent and compatible with the general character of the building development in the City.

(c) The excepted buildings serve a defined and generally recognized architectural purpose, i.e., creation of a focal point for the project, establishment of a view or vista, etc., which is central to the overall design concept of a regional business zone development.

(d) The excepted buildings shall not be detrimental to adjacent properties outside of the Regional Business District Zone.

(3) Setbacks.

(a) No setback shall be required except where the property is adjacent to a residential zone. If a setback is to be provided, it shall not be less than

five feet. Where the property is adjacent to a residential zone, the setback shall be as follows:

[1] Front yard setback. Where the property is on the same side of a street, in the same block, as a property zoned residential, with or without an intervening alley, the required front yard setback shall be equal to that setback required in the residential zone.

[2] Rear and side yard setback. Where there is no intervening alley, the side and rear yard setbacks shall be 25 feet. Where a public alley is adjacent to a side or rear lot line, the setback shall be 25 feet measured from the center line of said public alley.

(b) Alternately, the Plan Commission in the course of its site plan review process may establish a greater or lesser setback as it determines necessary and advisable. In determining such yard setbacks, the Plan Commission shall consider the size and configuration of the proposed buildings, their relationship to the existing and proposed buildings and uses of land, and their relationship to existing and proposed thoroughfares; in order to maximize vehicular and pedestrian safety and reduce any negative impact on adjacent land uses.

§ 770-44. General Industrial.

A. Purpose. This zone is designed to provide the location and space for all manner of industrial, wholesale, and industrial storage uses. It is the purpose of these regulations to permit the development of certain functions, to protect the surrounding areas from incompatible industrial activities, to restrict the intrusion of nonrelated uses such as residential, retail business and commercial, and to encourage the discontinuance of uses presently existing in the zone which are nonconforming by virtue of the type of use. To these ends, certain uses are excluded which would function more effectively in another zone and which would interfere with the operation of the uses permitted in this zone.

B. Permitted uses.

(1) All permitted and special land uses unless specifically listed herein as a special land use allowed in the Office Service Zone.

(2) Bottling of soft drinks and other beverages.

(3) Lithographic and blueprinting.

(4) Warehouse, distribution centers or cold storage plant completely contained within an enclosed building.

(5) Commercial laundry and dry-cleaning plants.

(6) Manufacturing, research, packaging, treatment fabrication, assembly, testing and repair of the following:

(a) Previously prepared materials, including bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, cardboard,

plastic, precious or semiprecious metals or stones, shell, textiles, tobacco, wood (excluding planing mill), wax, wire, yarns and paint not requiring a boiling process.

(b) Data processing equipment and systems, office, computing, and accounting machines.

(c) Musical instruments, glass, novelties, pottery, figurines or similar ceramic products, small electrical parts (excluding signs), rubber or metal stamps, hardware, tools cutlery, electronics, audio and video equipment, small household appliances, and similar items.

(d) Baking goods, beverages, candy, cosmetics, dairy products, perfumes, toiletries, tobacco manufacturing, condiments and other packaged food products (except butchering, slaughtering, fish, sauerkraut, cornstarch, vinegar and yeast).

(e) Biological products, drugs, medicinal chemicals, and pharmaceutical preparation.

(7) Research and design centers.

(8) Metal fabrication. **[Amended 4-21-2014 by Ord. No. 2014-04]**

(9) Pet kennels and day-care facilities with overnight facilities and conducted entirely within an enclosed building.

(10) Printing (off-set included), publishing, book binding and engraving shops.

(11) Self-service storage facilities subject to requirements set forth in § 770-62, Self-storage facilities.

(12) Above ground tanks for inflammable fluids, provided they comply with the Inflammable Liquids Regulations of the City of Royal Oak.

(13) Above-ground tanks for flammable, cryogenic, class I, and class II liquids and liquefied petroleum gas, provided they comply with Chapter 340, Fire Prevention. **[Amended 4-21-2014 by Ord. No. 2014-04]**

(14) Broadcast or recording studios, provided that all satellite dishes and antennas shall be subject to the required standards set forth in § 770-86, Utilities and communication devices, and § 770-88, Wireless communication facilities. **[Added 1-24-2011 by Ord. No. 2011-01]**

(15) Motion-picture studios contained within an enclosed building, provided that there is no on-site housing of personnel and talent. **[Added 1-24-2011 by Ord. No. 2011-01]**

(16) Billboards, subject to the requirements set forth in § 770-57, Billboards. **[Added 3-16-2015 by Ord. No. 2015-07]**

C. Special land uses.

(1) Storage yards for lumber, coal, brick, stone and contractor's supplies subject to

the requirements set forth in § 770-68, General, building and landscape contractor's offices and yards.

(2) Manufacturing, research, assembly, testing and repair of the following:

(a) Plastic products and miscellaneous molded or extruded products.

(b) Electric power manufacture.

(c) Manufacture and repair of signs, heating and ventilating equipment, and appliances.

(3) Machine shop or blacksmith shop, wrought iron shop, tool and die shop, stone/marble/granite grinding, dressing or cutting operations, finished carpentry, including painting and varnishing, excluding punch presses over 20 tons' rated capacity, drop hammer and screw machines.

(4) Material recovery facility for the receipt, temporary storage, handling, sorting and distribution of solid recyclable materials subject to the requirements set forth in § 770-75, Materials recovery facility

(5) Acetylene gas, alcohol, paint, oil (including linseed), shellac, turpentine, lacquer, varnish, shoe polish, and oxygen manufacture.

(6) Solvent recovery centers.

(7) Salvage yards subject to the requirements set forth in § 770-83, Salvage yards.

(8) Battery manufacture, tire recapping or retreading.

(9) Rock, sand, gravel distribution, excavation or crushing.

(10) Wholesale storage of petroleum, gasoline or oil.

(11) Salt works or sodium compounds manufacture.

(12) Motor freight depot or trucking terminal.

(13) Standard and carry-out restaurants, provided that all establishments serving alcohol shall be subject to the requirements set forth in § 770-52, Sale of alcoholic beverages.

(14) Indoor commercial recreation such as fencing, court sports, large scale gymnastics facilities, gun and archery ranges, subject to § 770-53, Indoor commercial recreation facilities.

(15) Large-scale retail establishments, subject to the requirements set forth in § 770-82, Large-scale retail facilities, including any outdoor display and sales subject to the requirements set forth in § 770-84, Outdoor display and sales. **[Amended 4-21-2014 by Ord. No. 2014-04]**

(16) (Reserved)[34]

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34. Editor's Note: Former Subsection C(16), which listed billboards as a special land use, was repealed 3-16-2015 by Ord. No. 2015-07.

(17) Automobile repair garage subject to the requirements set forth in § 770-66, Automobile repair garage.

(18) Crematorium.

(19) Heliopad when accessory to a hospital and subject to the requirements set forth in § 770-80, Heliopads.

(20) Churches and other institutions for religious worship, subject to the requirements set forth in § 770-74, Churches and other institutions for religious worship.

(21) Hospitals and outpatient medical clinics, subject to the requirements set forth in § 770-79, Hospitals and outpatient medical clinics. **[Amended 10-1-2012 by Ord. No. 2012-16]**

(22) Drive-through facilities for banks, credit unions, savings and loan associations.

(23) Residential, commercial, industrial and large scale recreational/amusement machinery and equipment rental and leasing agencies, with or without outdoor storage.

(24) Truck, utility trailer and recreational vehicle rental or leasing.

(25) Transportation service providers (taxi, limousine, private or charter bus).

(26) Public utility substations and transmission facilities.

(27) Pet kennels and day-care facilities with overnight facilities and/or outdoor exercise runs or pens.

(28) Auto storage lots and vehicle towing centers.

(29) Automobile dealerships when associated with a repair/service facility subject to the requirements set forth in § 770-66, Automobile repair garage.

(30) Motion-picture studios with outdoor sets, production facilities, or storage of materials, provided that there is no on-site housing of personnel and talent. **[Added 1-24-2011 by Ord. No. 2011-01]**

(31) Marihuana establishments (except for designated consumption establishments, excess marihuana growers, marihuana event organizers, and temporary marihuana events, all of which are specifically prohibited), subject to the requirements set forth in § 770-52.1, Marihuana establishments. **[Added 7-27-2020 by Ord. No. 2020-07]**

D. Area and bulk regulations. The following minimum requirements shall apply to all permitted and special land uses unless a more restrictive requirement is provided for in this chapter:

(1) Height. No building shall be taller than four stories or 50 feet.

(2) Setbacks:

(a) No setback shall be required except where the property is adjacent to a

residential zone. If a setback is to be provided, it shall not be less than five feet. Where the property is adjacent to a residential zone, the setback shall be as follows:

[1] Front yard setback. Where the property is on the same side of a street, in the same block, as a property zoned residential, with or without an intervening alley, the required front yard setback shall be equal to that setback required in the residential zone.

[2] Rear and side yard setback. Where there is no intervening alley, the side and rear yard setbacks shall be 25 feet. Where a public alley is adjacent to a side or rear lot line, the setback shall be 25 feet measured from the center line of said public alley.

(b) Alternately, the Plan Commission in the course of its site plan review process may establish a greater or lesser setback as it determines necessary and advisable. In determining such yard setbacks, the Plan Commission shall consider the size and configuration of the proposed buildings, their relationship to the existing and proposed buildings and uses of land, and their relationship to existing and proposed thoroughfares; in order to maximize vehicular and pedestrian safety and reduce any negative impact on adjacent land uses.

§ 770-45. Mixed Use 1.

A. Purpose. This zone is intended to provide for a mixture of residential, office and low-intensity public/institutional uses in an urban design pattern. While permitting redevelopment and reuse of certain areas of the City, uses within the Mixed Use 1 District are intended to be compatible with the established residential neighborhoods. In order to be eligible for approval under this section, a proposed development must meet the standard set forth in § 770-85, Mixed use development regulations, and all of the following criteria:

(1) The property shall be located within an area planned for mixed use residential/ office/public/institutional in the Master Plan.

(2) In general, the proposed development shall be consistent with the Master Plan. In particular, the proposed development shall be compatible with adjacent uses and improvements, shall minimize adverse impact to traffic circulation, and shall be of overall benefit to the community. A single use may be proposed; however, said proposed use shall be consistent and compatible with the mixed use intent of this section.

(3) The proposed development shall not be in conflict with a development agreement entered into with the City relative to the property.

B. Permitted uses.

(1) All permitted and special land uses in and subject to all requirements of the One-Family Residential Zone.

(2) Two-family dwellings, provided each dwelling has an exclusive principal

entry from the exterior at grade and is attached to the other dwelling solely by common walls, subject to all requirements of the Two-Family Residential Zone.

(3) Senior housing subject to the requirements set forth in § 770-72, Senior housing, adult foster care congregate facility and convalescent centers.

(4) Single-family attached dwellings.

(5) All permitted uses in the Office Service Zone.

C. Special land uses.

(1) Multiple-family dwellings subject to the requirements set forth for multiple-family dwelling in § 770-37, Multiple-Family Residential. Regarding multiple-family and senior housing properties which are located at least 150 feet from all established residential zones, a density bonus of up to 100% by the Plan Commission if it finds that:

(a) The proposed density will not adversely impact adjacent properties or nearby residential neighborhoods.

(b) The added density is necessary to support redevelopment of an area, which currently contains uses that have an adverse impact upon adjacent properties.

(c) The proposed development is designed to facilitate the objectives and strategies of the Master Plan.

(2) Special land uses in the Office Service Zone.

(3) Recreational areas or social facilities, institutions or community recreational centers, and swimming pools, or tennis clubs as a component of a mixed use development.

D. Area and bulk regulations. The following minimum requirements shall apply to all permitted and special uses unless a more restrictive requirement is provided for in this chapter:

(1) Lot area and width. No lot shall have a minimum frontage of less than 50 feet, while the minimum area shall be established by the restrictions governing lot coverage, setbacks, screening, and parking requirements.

(2) Height. No building shall exceed a height of 36 feet. The Planning Commission may allow a greater height of no more than 56 feet, if it finds that: **[Amended 12-6-2021 by Ord. No. 2021-11]**

(a) The proposed height will not adversely impact adjacent properties or nearby residential neighborhoods.

(b) The added height is necessary to support redevelopment of an area which currently contains uses that have an adverse impact upon adjacent neighborhoods.

(c) The proposed development is designed to facilitate the objectives and strategies of the Master Plan.

(3) Setback (excluding single-family detached and two-family dwellings).

(a) No setback shall be required except where the property is adjacent to a residential zone. If a setback is to be provided, it shall not be less than five feet. Where the property is adjacent to a residential zone the setback shall be as follows:

[1] Front yard setback. Where the property is on the same side of a street, in the same block, as a property zoned residential, with or without an intervening alley, the required front yard setback shall be equal to that setback required in the residential zone.

[2] Rear and side yard setback. Where there is no intervening alley, the side and rear yard setbacks shall be 25 feet. Where a public alley is adjacent to a side or rear lot line, the setback shall be 25 feet measured from the center line of said public alley.

(b) Multiple-family yard setbacks shall be a minimum of 10 feet.

(c) Alternately, the Plan Commission in the course of its site plan review process may establish a greater or lesser setback as it determines necessary and advisable. In determining such yard setbacks, the Plan Commission shall consider the size and configuration of the proposed buildings, their relationship to the existing and proposed buildings and uses of land, and their relationship to existing and proposed thoroughfares; in order to maximize vehicular and pedestrian safety and reduce any negative impact on adjacent land uses.

(4) Distance between buildings. The minimum distance between two multiple-family buildings on a single lot or on contiguous property under the same ownership shall be 20 feet, or such distance determined necessary by the Plan Commission to enhance the character of development.

§ 770-46. Mixed Use 2.

A. Purpose. This zone is intended to provide for a mixture of residential, office, low-intensity public/institution uses, and neighborhood business uses in an urban design pattern. Such uses are intended to link the Central Business District with residential neighborhoods and the Woodward/I-696 Regional Business District. Upper floor residential uses are encouraged above lower level retail or office uses. In order to be eligible for approval under this section, a proposed development must meet the standard set forth in § 770-85, Mixed use development regulations, and all of the following criteria:

(1) The property shall be located within an area planned for mixed use residential/ office/commercial in the City of Royal Oak Master Plan.

(2) In general, the proposed development shall be consistent with the Master Plan. In particular, the proposed development shall be compatible with adjacent uses

and improvements, shall minimize adverse impact to traffic circulation, and shall be of overall benefit to the community. A single use may be proposed; however, said proposed use shall be consistent and compatible with the mixed use intent of this section.

(3) The proposed development shall not be in conflict with a development agreement entered into with the City relative to the property.

B. Permitted uses.

(1) All permitted uses set forth in the Mixed Use 1 Zone.

(2) All permitted land uses set forth in the Neighborhood Business Zone.

(3) Multiple-family dwellings subject to the requirements set forth for multiple-family dwelling in § 770-37, Multiple-Family Residential. Regarding multiple-family and senior housing properties which are located at least 150 feet from all established residential zones, a density bonus of up to 100% by the Plan Commission if it finds that:

(a) The proposed density will not adversely impact adjacent properties or nearby residential neighborhoods.

(b) The added density is necessary to support redevelopment of an area, which currently contains uses that have an adverse impact upon adjacent properties.

(c) The proposed development is designed to facilitate the objectives and strategies of the Master Plan.

C. Special land uses.

(1) All special land uses set forth in the Neighborhood Business Zone, except drive-through facilities which are specifically prohibited.

D. Area and bulk regulations. The following minimum requirements shall apply to all permitted and special uses unless a more restrictive requirement is provided for in this chapter:

(1) Lot area and width. No lot shall have a minimum frontage of less than 50 feet, while the minimum area shall be established by the restrictions governing lot coverage, setbacks, screening, and parking requirements.

(2) Height. No building shall exceed a height of 36 feet. The Planning Commission may allow a greater height of no more than 56 feet, if it finds that: **[Amended 12-6-2021 by Ord. No. 2021-11]**

(a) The proposed height will not adversely impact adjacent properties or nearby residential neighborhoods.

(b) The added height is necessary to support redevelopment of an area which currently contains uses that have an adverse impact upon adjacent neighborhoods.

(c) The proposed development is designed to facilitate the objectives and strategies of the Master Plan.

(3) Setback (excluding single-family detached and two-family dwellings).

(a) No setback shall be required except where the property is adjacent to a residential zone. If a setback is to be provided, it shall not be less than five feet. Where the property is adjacent to a residential zone the setback shall be as follows:

[1] Front yard setback. Where the property is on the same side of a street, in the same block, as a property zoned residential, with or without an intervening alley, the required front yard setback shall be equal to that setback required in the residential zone.

[2] Rear and side yard setback. Where there is no intervening alley the side and rear yard setbacks shall be 25 feet. Where a public alley is adjacent to a side or rear lot line, the setback shall be 25 feet measured from the center line of said public alley.

(b) Multiple-family yard setbacks shall be a minimum of 10 feet.

(c) Alternately, the Plan Commission in the course of its site plan review process may establish a greater or lesser setback as it determines necessary and advisable. In determining such yard setbacks, the Plan Commission shall consider the size and configuration of the proposed buildings, their relationship to the existing and proposed buildings and uses of land, and their relationship to existing and proposed thoroughfares; in order to maximize vehicular and pedestrian safety and reduce any negative impact on adjacent land uses.

(4) Distance between buildings. The minimum distance between two multiple-family buildings on a single lot or on contiguous property under the same ownership shall be 20 feet, or such distance determined necessary by the Plan Commission to enhance the character of development.

§ 770-47. Planned Unit Development.

A. Purpose. This zone is intended to provide for various types of land uses planned in a manner which shall encourage the use of land in accordance with its character and adaptability; encourage innovation in land use planning; provide enhanced housing, employment, shopping, traffic circulation and recreational opportunities for the people of the City; and bring about a greater compatibility of design and use. All planned unit development projects are subject to the criteria and standards set forth in Article VIII.

§ 770-48. Special redevelopment.

A. Purpose. This zone is intended to address developments proposed as a result of obsolete or materially nonconforming hotel or motel sites, school sites or other sites as identified by the Plan Commission. This zone is intended to provide for various types of land uses planned in a manner which shall encourage the use of land in

accordance with its character and adaptability; encourage innovation in land use planning; provide enhanced housing, employment, shopping, traffic circulation and recreational opportunities for the people of the City; and bring about a greater compatibility of design and use. All special redevelopment projects are subject to the criteria and standards set forth in § 770-87, Special redevelopment projects.

ARTICLE V
Special Provisions

§ 770-49. Intent.

In addition to the permitted compatible uses contained in this chapter, there are certain other uses which may be desirable to permit in certain zone districts. However, due to their potential impact on neighboring land uses there is a need to regulate them with respect to their use, design and location. Additional conditions which may be imposed by the Plan Commission shall 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 and the community as a whole. It is the intent of this article to provide the regulations necessary to address such uses and provide the Plan Commission with a set of standards upon which to make its decision.

§ 770-50. Cemeteries.

A. The Plan Commission as part of site plan review shall determine that the lot area and frontage is adequate to support the operation in compliance with all ordinance requirements. Consideration shall be given to the arrangement of an assembly area and off-street parking.

B. The proposed site shall have at least one property line abutting a major thoroughfare or collector street, and all access to and egress from the site shall be by such thoroughfare or street.

C. Points of ingress and egress for the site shall be laid out as to minimize possible conflicts between traffic on adjacent major thoroughfares and adjacent land uses.

D. A caretaker's residence may be provided within the main building of the mortuary establishment.

E. The minimum yard setback for all structures, burial plots, drives and parking areas shall be no less than 25 feet from any public road right-of-way or property line, except when located adjacent to residentially zoned property when a minimum setback of 50 feet is required.

F. Delivery areas and outdoor storage of equipment shall be screened in accordance with Article VI, Landscaping and Screening Design Standards.

G. Buildings shall not exceed 30 feet in height.

§ 770-51. Community centers.

A. The Plan Commission as part of site plan review shall determine that the lot area and frontage is adequate to support the operation in compliance with all ordinance requirements. Consideration shall be given to the arrangement of outdoor recreation areas, off-street parking and dropoff and pickup drives.

B. The proposed site shall have at least one property line abutting a major thoroughfare or collector street, and all access to and egress from the site shall be by such

thoroughfare or street.

C. Points of ingress and egress for the site shall be so designed to minimize possible conflicts between traffic on adjacent major thoroughfares and adjacent land uses.

D. Any and all recreation equipment, including play structures, batting cages, sporting fields, etc., shall be setback a minimum of 50 feet and effectively screened from any residential zoned property.

§ 770-52. Sale of alcoholic beverages.[35] [Amended 4-21-2014 by Ord. No. 2014-04]

A. All establishments selling packaged alcoholic beverages shall require special land use approval, subject to § 770-11, Special land uses; permit procedures, even if such establishments are a permitted use in a given zoning district.

B. All establishments dispensing, or seeking to dispense, alcoholic beverages for consumption on the premises, such as, but not limited to, restaurants, theaters, clubs or lodges and recreation centers, shall require special land use approval, subject to the requirements of § 770-11, Special land uses; permit procedures, even if such establishments are a permitted use in a given zoning district.

C. For new licenses or issuance of an existing license to be transferred to a new location that requires approval by the City Commission, the Planning Commission may conduct a public hearing as set forth in § 770-11B(3), Procedures. However, a decision shall not be made by the Planning Commission until the liquor license has received approval from the City Commission.

D. For an expansion to an existing liquor-licensed establishment, the Planning Commission may conduct a public hearing as set forth in § 770-11, Special land uses; permit procedures, and may take an action on the item pending approval by the City Commission.

§ 770-52.1. Marihuana establishments. [Added 7-27-2020 by Ord. No. 2020-07]

A. Purpose and intent. It is the general purpose and intent of the City to authorize marihuana establishments in a manner that will ensure compatibility with adjacent land uses, maintain the integrity of neighborhoods, and retain the character, property values and aesthetic quality of the community at large. Regulation of the locations of these uses is necessary to ensure that any negative secondary impacts that such businesses may have will not cause or contribute to the blighting or downgrading of the City's residential neighborhoods, community uses which support a residential environment, and commercial centers. The regulations in this section are for the purpose of locating these uses in areas where the adverse impacts of their operations may be minimized by the separation of such uses from one another and from schools. It is neither the intent nor effect of this section to deny the medical use of marihuana as defined by and in accordance with the Michigan Medical Marihuana Act (MCLA 333.26421 et seq.), as amended.

B. General standards. These provisions are intended to allow marihuana establishments within appropriately zoned properties as special land uses in

35. Editor's Note: See also Ch. 430, Liquor.

accordance with the standards and procedures set forth in § 770-11, Special land uses; permit procedures, provided the final determination of approval, approval with conditions, or denial shall be made by the City Commission following a recommendation from the Planning Commission. Furthermore, all marihuana establishments shall be subject to the following:

(1) An application for a marihuana establishment shall include a site plan prepared in accordance with § 770-12, Site plan review, along with documentation that:

(a) The petitioner has prequalification status for an applicable license with the State of Michigan; and

(b) A complete application for an applicable license with the City of Royal Oak has been accepted and awarded a municipal license slot in accordance with Chapter 435, Marihuana, as amended.

(2) No marihuana establishment shall be permitted unless the City Commission determines it will not be detrimental to the neighborhood based upon the following criteria:

(a) The establishment is designed and will be constructed to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the area.

(b) The establishment will not be hazardous or disturbing to existing uses or uses reasonably anticipated in the future.

(3) No marihuana establishment shall be permitted within a 1,000-foot radius of any existing public or private school with a curriculum equivalent to kindergarten through 12th grade. No marihuana retailer or marihuana microbusiness shall be permitted within a 1,000-foot radius of any existing retailer or microbusiness within the City of Royal Oak. Measurement of either radius shall be made from the outermost boundaries of the lot or parcel upon which the respective establishments are or would be situated.

(4) Designated consumption establishments and excess marihuana growers shall be specifically prohibited in any zoning district. Marihuana event organizers and temporary marihuana events shall be specifically prohibited in any zoning district, unless otherwise approved by the City Commission in accordance Chapter 435, Marihuana, as amended.

(5) Marihuana establishments shall be prohibited at any location that was conditionally zoned to an appropriate zoning district within which such uses are allowed, or a property that is zoned "planned unit development" (PUD), unless they are specifically permitted under the applicable conditional zoning agreement or development agreement.

(6) Drive-through lanes and windows and walk-up windows shall be prohibited.

(7) Each marihuana establishment shall be permitted one wall sign, as defined in Chapter 607, Signs, with a maximum area not to exceed 50 square feet or 5% of the building facade area, whichever is less. All other signs, including, but not limited to, freestanding signs, window signs, and electronic message

centers, shall be prohibited.

(8) Unshielded luminous tubes (i.e., neon or argon lights), fluorescent light fixtures, fiber optic lights, light emitting diodes, bare light bulbs, or similar lighting, shall be prohibited as permanent architectural details or enhancements on any building facade or the exterior of any structure, including, but not limited to, windows and window openings, doors and door openings, rooflines, cornices, and eaves.

(9) Architectural enhancements that are designed to accent, emphasize, feature, highlight, or draw attention to a building but are neither required nor recommended in accordance with § 770-30, General building design and project compatibility, shall be prohibited.

(10) Security devices, such as security curtains, steel bars, metal gates, and similar apparatus, shall be prohibited on the exterior of a building. Security devices may be permitted inside a building, provided that the device is:

(a) Retractable so it is not visible from the sidewalk or public right-of-way during regular business hours; and

(b) Equipped with an emergency release device approved by the Royal Oak Fire Department.

(11) Site plans for marihuana establishments shall incorporate low-impact development techniques or green infrastructure that significantly reduces stormwater runoff and/or the need for stormwater detention, such as, but not limited to, rain gardens, bioswales, green roofs, and permeable or pervious pavement surfaces. The Planning Commission and City Commission may determine alternate requirements as deemed necessary and advisable during the course of their special land use permit and site plan review process.

(12) Applicable licenses with the State of Michigan and the City of Royal Oak shall be maintained.

(13) The City Commission may impose such reasonable conditions and safeguards as it deems necessary to protect the public health, safety and general welfare from excessive noises, traffic, obnoxious and unhealthy odors and any detrimental effects from the general operation of any marihuana establishment and to minimize any adverse effect on the character of the surrounding area.

(14) Deviations from applicable setback, parking, and other requirements may be granted by the City Commission, provided there are features or elements demonstrated by an applicant and deemed adequate by the City Commission upon the recommendation of the Planning Commission that are designed into the site plan for purpose of achieving the objectives of this section.

§ 770-53. Indoor commercial recreation facilities.

An indoor commercial recreation facility located in a General Industrial Zone District shall be conducted entirely within the building and shall be limited to those activities that the Zoning Administrator determines will generate a low volume of vehicle trip

generation and minimal impact on the surrounding area regarding potential nuisance activities.

A. The Plan Commission as part of site plan review shall determine that the lot area and frontage is adequate to support the operation in compliance with all ordinance requirements. Consideration shall be given to the arrangement of off-street parking and drop-off and pick-up drives.

B. The proposed site shall have at least one property line abutting a major thoroughfare or collector street, and all access to and egress from the site shall be by such thoroughfare or street.

C. Points of ingress and egress for the site shall be so designed to minimize possible conflicts between traffic on adjacent major thoroughfares and adjacent land uses.

§ 770-54. Wind and solar energy systems. [Added 6-15-2009 by Ord. No. 2009-06]

A. Purpose and intent. It is the general purpose and intent of the City to balance the need for clean, renewable and abundant energy resources that may reduce dependence upon scarce and nonrenewable fossil fuels, with the necessity to protect the public health, safety and welfare of the city, as well as to preserve the integrity, character, property values, and aesthetic quality of the community at large. The City therefore finds these regulations are necessary in order to facilitate adequate provision of sites for wind and solar energy systems and ensure they are situated in appropriate locations and relationships to other land uses, structures and buildings, without significantly increasing the cost or decreasing the efficiency of such systems.

B. Authorization.

(1) Wind energy systems with a rated capacity of up to 20 kilowatts (20 kw) and solar energy systems shall be allowed as an accessory use in any zoning district, subject to the required standards of this section, provided that they are to be incidental and subordinate to a use on the same parcel and shall supply electrical power exclusively for on-site consumption, except as otherwise provided by this chapter.

(2) Wind and solar energy systems may be connected to the electrical grid when a parcel on which the system is installed also receives electrical power supplied by a utility company. If a parcel on which a system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company in accordance with applicable state and federal law.

(3) Solar energy systems and wind energy systems with a rated capacity of more than 20 kilowatts (20 kw) that are intended to produce electricity for sale to a utility and/or other customers for off-site consumption shall be prohibited, except as a special land use in the General Industrial Zoning District under § 770-44 General Industrial, Subsection C, Special land uses, Subsection (2)(b), Electrical power manufacture. Wind or solar energy systems developed as a special land use in the General Industrial Zoning District shall be subject to the required standards of this section.

C. Standards specific to wind energy systems.

(1) Number of systems per lot. No more than one ground-mounted or freestanding wind energy system may be placed on any lot of record. Arrays of multiple-turbine roof-mounted wind energy systems may be allowed, provided that they are architecturally integrated with the building upon which they are attached as determined by the Zoning Administrator, and otherwise comply with the required standards of this section.

(2) Height.

(a) The total system height of a ground-mounted or freestanding wind energy system shall not exceed twice the maximum permitted height for principal structures on a site within or adjacent to any residential or mixed-use zoning districts, or 100 feet on any other site that is not adjacent to any residential or mixed-use zoning district. The total system height shall include the height above grade of the fixed portion of the tower to the center of the rotor hub, including the turbine and the highest vertical extension of any blades and rotors.

(b) The height of roof-mounted wind energy systems are subject to the required standards in § 770-21, Application of Zoning District Regulations, Subsection D, Application of height regulations, Subsection (3), Exceptions.

(3) Location and setbacks.

(a) Ground-mounted or freestanding wind energy systems shall not be located within a front yard in any residential or mixed-use zoning district and shall be set back from all lot lines and rights-of-way to the center of the tower base no less than a distance equal to 1/2 the diameter of the rotor and blades, or the minimum required front, side and rear yard setbacks for principal structures within a site's given zoning district, whichever is greater.

(b) No portion of any wind energy system's blades, rotor, or other exposed moving parts shall extend to within 20 feet of the ground, or to within 10 feet of any overhead utility lines.

(c) Roof-mounted wind energy systems shall be setback from the building edge a distance equal to 1/2 the diameter of its rotor and blades, or a distance as determined necessary by the Zoning Administrator. No portion of any roof-mounted wind energy system's blades, rotor or other exposed moving part shall extend beyond the edge of the building to which it is attached, or to within 20 feet of any outdoor surfaces that are located directly below the system and intended for human occupancy, such as balconies or rooftop patios.

D. Standards specific to solar energy systems.

(1) Number of systems per lot. No more than one ground-mounted or freestanding solar energy system may be placed on any lot of record, and its solar collector

shall not exceed 800 square feet of surface area. Solar collectors shall not be counted towards lot coverage, but the area covered or enclosed by solar collectors may be counted as required open space. Arrays of multiple-collector roof-mounted, building-mounted, or facade-mounted solar energy systems may be allowed, provided that they are architecturally integrated with the building upon which they are attached as determined by the Zoning Administrator, and otherwise comply with the required standards of this section.

(2) Height. Ground-mounted or freestanding solar collectors and any mounts shall not exceed a height of 20 feet when oriented at maximum tilt. Building-mounted or facade-mounted solar collectors shall not exceed the height of the building to which they are attached. Roof-mounted solar collectors and any mounts are subject to the standards in § 770-21, Application of zoning district regulations, Subsection D Application of height regulations, Subsection (3) Exceptions.

(3) Location and setbacks.

(a) Ground-mounted or freestanding solar energy systems shall not be located within a front yard in any residential or mixed-use zoning district, and shall be set back from all lot lines and rights-of-way to any part of the system no less than the minimum required front, side and rear yard setbacks for accessory structures within a site's given zoning district.

(b) Roof-mounted solar energy systems shall be setback from the building edge a distance equal to its height or a distance as determined necessary by the Zoning Administrator.

(c) Building-mounted or facade-mounted solar energy systems shall not be attached to any front building facade that directly faces and is visible from any right-of-way. Such systems may be located on any side or rear building facade, provided that they do not directly face and are not visible from any right-of-way, and provided that they are architecturally integrated with the building upon which they are attached, as determined by the Zoning Administrator.

(d) Solar collectors shall be placed so as not to shade any existing solar collector or adjacent property to the north between the hours of 9:30 a.m. and 2:30 p.m. Eastern Standard Time on December 21 of each year any more than would a structure built to the maximum permitted bulk and area standards for a site's given zoning district.

(4) Solar storage batteries. When solar storage batteries are included as part of the solar energy system, they must be placed in a secure container or enclosure meeting the requirements of the City's building and electrical codes when in use and, when no longer used, shall be disposed of in accordance with all applicable City, state and federal laws and regulations.

E. General standards.

(1) Screening. Landscape screening in accordance with § 770-90, Landscaping,

greenbelts, buffers and screening, Subsection D, Screening between land uses, shall be provided along all property lines to mitigate aesthetic impacts upon the neighborhood if a ground-mounted or freestanding wind or solar energy system is located within or adjacent to any residential or mixed-use zoning districts, except when a principal structure is placed between the system and a property line. Roof-mounted wind or solar energy systems shall be effectively screened as determined necessary by the Zoning Administrator.

(2) Access and safety. All wind or solar energy systems shall be designed and installed so as to prevent unauthorized access to electrical and mechanical components and shall be secured or locked at all times when service personnel are not present. All ground-mounted or freestanding wind or solar energy systems shall be adequately enclosed by a six-foot fence, or placed within a yard that is entirely enclosed by a six-foot fence, in accordance with the provisions of Chapter 323, Fences. All climbing apparatus shall be located at least 12 feet above ground, and any tower must be designed to prevent climbing within the first 12 feet.

(3) Lighting. Exterior lighting from a direct source upon a wind or solar energy system shall be prohibited. No lights shall be installed on a tower or any other part of a wind or solar energy system, unless required to meet federal aviation regulations.

(4) Controls. All wind energy systems shall be equipped with manual and automatic override brakes in order to limit the blade rotation speed to within its design limits, to prevent uncontrolled rotation and excessive pressure on the tower, rotors, blades and other components, and to shut down turbines in the event of an electrical outage.

(5) Underground wiring. All wiring connected with a wind or solar energy system shall be underground, except for wiring that runs from the turbine to the base of the wind energy systems, and all wiring associated with roof-mounted wind energy systems, and roof-mounted, building-mounted, or facade-mounted solar energy systems.

(6) Noise and electrical disturbance. All wind energy and solar systems shall comply with the required standards of § 770-94, Noise and vibrations, and § 770-95, Electrical disturbance, electromagnetic or radio frequency interference.

(7) Signs. All signs on a wind or solar energy system visible from any right-of-way or adjacent property shall be prohibited, except for the manufacturer's or installer's identification on the nacelle or solar collector, appropriate warning signs, or the owner and/or operator's identification.

F. Access easements.

(1) The enactment of this section does not constitute the granting of an easement by the City for access to wind or solar radiation. The owner and/or operator shall provide covenants, easements, or similar documentation to assure sufficient wind or solar radiation to operate a wind or solar energy system unless adequate accessibility to the wind or solar radiation is provided by the

site.

(2) Nothing within this section shall prevent any owner, occupant or other person in control of property from legally placing or planting any vegetation or trees, or legally constructing any structure that may cast a shadow on a solar energy system or block wind from a wind energy system, provided that such vegetation, trees, or structures comply with the required standards of this chapter and all other applicable laws, codes and ordinances.

G. Removal.

(1) An owner and/or operator shall remove any ground-mounted or freestanding wind or solar energy system when it has not been used for a period of 180 days or more or has otherwise been abandoned. For purposes of this section, the removal of rotors, blades, turbines, solar collectors, solar batteries, or other equipment from a wind or solar energy system, or the cessation of electrical power generation, shall be considered as the beginning of a period of nonuse or abandonment. Nonuse or abandonment may also be proven by reports from an interconnected utility.

(2) Once a ground-mounted or freestanding wind or solar energy system has not been used for a period of 180 days or more or has otherwise been determined to be abandoned, the owner and/or operator shall immediately apply or secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition and removal, restoring the premises to an acceptable condition as reasonably determined by the Building Official and/or Zoning Administrator.

(3) If the required removal of a wind or solar energy system has not been lawfully completed within 60 days of the applicable deadline, and after at least 30 days' written notice by the City Attorney, Building Official, and/or Zoning Administrator, the City may pursue legal action to remove or secure the removal of the system at the owner's and/or operator's sole expense.

(4) The Zoning Administrator and/or Building Official may require that an application for a ground-mounted or freestanding wind or solar energy system include a security to be posted at the time of receiving a building permit to ensure its removal when it has been abandoned or is no longer in use, as provided in this section. The security may, at the election of the owner and/or operator, be in the form of cash; surety bond; letter of credit; or an agreement in a form approved by the City Attorney and recordable at the office of the Register of Deeds, establishing a promise of the owner and/or operator to timely remove the wind or solar energy system as required under this section, with the further provision that the owner and/or operator shall be responsible for the payment of any costs and attorney's fees incurred by the City in securing removal. The City's actual costs and reasonable administrative charges to remove or secure the removal of a wind or solar energy system may be drawn or collected from such security.

H. Applications and permits. The owner and/or operator of any wind or solar energy system shall obtain a building permit, along with any other permits required by federal, state and local agencies, prior to erecting a system. Wind or solar energy

systems shall comply with all applicable state and City construction and electrical codes and City building permit requirements, and also all requirements of the Federal Aviation Administration, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCLA § 259.431 et seq.), the Michigan Tall Structures Act (Public Act 259 of 1959, MCLA § 259.481 et seq.), and all other applicable state and federal regulations.

(1) Wind energy systems. Applications for permits to install a wind energy system shall include a site plan prepared in accordance with § 770-12, Site plan review, along with the following additional information:

(a) The location of all buildings within 200 feet of the property including exterior dimensions, height and uses.

(b) The location and dimensions of any other natural or man-made features within 200 feet of the property, such as trees, overhead utility lines, utility poles and towers, streets and rights-of-way, wireless community devices, etc.

(c) The plans and specifications identifying all parts of the system, including, but not limited to, the manufacturer and model, turbine, tower height and type, rotor diameter, foundation, any accessory equipment, and the manufacturer's electrical plans and specifications.

(d) Certification from a licensed engineer or qualified professional that the manual and automatic override brakes have been designed for the proposed system.

(e) Evidence that the applicant has notified the affected utility of the intent to install an interconnected customer-owned generator, and that the generator meets the minimum requirements established by the affected utility, the Michigan Public Service Commission, the Federal Energy Regulatory Commission, and all other applicable state and federal standards. Off-grid systems shall be exempt from this requirement.

(f) Evidence from a qualified professional that the site is feasible for a wind energy system, or that covenants, easements and other assurances to document sufficient wind to operate the wind energy system have been obtained.

(g) Evidence that the proposed wind energy system will comply with applicable federal aviation regulations, including any necessary approvals from the Federal Aviation Administration.

(h) A visual simulation that includes views from all rights-of-way within 500 feet.

(i) Any other evidence or information as required by the Zoning Administrator and/or Building Official.

(2) Solar energy systems. Applications for permits to install a solar energy system shall include a site plan prepared in accordance with § 770-12, Site plan review, along with the following additional information:

(a) The plans and specifications identifying all parts of the system, including, but not limited to, the manufacturer and model, solar collector or generator, mount height and type, foundation, solar batteries, any accessory equipment, and the manufacturer's electrical plans and specifications.

(b) Evidence that the applicant has notified the affected utility of the intent to install an interconnected customer-owned solar collector, and that the collector meets the minimum requirements established by the affected utility, the Michigan Public Service Commission, the Federal Energy Regulatory Commission, and all other applicable state and federal standards. Off-grid systems shall be exempt from this requirement.

(c) Evidence from a qualified professional that the site is feasible for a solar energy system, including between the hours of 9:30 a.m. and 2:30 p.m. Eastern Standard Time on December 21 of each year, or that covenants, easements and other assurances to document sufficient solar radiation to operate the solar energy system have been obtained.

(d) Evidence that the proposed solar energy system will comply with applicable state and federal regulations.

(e) Any other evidence or information as required by the Zoning Administrator and/or Building Official.

I. Additional and accessory uses.

(1) The applicable standards and requirements of this section shall also apply to anemometer towers used to conduct wind site assessments for possible installation of wind energy systems.

(2) Co-location of wireless communication facilities on any wind or solar energy system shall be subject to the requirements of § 770-88, Wireless communication devices. Co-location of any equipment or facilities other than wireless communication facilities that are not used for wind or solar power purposes shall only be permitted if allowed elsewhere within this chapter.

§ 770-55. Vinsetta Boulevard Overlay District. [Added 2-13-2017 by Ord. No. 2017-05]

A. Intent and purpose. The Vinsetta Boulevard Overlay District shall be composed of a portion of the Forest Heights Subdivision where the principal use is intended to be single-family detached dwellings on lots with lot depths that are deeper than typical parcels in the one-family residential zone.

B. Uses. All permitted uses in the one-family residential zone shall be permitted uses in the Vinsetta Boulevard Overlay District. All special land uses in the one-family residential zone shall be special land uses in the Vinsetta Boulevard Overlay District.

C. Area and bulk regulations. Single-family detached dwellings in the Vinsetta Boulevard Overlay District shall be subject to the requirements set forth in the one-

family residential zone, unless a more restrictive requirement is provided for in this section. The following minimum requirements shall apply to all permitted and special land uses within the Vinsetta Boulevard Overlay District:

(1) Lots size. No lot within the Vinsetta Boulevard Overlay District shall be less than 10,000 square feet in area.

(2) Lot depth. No lot within the Vinsetta Boulevard Overlay District shall have a depth of less than 180 feet.

(3) Front yard setback. All principal buildings on lots with frontage on Vinsetta Boulevard within the Vinsetta Boulevard Overlay District shall be set back the greater of 50 feet or the average setback of adjacent dwellings from the front property line. A front yard abutting the side street of a corner lot within the Vinsetta Boulevard Overlay District shall not be less than 10 feet in width.

§ 770-56. Domestic, community and market gardens. [Added 4-19-2010 by Ord. No. 2010-04]

A. Purpose and intent. The purpose and intent of this section is to ensure that domestic, community and market gardens are appropriately located and protected to meet the need and demand for local food production, and to enhance community health, community education, garden-related job training, natural resource protection, preservation of green space, and community enjoyment. Because they will typically exist in close proximity to residential uses, concern will be given to ensuring compatibility between uses.

B. General standards.

(1) All domestic, community, and market gardens shall comply with the following standards:

(a) Operating standards. All domestic, community, and market gardens must adhere to the generally accepted agricultural management practices (GAAMP) adopted by the Michigan Department of Agriculture. Application of fertilizer, compost, pesticides, insecticides, herbicides, and/or agricultural-use chemicals shall be consistent with the manufacturer's instructions, Michigan's GAAMP, and all other local, state and federal laws.

(b) Machinery and equipment. Agricultural machinery, equipment and/or vehicles used in the tending of any domestic garden shall be limited to 35 horsepower and/or a fully equipped weight of 2,000 pounds, and 50 horsepower and/or a fully-equipped weight of 4,000 pounds for any community or market garden. These restrictions shall not apply to vehicles making deliveries to or receiving crops from a community or market garden.

(c) Composting and fertilizers. No fruits, vegetables, food waste, fresh manure or other animal waste or other animal by-products shall be composted at any domestic or community garden. No fresh manure or manure-based fertilizers shall be used at any domestic, community or

market garden other than fully composted manure. On-site composting at any market garden shall be prohibited.

(d) Weeds. Crops grown in any domestic, community, or market garden shall be exempt from the required standards and regulations of Chapter 757, Weeds.

(e) Fences. Any fence proposed as part of a domestic, community, or market garden shall be subject to the required standards and regulations of Chapter 323, Fences.

(f) Burning. Open burning or prescribed burning at any domestic, community, or market garden shall be prohibited, except as provided in § 633-7, Unlawful burning.

(g) Keeping of animals. The keeping of any animals or animal husbandry (cows, chickens, pigs, goats, bees, etc.) as part of any domestic, community, and market garden shall be prohibited, except as provided in Chapter 195, Animals.

(h) Nuisances. Any domestic, community, or market garden shall be operated so as to eliminate any possible nuisance likely to emanate therefrom which might be noxious to occupants of any other nearby properties, whether by reason of an unreasonable amount of dust, noise, fumes, vibration, smoke, lights, or the presence of toxic materials.

(2) The operator(s) and/or property owner(s) of a domestic, community or market garden shall be responsible for maintaining the property so that it does not become overgrown with weeds, infested by invasive or noxious plants, insects, pests, vermin or wild animals, a source of erosion or stormwater runoff, polluted by fertilizers, pesticides, insecticides, herbicides, or other agricultural-use chemicals, and/or a public nuisance.

C. Domestic gardens. Domestic gardens shall be permitted as an accessory use in any One-Family Residential, One-Family Large Lot Residential, Two-Family Residential, or Multiple-Family Residential Zoning District, and for any dwelling unit in a Neighborhood Business, Neighborhood Business II, Mixed Use 1, or Mixed Use 2 Zoning District, subject to the following required standards:

(1) Placement. Domestic gardens shall be located within a side or rear yard only. If placed on a lot without a principal dwelling, a domestic garden shall have a minimum front yard setback equivalent to that of any adjacent dwelling.

(2) Accessory structures. Any greenhouse or other accessory structure related to a domestic garden shall comply with § 770-22, Accessory buildings.

D. Community gardens. Community gardens shall be permitted as a special land use in any zoning district, provided that there are no existing dwelling units upon the property, subject to the following required standards:

(1) Special land use and site plan review. All community gardens shall require special land use approval and site plan review by the Planning Commission according to § 770-11, Special land uses; permit procedures, and § 770-12,

Site plan review. All applications for a community garden shall include a plan of operation that addresses how the garden's activities will be managed to avoid impacts on natural systems of surrounding uses as well as the garden's compliance with the Michigan Department of Agriculture's GAAMP. The plan of operation shall include a detailed description of all activities that will take place, including, but not limited to: management and oversight; planting and harvesting of crops; processing of crops produced on site; watering and irrigation; application of fertilizers, compost, pesticides, insecticides, herbicides, and other agricultural chemicals; and use of equipment and vehicles.

(2) Hours of operation. No gardening or farming activities using machinery and equipment shall take place between 9:00 p.m. and 7:00 a.m. at any community garden.

(3) Placement.

(a) Community gardens on residentially zoned property shall have a minimum front yard setback equivalent to that of any adjacent dwelling, or 25 feet where there are no adjacent dwellings, and minimum side and rear yard setbacks of five feet. The required front yard setback shall be provided along both street frontages for community gardens located on corner lots. Community gardens shall not be placed within any front yard of residentially zoned property.

(b) Community gardens on property zoned other than residential shall have minimum front, side and rear yard setbacks of five feet or the average of adjacent buildings, whichever is greater. Where a community garden is on the same side of a street on the same block as a property zoned residential, with or without an intervening alley, the required front yard setback shall be that of the adjacent dwelling, or 25 feet if there is no adjacent dwelling.

(c) All required yard setbacks shall be landscaped with grass, ground cover, shrubs, or other natural landscape materials acceptable to the Planning Commission, and shall otherwise comply with the required standards and regulations of § 770-90, Landscaping, greenbelts, buffers and screening.

(4) Accessory structures. Any greenhouse related to a community garden shall comply with the yard setback requirements as specified in Subsection D(3) above, provided that the combined ground floor area of all accessory structures does not exceed 25% of the site's lot area. All other accessory structures related to a community garden shall comply with § 770-22, Accessory buildings.

(5) Screening. Community gardens shall be screened from view with a landscaped berm, solid wall or a combination of a wall fencing and landscaping at least six feet in height along all side and rear lot lines, as deemed necessary and advisable by the Planning Commission. Community gardens shall be screened from view with a landscaped berm, solid wall or a combination of a wall, fencing and landscaping at least 30 inches in height along all front lot lines and side lot lines within a front yard, and also along the perimeter of those sides which are visible from a public street, as deemed necessary and advisable by

the Planning Commission.

(6) Off-street parking. Each community garden shall have a minimum of two off-street parking spaces, plus one additional space for every acre of garden site lot area over two acres. Off-street parking for a community garden shall be limited in size to 10% of the garden site lot area and may be either unpaved or surfaced with gravel or similar loose material or paved with pervious paving material. Off-street parking areas for a community garden shall be exempt from the hard-surfacing requirements of § 770-109, Off-street parking lot design and construction, Subsection A.

(7) Additional uses and structures. Community gardens may also include any of the following accessory uses and/or structures: raised or accessible planting beds; compost bins; picnic tables; fences; garden art; rain barrel systems; rest room facilities or portable toilets; and children's play areas.

(8) Waste containers and enclosures. All community gardens shall have suitable waste and recyclable containers that are regularly serviced and screened in accordance with § 770-90I, Screening of refuse and recyclable containers. The Planning Commission may also allow screening in the form of a landscape buffer or fence in accordance with § 770-90D, Screening between land uses.

(9) Sale of crops prohibited. Seasonal farm stands and the on-site sale of crops grown at a community garden and any other items shall be prohibited.

(10) Overhead lighting prohibited. Overhead and/or exterior lighting shall be prohibited at any community garden.

E. Market gardens. Market gardens shall be permitted as a special land use within any Neighborhood Business, Neighborhood Business II, General Business, Mixed Use 1, or Mixed Use 2 Zoning District, but only as an accessory use to any restaurant, grocery store, farmers' market, or similar use, subject to the following required standards:

(1) Special land use and site plan review. All market gardens shall require special land use approval and site plan review by the Planning Commission according to § 770-11, Special land uses; permit procedures, and § 770-12, Site plan review. All applications for a market garden shall include a plan of operation that addresses how the garden's activities will be managed to avoid impacts on natural systems of surrounding uses as well as the garden's compliance with the Michigan Department of Agriculture's GAAMP. The plan of operation shall include a detailed description of all activities that will take place, including, but not limited to: management and oversight; planting and harvesting of crops; processing of crops produced on site; watering and irrigation; application of fertilizers, compost, pesticides, insecticides, herbicides, and agricultural chemicals; and use of equipment and vehicles.

(2) Placement. Market gardens shall have minimum front, side and rear yard setbacks of five feet or the average of adjacent buildings, whichever is greater. Where a market garden is on the same side of a street on the same block as a property zoned residential, with or without an intervening alley, the required front yard setback shall be that of the adjacent dwelling, or 25 feet if there is

no adjacent dwelling. All required yard setbacks shall be landscaped with grass, ground cover, shrubs, or other natural landscape materials acceptable to the Planning Commission, and shall otherwise comply with the required standards and regulations of § 770-90, Landscaping, greenbelts, buffers and screening.

(3) Hours of operation. No gardening or farming activities using machinery and equipment shall take place between 9:00 p.m. and 7:00 a.m. at any market garden.

(4) Accessory structures. Any greenhouse or other accessory structure related to a market garden shall comply with § 770-22, Accessory buildings, and comply with the area and bulk regulations for the zoning district in which it is located.

(5) Screening. Market gardens shall be screened from view with a landscaped berm, solid wall, or a combination of a wall, fencing and landscaping at least six feet in height along all side and rear lot lines, as deemed necessary and advisable by the Planning Commission. Market gardens shall be screened from view with a landscaped berm, solid wall, or a combination of a wall, fencing and landscaping at least 30 inches in height along all front lot lines and side lot lines within a front yard, and also along the perimeter of those sides which are visible from a public street, as deemed necessary and advisable by the Planning Commission.

(6) Off-street parking. No additional off-street parking shall be required for a market garden other than that required for the restaurant, grocery store, farmers' market, or similar use with which the garden is associated. If additional off-street parking is provided, it shall be limited in size to 10% of the garden site lot area and may be either unpaved or surfaced with gravel or similar loose material or paved with pervious paving material. Off-street parking areas for a market garden shall be exempt from the hard-surfacing requirements of § 770-109, Off-street parking lot design and construction, Subsection A.

(7) Additional uses and structures. Market gardens may also include any of the following accessory uses and/or structures: raised or accessible planting beds; compost bins; picnic tables; seasonal farm stands for the sale of crops; fences; garden art; rain barrel systems; rest room facilities or portable toilets; and children's play areas.

(8) Seasonal farm stands. A market garden may include a seasonal farm stand for the sale of items grown at the site only and no other merchandise, provided that the stands shall be removed from the premises or stored inside a building on the premises or off site at another location when the garden is not in operation.

(9) Waste containers and enclosures. All market gardens shall have suitable waste and recyclable containers that are regularly serviced and screened in accordance with § 770-90I, Screening of refuse and recyclable containers.

(10) Overhead lighting prohibited. Overhead and/or exterior lighting shall be prohibited at any market garden.

§ 770-57. Billboards. [Amended 3-16-2015 by Ord. No. 2015-07]

All billboards shall be subject to the following requirements and standards:

A. Where permitted. Billboards shall be permitted only in the General Industrial zone on lots that are not subject to a conditional zoning agreement and have at least one property line abutting a principal or minor arterial, as designated by the City of Royal Oak's Master Plan, subject to the standards contained herein, and the Highway Advertising Act of 1972, as amended.[36]

B. Spacing.

(1) Not more than three billboards may be located per linear mile of street or highway, regardless of the fact that such billboards may be located on different sides of the street or highway. The linear mile measurement shall not be limited to the boundaries of the City where the particular street or highway extends beyond such boundaries. Double-faced billboard structures (i.e., structures having back-to-back billboard faces) and V-type billboard structures having only one face visible to traffic proceeding from any given direction on a street or highway shall be considered as one billboard. Additionally, billboard structures having tandem billboard faces (i.e., two parallel billboard faces facing the same direction and side by side to one another) or stacked billboard faces (i.e., two billboard faces facing the same direction with one face being directly above the other) shall be considered as one billboard. Otherwise, billboard structures having more than one billboard face shall be considered as two billboards and shall be prohibited in accordance with the minimum spacing requirement set forth in Subsection (B)(2) below.

(2) No billboard shall be located within 1,000 feet of another billboard abutting either side of the same street or highway.

(3) No billboard shall be located within 200 feet of a residential zone and/or existing residence. If the billboard is illuminated, this required distance shall instead be 300 feet.

(4) No billboard shall be located closer than 75 feet from a property line adjoining a public right-of-way or 10 feet from any interior boundary lines of the premises on which the billboard is located.

(5) All required spacing and setback measurements shall be measured to the nearest point of a billboard’s structure, including its face or surface display area.

C. Height. The height of a billboard shall not exceed 25 feet above the level of the street or road upon which the billboard faces or to which the message upon the billboard is directed. In the event that the billboard is situated upon two streets or roads having different levels, the height of the billboard shall be measured from the higher street or road.

D. Surface area. The surface display area of any side of a billboard may not exceed

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36. Editor's Note: See MCLA § 252.301 et seq.

300 square feet. In the case of billboard structures with tandem or stacked billboard faces, the combined surface display area of both faces may not exceed 300 square feet.

E. Electronic message.

(1) Findings.

(a) It is recognized that billboards with changeable or continuous, dynamic content are more distracting and less comprehensible than static images as they require more attention for longer periods of time to comprehend the intended message. Studies show that there is a direct correlation between electronic messages on billboards and the distraction of drivers which can lead to traffic accidents. Drivers can be distracted by a changing message, by waiting for the next change to occur on a sign, and by messages that do not tell the full story in one look. Drivers are more distracted by special effects used to change the message of a billboard, by messages on a sign that are too small to be clearly seen, or by messages that contain more than a simple, easily read message.

(b) Despite these public safety concerns, there is merit to allowing new technologies to easily update messages on billboards. Except as prohibited by state or federal law, billboard owners should have the opportunity to use these technologies with certain, reasonable restrictions. The restrictions are intended to minimize potential driver distraction and to minimize proliferation near residential areas where billboards with electronic messages can adversely impact residential character.

(c) It is also recognized that billboards do not need to serve the same way-finding function as do on-premises signs allowed under Chapter 607, Signs. Further, billboards are allowed only within certain zoning districts. Billboards are in themselves distracting and their removal serves public safety. A single electronic message can serve the function otherwise performed by multiple traditional billboards. Thus, billboard owners ought to be encouraged to use electronic messages to consolidate such activities in appropriate locations while removing traditional billboards from areas where they are not appropriate.

(d) The standards within this subsection are therefore intended to provide incentives for the voluntary and uncompensated removal of billboards in certain settings. Their removal results in an overall advancement of one or more of the goals set forth in this chapter that should more than offset any additional burden caused by the incentives. These provisions are also based on the recognition that the incentives create an opportunity to consolidate billboards that would otherwise remain distributed throughout the City.

(e) Electronic messages should therefore be allowed on billboards but with significant and reasonable controls to minimize their proliferation and potential threats to public safety.

(2) Regulations. A billboard shall not contain any visible moving parts, revolving parts or mechanical movement of any description or other apparent visible movement, including intermittent electrical pulsation or by action of normal wind currents, except for electronic messages, subject to the following requirements and standards:

(a) A single, contiguous electronic message may be permitted on each billboard face. Electronic messages may occupy all of the actual copy and graphic area of a billboard.

(b) The images and messages displayed must be static or still images. Animation, video streaming, moving images, or other pictures and graphics displayed in a progression of frames that give the illusion of motion or moving objects shall be prohibited.

(c) The transition from one static image or message to another on an electronic message shall be instantaneous without any delay or special effects accomplished by varying the light intensity or pattern, where the first message gradually reduces intensity or appears to dissipate and lose legibility simultaneously with the gradual increase in intensity, appearance and legibility of the second message, such as, but not limited to, flashing; blinking; spinning; revolving; shaking; zooming; fading; dissolving; scrolling; dropping; traveling; chasing; exploding; or similar effects that have the appearance of movement, animation, changing in size, or being revealed sequentially rather than all at once.

(d) An electronic message shall have a minimum duration of 30 seconds except for changes that are necessary to correct time, date, and/or temperature information. Time, date, and/or temperature information shall be considered one electronic message and may not be included as a component of any other electronic message.

(e) Sequential messaging as part of an electronic message shall be prohibited. The images and messages displayed shall be complete in themselves without continuation in content to the next image or message or to any other billboard.

(f) Every line of copy and graphics in an electronic message must be at least 12 inches in height. If there is insufficient room for copy and graphics of this size within the actual copy and graphic area of a billboard then no electronic message shall be permitted.

(g) Electronic messages shall be designed and equipped to freeze the device in one position if a malfunction occurs. The displays must also be equipped with a means to immediately discontinue the display if it malfunctions, and the billboard owner must immediately stop the electronic message when notified by the City that it is not complying with the standards of this section. Prior to issuing any necessary permits for an electronic message, the applicant shall submit to the City written verification from the manufacturer that the electronic message is so designed and equipped.

(h) Audio speakers shall be prohibited in association with any electronic message.

(3) Incentives.

(a) An applicant may obtain a permit for an electronic message on an existing billboard, even if said billboard is nonconforming, and the City shall issue such a permit, provided the electronic message complies with the following permit requirements and meets all other required standards of this chapter.

[1] The applicant shall agree, in writing, to permanently remove, prior to the issuance of any necessary permits to install an electronic message, at least two other nonconforming billboards within the City owned or leased by the applicant, each of which must satisfy the criteria of Subsection E(3)(a)[2] through [4] below. Removal shall include the complete removal of the structure and foundation supporting each billboard. The Zoning Administrator shall verify that the billboards to be removed are nonconforming, and the Building Official shall verify that the nonconforming billboards have been removed prior to issuing any necessary permits for an electronic message. The applicant shall also agree, in writing, that it is removing the nonconforming billboards voluntarily and that it has no right to compensation for the removed billboards under any law. When executed, the applicant shall record said agreement with the Oakland County Registrar of Deeds.

[2] No permit for an electronic message based on the removal of the particular billboards relied upon in this permit application shall have previously been issued by the City.

[3] Each removed billboard shall have a copy and graphic area equal to or greater than the area of the copy and graphic area for which the electronic message permit is sought.

[4] If a billboard to be removed is one for which a permit is required by the State of Michigan, the applicant shall surrender its permit to the state upon removal of the billboard. Proof shall be submitted to the City that the state permit has been surrendered prior to any necessary permits for an electronic message being issued by the City.

(b) No permit for an electronic message shall be issued for an existing, nonconforming billboard unless the applicant is able to remove at least two other nonconforming billboards within the City owned or leased by the applicant as described is Subsection E(3)(a)[1] through [4] above.

F. Illumination. A billboard may be illuminated, provided such illumination is concentrated on the surface of the sign and is located so as to avoid glare or reflection onto any portion of an adjacent street or highway, the path of oncoming vehicles or any adjacent premises. In no event shall any billboard have flashing or intermittent lights, nor shall the lights be permitted to rotate or oscillate, except for electronic messages in accordance with the required standards of this section.

(1) All billboards including any electronic messages shall meet the following illumination and brightness standards in addition to those contained in § 770-96, Glare and exterior lighting:

(a) No illuminated billboard shall be brighter than is necessary for clear and adequate visibility.

(b) No illuminated billboard shall be of such intensity or brilliance as to impair the vision of a motor vehicle driver with average eyesight or to otherwise interfere with the driver's operation of a motor vehicle.

(c) No illuminated billboard shall be of such intensity or brilliance that it interferes with the effectiveness of an official traffic sign, device or signal.

(2) Prior to issuing any necessary permits for an electronic message, the applicant shall submit to the City written verification from the manufacturer that the electronic message is preset not to exceed the maximum permitted illumination levels of this chapter, and equipped with a manual control that allows the brightness to be lowered but not raised above the maximum permitted illumination levels of this chapter.

(3) The person owning or controlling the billboard shall adjust its illumination to meet the brightness standards in accordance with the City's instructions. The adjustment shall be made immediately upon notice of noncompliance from the City.

(4) All billboards with illumination by a means other than natural light shall be equipped with a mechanism to automatically adjust the brightness in response to ambient conditions and to produce a distinct reduction in the level of illumination for the time period between one half-hour prior to sunset and one half-hour after sunrise. Such billboards shall also be equipped with a means to immediately turn off the display or lighting if they malfunction, and the billboard owner shall immediately turn off the electronic messages or lighting when notified by the City that it is not in compliance with the standards of this chapter.

G. Construction and maintenance.

(1) No billboard shall be on top of, cantilevered or otherwise suspended above the roof of any building.

(2) A billboard must be constructed in such a fashion that it will withstand all wind and vibration forces that can normally be expected to occur in the vicinity. A billboard must be maintained so as to assure proper alignment of structure, continued structural soundness and continued readability of message.

§ 770-58. Single-Family Residential Overlay District.

In the One-Family Residential Zone, no building or land shall be used and no building shall be hereafter erected, converted, or structurally altered unless otherwise provided in this chapter, except for one or more of the following uses:

A. Existing two-family and/or multiple-family and/or commercial uses shall be permitted in the One-Family Residential Overlay District (See map[37]), subject to special land use approval to the limited area extent and in accordance with the standards and procedures provided in this subsection.

(1) Definitions. For the specific purpose of this subsection, the following terms are defined:

EXISTING TWO-FAMILY AND/OR MULTIPLE-FAMILY USES — Those duplex and multiple-family uses that meet one of the following two criteria on the date of enactment of the ordinance amendment initially creating this subsection of the Zoning Ordinance:

(a) An occupancy permit has been issued for the residences within the structure, and a license has been issued for more than one residence (and for all residential units claimed to exist) within the structure under the City's Landlord Tenant Ordinance.

(b) A multiple-family residential unit is registered under the State Condominium Act,[38] and an occupancy permit has been issued for the residences in the structure, or a building permit has been issued for such residences and substantial on-site work pursuant to said permit had been performed.

MATERIAL MODIFICATION — A modification that results in any one or more of the following:

(a) An increase of residential density; or an increase in the floor area of a commercial building.

(b) A modification of the exterior appearance of the structure that would reasonably be expected to reduce the property value of nearby properties.

(c) A modification that will have some other demonstrable adverse impact upon one or more family residential users in the neighborhood.

ONE-FAMILY OVERLAY DISTRICT — The properties within the district shown on the One-Family Overlay Map which is incorporated as part of this subsection.[39]

(2) Existing two-family and/or multiple-family and/or commercial uses shall be subject to the following:

(a) Existing two-family and/or multiple-family and/or commercial uses within the One-Family Residential Overlay District shall, by enactment of this provision, be granted the special land use status of being uses which conform to the parking, use, setback and density provisions of this chapter and, therefore, shall not be burdened with customary nonconforming use status. As such, destruction of a structure in a manner

37. **Editor's Note: The One-Family Residential Overlay District Map is included at the end of this chapter.**

38. **Editor's Note: See MCLA § 559.101 et seq.**

39. **Editor's Note: The One-Family Residential Overlay District Map is included at the end of this chapter.**

which would otherwise not permit reconstruction shall not apply to the extent that reconstruction of the parking, use, setback and density existing on the property at the time of destruction shall be permitted to the extent that building and safety codes are met.

(b) This subsection is intended to be a special program to achieve specific land management objectives and avert or solve specific land use problems, as authorized in Public Act 110, as amended, § 125.3201, and consistent with the Master Plan. Accordingly, application for special land use approval shall be deemed implicit in the lawful establishment and lawful continued use of existing two-family and/or multiple-family and/or commercial uses within the One-Family Overlay District. Supporting materials shall include, but are not limited to, the occupancy permit and license under the City's Tenant Ordinance, on file with the City, or a copy of the Condominium Act,[40] together with a copy of the certificate of occupancy or building permit, or with respect to commercial properties, an occupancy permit, initial merchants license (where applicable) and/or a building permit. Review and approval of the application shall be deemed to have been made and granted as part of the enactment of this subsection of the Zoning Ordinance.

(c) Such grant of special land use conforming status shall be further subject to the conditions that any and all future additions and material modifications shall conform to construction codes and all other ordinance requirements of the City, and that conforming status shall extend only to parking, use, setback and density.

(d) The Planning Department shall maintain the list of properties determined eligible as a special land use under Ordinance No. 2000-21, as adopted on July 10, 2000. Upon request, the Planning Department shall provide a special use permit for each eligible two-family and/or multiple family and/or commercial use approved as part of this provision, specifying, among other things, that the special land use has been granted, and that the use shall be conforming as to parking, use, setback and density, and further specifying the type of land use and/or number of units with the respective use. A copy of each permit shall be maintained at the City.

(e) The owner of property which has received special land use approval under this subsection who desires to materially modify a structure and/or property shall apply for an amendment of the special land use granted in this provision. Such application, and the processing of the application, shall be in accordance with the customary special land use procedure in this chapter.

(f) The Plan Commission may authorize a modification of a structure, use and/or site improvement if, in the sole discretion of the Plan Commission, it is determined that the applicant has demonstrated that the use and improvements on this property shall have equal or less intensity and off-site impact than existing prior to the modification.

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40. Editor's Note: See MCLA § 559.101 et seq.

(3) Properties not having existing two-family and/or multiple-family and/or commercial uses shall be subject to the following:

(a) Existing properties within the One-Family Residential Overlay District that are existing on the date of enactment of the ordinance amendment initially creating this subsection of the Zoning Ordinance shall not be granted the special land use status of being uses which conform to the use and density provisions of the Zoning Ordinance. Therefore, such properties shall in all respects be subject to the One-Family Residential use and area and bulk regulations in order to achieve the following critical public health, safety and general welfare objectives:

[1] To avoid authorization of the expansion of multiple-family and commercial uses that will undermine the new viability of the existing one-family uses within the City, as recognized in the Master Plan, as amended, and, thus, frustrate the reestablishment of the City as a mature community area which has been able to make meaningful progress toward renewal and regeneration.

[2] To avoid the destruction of the basic one-family character and integrity of the neighborhoods in which such properties are situated and, thus, avoid a long-term blighting effect and corresponding reduction in property values in and surrounding such neighborhoods.

§ 770-59. Day-care facilities.

The intent of this section is to establish standards for day-care facilities which will insure compatibility with adjacent land uses and maintain the character of the neighborhood.

A. Standards for group day-care homes and day-care centers. Day-care centers shall be subject to the following requirements:

(1) Dropoff and pickup shall be provided for in a manner which protects the safety of children and does not create congestion on the site or within a public roadway.

(2) There shall be an outdoor play area of at least 500 square feet provided on the premises. Said play area shall not be located within the front yard setback. This requirement may be waived by the Plan Commission if a public play area is available 500 feet from the subject parcel.

(3) All outdoor play areas shall be enclosed by a fence that is designed to discourage climbing, and is at least four feet in height, but no higher than six feet.

(4) The hours of operation shall not exceed 16 hours within a twenty-four-hour period. Activity between the hours of 10:00 p.m. and 6:00 a.m. shall be limited so that the dropoff and pickup of children is not disruptive to neighboring residents.

(5) Applicable licenses with the State of Michigan shall be maintained.

B. Standards for adult day-care facilities shall be subject to the following

requirements:

(1) The drop-off/pick-up area shall be provided at the front entrance of the building or as far as practicable from a One-Family Residential Zone District. Access to all entry/exit doors and all sides of a building shall be provided in a manner acceptable to the Plan Commission, based on a recommendation from the Fire Department.

(2) The property is maintained in a manner that is consistent with the character of the neighborhood.

(3) In its sole discretion, the Plan Commission may determine that landscape screening in accordance with § 770-90D, Screening between land uses, is required to effectively screen any exterior areas used for congregating.

(4) Appropriate licenses with the State of Michigan shall be maintained.

(5) The building shall be setback from all residentially zoned property a minimum of 300 feet unless the Plan Commission determines the following:

(a) Complies with the goals, objectives and policies of the Master Plan.

(b) Is designed and constructed to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the area.

(c) Will not be hazardous or disturbing to existing uses or uses reasonably anticipated in the future.

§ 770-60. Adult foster care facilities (small, medium, large).

Adult foster care facilities shall be subject to the following additional requirements:

A. The subject parcel shall meet the minimum lot area requirements for the zone in which it is located, provided there is a minimum site area of 1,000 square feet per adult, excluding employees and/or caregivers.

B. The property is maintained in a manner that is consistent with the character of the neighborhood.

C. In its sole discretion, the Plan Commission may determine that landscape screening in accordance with § 770-90D, Screening between land uses is required.

D. Appropriate licenses with the State of Michigan shall be maintained.

§ 770-61. Child foster family group home; foster care facilities (small, medium, large).

Child foster family group home facilities shall be subject to the following additional requirements:

A. The subject parcel shall meet the minimum lot area requirements for the zone in which it is located, provided there is a minimum site area of 1,000 square feet per child, excluding employees and/or caregivers.

B. The property is maintained in a manner that is consistent with the character of the neighborhood.

C. In its sole discretion, the Plan Commission may determine that landscape screening in accordance with § 770-90D, Screening between land uses is required.

D. Appropriate licenses with the State of Michigan shall be maintained.

§ 770-62. Self-storage facilities.

Self-storage facilities shall be subject to the following requirements:

A. No activity other than rental of storage units shall be allowed. No commercial, wholesale, retail, industrial or other business activity shall be conducted from the facility.

B. The storage of any toxic, explosive, corrosive, flammable or hazardous materials is prohibited. Fuel tanks on any motor vehicle, boat, lawn mower or similar property will be drained or removed prior to storage. Batteries shall be removed from vehicles before storage.

C. All storage, including vehicles of any kind, shall be contained within a completely enclosed building.

D. Exterior walls of the ends of all storage units shall be of masonry or face-brick construction.

E. All storage units must be accessible by paved circular drives clearly marked to distinguish traffic flow. A minimum twenty-four-foot drive shall be provided between buildings. Site circulation shall be designed to accommodate fire trucks, as well as trucks that will customarily access the site.

F. A demonstrated means of security and management shall be provided.

§ 770-63. Vehicle dealers.[41]

Outdoor sales, lease and rental of new and used automobiles, boats, recreational vehicles, mobile homes, lawn care and construction machinery and other vehicles and similar uses shall be subject to the following requirements:

A. There shall be no strings of flags, pennants or bare light bulbs permitted.

B. All areas intended for required parking and aisles shall be designed and constructed in accordance with § 770-109, Off-street parking lot design and construction. The outdoor display areas for vehicles shall accommodate pedestrian traffic and provide for the maneuvering of vehicles on private property.

C. Driveways shall be designed to accommodate the type and volume of vehicular traffic using the site and located in a manner which does not create a traffic safety or congestion problem.

D. A landscaped greenbelt measuring a minimum of 10 feet in width shall be provided.

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41. Editor's Note: See Ch. 727, Vehicles, Sale of, Art. I, Vehicle Dealers.

No vehicles or merchandise shall be displayed within the required greenbelt. At a minimum, landscaping of the front greenbelt in accordance with the standards set forth in § 770-90F, Front yard landscape or greenbelts, shall be provided, unless otherwise modified by the Plan Commission in accordance with § 770-90M, Plan Commission modifications to requirements.

E. There shall be no broadcast of continuous music or announcements over any loudspeaker or public address system.

F. The Plan Commission, as part of site plan review, shall determine that the lot area and frontage is adequate to support the operation in compliance with all chapter requirements.

G. All accessory uses shall comply with ordinance provisions for that specific use as identified herein.

H. The location of all vehicles and machinery intended for sale, lease or rental shall be identified on the site plan. All other outdoor storage is explicitly prohibited.

I. The loading and unloading of merchandise (vehicles, etc.) and supplies shall be conducted entirely within the site and shall not be permitted within the public right-of-way.

J. Required parking shall not be used for the display of vehicles for sale or lease.

§ 770-64. Automobile filling stations.

Automobile filling stations shall be subject to the following requirements:

A. The minimum lot area required shall be 12,000 square feet. However, in its sole discretion, the Plan Commission may determine a lesser or greater amount is required to support the proposed operation.

B. No more than one curb opening shall be permitted for each 50 feet of street frontage or major fraction thereof. No driveway or curb opening shall be located nearer than 20 feet to any corner lot line. No driveway shall be located nearer than 30 feet to any other driveway serving the site. However, in its sole discretion, the Plan Commission may determine an alternate design as determined necessary.

C. Curb openings for drives shall not be permitted where the drive would create a safety hazard or traffic nuisance because of its location in relation to other drives, its location in relation to the traffic generated by other buildings or uses or its location near vehicular or pedestrian entrances or crossings, or similar concerns.

D. Driveways shall be designed to accommodate the type and volume of vehicular traffic using the site and located in a manner, which does not create a traffic safety or congestion problem.

E. A landscaped greenbelt adjacent to all public rights-of-way measuring a minimum of 10 feet in width shall be provided. At a minimum, landscaping of the front greenbelt in accordance with the standards set forth in § 770-90F, Front yard landscape or greenbelts, shall be provided, unless otherwise modified by the Plan Commission in accordance with § 770-90M, Plan Commission modifications to

requirements.

F. Automobile filling stations, particularly those, which offer additional services, shall be designed in a manner which promotes pedestrian and vehicular safety. Buildings shall comply with the setback requirements for the district in which the use is located. Pump islands shall be arranged so that motor vehicles do not park upon or overhang any public sidewalk, street or right-of-way while waiting for or receiving fuel service.

G. Outdoor display of merchandise for sale shall be limited to those areas approved as part of site plan review. All seasonal and transient merchants shall comply with § 770-69, Seasonal and transient display of product or material intended for sale. Applicable licenses with the City shall be maintained.

H. Required off-street parking shall be provided in accordance with the standards set forth in § 770-107, Table of Off-Street Parking Requirements, and shall be computed on the basis of each separate use.

I. Access to underground tanks shall be arranged so that delivery vehicles do not conflict with any public right-of-way, off-street parking or pedestrian access and have sufficient maneuvering aisles to support the maximum size vehicles used for deliveries.

J. Off-street loading shall be provided in accordance with the standards set forth in § 770-110, Off-street loading requirements.

K. All canopy lighting shall be recessed and down-shielded. All site lighting shall be directed downward and shielded to prevent light from shining on adjacent properties and public rights-of-way, in accordance with § 770-96, Glare and exterior lighting.

L. Broadcasting of continuous music or announcements over any loudspeaker or public address system is prohibited.

M. All exterior accessory equipment shall be identified on the site plan, including but not limited to air pumps, public telephones, ice machines, etc.

N. The Plan Commission may impose such reasonable conditions as it deems necessary to protect the public health, safety and general welfare from excessive noises, traffic, obnoxious and unhealthy odors and any detrimental effects from the general operation of such filling station.

§ 770-65. Automobile service stations.

Automobile service stations shall be subject to all of the requirements included in § 770-64, Automobile filling stations, and the following additional requirements:

A. The minimum lot area required for such use shall be 12,000 square feet. However, in its sole discretion, the Plan Commission may determine a lesser or greater amount is required to support the proposed operation.

B. Any work including repairs, servicing, greasing and/or washing motor vehicles shall be conducted within an enclosed building. All equipment and service bays

shall be located entirely within an enclosed building.

C. Overhead doors shall be kept closed at all times except when being used for vehicle access and shall not face property zoned for residential use unless otherwise permitted by the Plan Commission in the course of its review.

D. Outdoor storage or parking of vehicles, except for two private automobiles per indoor stall or service area of the facility, shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., unless otherwise revised by the Plan Commission in the course of its review.

E. All outdoor areas used for the storage of motor vehicles waiting for service shall be effectively screened from view from abutting properties and public streets. Such screening shall be in accordance with the requirements of § 770-90, Landscaping, greenbelts, buffers and screening. Parking areas for employees and customers shall be separate and apart from the storage area.

F. A landscaped greenbelt adjacent to all public rights-of-way measuring a minimum of 10 feet in width shall be provided. At a minimum, landscaping of the front greenbelt in accordance with the standards set forth in § 770-90F, Front yard landscape or greenbelts, shall be provided, unless otherwise modified by the Plan Commission in accordance with § 770-90M, Plan Commission modifications to requirements.

G. Partially dismantled vehicles, damaged vehicles, new and used parts and discarded parts shall be stored within a completely enclosed building.

H. The Plan Commission may impose such reasonable conditions as it deems necessary to protect the public health, safety and general welfare from excessive noises, vibrations, traffic, obnoxious and unhealthy odors and any detrimental effects from the general operation of such service station.

I. Vehicle sales which are clearly incidental to the automobile service station, shall comply with § 770-84, Outdoor display and sales. The location of all vehicles intended for sale shall be identified on the site plan.

§ 770-66. Automobile repair garage.

Automobile repair garages shall be subject to the following requirements:

A. The Plan Commission, as part of site plan review, shall determine that the lot area and frontage is adequate to support the operation in compliance with all ordinance requirements.

B. A landscaped greenbelt adjacent to all public rights-of-way measuring a minimum of 10 feet in width shall be provided. At a minimum, landscaping of the front greenbelt in accordance with the standards set forth in § 770-90F, Front yard landscape or greenbelts, shall be provided, unless otherwise modified by the Plan Commission in accordance with § 770-90M, Plan Commission modifications to requirements.

C. Driveways shall be designed to accommodate the type and volume of vehicular traffic using the site and located in a manner which does not create a traffic safety

or congestion problem.

D. Any work including repairs, servicing, greasing and/or washing of motor vehicles shall be conducted within an enclosed building. The Plan Commission as part of site plan review may determine if additional building setback is necessary to provide sufficient area to support the operation and mitigate the impact on adjacent properties.

E. All outdoor areas used for the storage of motor vehicles waiting for service shall be effectively screened from view from abutting properties and public streets. Such screening shall be in accordance with the requirements of § 770-90D, Screening between land uses. Parking areas for employees and customers shall be separate and apart from the storage area.

F. The Plan Commission may impose such reasonable conditions as it deems necessary to protect the public health, safety and general welfare from excessive noises, vibrations, traffic, obnoxious and unhealthy odors and any detrimental effects from the general operation of such automobile repair garage.

G. Vehicle sales which are clearly incidental to the automobile service station, shall comply with § 770-84, Outdoor display and sales. The location of all vehicles intended for sale shall be identified on the site plan.

§ 770-67. Automobile washes.

Automobile washes shall be subject to the following requirements:

A. The Plan Commission, as part of site plan review, shall determine that the lot area and frontage is adequate to support the operation in compliance with all ordinance requirements.

B. Sufficient space shall be provided on the lot so that vehicles do not enter or exit the wash building directly from an adjacent street or alley. All maneuvering areas, stacking lanes and exit aprons shall be located on the site. Streets and alleys shall not be used for maneuvering or parking by vehicles to be serviced by the automobile wash without City approval.

C. No more than one curb opening shall be permitted for each 50 feet of street frontage. No driveway or curb opening shall be located nearer than 20 feet to any corner or exterior lot line. No driveway shall be located nearer than 30 feet to any other driveway serving the site. However, in its sole discretion, the Plan Commission may determine an alternate design as determined necessary.

D. Curb openings for drives shall not be permitted where the drive would create a safety hazard or traffic nuisance because of its location in relation to other ingress and egress drives, its location in relation to the traffic generated by other building or uses or its location near a vehicular or pedestrian entrances or crossings, or similar concerns.

E. A landscaped greenbelt adjacent to all public rights-of-way measuring a minimum of 10 feet in width shall be provided. At a minimum, landscaping of the front greenbelt in accordance with the standards set forth in § 770-90F, Front yard

landscape or greenbelts, shall be provided, unless otherwise modified by the Plan Commission in accordance with § 770-90M, Plan Commission modifications to requirements.

F. Driveways shall be designed to accommodate the type and volume of vehicular traffic using the site and located in a manner, which does not create a traffic safety or congestion problem.

G. All washing activities shall be carried on within a building. Vacuuming activities shall be located as far as practicable from residentially zoned property, and in no case shall they be located closer than 50 feet from an adjacent residential zone.

H. All car wash facilities shall provide a drainage system installed midway from the exit door of the wash structure to the nearest exit drive at a low point to limit water runoff.

I. The Plan Commission may impose such reasonable conditions as it deems necessary to protect the public health, safety and general welfare from excessive noises, vibrations, traffic, obnoxious and unhealthy odors and any detrimental effects from the general operation of such automobile washes.

§ 770-68. General, building and landscape contractor's offices and yards.

Contractor's offices and yards shall be subject to the following requirements:

A. A contractor's office building shall be of permanent construction. Temporary construction trailers shall not be permitted to be occupied as the office of the contractor. Outdoor storage 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. Storage of all motorized equipment shall be on a paved surface.

B. A landscaped greenbelt adjacent to all public rights-of-way measuring a minimum of 10 feet in width shall be provided, unless otherwise modified by the Plan Commission in accordance with § 770-90M, Plan Commission modifications to requirements.

C. Storage shall not be located within the front yard. Stored materials shall not be located in any required parking or loading space(s). Storage of any kind shall not interfere with ingress and egress of fire and emergency vehicles and apparatus.

D. Storage shall be screened from the view of a public street and adjacent properties in accordance with the requirements of § 770-90, Landscaping, greenbelts, buffers and screening.

E. The location and size of areas for storage, nature of items to be stored therein, and details of the enclosure, including a description of materials, height, and typical elevation of the enclosure, shall be provided as part of the information submitted under § 770-12, Site plan review.

F. The loading and unloading of equipment shall be conducted entirely within the site and shall not be permitted within a public right-of-way.

§ 770-69. Seasonal and transient display of products or materials intended for sale.[42]

The sale of seasonal items such as Christmas trees, flowers and plants, pumpkins and other such seasonal items, and the sale of any other merchandise by persons other than the owner or occupant of the premises, shall be subject to the following standards and conditions:

A. Transient or seasonal sales may be located within any required yard, provided a ten-foot landscaped greenbelt meeting the requirements of § 770-90F, Front yard landscape or greenbelts, is provided between any outdoor display and any public road right-of-way. Where outdoor displays abut residentially zoned property, landscape screening in accordance with § 770-90D, Screening between land uses, shall also be provided.

B. Transient or seasonal sales shall not occupy or obstruct the use of any fire lane, required off-street parking or landscaped area required to meet the requirements of Article IX or Subsection A or create a traffic or safety hazard.

C. Off-street parking and maneuvering lanes shall meet minimum ordinance requirements for the retail use based upon the area designated for display and storage of products as determined by the Zoning Administrator. All loading and unloading areas and off-street parking and maneuvering lanes shall be located within the boundaries of the site.

D. All such sales shall be conducted in a manner so as not to create a nuisance to neighboring properties through adequate on-site parking and ingress and egress to the site.

E. Upon discontinuance of the seasonal use, any temporary structures shall be removed within 48 hours.

F. Signs shall conform to the provisions of the district in which the seasonal use is located.

§ 770-70. Outdoor cafe service.

An outdoor cafe service operated by a restaurant or other food establishment which sells food for immediate consumption may be permitted, on private property of the principal use, subject to the following conditions:

A. An outdoor cafe shall be allowed only during normal operating hours of the establishment.

B. All food preparation shall take place inside the establishment.

C. If alcoholic beverages are to be served, the current Liquor Control Commission Rules and Regulations shall apply.

D. The gross area of the cafe shall be included in the required parking calculation.

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42. Editor's Note: See also Ch. 244, Christmas Trees.

E. No music, intercom or other noise shall be permitted that impacts adjacent properties.

F. Appropriate screening and/or fencing shall be provided as determined to be necessary and advisable by the Plan Commission in the course of its site plan review process.

G. Cafe service areas shall comply with all regulations and provisions required for the establishment/building.

§ 770-71. Senior accessory housing.

A single-family dwelling unit may be converted to allow the incorporation (within or attached to an existing dwelling) of one additional dwelling unit for an elderly related person in a residential district subject to the following conditions:

A. The dwelling shall be owner-occupied during the duration of the special use permit. The special use permit shall be reviewed by the City every two years from the date of occupancy to determine compliance with all related provisions. The City shall require proof that an elderly family member continues to occupy the additional dwelling unit. This may include but is not limited to a state identification card and/ or mail addressed to the individual from federal, state or local agencies or a physician's office. If it is determined by the Zoning Administrator that the permit is in violation of any of the provisions of the Zoning Ordinance or of any other ordinances or regulations of the City, the special land use permit may be suspended or revoked pursuant to § 770-11D, Duration, voiding and extensions of permit.

B. The additional dwelling unit shall not exceed 600 square feet of floor area, unless such parts of an existing dwelling are otherwise arranged or designed to be reasonably, conveniently and safely transformed into a slightly larger one-bedroom unit.

C. A dedicated off-street parking space shall be provided for the senior accessory unit.

D. All residential zoning district bulk and setback requirements shall apply to the site.

E. The property owner shall record with the Oakland County Register of Deeds that the property was used under the provisions of § 770-71, Senior accessory housing, contained within the City of Royal Oak Zoning Ordinance and may not be continued as a two-family land use.

§ 770-72. Senior housing, adult foster care congregate facility and convalescent centers.

A. Intent. These provisions are intended to permit the development of senior housing, adult foster care congregate facility and convalescent centers upon site plan approval by the Plan Commission. The location, size, design, and operating characteristics of the use will be compatible with the character of the surrounding neighborhood, with consideration given to the scale, bulk, coverage, and density of development; to the availability of services and utilities; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impacts of the use.

B. Senior housing, adult foster care congregate facility and convalescent centers shall be subject to the following conditions:

(1) Perimeter setbacks. The minimum yard setbacks from the perimeter property boundaries shall be no less than 25 feet from any public road right-of-way, 50 feet from any adjacent property zoned for single-family residential, and 25 feet from all other property lines. These requirements shall apply in all zoning districts with the exception of the Central Business District; however, the Plan Commission may approve modified perimeter setbacks under the following conditions:

(a) Landscape screening is provided in accordance with the requirements of § 770-90, Landscaping, greenbelts, buffers and screening.

(b) The scale and size of the building is complementary to the adjacent residentially zoned land.

(2) Internal spacing.

(a) Minimum spacing between buildings shall be in accordance with the following requirements:

Building Orientation	Distance Between Buildings (feet)
Side/side orientation	20
Side/front, side/rear orientation	20
Front/front, front/rear orientation	30

(b) The Plan Commission, in its sole discretion, may reduce building spacing requirements where enclosed, heated walkways are provided and applicable building and fire code requirements are met.

(3) Minimum floor area. Each unit shall comply with the following minimum floor area requirements. In order to provide variation in the size of units offered to prospective residents, at least 25% of the units in each category of room offered (i.e., one- or two-person rooms) shall be 10% larger than the minimum.

Number of Residents	Minimum Floor Area (square feet)
One resident per unit	250
Each additional resident per unit	150

(4) Building design.

(a) No building shall exceed 250 feet in overall length, measured along any continuous elevation. The Plan Commission may permit buildings of greater length when it can be demonstrated that architectural design and

natural and topographic features ensure that the building is in scale with the site and surrounding areas.

(b) Building facades of greater than 100 feet in length shall incorporate recesses or projections to break up the expanse of the building elevation.

(c) Architectural interest shall be provided through the use of repeating patterns of change in color, texture and material. All senior housing facilities shall utilize residential exterior materials and design features.

(d) All roofs shall be sloped with a pitch of no less than 5:12. There shall be variations in rooflines to reduce the scale of the building and add interest.

(5) Lighting. All parking areas, building entrances, sidewalks, and ramps shall be illuminated to ensure the security of property and safety of persons using such areas, in accordance with the requirements set forth in § 770-96, Glare and exterior lighting.

(6) Resident and emergency access. The dropoff/pickup of residents shall be provided at the front entrance of the building with a covered canopy. Access to all entry/exit doors and all sides of a building shall be provided in a manner acceptable to the Plan Commission, based on a recommendation from the Fire Department.

§ 770-73. Residential accessory off-street parking lots.

These provisions are intended to limit the development of an accessory parking area within residentially zoned properties as a special land use in accordance with the standards and procedures set forth in § 770-11, Special land uses; permit procedures, provided the final determination of approval, approval with conditions, or denial shall be made by the City Commission following a recommendation from the Plan Commission. Furthermore, residential off-street parking lots shall be subject to the following conditions:

A. No encroachment is permitted unless the City Commission determines that additional encroachment would not be detrimental to the neighborhood as based upon the following criteria:

(1) Complies with the goals, objectives and policies of the Master Plan.

(2) Is designed and constructed to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the area.

(3) Will not be hazardous or disturbing to existing uses or uses reasonably anticipated in the future.

B. All applicable Article IX, Off-Street Parking and Loading, requirements shall apply unless otherwise stated in this section.

C. No parking shall be permitted between the property line and the front setback prevailing in the zone in which such lot is located or a lesser setback as determined advisable by the City Commission. The resulting open area shall be planted with

grass, or otherwise landscaped in accordance with § 770-90, Landscaping, greenbelts, buffers and screening.

D. A six-foot-high masonry wall shall be built along the mutual boundary of the residential accessory parking area and adjacent land zoned to a residential classification, except for the boundary included within a required front setback.

(1) Whenever a lot located in a residential zone and used for accessory parking purposes is located across the street from other land in any residential zone, that portion of the lot used for parking purposes shall be enclosed with a masonry wall. The wall shall be placed along the property line, and the height of said wall shall be no less than 30 inches or greater than six feet or a height as determined to be necessary by the City Commission.

(2) The City Commission may also require additional landscaping in accordance with § 770-90, Landscaping, greenbelts, buffers and screening.

E. Ingress and egress for vehicles to premises used for parking shall be by private drives through the business that the parking is accessory to the alley adjacent to the business and residential property, or by means of streets adjacent to such parking premises where such means of ingress and egress can be established adjacent to an alley and not adjacent to land designated for residential use or as determined advisable by the City Commission.

F. Parking facilities shall be considered as a necessary accessory use, and the required parking area shall be used only for the parking of vehicles of customers, patrons and employees.

G. Not more than two buildings for shelter of attendants shall be erected upon any given parking area, and each such building shall be not more than 50 square feet in area, and no more than 10 feet in height.

H. Not more than one directional sign may be erected at each point of ingress or egress. Such signs shall not exceed four square feet in area and four feet in height and may also bear the name of the enterprise serviced thereby.

§ 770-74. Churches and other institutions for religious worship.

A. A church or other institution for religious worship may be permitted in the residential zones, subject to the following conditions:

(1) Front and side yard setbacks shall be a minimum of 25 feet. Rear yard setbacks shall be a minimum of 35 feet.

(2) The site shall have access from the parking lot to an urban collector as defined in the City's Master Plan.

(3) Accessory uses shall be limited to those permitted and special land uses identified for the zone district. Principal and accessory land uses shall be subject to regulations and general and special provisions outlined in this chapter.

B. A church or other institution for religious worship located in other zones shall be

subject to the requirements of the zone in which it is located.

§ 770-75. Materials recovery facility.

A materials recovery facility is for the receipt, temporary storage, handling, sorting, and distribution of solid recyclable materials, subject to the following conditions:

A. All recyclable materials shall at all times be stored within a completely enclosed building.

B. The proposed use must be of such location, size and character that it will be in harmony with the appropriate and orderly development of the surrounding area. A minimum three-acre site is required.

C. The location and size of the proposed use or uses, the nature and intensity of the principal use and all accessory uses, the site layout and its relation to streets giving access to it shall be such that traffic to and from the use and uses, and the assembly of persons in connection therewith, will not be hazardous or inconvenient to the area nor unduly conflict with the normal traffic of the area. Vehicles loading or unloading shall be contained within the property. All driveways and parking areas on the site shall be hard surfaced to specifications of the Engineering Department.

D. The location and height of buildings or structures and the location, nature, and height of doors, walls and screening devices must be such that the proposed use will not have a detrimental effect upon the neighboring property or the neighboring area in general, nor impair the value of the neighboring property, nor interfere with or discourage the appropriate development and use of adjacent land or buildings or unreasonably affect their value. Such buildings shall be completely enclosed.

E. The location, size, intensity, site layout and periods of operation of any such proposed use must be designed to eliminate any possible nuisance likely to emanate therefrom which might be noxious to the occupants of any other nearby permitted uses, whether by reason of dust, noise, fumes, vibration, smoke or lights, or the presence of toxic materials.

F. The proposed use must comply in every respect with the special requirements and regulations provided for such use.

G. The proposed use must provide for proper yard space, parking facilities, loading space, setbacks, screening walls, size of buildings, lot area and width and other requirements of this chapter.

H. The proposed use must be in accord with the spirit and purpose of this chapter and not be inconsistent with or contrary to the objectives sought to be accomplished by this chapter and the principles of sound planning.

I. The following activities shall be prohibited, except as noted:

   (1) Incineration or open burning in any building or on the site shall be prohibited.

   (2) Overnight storage of any refuse material, other than recyclable materials, in any building shall be prohibited.

(3) Dumping or storage of material on the site outside the buildings at any time shall be prohibited.

J. Materials such as recyclable glass, fiber, household appliances and scrap metal temporarily stored outside the buildings must be in transport vehicles or transportable containers.

K. The Plan Commission may impose such reasonable conditions as it deems necessary to protect the public health, safety, and general welfare from excessive noises, vibrations, traffic, obnoxious and unhealthy odors, and any detrimental effects from the general operation of such transfer station.

L. The Plan Commission may impose additional conditions and safeguards as it deems necessary to minimize any adverse effect of a proposed installation on the character of the surrounding area.

§ 770-76. Adult-oriented commercial enterprises and specified services.[43]

In the preparation and enactment of this chapter, it is recognized that there are some uses, which, because of their very nature, have operational characteristics that have a serious and deleterious impact upon residential, office and commercial areas. Regulation of the locations of these uses is necessary to ensure that the negative secondary impact that such businesses have been documented to have will not cause or contribute to the blighting or downgrading of the City's residential neighborhoods, community uses which support a residential environment, and commercial centers. The regulations in this section are for the purpose of locating these uses in areas where the adverse impact of their operations may be minimized by the separation of such uses from one another and from residential neighborhoods and places of public congregation. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

A. Uses subject to these controls are as follows (hereinafter referred to as "regulated uses"):

(1) Adult-oriented commercial enterprises.

(2) Escort services and/or escort agencies.

(3) Massage parlors and/or massage establishments.

(4) Pawnbrokers and/or pawnshops.[44]

(5) Tattoo and/or body piercing and/or branding studios.

B. Location. The location of regulated uses within the City shall be subject to the following conditions:

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43. Editor's Note: See also Ch. 213, Books, Magazines and Videos, Sale of.

44. Editor's Note: See also Ch. 521, Pawnbrokers.

(1) No regulated use shall be permitted within a one-thousand-foot radius of an existing regulated use. Measurement of the one-thousand-foot radius shall be made from the outermost boundaries of the lot or parcel upon which the respective uses are or would be situated.

(2) No regulated use shall be permitted within a one-thousand-foot radius of a school, library, park, playground, licensed group day-care home or center, or church, convent, monastery, synagogue or similar place of worship. Measurement of the one-thousand-foot radius shall be made from the outermost boundaries of the lot or parcel upon which the respective uses are or would be situated.

(3) No regulated use shall be permitted within a one-hundred-fifty-foot radius of any residential zone. Measurement of the one-hundred-fifty-foot radius shall be made from the outermost boundaries of the lot or parcel upon which the respective uses/zones are or would be situated.

C. Miscellaneous requirements.

(1) No person shall reside in or permit any person to reside in the premises of a regulated use.

(2) An adult-oriented commercial enterprise use is in violation of this section if:

(a) The merchandise or activities of the establishment are visible from any point outside the establishment.

(b) The exterior portions of the establishment or signs have any words, lettering, photographs, silhouettes, drawings or pictorial representations of any specified anatomical area or sexually explicit activity as defined in this chapter.

(3) The provision of this section regarding massage establishments shall not apply to hospitals, sanitariums, nursing homes, medical clinics or the offices of a physician, surgeon, chiropractor and osteopath licensed to practice their respective professions in the State of Michigan, or who are permitted to practice temporarily under the auspices of an associate who is duly licensed in the State of Michigan and is normally on the same premises.

§ 770-77. Gunshops.

A. The property upon which a gunshop is located shall have frontage upon a primary or secondary thoroughfare, as designated in the City of Royal Oak Master Plan.

B. All customer entrances and exits to the gunshop, and all entrances and exits to the gunshop parking lot, shall be directly from the right-of-way of the primary or secondary thoroughfare.

§ 770-78. Bed-and-breakfast facilities.

Bed-and-breakfast facilities shall be subject to the following requirements:

A. Each premises must be occupied and operated by its owner. Banquets, parties and

receptions shall not be permitted in bed-and-breakfast facilities located in a residential zoning district.

B. One bathroom for every three bedrooms shall be provided. Guest rooms may share toilet and bathing facilities; however, in no instance shall the owner and guests have shared bathrooms.

C. The maximum number of bedrooms for guests shall not exceed six. Each bedroom shall be no less than 100 square feet.

D. The stay for an individual guest shall be no more than 14 consecutive days and not more than 30 days in a twelve-month period.

E. The operator shall keep a list of all guest stays. The list shall be available for inspection by the City.

F. In addition to the parking required for the residence, one parking space shall be provided for each guest room. The Plan Commission may, as part of its review, modify the number of off-street parking spaces and driveway requirements if it determines that alternate parking requirements and safe and efficient circulation can be provided. These parking requirements may be modified by the Plan Commission based upon site constraints, including, but not limited to, small yards, inadequate space for parking, and the availability of on-street parking.

G. Breakfast service shall be for guests only. No separate cooking facilities shall be allowed in guest bedrooms.

§ 770-79. Hospitals and outpatient medical clinics. [Amended 10-1-2012 by Ord. No. 2012-16]

A. Hospitals shall be subject to the following requirements:

(1) Such hospitals shall be developed only on sites consisting of at least five acres in area, and no such hospital is permitted on a lot of record.

(2) The proposed site shall have at least one property line abutting a major thoroughfare or collector street, as designated by the City of Royal Oak's Master Plan, and all access to and egress from the site shall be by such thoroughfare or collector street.

(3) The minimum distance of any main or accessory building from adjacent lot lines or rights-of-way shall be 100 feet for front, rear and side yards.

(4) Ambulance and delivery areas shall be obscured from all residential view with an obscuring wall or fence along with a landscape buffer, both in accordance with § 770-90D, Screening between land uses.

(5) Building height shall not exceed 140 feet.

B. Outpatient medical clinics shall be subject to the following requirements:

(1) The proposed site shall have at least one property line abutting a major thoroughfare or collector street, as designated by the City of Royal Oak's Master Plan, and all access to and egress from the site shall be by such

thoroughfare or collector street.

(2) Ambulance and delivery areas shall be obscured from all residential view with an obscuring wall or fence along with a landscape buffer, both in accordance with § 770-90D, Screening between land uses.

§ 770-80. Heliopads.

A. No helicopter in excess of 6,000 pounds shall be permitted on a heliopad.

B. Heliopads shall not be permitted within 600 feet of any land in a residential zone.

C. Heliopads shall be designed and constructed in accordance with all applicable federal, state and local ordinances and licensing requirements.

§ 770-81. Miniature golf courses.

A. The Plan Commission, as part of site plan review, shall determine that the lot area and frontage is adequate to support the operation in compliance with all ordinance requirements. Consideration shall be given to the arrangement of outdoor recreation areas, off-street parking and dropoff and pickup drives.

B. The proposed site shall have at least one property line abutting a major thoroughfare or collector street, and all access to and egress from the site shall be by such thoroughfare or street as designated in the City of Royal Oak Master Plan.

C. Any and all recreation equipment shall be setback a minimum of 50 feet and effectively screened from any residential zoned property.

D. Lights used to illuminate the miniature golf course must be so arranged and shielded or hooded as to reflect light away from adjoining premises.

E. No music, intercom or other noise shall be permitted that exceeds the noise standards in 770-94, Noise and vibrations.

F. A surety bond or cash deposit, in an amount not less than $1,000 shall be posted guaranteeing that the premises will be cleared of the miniature golf course should such enterprise be abandoned or discontinued for a period of more than one year.

§ 770-82. Large scale retail facilities.

These provisions are intended to regulate large retail establishments, whether located as an individual use on a single site or as part of a shopping center with a grouping of attached and/or detached buildings. While it is recognized that large scale retail establishments may provide goods and services to City residents, such stores are primarily focused on attracting consumers from a market area larger than the City. Therefore, specific standards are required to ensure that large scale retail stores can be adequately served by and do not create an inordinate impact upon roads, utilities, storm drainage and police and fire services and are subject to the following conditions:

A. Building design standards.

(1) Facades and exterior walls:

(a) Facades greater than 100 feet in length, measured horizontally, shall incorporate projections or recesses extending at least 20% of the length of the facade. No uninterrupted length of any facade shall exceed 100 horizontal feet.

(b) Ground floor facades that face public streets shall have arcades, display windows, entry areas, awnings or other such features along no less than 50% of their horizontal length.

(c) Building facades must include a repeating pattern that includes no less than two of the following elements:

[1] Color change;

[2] Texture change; and

[3] An expression of architectural or structural bays through a change in plane no less than 12 inches in width, such as an offset, reveal or projecting rib.

(2) Roofs. Roofs shall have no less than two of the following features:

(a) Parapets concealing flat roofs and rooftop equipment such as HVAC units from public view are required. Parapets shall not exceed 1/3 of the height of the supporting wall at any point. Such parapets shall feature three-dimensional cornice treatment;

(b) Overhanging eaves, extending no less than three feet past the supporting walls;

(c) Sloping roofs with an average slope greater than or equal to one foot of vertical rise for every three feet of horizontal run and less than or equal to one foot of vertical rise for every one foot of horizontal run; and

(d) Three or more roof slope planes.

(3) Materials and colors.

(a) Predominant exterior building materials shall be high-quality material, including, but not limited to, brick, stone, and integrally tinted/textured concrete masonry units.

(b) Facade colors shall be low reflectance, subtle, neutral or earth tone colors. The use of high-intensity colors, metallic colors, black or fluorescent colors shall be prohibited.

(c) Building trim and accent areas may feature brighter colors, including primary colors, but neon tubing shall not be an acceptable feature for building trim or accent areas.

(d) Exterior building materials shall provide texture to at least 50% of the facade and shall not be completely made up of smooth-faced concrete block, tilt-up concrete panels or prefabricated steel panels.

(4) Entryways. Each principal building on a site shall have clearly defined, highly visible customer entrances.

B. Site design standards.

(1) Parking lot location. No more than 50% of the off-street parking area devoted to the large scale retail establishment shall be located between the front facade of the principal building and the abutting streets.

(2) Connectivity. The site design must provide direct connections and safe street crossings to adjacent land uses. Pavement/material changes at drive crossings should be installed where possible to better define pedestrian crosswalks.

(3) Pedestrian circulation.

(a) Internal pedestrian walkways, no less than six feet in width, shall be provided connecting the public sidewalk to the principal customer entrance of all principal buildings on the site. At a minimum, walkways shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, building and store entry points, and shall feature adjoining landscaped areas that include trees, shrubs, benches, flowerbeds, ground covers or other such materials for no less than 50% of the length of the walkway.

(b) Sidewalks, no less than eight feet in width, shall be provided along the full length of the building along any facade featuring a customer entrance, and along any facade abutting public parking areas. Such sidewalks shall be located at least 10 feet from the facade of the building to provide planting beds for foundation landscaping, except where features such as arcades or entryways are part of the facade.

(c) All internal pedestrian walkways which cross or are incorporated with vehicular driving surfaces shall be distinguished from such driving surfaces through the use of durable, low maintenance surface materials such as pavers, bricks or scored concrete to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways. Surface materials used for internal pedestrian walkway shall be designed to accommodate shopping carts.

(4) Central features and community space. Each large scale retail establishment subject to these standards shall contribute to the establishment or enhancement of community and public spaces by providing at least two of the following: patio/seating area, pedestrian plaza with benches, transportation center, window shopping walkway, outdoor playground area, kiosk area, water feature, clock tower or other such deliberately shaped area and/or a focal feature or amenity that, in the judgment of the City, adequately enhances such community and public spaces. Any such areas shall have direct access to the public sidewalk network, and such features shall not be constructed of materials that are inferior to the principal materials of the building and landscape.

(5) Outdoor storage areas shall be prohibited.

§ 770-83. Salvage yards.

In addition to other regulations set forth in this chapter, all salvage yards shall conform to the following requirements:

A. All materials stored outside shall be enclosed within a solid, unpierced fence or wall at least eight feet in height, and not less in height than the materials. The fence or wall shall meet all setback requirements of the district in which the salvage yard is located. All gates, doors, and accessways through said fence or wall shall be of solid, unpierced materials. In no event shall any stored materials be in the area between the lines of said lot and the solid, unpierced fence or wall.

B. All ingress or egress shall be limited to one entrance to an urban collector, as designated by the City of Royal Oak's Master Plan.

C. On the lot on which a salvage yard is to be operated, all roads, driveways, parking lots, and loading and unloading areas shall be paved, so as to limit the nuisance caused by wind-borne dust on adjoining lots and public roads.

§ 770-84. Outdoor display and sales.

A. Outdoor sales and display areas shall be located behind the front face of the building. Outdoor sales and display areas shall be permitted within the required side or rear yard setbacks, provided a minimum ten-foot setback is maintained between the sales and display area and the side and rear lot lines abutting properties. Alternatively, the Planning Commission during the course of its special land use permit and site plan review may establish alternative locations for outdoor sales and display areas as it determines necessary and advisable. **[Amended 4-21-2014 by Ord. No. 2014-04]**

B. Outdoor sales and display areas which abut residentially zoned property shall be screened in accordance with § 770-90, Landscaping, greenbelts, buffers and screening.

C. Outdoor sales and display areas shall not occupy or obstruct the use of any fire lane, required off-street parking or landscaped area required to meet the requirements of Article IX, Off-Street Parking and Loading, or Subsections A and B or create a traffic or safety hazard. **[Amended 4-21-2014 by Ord. No. 2014-04]**

   (1) Off-street parking and maneuvering lanes shall meet minimum ordinance requirements for the retail use based upon the area designated for display and storage of products as determined by the Zoning Administrator. All loading and unloading areas and off-street parking and maneuvering lanes shall be located within the boundaries of the site.

   (2) All areas intended for the outdoor sales and display of vehicles and manufactured homes shall be designed and constructed in accordance with § 770-109, Off-street parking lot design and construction.

D. Outdoor storage of vehicle parts, parts salvage or supplies is prohibited.

E. The applicant shall file a pollution incidence protection plan (PIPP) for storage of any petroleum products and hazardous materials in accordance with Rule 162 of the

Michigan Water Resources Commission Act (PA 245 of 1929, as amended).[45]

F. All such outdoor sales and display areas shall be conducted in a manner so as not to create a nuisance to neighboring properties through adequate on-site parking and ingress and egress to the site. **[Added 4-21-2014 by Ord. No. 2014-04]**

G. The Planning Commission may impose such reasonable conditions as it deems necessary to protect the public health, safety and general welfare from excessive noises, traffic, obnoxious and unhealthy odors and any detrimental effects to the general operation of any outdoor sales and display areas. **[Added 4-21-2014 by Ord. No. 2014-04]**

§ 770-85. Mixed use development regulations.

Uses within the Mixed Use 1 and 2 Zones shall be subject to the following development regulations:

A. Site access. Access to public roads shall be controlled in the interest of public safety. Each building or group of buildings and its parking or service area shall be subject to the following restrictions:

(1) Provisions for circulation between adjacent parcels are encouraged through coordinated or joint parking systems.

(2) Driveway placement must be such that loading and unloading activities will not hinder vehicle ingress or egress.

(3) When applicable, the major access to the site shall be located through a rear access drive to be shared by all adjoining uses, provided said access would not result in more traffic onto a residential neighborhood.

(4) In most cases, a maximum of one two-way driveway opening or a pair of one-way driveway openings shall be permitted to a particular site from each adjacent public road. Common driveways shall be considered to be one driveway.

B. Pedestrian pathways and sidewalks. Such systems shall provide safe, all-weather, efficient, and aesthetically pleasing means of on-site movement and shall be an integral part of the overall site design concept. Pedestrian pathway connections to parking areas, buildings, other amenities and between on-site and perimeter pedestrian systems shall be planned and installed wherever feasible. All paths and sidewalks shall be a minimum of five feet in width, and paved.

C. Landscaping/streetscape elements. It is the intent of this section to ensure that the image of the City is promoted by the organization, unification and character of the landscaping used. In an attempt to unify the building sites and their architecture, landscaping as a design element will play a key role in creating and conveying a user-friendly environment. The landscape/streetscape requirements are as follows:

(1) Street intersections. The streetscape at intersections is to be treated with

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45. Editor's Note: PA 245 of 1929 (MCLA § 323.1 et seq.) was repealed by PA 1994, Act No. 451. See now MCLA § 324-3101 et seq.

elements of pavers, lighting, accent plants and low-growing shrubs, provided the site distance requirements are maintained. Each of the elements shall be reviewed simultaneously with the site plan by the Plan Commission.

D. General site design/architectural guidelines. It is the intent of the special use to provide an environment of high-quality and complementary building architecture and site design. Special emphasis shall be placed upon methods that tend to reduce the large-scale visual impact of buildings, to encourage tasteful, imaginative design for individual buildings, and to create a complex of buildings compatible with the streetscape and neighboring residential areas in terms of design, scale and use.

(1) Site planning design criteria.

(a) Minimum conflict shall exist between service vehicles, private automobiles, and pedestrians within the site, as well as with respect to the character of any neighboring residential uses.

(b) Special architectural features, such as bay windows, decorative roofs and entry features may project up to three feet into a required setback, provided that they are not less than nine feet above any public sidewalk or private walkway. Trellises, canopies and fabric awnings may project up to five feet into front setbacks, provided that they are not less than eight feet above any public sidewalk or private walkway. No such improvements shall encroach into a right-of-way.

(2) Building roofs.

(a) In instances where flat roof areas can be viewed from above, care should be taken that all roof vents, roof-mounted mechanical equipment, pipes, etc., are grouped together and painted to match roof color to reduce their appearance. Location of such mechanical equipment shall be as far removed from all neighboring residential uses as is possible.

(b) Slope roof treatments are preferred. If required to conceal mechanical equipment, parapets at least 42 inches high or higher, shall enclose flat roofs.

(c) There shall be variations in rooflines to reduce the massive scale of the structure and add visual interest.

(3) Color and texture.

(a) Simple and uniform texture patterns are encouraged.

(b) Variations in color shall be kept to a minimum.

(c) Colors shall be subdued in tone and of a low reflectance.

(d) Accent colors may be used to express corporate identity.

§ 770-86. Utilities and communication devices.

A. All exterior on-site utilities, and communication devices, including but not limited to drainage systems, sewers, gas lines, water lines, and electrical, telephone, and

communications wires and equipment, shall be installed and maintained underground whenever possible.

B. On-site underground utilities, and communication devices, shall be designed and installed to minimize disruption of off-site utilities, communication devices, paving, and landscape during construction and maintenance.

C. Satellite dishes and antennas shall be as far removed from all neighboring residential uses as is possible, and otherwise comply with the setback standards.

D. Wireless communications devices are regulated by § 770-88, Wireless communications devices.

§ 770-87. Special redevelopment projects.

A. Intent.

(1) Several properties within the City were improved many years ago for hotel and motel use. At the time such uses were approved, the needs and specifications for them were considerably different than they are at present. Land use regulations applicable to such uses have been modified in order to reflect the changing needs and realities. Consequently, the properties and structures initially designed and constructed for hotel and motel use many years ago are now materially nonconforming and are no longer capable of properly serving for their intended purposes.

(2) In addition to hotel and motel land uses, this section shall also address the recent closure of several public schools. Declining enrollment and older facilities have prompted the Royal Oak School District to discontinue use of several schools in the few years. These schools are located within the One-Family Residential Zone District.

(3) The City of Royal Oak Plan Commission has also identified other sites that are obsolete or materially nonconforming.

(4) Therefore, in the interest of promoting a productive use of such properties, as contemplated in Public Act 110 of 2006, as amended, MCLA § 125.3201, this section is intended to authorize redesign and redevelopment of such older uses consistent with the adaptability of the land on which they are situated, and compatible with surrounding residences, properties and uses.

B. Qualification for treatment under this section.

(1) The applicant shall demonstrate compliance § 770-11C, Basis of determinations, for a special land use permit, as well as the following:

(a) The existing structures on the property were initially constructed for hotel and/or motel use, public schools, or other sites identified by the Plan Commission as possible for a special redevelopment district.

(b) For hotels and/or motels, public schools and other sites as identified by the Plan Commission, the applicant proposes to redevelop the property by removing or making material modifications, discontinuing the existing

use(s) on the property, and establishing a new use consistent with the intent and provisions of this section.

(c) A recognizable and material benefit to the City will result from the redevelopment.

(d) The proposed use and improvements shall not result in an unreasonable increase in the need for or burden upon public services, facilities, streets and utilities.

(e) The proposed use and improvements will result in an advantageous economic impact upon surrounding properties.

(f) The current structures on the property are materially nonconforming and/or the use is obsolete. For the purposes of this subsection, obsolete are those hotels and motels existing or built prior to the adoption of the chapter, those schools identified by the Royal Oak School Board as obsolete and those properties identified by the Plan Commission as special redevelopment sites.

(g) The proposed use and improvements shall be consistent with the goals and policies of the Master Plan and consistent with the intent of this section, as set forth in Subsection A, above.

(h) The proposed use is compatible with adjacent and nearby residential uses.

C. Procedure for review.

(1) Preapplication conference. Prior to the submission of an application under this section, the applicant shall meet with the Planning Director, together with any staff and consultants the Director deems appropriate. The applicant shall present at such conference a sketch plan of the proposed redevelopment, along with other information and specifications to adequately inform the City of the intended application.

(2) Preliminary plan. Following the preapplication conference, the applicant shall submit a preliminary site plan of the proposed redevelopment. The preliminary site plan shall be prepared and a public hearing held in accordance with § 770-12 (intent statement), § 770-12C(2) and (3), site plan. In addition, a narrative report prepared by the applicant shall accompany the site plan, providing a description of the redevelopment, and discussing the market concept and feasibility of the project, and discuss and describe the manner in which each of the criteria under Subsection B, above, have been and will be met.

(3) Plan Commission action. The preliminary plan shall be noticed for public hearing as a special land use before the Plan Commission. Following the hearing, the Plan Commission shall review the preliminary plan and shall either approve, deny or approve with conditions.

(4) Final plan. Within six months following receipt of Plan Commission approval of a preliminary plan, the applicant shall submit a final plan and supporting materials conforming to this subsection. If a final plan is not submitted by the

applicant within such six-month period, the preliminary plan approval shall be null and void. The information required as part of a final plan shall be as follows:

(a) All the information required for preliminary plan purposes.

(b) A schedule of intended development and construction details, including phasing and timing.

(c) A specific schedule of the general improvements to constitute a part of the redevelopment, including, without limitation, lighting, signage, and all mechanisms designed to promote the character and adaptability of the development.

(d) A specification of the exterior building materials with respect to the structures proposed in the project.

(5) Plan Commission action. The final plan shall be reviewed by the Plan Commission and either approved, denied or approved with conditions.

D. Project design standards. Subject to the qualifications for treatment under this section, set forth in Subsection B, above, and provided that the development and proposed uses are consistent with the intent and provisions of this section, any land use or a combination of land uses may be proposed for approval under this section.

(1) For proposed residential uses, the project density shall be determined by the Plan Commission, and based on the applicant demonstrating the following: consistency with the Master Plan; innovative planning and design excellence; positive relationship to adjacent land uses; adequate provision for pedestrian and vehicular safety; promotion of aesthetic beauty; internal compatibility on the property; adequate provisions to accommodate the health, safety, and welfare of the users of the project. Moreover, deviations from the applicable setbacks, parking and loading, general provisions, and other requirements may be granted as part of the overall approval, provided there are features or elements demonstrated by the applicant and deemed adequate by the Plan Commission designed into the project plan for the purpose of achieving the promotion and protection of the users of the project, all surrounding land uses, and the general public health, safety, and welfare.

(2) For proposed nonresidential uses, there shall be adequate separation and buffering from adjoining residential uses, as determined in the discretion of the Plan Commission, and all development design standards and regulations of the district in which the property is situated shall be met, provided that deviations from the applicable setbacks, parking and loading, general provisions, and other requirements may be granted as part of the overall approval, provided there are features or elements demonstrated by the applicant and deemed adequate by the Plan Commission designed into the project plan for the purpose of achieving the promotion and protection of the users of the project, all surrounding land uses, and the general public health, safety, and welfare. Separation and buffering of uses may, in the discretion of the Plan Commission, be required to achieve noise reduction and visual screening by means of earthen and/or landscape berms and/or decorative

walls, or other mechanisms found in the discretion of the Plan Commission to be appropriate. Signage, lighting, landscaping, building materials for the exterior of all structures, and other features of the project, shall be designed and completed with the objective of achieving an integrated and controlled development, consistent with the character of the community, surrounding development, and natural features of the area, and shall be subject to review and approval by the Plan Commission.

E. Conditions. Reasonable conditions may be required with the approval of a special land use under this section, to the extent authorized by law, for the purpose of ensuring that public services and facilities affected by the proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, ensuring capability with adjacent land uses, and promoting the use of land in a socially and economically desirable manner.

F. Approval initiated by City administration. In the event the City administration determines that it would promote the intent of this section, and otherwise be in the interest of the City, the City administration may initiate the process of review and approval of a special land use under this section with regard to any one or more properties in the City. In the event of an approval of a special land use under this section initiated by the City administration, the property owner shall not be obligated to use or develop the property consistent with such approval, but shall have the right to do so. In addition, a property owner shall be authorized to seek an amendment of any special land use granted under this section at the initiation of the City administration, provided that the approval remains effective.

G. Effect of approval. When approved, the special land use, with all conditions, shall constitute the land use authorization for the property, and all improvement and use shall be in conformity with such authorization. In connection with the approval of a final plan, the Plan Commission shall require the preparation and execution of a development agreement, containing the basic terms and provisions of the approval, a clarification of the mutual understanding of the parties with regard to the lawfulness of the development approval and any conditions imposed. The development agreement shall be prepared by the City Attorney and approved by the Plan Commission as part of the final plan approval. An approval of a special land use under this section initiated by the City Administrator shall remain valid for the period of time specified in the approval. All other approvals under this section shall remain valid for a period of one year.

§ 770-88. Wireless communication facilities. [Amended 10-1-2012 by Ord. No. 2012-14]

A. Purpose and intent.

(1) It is the general purpose and intent of the City to authorize communication facilities needed to operate wireless communication systems. However, it is the further purpose and intent of the City to provide for such authorization in a manner which will retain the integrity of neighborhoods and the character, property values and aesthetic quality of the community at large. In fashioning and administering the provisions of this section, attempt has been made to balance these potentially competing interests.

(2) Recognizing the number of providers authorized to establish and operate wireless communication services and coverage, it is the further purpose and intent of this section to:

(a) Facilitate adequate and efficient provision of sites for wireless communication facilities and ensure that wireless communication facilities are situated in appropriate locations and relationships to other land uses, structures and buildings.

(b) Establish predetermined districts or zones of the number, shape, and in the location, considered best for the establishment of wireless communication facilities, subject to applicable standards and conditions.

(c) Recognize that operation of a wireless communication system may require the establishment of facilities in locations not within the predetermined districts or zones.

(d) Minimize the adverse impacts of technological obsolescence of such facilities, including a requirement to remove unused and/or unnecessary facilities in a timely manner.

(e) Minimize the negative visual impact of wireless communication facilities on neighborhoods, community landmarks, historic sites and buildings, natural beauty areas and public rights-of-way.

B. Authorization. **[Amended 3-30-2020 by Ord. No. 2020-03]**

(1) Permitted uses. Subject to the standards and conditions set forth in Subsection C, wireless communication facilities shall be permitted uses in the following circumstances, and in the following zoning districts:

(a) Co-location of attached wireless communication facilities.

[1] Co-location of an attached wireless communication facility shall be a permitted use in the following circumstances:

[a] When attached upon an existing wireless communication support structure or within an existing wireless communication equipment compound within any zoning district.

[b] When attached upon an existing building or structure other than a wireless communication support structure within any zoning district other than One-Family Residential or One-Family Large Lot Residential.

[c] When attached upon a utility pole, transmission tower, water supply tower, or structure other than a wireless communication support structure located within a right-of-way or upon municipally owned property, regardless of zoning district.

[2] Any co-location allowed under Subsection B(1)(a)[1][a] through [c] above shall be considered a permitted use and not subject to approval of a special land use permit, provided the support structure,

equipment compound, building, pole, or tower are in compliance with this chapter or have been previously approved by the Planning Commission, and further provided:

[a] The proposed co-location will not increase the originally approved overall height of any support structure within a right-of-way or any wireless communication equipment by more than 10 feet or 10% of its original height, whichever is greater, or the originally approved overall height of any support structure outside of a right-of-way by more than 10% or the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater;

[b] The proposed co-location will not increase the width of any support structure outside of a right-of-way by more than 20 feet or the width of the support structure at the level of the additional antenna array, whichever is greater, or the width of any support structure within a right-of-way or any wireless communication equipment by more than six feet;

[c] The proposed co-location will not increase the area or height of the existing equipment compound by more than 10%, will not increase the number of any equipment shelters, cabinets, or emergency generators by more than four feet, or will not add any equipment shelters, cabinets, or emergency generators where none currently exist;

[d] The proposed co-location will not involve excavation or deployment beyond the current boundaries of the leased or owned property surrounding any support structure outside of a right-of-way, including any access or utility easements, or beyond the area in proximity of any support structure within a right-of-way and any wireless communication equipment already deployed on the ground;

[e] The proposed co-location will not defeat the concealment elements of any landscaping or screening required under Subsection C(1)(h) or D(2), or any alternative support structure design required under Subsection C(1)(i); and

[f] The proposed co-location complies with the terms and conditions of any previous special land use permit and/or site plan approval of the support structure or equipment compound by the Planning Commission and/or Zoning Administrator, unless any noncompliance is due to an increase in height or width, the addition of equipment, or new excavation allowed under Subsection B(1)(a)[2][a] through [e] above.

[3] Such applications shall be reviewed administratively by the Zoning Administrator; however, such applications shall still be subject to the required standards and conditions of Subsection C(1) and the

application requirements of Subsection D, and all other applicable standards of this section and chapter. The Zoning Administrator shall approve or deny such applications not more than 60 days after determining they are administratively complete. If the Zoning Administrator fails to timely approve or deny the application, the application shall be considered approved, and the Zoning Administrator shall be considered to have made any determination required for approval.

(b) Wireless communication support structures. Wireless communication support structures shall be a permitted use in the following circumstances: in the General Industrial Zoning District; or upon any municipally owned property, regardless of zoning district. Such applications shall require, at a minimum, site plan review before the Planning Commission according to § 770-12, Site plan review, and be subject to all other applicable standards of this section and chapter.

(2) Special land uses. If it is demonstrated by an applicant that a wireless communication facility may not be reasonably established as a permitted use and is required to be established at a location other than those identified in Subsection B(1)(a) and (b) above in order to operate, such wireless communication facilities may be permitted elsewhere in the City as a special land use, subject to the requirements and standards of § 770-11, Special land uses; permit procedures, and further subject to the standards and conditions in Subsection C(2) and the application requirements in Subsection D. At the time of the submittal, the applicant shall demonstrate that a location within the areas identified in Subsection B(1)(a) and (b) cannot reasonably meet the coverage and/or capacity needs of the applicant.

C. General regulations. **[Amended 3-30-2020 by Ord. No. 2020-03]**

(1) Standards and conditions applicable to all facilities. All applications for wireless communication facilities shall be reviewed, constructed and maintained in accordance with the following standards and conditions, along with any additional conditions imposed by the Planning Commission as it deems necessary and advisable in the course of its site plan review process:

(a) Facilities shall not be demonstrably injurious to neighborhoods or otherwise detrimental to the public safety and welfare; shall be located and designed to be harmonious with the surrounding areas; and shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions.

(b) The maximum height of any new or modified support structure and antenna shall be the minimum height demonstrated to be necessary for reasonable communication by the applicant and by other entities to co-locate on the structure. Applicants shall demonstrate a justification for the proposed height of the structures and an evaluation of alternative designs which might result in lower heights.

(c) Any accessory building enclosing wireless communication equipment shall be limited to the maximum permitted height for accessory structures

within the respective zoning district.

(d) The setback of a support structure from any One-Family Residential or One-Family Large Lot Residential Zoning District shall be no less than the height of the structure. The setback of a support structure from any existing or proposed rights-of-way or other publicly traveled roads shall be no less than the height of the structure. The Planning Commission may allow lesser setbacks in order to reduce the impact of a support structure, or if it is demonstrated by an applicant under Subsection D(3) that, if damaged, the support structure will either collapse on itself or fall within a distance less than its height.

(e) There shall be an unobstructed access drive to the support structure for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement. This access drive shall be a minimum of 14 feet in width and shall be hard surfaced as required in Subsection A of § 770-109, Off-street parking lot design and construction.

(f) The division of property for the purpose of locating a wireless communication facility is prohibited unless all requirements and conditions of this chapter are met.

(g) Where an attached wireless communication facility is proposed on the roof of a building, any equipment enclosure shall be designed, constructed and maintained to be architecturally compatible with the principal building. The equipment enclosure may be located within the principal building or may be an accessory building. If proposed as an accessory building, it shall conform to all district requirements for principal buildings, including yard setbacks.

(h) The base of a support structure and its equipment compound shall be screened as required in § 770-90D, Screening between land uses, unless the Planning Commission in the course of its site plan review process determines alternate requirements are necessary and advisable. Any fencing required for protection of the support structure or equipment compound and security from unauthorized access shall comply with Chapter 323, Fences, as amended, unless modified by the Planning Commission in the course of its site plan review process.

(i) Support structures may be of an alternative design, if determined necessary and advisable by the Planning Commission in the course of its site plan review process, such as but not limited to a statue or sculpture, steeple, bell or clock tower, flagpole, tree, or other form which is determined by the Planning Commission to be compatible with the existing character of the proposed site and surrounding neighborhood. The Planning Commission shall review and approve the color of the support structure and all accessory buildings, so as to minimize distraction, reduce visibility, maximize aesthetic appearance, and ensure compatibility with surroundings.

(j) Support structures shall be constructed in accordance with all applicable

building codes. The requirements of the Federal Aviation Administration, Federal Communications Commission, and Michigan Aeronautics Commission shall be noted.

(k) It shall be the responsibility of the applicant to maintain the wireless communication facility in a neat and orderly condition.

(2) Standards and conditions applicable to special land use facilities. Applications for wireless communication facilities which may be approved as special land uses shall be reviewed and, if approved, constructed and maintained in accordance with the standards and conditions in Subsection C(1) and in accordance with the following standards:

(a) The applicant shall demonstrate the need for the proposed facility to be located as proposed based upon the presence of one or more of the following factors: proximity to an interstate or a major thoroughfare; areas of population concentration; concentration of commercial, industrial, and/or other business centers; areas where signal interference has occurred due to tall buildings, masses of trees, or other obstructions; topography of the proposed facility location in relation to other facilities with which the proposed facility is to operate; and other specifically identified reasons creating facility need.

(b) The proposal shall be reviewed in conformity with the co-location requirements of Subsection E below.

(c) After an application for a special land use approval is filed with the City, the Zoning Administrator shall determine whether the application is administratively complete. Unless the Zoning Administrator proceeds as provided under Subsection C(2)(d), the application shall be considered to be administratively complete when the Zoning Administrator makes that determination or 14 business days after the Zoning Administrator receives the application, whichever is first.

(d) If, before the expiration of the fourteen-day period under Subsection C(2)(c), the Zoning Administrator notifies the applicant that the application is not administratively complete, specifying the information necessary to make the application administratively complete, or notifies the applicant that a fee required to accompany the application has not been paid, specifying the amount due, the running of the fourteen-day period under Subsection C(2)(c) is not tolled until the applicant submits to the Zoning Administrator the specified information or fee amount due. The notice shall be given in writing or by electronic notification.

(e) The Planning Commission shall approve or deny an application not more than 90 days after the application is determined by the Zoning Administrator to be administratively complete for all facilities requiring a special land use permit. If the Planning Commission fails to timely approve or deny the application, the application shall be considered approved, and the Planning Commission shall be considered to have made any determination required for approval.

(f) The fee for an application for wireless communication facilities which may be approved as special land uses shall be as set by state or federal law or regulations.

D. Application requirements. **[Amended 3-30-2020 by Ord. No. 2020-03]**

(1) An application for a wireless communication facility shall include a site plan prepared in accordance with § 770-12, Site plan review.

(2) A site plan for a support structure and/or equipment compound shall also include a detailed landscaping plan illustrating screening, aesthetic enhancement, and security fencing for the support structure base, accessory buildings and enclosure.

(3) An application for a support structure shall also include a signed certification by a licensed professional engineer with regard to the manner in which the proposed support structure will fall or collapse, which certification will be utilized, along with other criteria such as applicable regulations for the zoning district in question, in determining the appropriate setback to be required for the support structure and related facilities.

(4) An application shall include, at the discretion of the Zoning Administrator, a description of security to be posted at the time of receiving a building permit for the facility to ensure removal of the facility when it has been abandoned or is no longer needed, as provided in Subsection F below. In this regard, the security shall, at the election of the Zoning Administrator, be in the form of cash; surety bond; letter of credit; or an agreement in a form approved by the City Attorney and recordable at the office of the Oakland County Registrar of Deeds, establishing a promise of the applicant and owner of the property to timely remove the facility as required under this section of this chapter, with the further provision that the applicant and owner shall be responsible for the payment of any costs and attorney's fees incurred by the City in securing removal.

(5) An application shall also include a map showing existing and known proposed wireless communication facilities within the City, and further showing existing and known proposed wireless communication facilities within areas surrounding the borders of the City in the location, and in the area, which are relevant in terms of potential co-location or in demonstrating the need for the proposed facility. If and to the extent the information in question is on file with the City, the applicant shall be required only to update as needed. Any proprietary information may be submitted with a request for confidentiality in connection with the development of governmental policy, in accordance with MCLA § 15.243(1)(g). This chapter shall serve as the promise to maintain confidentiality to the extent permitted by law. The request for confidentiality must be prominently stated in order to bring it to the attention of the City.

(6) An application shall also include the name, street address, telephone number, and email address of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated during all times the facility is on the premises.

E. Co-location. **[Amended 3-30-2020 by Ord. No. 2020-03]**

(1) Statement of policy. It is the policy of the City to minimize the overall number of newly established locations for wireless communication support structures and encourage the co-location of attached wireless communication facilities on existing structures.

(2) Feasibility of co-location. Co-location shall be deemed to be "feasible" for purposes of this section where all of the following are met:

(a) The wireless communication provider entity under consideration for co-location will undertake to pay market rent or other market compensation for co-location.

(b) The site on which co-location is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.

(c) The co-location being considered is technologically reasonable, e.g., the co-location will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the structure, antennas, and the like.

(d) The height of the structure necessary for co-location will not be increased beyond a point deemed to be permissible by the City, taking into consideration the standards set forth in this section.

(3) Requirements for co-location.

(a) Approval for the construction and use of a new wireless communication support structure shall not be granted unless and until the applicant demonstrates that a feasible co-location is not available for the coverage area and capacity needs.

(b) All new and modified wireless communication facilities, including support structures, shall be designed and constructed so as to accommodate co-location.

(c) If a party who owns or otherwise controls a facility shall fail or refuse to alter it so as to accommodate a proposed and otherwise feasible co-location, such facility shall thereupon and thereafter be deemed to be a nonconforming structure and use, and shall not be altered, expanded or extended in any respect in accordance with § 770-115, Nonconforming structures.

F. Removal.

(1) The City reserves the right to request evidence of ongoing operation at any time after the construction of an approved support structure.

(2) A condition of every approval of a wireless communication facility shall be adequate provision for removal of all or part of the facility by users and owners upon the occurrence of one or more of the following events:

(a) When the facility has not been used for 180 days or more. For purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of nonuse.

(b) Six months after new technology is available at reasonable cost as determined by the City Commission, which permits the operation of the communication system without the requirement of the support structure.

(3) The situations in which removal of a facility is required, as set forth in Subsection F(1) above, may be applied and limited to portions of a facility.

(4) Upon the occurrence of one or more of the events requiring removal, specified in Subsection F(2) above, the property owner or persons who had used the facility shall immediately apply or secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the premises to an acceptable condition as reasonably determined by the Zoning Administrator.

(5) If the required removal of a facility or a portion thereof has not been lawfully completed within 60 days of the applicable deadline, and after at least 30 days' written notice, the City may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn or collected from the security posted at the time application was made for establishing the facility.

ARTICLE VI
Landscaping and Screening Design Standards

§ 770-89. Intent. [Amended 2-12-2018 by Ord. No. 2018-02]

The intent of this article is to provide for those landscaping, screening, and tree preservation regulations which are applied to all uses requiring site plan approval under § 770-12, Site plan review, of this chapter.

§ 770-90. Landscaping, greenbelts, buffers and screening. [Amended 2-12-2018 by Ord. No. 2018-02]

A. Intent. The intent of this section is to:

(1) Protect and preserve the appearance, character, and value of the community.

(2) Minimize noise, air, soil, groundwater, surface water and visual pollution.

(3) Minimize soil erosion and runoff, provide protection from wind and sun and promote energy conservation.

(4) Improve the overall aesthetics and appearance, divide the expanse of pavement, and define parking areas and vehicular circulation within off-street parking lots and other off-street parking facilities.

(5) Require buffering of residential areas from more intense land uses.

(6) Encourage an appropriate mixture of plant material, such as evergreen and deciduous trees and shrubs, to protect against insect and disease infestation and produce a more aesthetic and cohesive design.

(7) Encourage the integration of existing vegetation in landscape plans and preservation of specimen trees.

(8) Prevent the unnecessary removal of mature trees and protect them for their economic support of property values, natural beauty, character, ecological importance, and historical significance, and preserve the natural beauty and irreplaceable natural heritage of the City's tree canopy.

B. Application of requirements. No site plan, site condominium plan or subdivision plat shall be approved unless a landscape plan is provided which meets the requirements set forth herein.

C. Landscape plan requirements. A separate detailed landscape/plan at a scale of not greater than one inch equals 50 feet shall be required to be submitted to the City as part of the site plan review or tentative preliminary plat review. The landscape plan shall demonstrate that all requirements of this section are met and shall include, but not necessarily be limited to, the following items:

(1) Location, spacing, size (height, caliper and size of root ball), root type (shallow or deep) and descriptions for each plant type (deciduous, evergreen, annual, or perennial) to be planted.

(2) Typical straight cross section, including slope, height, and width of berms.

(3) Typical construction details to resolve specific site conditions, such as landscape walls and tree wells used to preserve existing trees or maintain natural grades.

(4) Details in either text or drawing form to ensure proper installation and establishment of proposed plant materials as prescribed by the American Nurseryman Standards.

(5) Identification, location and description of existing trees and vegetative cover to be preserved, relocated or removed (including common name, species and diameter).

(6) Identification and description of grass and other ground cover to be planted and method of planting (sod, plugs, sprigs or seeds).

(7) Identification of landscape maintenance program in accordance with § 770-90L, Installation, maintenance and completion.

(8) A survey of existing trees showing all deciduous trees with a diameter at breast height of 2 1/2 inches or greater, and evergreen trees with a height of six feet or greater, identified by common and botanical name as well as size, height, or diameter at breast height, and whether each tree is to remain, be transplanted, or removed.

D. Screening between land uses. Upon any situation for which a site plan is required under § 770-12, Site plan review, of this chapter, a landscape buffer shall be constructed to create a visual screen at least six feet in height between the following land uses: multiple-family residential, institutional, office, commercial, industrial, or a mixture of such land uses, including all off-street parking areas, and single-family or two-family residential land uses; and institutional, office, commercial, industrial, or a mixture of such land uses, including all off-street parking areas, and multiple-family residential land uses that are not part of a mixed-use building or development. The following standards shall apply (See Figure 5.[46]):

(1) Landscape buffer. A landscape buffer may consist of evergreen trees and shrubbery or a combination of evergreen plantings with earthen berms. To achieve effective screening, landscape materials shall be planted in a staggered manner meeting the minimum size as set forth in § 770-90K(5), Minimum size and spacing requirements, at the time of planting.

(2) Wall or fence. Where there is a need to provide a greater noise or dust barrier or to screen more intense development, a solid wall or fence or a combination of landscaping and a solid wall or fence shall be required by the Planning Commission in accordance with Chapter 323, Fences, as amended. Wall or fence height shall be measured on the side of the proposed wall having the higher grade. The Planning Commission shall approve the construction materials of the wall or fence which may include face brick, poured-in-place simulated face brick, pre-cast brick face panels having simulated face brick, stone or wood.

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46. Editor's Note: Figure 5 is included as an attachment to this chapter.

(3) A required wall/fence shall be located on the lot line except where underground utilities interfere and except in instances where this chapter requires conformity with front yard setback requirements. The location of a required wall/fence may be adjusted at the discretion of the Planning Commission, provided that the areas between the wall/fence and the property line are landscaped. The Planning Commission may omit required screening along any lot line where an existing building wall immediately abuts the lot line and require a letter of agreement with the property owner to install the wall if the adjacent building is removed. The letter of agreement shall be recorded with the Oakland County Register of Deeds.

E. Off-street parking area landscaping. Separate landscape areas shall be provided within parking lots so as to break up the broad expanse of pavement and guide the circulation of vehicular and pedestrian traffic. The following standards shall apply (See Figures 4 and 10.[47]):

(1) Required landscaping within off-street parking areas. Separate landscape areas shall be provided within off-street parking areas in accordance with the following requirements:

(a) There shall be a minimum of one deciduous tree for every eight parking spaces, provided that a landscape island shall be provided for no more than 16 continuous spaces.

(b) The ends of all parking aisles and corners shall be protected with a landscaped island.

(c) A minimum distance of three feet from the backside of the curb and the proposed landscape plantings shall be provided. Where vehicles overhang a landscape island or strip, a minimum distance of five feet from the backside of the curb and the proposed landscape plantings shall be provided. (See Figure 4.[48])

(d) Shrubs and/or ground covers which will not impede vehicular visibility in accordance with this chapter may also be included in the landscape plan.

(2) Required landscaping at the perimeter of off-street parking areas. Separate landscape areas shall be provided at the perimeter of off-street parking areas when adjacent to a public street in accordance with the following requirements:

(a) Off-street parking areas which are considered to be a conflicting land use as defined by this section shall meet the screening requirements set forth in § 770-90D, Screening between land uses.

(b) All off-street parking areas shall be screened from view with a landscaped berm, solid wall or a combination of wall/fencing and landscaping at least 30 inches in height along the perimeter of those sides which are visible

47. **Editor's Note: Figures 4 and 10 are included as attachments to this chapter.**

48. **Editor's Note: Figure 4 is included as an attachment to this chapter.**

from a public street. Upon receipt of a letter from the City of Royal Oak Police or Fire Department, the Planning Commission may determine alternate screening requirements as deemed necessary and advisable.

(3) Landscaped areas, walls, structures, and walks shall be properly protected from vehicular encroachment or overhang through appropriate wheel stops or curbs.

F. Front yard landscape or greenbelts. The front yard setback, where required, shall be landscaped in accordance with the following requirements. (See Figure 6.[49])

(1) The front yard setback or greenbelt shall be landscaped with a minimum of one tree for every 30 linear feet of frontage abutting a public road right-of-way.

(2) If ornamental deciduous trees are substituted for either nonornamental deciduous trees or evergreen trees, they shall be provided at a minimum of one tree for every 20 linear feet of frontage abutting a public road right-of-way.

(3) In addition to the required trees, the remainder of the front yard setback or greenbelt shall be landscaped in grass, ground cover, shrubs and other natural landscape materials.

(4) Access drives from public rights-of-way through a required front yard setback or greenbelts shall be permitted, but such drives shall not be subtracted from the linear dimension used to determine the minimum number of trees required.

G. Foundation landscaping. Foundation plantings shall be provided along the front or sides of any buildings which face a public road and/or is adjacent to a parking lot or other area which provides access to the building(s) by the general public. Foundation planting areas shall be integrated into the sidewalk system (between the front or sides of the building and the parking area and/or associated driveways) adjacent to the building. Foundation planting areas shall contain a minimum of one ornamental tree and six shrubs per 30 linear feet of applicable building frontage. Individual planting areas shall be a minimum of six feet in width. (See Figure 11.[50])

H. Site landscaping. Inclusive of any landscape greenbelt and/or off-street parking area landscaping required by this section, at least 10% of the site area, excluding existing public rights-of-way, shall be landscaped. Such site area landscaping may include a combination of the preservation of existing tree cover, planting of new trees and plant material, landscape plazas, gardens and building foundation planting beds. Site area landscaping shall be provided to screen potentially objectionable site features such as, but not limited to, retention/detention ponds, transformer pads, generators, heating, ventilation and/or air-conditioning units, and storage and loading areas.

I. Screening of refuse and recyclable containers. (See Figure 12.[51])

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49. Editor's Note: Figure 6 is included as an attachment to this chapter.

50. Editor's Note: Figure 11 is included as an attachment to this chapter.

51. Editor's Note: Figure 12 is included as an attachment to this chapter.

(1) Outside refuse disposal and recyclable containers shall be screened on three sides with a durable six-foot or higher masonry enclosure, and sight-obscuring decorative gate at least as high as the container, so as not to be visible from adjacent lots or sites, neighboring properties or streets. The enclosure shall also be constructed so as to be compatible with the architectural styles used in the site development. The Planning Commission may, at its discretion, require a higher screen if deemed necessary due to the proximity to conflicting land uses.

(2) Containers shall be consolidated with a development to minimize the number of collection sites and located so as to reasonably equalize the distance from the building they serve.

(3) Containers and enclosures shall be located away from public view insofar as possible and on that side which is opposite or at the maximum distance possible from adjacent residential uses.

(4) Containers and enclosures shall be situated so that they do not cause excessive nuisance or offense to occupants of nearby buildings.

(5) Concrete pads of appropriate size and construction shall be provided for containers or groups of containers.

J. Screening of exterior electrical equipment, transformers, generators, and heating, ventilation, and/or air-conditioning units.

(1) Transformers that may be visible from any public right-of-way or adjacent property shall be screened with either plantings or an enclosure which is unified and harmonious with the overall architectural theme, and meets utility provider standards for location and maintenance.

(2) Electrical equipment shall be mounted on the interior wall of a building wherever possible or shall be located where it is substantially screened from residential properties and public view.

(3) Ground-mounted generators and heating, ventilation, and/or air-conditioning units shall be:

(a) Located away from public view insofar as possible and on that side which is opposite or at the maximum distance possible from adjacent residential uses;

(b) Situated so that they do not cause excessive nuisance or offense to occupants of nearby buildings; and

(c) Screened with plantings or an enclosure which is unified and harmonious with the overall architectural theme if they are visible from any public right-of-way or adjacent residential uses.

(4) Roof-mounted generators and heating, ventilation, and/or air-conditioning units shall be:

(a) Located away from public view insofar as possible and on that side which

is opposite or at the maximum distance possible from the front facade(s) of the building;

(b) Situated so that they do not cause excessive nuisance or offense to occupants of nearby buildings; and

(c) Concealed from public view by decorative fencing, a parapet, or an alternative screening method as deemed necessary and advisable by the Planning Commission.

K. Landscape elements. The following minimum standards shall apply:

(1) Quality. Plant materials shall be of generally acceptable varieties and species, free from insects and diseases, hardy to Oakland County, conform to the current minimum standard of the American Association of Nurserymen, and shall have proof of any required governmental regulations and/or inspections.

(2) Composition. A mixture of plant material, such as evergreens, deciduous trees and shrubs, is recommended as a protective measure against insect and disease infestation. A limited mixture of hardy species is recommended rather than a large quantity of different species to produce a more aesthetic, cohesive design and avoid a disorderly appearing arrangement.

(3) Berms. Berms shall be constructed with slopes not to exceed a 1:3 gradient. Berm slopes shall be protected with sod, seed, or other form of natural ground cover.

(4) Existing trees. The preservation, incorporation, and replacement of existing trees is required, including those trees within allowable building envelopes and required off-street parking areas. The following requirements shall apply:

(a) Paving, or other site improvements, shall not encroach upon the dripline of the existing tree(s) to be preserved.

(b) If existing plant material is labeled "To Remain" on site and/or landscaping plans by the petitioner or required by the City, protective techniques such as fencing shall be installed during construction and noted as such on the plans. No vehicle or other construction equipment shall be parked or stored within the dripline of any plant material intended to be saved.

(c) In the event that healthy deciduous trees of two-and-one-half-inch diameter at breast height or greater, or evergreen trees of six-foot height or greater, are cut down, destroyed, damaged, or excavated at the dripline, as determined by the City, the petitioner shall replace them with no fewer than two trees of similar character and size. However, in the event that a similar sized tree is not available, multiple deciduous trees of no less than two-and-one-half-inch diameter at breast height each, or multiple evergreen trees of no less than six-foot height each, shall be planted. The number of multiple replacement trees to be required shall be as deemed necessary and advisable by the Planning Commission.

(5) Minimum size and spacing requirements. Where landscaping is required, the

following schedule sets forth minimum size and spacing requirements for representative landscape materials:

		Minimum Size Allowable			
		Height		Diameter at Breast Height	
Trees		6 feet	3 feet to 4 feet	2 inches	2.5 inches
The following trees are representative:					
Evergreen Trees:					
	Fir	•			
	Spruce	•			
	Pine	•			
	Hemlock	•			
	Douglas fir	•			
Narrow Evergreen Trees:					
	Red cedar		•		
	Arborvitae		•		
	Juniper (selected varieties)		•		
Large Deciduous Canopy Trees:					
	Oak				•
	Maple				•
	Beech				•
	Linden				•
	Ash				•
	Ginko (male only)				•
	Honeylocust (seedless, thornless)				•
	Birch				•
	Sycamore				•
Small Deciduous Ornamental Trees:					

		Minimum Size Allowable			
		Height		Diameter at Breast Height	
Trees		6 feet	3 feet to 4 feet	2 inches	2.5 inches
	Flowering dogwood			•	
	Flower cherry, pear			•	
	Hawthorn			•	
	Redbud			•	
	Magnolia			•	
	Flowering crabapple			•	
	Serviceberry			•	
	Hornbeam			•	

		Minimum Size Allowable			
		Height		Spread	
Shrubs		6 feet	3 feet to 4 feet	24 inches to 36 inches	18 inches to 24 inches
The following shrubs are representative.					
Evergreen Shrubs:					
	Pyramidal yew		•		
	Hicks yew				•
	Brown's spruce ward			•	
	Alberta spruce		•		
	Chinensis juniper varieties			•	
	Sabina juniper				•
	Mugo pine				•

		Minimum Size Allowable			
		Height		Spread	
Shrubs		6 feet	3 feet to 4 feet	24 inches to 36 inches	18 inches to 24 inches
	Horizontal juniper varieties				•
	Boxwood				•
	Euonymus varieties				•
Deciduous Shrubs:					
	Honeysuckle			•	
	Lilac			•	
	Sumac			•	
	Pyracantha				•
	Weigela			•	
	Flowering quince			•	
	Cotoneaster			•	
	Dogwood			•	
	Virburnum varieties			•	
	Spiraea				•
	Fragrant sumac				•
	Potentilla				•

(6) Prohibited species. The following species shall not be planted as part of any landscaping plan, and shall be exempt from the regulations set forth in § 770-90K(4) to preserve, incorporate, and replace existing trees: poplar (populus); soft maples (acer); willows (Salix); box elders (acer); or any other prohibited species identified in § 710-15, Prohibited trees in public areas, of Chapter 710, Trees.

L. Installation, maintenance, and completion.

(1) All landscaping required by this chapter shall be planted before obtaining a certificate of occupancy or the appropriate financial guaranty, as set forth in § 770-16, Performance guaranty, the latter of which shall be placed in escrow in the amount of the cost of landscaping to be released only after landscaping is completed.

(2) All landscaping and landscape elements shall be planted, and earthmoving or

grading performed, in a sound workmanlike manner, according to accepted planting and grading procedures. Salt-tolerant species shall be used in areas that are subject to salt spray from adjacent roadways and parking areas.

(3) All plant material shall be maintained in good condition so as to present a healthy, neat and orderly appearance and shall be trimmed or pruned in such a manner so as not to alter their natural growth potential.

(4) The owner of property required to be landscaped by this chapter shall maintain such landscaping in a strong and healthy condition, free from physical damage or injury arising from lack of water, chemical damage, insects, diseases, blight or other causes, and according to the provisions of Chapter 757, Weeds, as amended.

(a) All materials used to satisfy the requirements of this chapter which become unhealthy or dead shall be replaced within six months of damage or death or the next appropriate planting period, whichever comes first.

(5) All landscaped areas shall be provided with a readily available and acceptable water supply. Underground sprinkler systems shall be installed, utilized and maintained in order to insure the proper watering of all plant materials. The Planning Commission may determine alternative irrigation systems as deemed necessary and advisable.

M. Planning Commission modifications to requirements.

(1) Modifications to landscaping, greenbelts, buffers and screening requirements. The Planning Commission, during the course of its site plan review process, may determine alternate requirements as deemed necessary and advisable. In determining the requirements, the Planning Commission shall consider the following:

(a) That the physical features, topographic features or special characteristics of the site create conditions so that the strict application of the provisions of this section will result in less effective landscaping than alternative landscape designs.

(b) That the public benefit intended to be secured by this section will exist with the modifications as proposed.

(c) Where additional screening or buffer is desired in excess of chapter requirements, the Planning Commission may require additional landscaping and/or screening devices.

(d) Whether there are unique, extraordinary, or exceptional conditions of the property that result in peculiar or exceptional practical difficulties to, or exceptional undue hardship upon, the owner of such property from the strict application of the regulations set forth in § 770-90K(4).

(e) Should the Planning Commission determine that the strict application of the regulations set forth in § 770-90K(4) is not necessary and that alternative tree replacement measures are advisable, exemptions to the requirement to preserve, incorporate, and replace existing trees set forth

in § 770-90K(4) may be granted, provided that: **[Amended 1-11-2021 by Ord. No. 2021-01]**

[1] The landscape plan contains a tree replacement plan otherwise prepared in accordance with the standards set forth in § 770-90C(8) and K(4), showing the location and number of new trees that will be planted, existing trees that will remain on the site, and existing trees that will be removed; and/or

[2] A fee is paid into a tree replacement fund, in an amount established by the City Commission, for every replacement tree required as set forth in § 770-90K(4)(c) that will not be planted.

§ 770-91. Fences, walls and screens.

Any person desiring to build or cause to be built a fence upon property within the City of Royal Oak shall comply with Chapter 323, Fences, as amended.

ARTICLE VII
Environmental Performance Standards

§ 770-92. Intent.

Environmental standards are established in order to preserve the short- and long-term environmental health, safety, and welfare of the City. No parcel, lot, building or structure in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable element or condition so as to adversely affect the surrounding area or adjoining premises. Any use permitted by this chapter may be undertaken and maintained if acceptable measures and safeguards are employed to limit dangerous and objectionable elements to acceptable limits as established by the following performance standards. No use, otherwise allowed, shall be permitted within any district which does not conform to the following standards of use, occupancy, and operation. These standards are established as minimum requirements to be maintained.

§ 770-93. Airborne emissions.

A. It shall be unlawful for any person, firm, or corporation to permit the emission of any smoke or air contaminant in violation of applicable air quality standards adopted by the Federal Clean Air Act and the Michigan Department of Environmental Quality.

B. Odors. Any condition or operation which results in the creation of odors of such intensity and character as to be detrimental to the health and welfare of the public or which interferes unreasonably with the comfort of the public shall be removed, stopped, or so modified as to remove the odor. Such odors shall be prohibited when perceptible at any point along the property line.

C. Gases. The escape or emission of any gas which is injurious or destructive, harmful to person or property, or explosive shall be unlawful and shall be abated.

§ 770-94. Noise and vibrations.

A. Noise which is objectionable as determined by the City due to intensity, frequency, or duration shall be muffled, attenuated, or otherwise controlled, subject to the following:

   (1) Objectionable sounds of an intermittent nature, or sounds characterized by high frequencies, shall be controlled so as not to become a nuisance to adjacent uses.

   (2) Sirens and related apparatus used solely for public purposes are exempt from this requirement. Noise resulting from temporary construction activity shall also be exempt from this requirement.

   (3) Noise levels shall not exceed 75 decibels between the hours of 6:00 a.m. and 10:00 p.m. and shall not exceed 60 decibels between the hours of 10:00 p.m. and 6:00 a.m., and must comply with the levels set forth in the following table:

Sound Levels in Decibels at Property Lines

Octave Band Cycles per Second	Adjacent to All Residential Uses	Adjacent to All Commercial, Office and Industrial Uses
0 to 75	58	73
75 to 150	54	69
150 to 300	50	65
300 to 600	46	61
600 to 1,200	40	55
1,200 to 2,400	33	43
2,400 to 4,800	26	41
Over 4,800	20	35

B. No use shall generate any ground-transmitted vibration in excess of the limits set forth below. Vibration shall be measured at the nearest adjacent lot line. The vibration maximums set forth below are stated in terms of particle velocity, which may be measured with suitable instrumentation or computed on the basis of displacement and frequency.

(1) When computed, the following standards shall apply:

Particle Velocity in Inches Per Second

Frequency (cycles per second)	Displacement (inches)
0 to 10	0.0010
10 to 20	0.0008
20 to 30	0.0006
30 to 40	0.0004
40 and over	0.0002

(2) If requested by the Zoning Administrator, the petitioner shall provide evidence of compliance with the above-noted vibration calculations.

C. Vibrations resulting from temporary construction activity shall be exempt from the requirements of this section.

§ 770-95. Electrical disturbance, electromagnetic or radio frequency interference.

No use shall create any electrical disturbance that adversely affects any operations or equipment other than those of the creator of such disturbance, or cause, create, or contribute to the interference with electronic signals (including television and radio broadcasting transmission) to the extent that the operation of any equipment not owned by the creator of such disturbance is adversely affected.

§ 770-96. Glare and exterior lighting.

A. Light and glare from indirect sources.

(1) 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 so as not to be seen from any point beyond the property line, and so as not to create a public nuisance or hazard along lot lines.

(2) The design and/or screening of the development shall insure that glare from automobile and commercial or industrial vehicle headlights shall not be directed into any adjacent property, particularly residential property.

(3) Exterior doors shall be located, operated, and maintained so as to prevent any glare and light from creating a nuisance or safety hazard to operators of motor vehicles, pedestrians, and neighboring land uses.

B. Exterior lighting from direct sources.

(1) Subject to the provisions set forth herein, all parking areas, walkways, driveways, building entryways, off-street parking and loading areas, and building complexes with common areas shall be sufficiently illuminated to ensure the security of property and the safety of persons using such public or common areas.

(2) Exterior lighting shall be located and maintained to prevent the reflection and glare of light in a manner which creates a nuisance or safety hazard to operators of motor vehicles, pedestrians and neighboring land uses. This provision is not intended to apply to public streetlighting.

(3) The following additional standards shall apply:

(a) All streetlighting to be installed between the sidewalk and street along Main Street or Washington, consistent with the plans and standards adopted by the City and the Downtown Development Authority.

(b) Lighting, whether pole-mounted or building-mounted, shall be placed and shielded so as to direct the light onto the site and away from adjoining properties. Lighting shall be shielded so that it does not cause glare for motorists.

(c) Lighting for uses adjacent to residentially zoned or used property shall be designed and maintained such that illumination levels do not exceed 0.1 footcandle along property lines. Lighting for uses adjacent to nonresidential properties shall be designed and maintained such that illumination levels do not exceed 0.5 footcandle along property lines. Light intensity shall not exceed a maximum of 10 footcandles in any given area. The Plan Commission, at its sole discretion, may allow for an increased level of lighting above maximum permissible levels when it can be demonstrated that such lighting is necessary for safety and security purposes.

(d) All lighting potentially visible from an adjacent street, except pedestrian-oriented bollard lighting less than 42 inches, shall be indirect or shall incorporate a full cut-off shield-type fixture. No light slipover shall occur

outside of the property boundaries.

(e) Lighting fixtures shall not exceed a height of 20 feet. In portions of a site adjacent to residential areas, lighting fixtures shall not exceed a height of 15 feet.

(f) All lighting, including ornamental lighting, shall be shown on site plans in sufficient detail to allow determination of the effects of such lighting upon adjacent properties, and traffic safety. Temporary holiday lighting and decorations are exempt from the aforementioned provision.

(g) Building illumination and architectural lighting shall be indirect in character, with no light source visible. Architectural lighting, where used, shall articulate and animate the particular building design, as well as provide the required functional lighting for safety of pedestrian movement.

§ 770-97. Use, storage and handling of hazardous substance; storage and disposal of solid, liquid and sanitary waste.

A. It shall be unlawful for any person, firm, corporation or other legal entity to pollute, impair or destroy the air, water, soils or other natural resources within the City of Royal Oak through the use, storage and handling of hazardous substances and/or waste or the storage and disposal of solid, liquid, gaseous and/or sanitary waste.

B. Any person, firm, corporation or other legal entity operating a business or conducting an activity which uses, stores or generates hazardous substances shall obtain the necessary permits and/or licenses from the appropriate federal, state or local authority having jurisdiction. The City shall be informed of any and all inspections conducted by a federal, state or local authority in connection with a permit and/or license.

C. Any person, firm, corporation or other legal entity operating a business or conducting an activity which uses, stores or generates hazardous substances shall complete and file a hazardous chemicals survey on a form supplied by the City in conjunction with the following:

(1) Upon submission of a site plan.

(2) Upon any change of use or occupancy of a structure or premises.

(3) Upon any change of the manner in which such substances are used, handled, or stored, and/or in the event of a change in the type of substances to be used, handled, or stored.

ARTICLE VIII
Planned Unit Development (PUD)

§ 770-98. PUD regulations.

A. A PUD may be applied for in any zone district The approval of a PUD application shall require rezoning by way of amendment of this chapter based upon a recommendation of the Plan Commission and approval of the City Commission.

B. Any land use authorized in this chapter may be included in a PUD, subject to adequate public health, safety, and welfare protection mechanisms being designed into the development to ensure the compatibility of varied land uses both within and outside the development.

C. The applicant for a PUD must demonstrate all of the following criteria as a condition to being entitled to PUD treatment:

(1) Granting of the PUD will result in one of the following:

(a) A recognizable and material benefit to the ultimate users of the project and to the community, where such benefit would otherwise be unfeasible or unlikely to be achieved without application of the PUD regulations; or

(b) A nonconforming use shall, to a material extent, be rendered more conforming, or less offensive, to the zoning district in which it is situated.

(2) The proposed type and density of use shall not result in an unreasonable increase in the need for or burden upon public services, facilities, streets and utilities.

(3) The proposed development shall be consistent with the public health, safety and welfare of the City.

(4) The proposed development shall not result in an unreasonable negative economic impact upon surrounding properties.

(5) The proposed development shall be under single ownership and/or control such that there is a single entity having responsibility for completing the project in conformity with this chapter.

(6) The proposed development shall be consistent with the goals and policies of the City of Royal Oak Master Plan.

§ 770-99. Procedure for review.

A. Preapplication conference. Prior to the submission of an application for PUD approval, the applicant shall meet with the Zoning Administrator, together with any staff and consultants the Director deems appropriate. The applicant shall present at such conference, or conferences, a sketch plan of the proposed PUD, as well as the following information: total number of acres in the project; a statement of the number of residential units, if any; the number and type of nonresidential uses; the number of acres to be occupied by each type of use; the known deviations from ordinance regulations to be sought; and the number of acres to be preserved as open

or recreational space.

B. Preliminary plan. Following the preapplication conference, the applicant shall submit a preliminary site plan of the proposed PUD. The preliminary site plan shall be prepared in accordance with the standards set forth in § 770-12B, site plan review. A narrative report prepared by the applicant shall accompany the site plan providing a description of the project, discussing the market concept and feasibility of the project, and explaining the manner in which the criteria set forth in § 770-98 have been met.

(1) Plan Commission action. The preliminary plan shall be noticed for public hearing before the Plan Commission. Following the hearing, the Plan Commission shall review the preliminary site plan and shall take one of the following actions:

(a) Approval.

[1] Upon finding that the preliminary plan meets the criteria and standards set forth herein, the Plan Commission shall grant preliminary approval. Approval shall constitute approval of the uses and design concept as shown on the preliminary plan and shall confer upon the applicant the right to proceed to preparation of the final plan.

[2] Approval of the preliminary plan by the Plan Commission shall not bind the City Commission to approve the final plan.

(b) Tabling. Upon finding that the preliminary plan does not meet the criteria and standards set forth herein but could meet such criteria if revised, the Plan Commission may table action until a revised preliminary plan is resubmitted.

(c) Denial. Upon finding that the preliminary plan does not meet the criteria and standards set forth herein, the Plan Commission shall deny preliminary approval.

C. Final plan. Within six months following receipt of the Plan Commission approval of the preliminary plan, the applicant shall submit a final plan to the Plan Commission with supporting materials conforming to this section. The final plan shall be consistent with the approved preliminary plan. If a final plan is not submitted by the applicant for final approval within six months following receipt of Plan Commission approval, the preliminary plan approval becomes null and void. The Plan Commission may grant a time extension upon receipt of a written request from the applicant provided the written request is received before the expiration of the six months.

(1) Information required. A final site plan and application for a PUD shall contain the following information:

(a) A site plan meeting all requirements of § 770-12B, final site plan.

(b) A separately delineated specification of all deviations from this chapter which would otherwise be applicable to the uses and development

proposed in the absence of the application of the PUD article.

(c) A specific schedule of the intended development and construction details, including phasing or timing.

(d) A specific schedule of the general improvements to constitute a part of the development, including, without limitation, lighting, signage, the mechanisms designed to reduce noise, utilities, and visual screening features.

(e) A specification of the exterior building materials with respect to the structures proposed in the project.

(f) Signatures of all parties having an interest in the property at the time of submission.

(g) Identify the person or entity who will have control over the project.

(2) Plan Commission action. The final plan shall be noticed for public hearing as a rezoning before the Plan Commission, and otherwise acted upon by the Plan Commission, and the City Commission, as provided by law.

(a) Approval. Upon finding that the final plan meets the criteria and standards set forth in § 770-12, the Plan Commission may approve the plans.

(b) Tabling. Upon finding that the final plan does not meet the criteria and standards set forth in § 770-12, but could meet such criteria if revised, the Plan Commission may table action until a revised final plan is resubmitted.

(c) Denial.

[1] Upon finding that the final plan does not meet the criteria and standards set forth in § 770-12, the Plan Commission shall deny the final plans.

[2] The Plan Commission shall, to the extent it deems appropriate, submit detailed recommendations relative to the PUD project, including, without limitation, recommendations with respect to matters on which the City Commission must exercise discretion.

(3) City Commission action.

(a) Upon receiving a recommendation from the Plan Commission, the City Commission shall review the final plan. Taking into consideration the recommendations of the Plan Commission and the criteria and standards set forth herein, the City Commission shall approve, table or deny the final plan.

(b) Prior to approval of a final plan, the City Commission shall require all standards and conditions of approval to be incorporated in a development agreement. The agreement shall be prepared by the City Attorney, approved by the City Commission, and signed by both the City and the

applicant.

§ 770-100. Project design standards.

A. Residential design standards.

(1) Project density shall be based on the density permitted in the zone district in which the property is situated immediately prior to classification under this article. Additional density for residential uses is permitted, subject to approval recommendation by the Plan Commission and approval by the City Commission. The approved density shall be based upon a demonstration by the applicant of the following:

(a) Consistency with the Master Plan;

(b) Innovative planning and design excellence;

(c) Relationship to adjacent land uses;

(d) Pedestrian and/or vehicular safety provisions;

(e) Aesthetic beauty;

(f) Provisions for the users of the project; and

(g) Demonstration that the resulting benefits would otherwise be unlikely to be achieved without the PUD application.

B. Nonresidential design standards.

(1) Nonresidential uses may be permitted in combination with other nonresidential uses or as part of a common development with residential uses.

(2) The nonresidential uses, including parking and vehicular traffic ways, shall be separated and buffered from residential units in a manner consistent with good land and community planning principles.

C. General design standards.

(1) Deviations from the applicable setbacks, parking and loading, general provisions, and other requirements may be granted as part of the overall approval of the PUD, provided there are features or elements demonstrated by the applicant and deemed adequate by the City Commission upon the recommendation of the Plan Commission designed into the project plan for the purpose of achieving the objectives of this article.

(2) There shall be a perimeter setback and berming, as found to be necessary by the City, for the purpose of buffering the development in relation to surrounding properties. Such perimeter setback shall be established at the discretion of the Plan Commission, taking into consideration the use or uses in and adjacent to the development. The setback distance need not be uniform at all points on the perimeter of the development.

(3) Thoroughfare, drainage, and utility design shall meet or exceed the standards

otherwise applicable in connection with each of the respective types of uses served.

(4) There shall be underground installation of utilities, including electricity and telephone, as found necessary by the City.

(5) Pedestrian walkways shall be separated from vehicular circulation, as found necessary by the City.

(6) Signage, lighting, landscaping, building materials for the exterior of all structures, and other features of the project, shall be designed and completed with the objective of achieving an integrated and controlled development, consistent with the character of the community, surrounding development or developments, and natural features of the area.

(7) Where nonresidential uses adjoin off-site residentially zoned property, noise reduction and visual screening mechanisms such as earthen and/or landscape berms and/or decorative walls, shall be employed. The City, in its discretion, shall review and approve the design and location of such mechanisms.

(8) The Plan Commission shall resolve all ambiguities as to applicable regulations using this chapter, Master Plan, and other City standards or policies as a guide.

§ 770-101. Conditions may be required.

Reasonable conditions may be required with the approval of a PUD, to the extent authorized by law, for the purpose of ensuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, ensuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner.

§ 770-102. Phasing and commencement of construction.

A. Phasing. Where a project is proposed for construction in phases, the planning and designing shall be such that, upon completion, each phase shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to ensure protection of the health, safety, and welfare of the users of the PUD and the residents of the surrounding area. In addition, in developments which include residential and nonresidential uses, the relative mix of uses and the scheduled completion of construction for each phase shall be disclosed and determined to be reasonable in the discretion of the Plan Commission.

B. Commencement and completion of construction. To ensure completion of required improvements, the City is authorized to impose performance guaranties in accordance with § 770-16, Performance guaranty. Substantial construction shall be commenced within one year following final approval of a PUD and shall proceed substantially in conformance with the schedule set forth by the applicant, as required by § 770-12, Site plan review. If construction is not substantially commenced and continues within such time, approval of the PUD shall expire and be null and void. However, an extension for a specified period may be granted by

the City Commission upon good cause shown if such request is made to the City Commission prior to the expiration of the initial period. Moreover, in the event approval of the PUD has expired, the City Commission shall require a new application which shall be reviewed in light of then existing and applicable law and ordinance provisions.

§ 770-103. Effect of approval.

When approved, the PUD with all conditions imposed, if any, shall constitute the land use authorization for the property, and all improvement and use shall be in conformity with such authorization. Notice of adoption of the final PUD plan and conditions shall be recorded by the applicant at the Oakland County Register of Deeds.

ARTICLE IX
Off-Street Parking and Loading

§ 770-104. 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.

§ 770-105. General provisions.

A. Where required. In all zoning districts, off-street parking facilities for the storage and parking of vehicles for the use of occupants, employees, and patrons of the buildings hereafter erected, altered, or extended after the effective date of this chapter shall be provided as herein prescribed.

B. Existing off-street parking at effective date of chapter. Off-street parking existing at the effective date of this chapter which serves an existing building or use shall not be reduced in size to less than that required under the terms of this chapter.

C. Parking in the required greenbelt and setbacks. Off-street parking, including maneuvering lanes, shall not be located within the required front yard setback, except as expressly permitted by this chapter. The Plan Commission may permit parking within the front yard setback when it can be demonstrated that no other reasonable alternative exists. Off-street parking shall be permitted within the required side or rear yard setbacks, provided that when adjacent property is zoned for residential use a minimum ten-foot setback with appropriate screening shall be provided between off-street parking and the side and rear lot lines adjacent to the residential zone. The Plan Commission in the course of its site plan review process may permit off-street parking, including maneuvering aisles, to be placed up to the lot line, provided such parking is screened in accordance with § 770-90D, Screening between land uses.

D. Parking duration. Except when land is used as storage space, authorized in connection with a principal permitted or special land use, a twenty-four-hour time limit for parking in nonresidential off-street parking areas shall be required. It shall be unlawful to store or park a wrecked, inoperable and/or unlicensed vehicle within any off-street parking area contained within any zoning district. Parking areas shall not be used for the storage of nonmotorized vehicles or trailers or equipment.

E. Units and methods of measurement. For the purpose of determining off-street parking requirements, the following units of measurement shall apply:

   (1) 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, unless otherwise noted herein.

   (2) Occupancy. For requirements stated in terms of occupancy, the calculation shall be based upon the maximum permitted occupancy determined by the City of Royal Oak Fire Marshal.

(3) Places of assembly. In stadiums, sports arenas, religious institutions, 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.

(4) Fractional requirements. When units or measurements determining number of required parking spaces result in requirement of a fractional space, any fraction shall require one parking space.

F. Location of parking.

(1) One-family and two-family dwellings. The off-street parking facilities required for one-family and two-family dwellings shall be located on the same lot as the dwellings that are intended to be served but shall not be considered a parking lot under the provisions of this article. Off-street parking shall be located within the side or rear yards.

(a) Parking may be located within the front yard, providing a permit is granted by the Engineering Department, based upon the following conditions:

[1] For a horseshoe-shaped driveway on a lot with a minimum width of 60 feet, a minimum front yard depth of 35 feet, and a minimum front yard area of 2,100 square feet.

[2] For a T-shaped driveway on a lot with a minimum width of 50 feet, a minimum front yard depth of 30 feet, and a minimum front yard area of 1,500 square feet. The appendage of the T-shaped driveway which lies parallel to the street shall be located not less than 15 feet from the front lot line.

(b) Off-street parking areas or an area used for the storage of vehicles shall be hard surfaced as required in Subsection A of § 770-109, Off-street parking lot design and construction. **[Amended 10-14-2019 by Ord. No. 2019-11]**

(c) There shall be no more than one driveway per residential dwelling. Said driveway shall be a minimum of eight feet in width and constitute a contiguous area and be hard surfaced as required in Subsection A of § 770-109, Off-street parking lot design and construction. **[Amended 10-14-2019 by Ord. No. 2019-11]**

[1] A ribbon driveway consisting of two noncontiguous wheel tracks with a reinforced turf median may be allowed for single-family and two-family dwellings. Each wheel track shall be hard surfaced as required in Subsection A of § 770-109, Off-street parking lot design and construction. The width of each wheel track shall not be less than two feet but shall not exceed three feet. The width as measured from the outside edges of each wheel track shall not be less than the minimum width identified in Subsection F(1)(c) above but shall not

exceed 10 feet. The width of the reinforced turf median shall not exceed four feet.

(d) Portions of the front, side and rear yards not utilized for such a driveway shall be landscaped.

(2) Multiple-family residential. The off-street parking facilities for multiple-family dwellings shall be located on the same lot or site as the dwellings that are intended to be served, and shall consist of a parking lot as set forth in this article. In no event shall any parking space be located further than 300 feet from any principal building.

(3) Other land uses. The required off-street parking facilities for other uses shall be located on the same lot or may be serviced by a parking lot within 300 feet of such principal use measured along lines of public access to the property between the nearest points of the parking facility and the principal use to be served. Parking lots for these land uses may also provide the required spaces through collective facilities, as provided for in § 770-106C, Collective provisions.

G. 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.

§ 770-106. Off-street parking requirements.

A. The amount of required off-street parking spaces for new uses or buildings, additions thereto, and additions to existing buildings shall be determined in accordance with the schedule set forth in § 770-107, Table of Off-Street Parking Requirements. Parking requirements listed in § 770-107, Table of Off-Street Parking Requirements, shall not include off-street stacking spaces for drive-through facilities as set forth in § 770-111, Off-street stacking spaces and lanes for drive-through facilities.

B. Similar uses and requirements. When a use is not specifically mentioned in § 770-107, Table of Off-Street Parking Requirements, the requirements of off-street parking for a similar use shall apply, as determined by the Zoning Administrator.

C. Collective provisions. Nothing in this section shall be construed to prevent collective provisions of off-street parking facilities for two or more buildings or uses, provided such facilities with two or more uses as determined by the Zoning Administrator collectively shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with § 770-107, Table of Off-Street Parking Requirements, unless otherwise permitted in this chapter. However, the parking requirements may be reduced by the Zoning Administrator in accordance with the following rules and standards:

(1) Uses for which the joint off-street parking facilities are to serve do not operate during the same hours of the day or night.

(2) Not more than 50% of off-street parking facilities required for theaters,

auditoriums, religious institutions, bowling alleys, dance halls, and similar establishments or for any restaurants and establishments serving alcoholic beverages, may be supplied by off-street parking facilities provided for other buildings or uses.

(3) The required off-street parking for a particular use shall be reduced by its proportionate share of any publicly owned parking lot for which it has been specially assessed.

(4) A copy of the executed agreement between joint users of required parking shall be filed with the application for site plan approval. The agreement shall consist of a permanent property easement, lease, or memorandums of lease. The agreement shall be recorded with the Oakland County Register of Deeds with a copy provided to the City of Royal Oak Planning Department before issuance of a building permit.

D. Flexibility in application. The City recognizes that, due to the specific requirements of any given development, inflexible application of the parking standards set forth in § 770-107, Table of Off-Street Parking Requirements, may result in development with inadequate parking or parking far in excess of that which is needed. The former situation may lead to traffic congestion or unauthorized parking on adjacent streets or neighboring sites. The latter situation may result in excessive paving and stormwater runoff, depreciation of aesthetic standards, and a waste of space, which could be left as open space.

(1) Waiver based on use. The Zoning Administrator may grant a waiver in cases where the applicant has sufficiently demonstrated that the minimum parking requirements of § 770-107, Table of Off-Street Parking Requirements, are excessive for their use. Such waivers may be approved if no more than 10% of the required parking per § 770-107, Table of Off-Street Parking Requirements, is being waived. The approved waivers shall apply only to the current site use, and shall not be carried over to another use or occupant of the site.

(2) Land banking. The Plan Commission may permit land banking up to 20% of the required parking spaces through the special land use review process. Sufficient land shall be available in the case that the Plan Commission determines the banked spaces need to be constructed based on observed usage. After such determination, banked parking spaces shall be constructed within six months of written notification by the Zoning Administrator. Such land banking requests shall require special land use approval, subject to the requirements of § 770-11, Special land uses; permit procedures, and the posting of an appropriate bond in an amount to be established by the Zoning Administrator or his designee.

E. Parking within the Central Business District Zone. The provision of off-street parking is not required in the Central Business District Zone, except in the case of residential dwellings, hotels and motels, religious institutions, private and public schools and universities, hospitals, congregate care facilities, senior housing, convalescent or nursing homes. Parking spaces for such uses shall be provided in accordance with the provisions of § 770-107, Table of Off-Street Parking Requirements.

§ 770-107. Table of Off-Street Parking Requirements. [Amended 10-1-2012 by Ord. No. 2012-15; 10-1-2012 by Ord. No. 2012-16; 5-20-2013 by Ord. No. 2013-08; 7-27-2020 by Ord. No. 2020-07]

The amount of required off-street parking space for new uses or buildings, additions thereto, and additions to existing buildings shall be determined in accordance with the tables on the following pages. Based upon the submitted floor plan, the Zoning Administrator or his designee shall determine the usable floor area where applicable for each use and the required off-street parking provisions identified in this section.

Use	Required Number of Parking Spaces Per Each Unit of Measure	Unit of Measurement
Residential Uses		
Residential dwellings, one-, two- and multiple-family	2	Per each dwelling unit
Dwellings within the CBD Zone	1.5	Per each dwelling unit
Adult foster care family homes and senior housing, assisted living facilities	0.5	Per each dwelling unit
Senior housing, independent living	1	Per each dwelling unit
Institutional Uses		
Churches and other religious institutions	1	Per each 4 seats based on maximum seating capacity in the area(s) of assembly therein
Private service clubs, social organizations, lodge halls, banquet and rental halls, and similar meeting and assembly	1	Per each 4 individual members allowed within the maximum occupancy as established by local code
Hospitals	1	Per each 2 beds, with no more than 1 space per each 1 bed
Convalescent centers and adult foster care congregate facilities	1.5	Per each 4 beds or 2 rooms, whichever is greater
Day-care centers	1	Per each 350 square feet of usable floor area
Child and adult foster care group home	1	Per each 4 beds or 2 rooms, whichever is greater
Family and group day-care homes:	1	Per dwelling unit

Use	Required Number of Parking Spaces Per Each Unit of Measure	Unit of Measurement
	1	Per 6-person capacity as licensed by the State of Michigan
Municipal, county, state or federal administrative or service buildings	1	Per each 350 square feet of usable floor area
Libraries, museums and fine art centers	1	Per each 200 square feet of usable floor area, excluding area devoted to bookshelves
Business and/or technical schools:	1	Per each classroom, plus
	1	Per each 150 square feet of classroom floor area
Elementary and junior high schools:	1	Per each classroom, plus
	1	Per 5 seats in an appurtenant stadium or gymnasium
Senior high schools:	1	Per each classroom, plus
	1	Per 5 seats in an appurtenant stadium or gymnasium
General Commercial Uses		
Retail sales	1	Per each 250 square feet of usable floor area
Carry-out restaurants (no seating)	1	Per each 200 square feet of usable floor area
Convenience, grocery or liquor stores	1	Per each 200 square feet of usable floor area
Large-scale retail establishments, supermarkets, department stores, garden centers or nurseries	1	Per each 300 square feet of usable floor area, with no more than 1 space per each 250 square feet of usable floor area

Use	Required Number of Parking Spaces Per Each Unit of Measure	Unit of Measurement
Shopping centers	1	Per each 300 square feet of usable floor area, with no more than 1 space per each 250 square feet of usable floor area. Standard or fast-food restaurants and bars or lounges shall be required to meet off-street parking provisions for that specific use(s) as identified in this section.
Video rental stores	1	Per each 200 square feet of usable floor area
Transient merchant	1	Per each 250 square feet of usable floor area or exterior sales area
Hotels and motels and bed-and-breakfast operations:	1	Per each sleeping or lodging unit, plus
	1	Per each 800 square feet of usable floor area other than sleeping or lodging unit. Restaurants, bars and lounges, assembly and meeting rooms, and similar uses shall be required to meet the off-street parking provision for that specific use(s) as identified in this section.
Drive-in restaurants	1	Per each 200 square feet of usable floor area in addition to service stalls for customers
Standard and fast-food restaurants	1	Per each 65 square feet of usable floor area including any outdoor cafe
Bars and cocktail lounges	1	Per each 3 persons based on maximum occupancy as established by building code

Use	Required Number of Parking Spaces Per Each Unit of Measure	Unit of Measurement
Retail sales, repair and service of furniture, appliances, bicycles, business machines, lawn mowers and lawn equipment and wholesale stores	1	Per each 800 square feet of usable floor area
Shops of interior decorators, plumbers, electricians, exterminators and similar services and trades	1	Per each 800 square feet of usable floor area
Theaters, cinemas, auditoriums, and concert halls	1.5	Per each 4 seats or 8 feet of bench seating based on the maximum seating capacity
Laundromats	1	Per every 2 washing and/or drying machines
Dry-cleaning outlets	1	Per each 800 square feet of usable floor area
Funeral homes	1	Per 4 people based on the maximum occupancy as established by building code
Dance halls and nightclubs	1	Per 3 people based on the maximum occupancy as established by building code
Mechanical amusement arcades	1	Per 60 square feet of usable floor area
Smoking lounges and cigar bars	1	Per each 65 square feet of usable floor area
Tobacconists, with or without smoking lounges	1	Per each 250 square feet of usable floor area
Marihuana retailers	1.5	Per each 200 square feet of usable floor area
Marihuana microbusinesses	1.5	Per each 200 square feet of usable retail floor area, plus
	1	Per each 800 square feet of usable growing and processing floor area
Automotive Uses		

Use	Required Number of Parking Spaces Per Each Unit of Measure	Unit of Measurement
Automobile dealer for sales and rental	1	Per each 200 square feet of usable floor area
Automobile filling station:	1	Per each fuel pump or dispenser, plus
	1	Per each 200 square feet of usable floor area
Automobile repair garages:	1.5	Per each stall or service area, plus
	1	Per each 800 square feet of usable floor area
Automobile service stations:	1	Per each stall or service area, plus
	1	Per each 800 square feet of usable floor area
Automobile washes (self-serve)		Stacking spaces required per § 770-111E
Automobile washes (automatic):	1	Per each 800 square feet of usable floor area, plus
	2	For post-wash detailing
		Stacking spaces required per § 770-111E
Recreation vehicle sales and rentals	1	Per each 800 square feet of usable floor area
Office and Services Uses		
Medical and dental offices, up to 25% retail sale of drugs and health care products	1	Per each 200 square feet of usable floor area
Outpatient medical clinics	1	Per each 400 square feet of usable floor area, with no more than 1 space per each 300 square feet of usable floor area
Business, administrative and professional offices	1	Per each 225 square feet of usable floor area
Banks and other financial institutions:	1	Per each 225 square feet of usable floor area
	2	Per each walk-up automated teller machine

Use	Required Number of Parking Spaces Per Each Unit of Measure	Unit of Measurement
Barbershops, hair salons, manicurists, tattoo parlors, massage establishments, tanning salons, and other personal service establishments	1	Per each 200 square feet of usable floor area
Veterinary offices and hospitals	1	Per each 200 square feet of usable floor area
Data processing centers	1	Per each 250 square feet of usable floor area
Recreational Uses		
Bowling alleys	5	Per bowling lane
Roller and ice skating rinks	1	Per 4 people based upon maximum occupancy as established by building code
Billiard halls	1	Per 4 people based upon maximum occupancy as established by building code
Gymnasiums, fitness centers and health clubs	1	Per 4 people based upon maximum occupancy as established by building code
Miniature golf courses, driving ranges or batting cages	1	Per each hole, tee, or cage
Golf courses	4	Per each hole
Music, dance and artistic studios	1	Per each 200 square feet of usable floor area
Tennis or racquet clubs	4	Per each court
Swimming pools	1	Per 4 people based upon maximum occupancy as established by building code
Indoor soccer centers and athletic fields:	10	Per each field, plus
	1	Per 4 people based upon maximum occupancy for spectator seating as established by building code

Use	Required Number of Parking Spaces Per Each Unit of Measure	Unit of Measurement
Indoor recreation centers	1	Per 4 people based upon maximum occupancy as established by building code
Stadiums and arenas	1	Per every 4 seats based upon maximum occupancy as established by building code
Assembly halls, convention halls, exhibition halls, and similar places of public assembly	1	Per every 4 seats based upon maximum occupancy as established by building code
Industrial Uses		
Manufacturing, research, design, processing, assembly, packaging, fabrication, servicing, testing and repair factories or plants	1	Per each 400 square feet of usable floor area
Self-storage facilities:	3	Spaces, plus
	1	Per each 50 storage units
Warehouses and distribution centers	1	Per each 1,000 square feet of usable floor area
Contractor's establishments	1	Per 400 square feet of usable shop and storage floor area
Metal fabrication and tool and die shops	1	Per each 800 square feet of usable shop floor area
Material recovery facilities:	1	Per each 800 square feet of usable shop floor area, plus
	1	Per each 1,600 square feet of exterior lot area
Kennels, animal boarding, animal shelters, and animal training facilities	1	Per each 400 square feet of usable floor area
Broadcast or recording studios **[Added 1-24-2011 by Ord. No. 2011-01]**	1	Per each 800 square feet of usable floor area

Use	Required Number of Parking Spaces Per Each Unit of Measure	Unit of Measurement
Motion-picture studios **[Added 1-24-2011 by Ord. No. 2011-01]**	1	Per each 1,000 square feet of usable floor area, including any outdoor sets or production facilities
Marihuana growers, processors, secure transporters, and safety compliance facilities	1	Per each 800 square feet of usable floor area

§ 770-108. Barrier-free parking requirements.

On each site proposed for use, addition, and/or conversion for which a site plan is required to be submitted by this chapter, off-street parking space shall be designed pursuant to the State of Michigan Barrier-Free Design Standards. Required barrier-free parking spaces shall be in addition to those required under § 770-107, Table of Off-Street Parking Spaces.

§ 770-109. Off-street parking lot design and construction.

The construction of any parking lot shall be in accordance with the requirements of the provisions of this chapter, and such construction shall be completed and approved by the Building Official before a certificate of occupancy is issued. Unless incorporated in a site plan prepared and approved in accordance with § 770-12, Site plan review, plans for the development of any parking lot must be submitted to the Building Official, indicating existing and proposed grades, drainage, pipe sizes, layout and dimensions of parking, curbing, drive and aisle dimensions, lighting, sidewalks, landscaping, and surfacing and base materials to be used.

A. All such parking lots, maneuvering aisles, driveways, and loading areas shall be hard surfaced with asphalt, concrete, or a similar impervious pavement; or an acceptable pervious or permeable pavement, as determined by the Zoning Administrator, such as porous asphalt, pervious concrete, permeable interlocking pavers, or a similar material. Loose aggregate, gravel, stone, unreinforced grass or sod, soil, and similar materials shall be prohibited. Pervious or permeable pavement shall be prohibited in areas where fuel or lubricants are dispensed directly into motor vehicles or where hazardous liquids could be absorbed into the soil through such materials. All such surfaces shall be graded and drained so as to dispose of surface water pursuant to City ordinances and shall be completely constructed prior to a certificate of occupancy being issued. **[Amended 10-14-2019 by Ord. No. 2019-11]**

B. Except for one-family and two-family residential parking lots, all lots shall be illuminated after dark throughout the hours when they are accessible to the public. Such lighting shall comply with the illumination standards set forth in § 770-96, Glare and exterior lighting.

C. Parking lot landscaping and buffering requirements shall meet the standards set

forth in § 770-90, Landscaping, greenbelts, buffers and screening.

D. Adequate ingress and egress to the parking lot, by means of limited and clearly defined driveways, shall be provided for all vehicles in accordance with the requirements of this chapter. Additionally, all ingress and egress points shall be located no less than 25 feet from any street intersection, and shall be no more than 25 feet wide in a residential zone, and 30 feet wide in all other zones measured at the property line.

E. No portion of a parking space and/or maneuvering aisle shall obstruct or encroach upon a public sidewalk or required pedestrian walkway.

F. The layout and striping of off-street parking facilities shall be in accordance with the following minimum regulations [See Figure 13, Parallel Parking, Figure 14, Parking (30° to 53°), and Figure 15, Parking (54° to 90°).[52]]:

	Maneuvering Lane Width			
Parking Pattern	**One-Way**	**Two-Way**	**Parking Space Depth (feet)**	**Parking Space Length (feet)**
0° (parallel)	12	20	9	25
30°-53°	12	20	9	20
57°-74°	15	20	9	20
75°-90°	N/A	20	9	20

§ 770-110. Off-street loading requirements.

On the same premises with every building or part thereof, erected and occupied for any uses which involve receiving or distribution of trucks and/or delivery vehicles, material or merchandise, except where sufficient loading and unloading areas can be provided in the public alley as determined by the Plan Commission, adequate space for loading and unloading shall be provided in accordance with the following:

A. Such loading and unloading space, 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 plus 1 for each 20,000 square feet in excess of 20,000 square feet

52. **Editor's Note: Figures 13, 14 and 15 are included as attachments to this chapter.**

Gross Floor Area of Building (square feet)	Required Loading and Unloading Spaces
100,000-500,000	5 plus 1 for each 40,000 square feet in excess of 100,000 square feet
Over 500,000	15 plus 1 for each 80,000 square feet in excess of 500,000 square feet

B. Required greenbelt, setbacks, and screening.

(1) Off-street loading shall not be located in a front yard; nor a side yard of a building facing and directly visible from a street, unless the Plan Commission determines such location is necessary due to the building's location or placement, existing street and traffic patterns, or other relevant factors. Off-street loading shall be located at the maximum distance possible from adjacent residential zones.

(2) Off-street loading which abuts residentially zoned property shall be screened in accordance with § 770-90, Landscaping, greenbelts, buffers and screening.

C. 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.

D. Flexibility in application. The Zoning Administrator may grant a waiver in cases where the applicant has sufficiently demonstrated that the minimum loading and unloading requirements of § 770-110, Off-street loading requirements, are excessive for their use. 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.

§ 770-111. Off-street stacking spaces and lanes for drive-through facilities.

All businesses which provide drive-through facilities for serving customers within their automobile shall provide adequate off-street stacking spaces and lanes which meet the following requirements (See Figure 16, Off-Street Stacking Spaces and Lanes for Drive-Through Facilities.[53]):

A. Each stacking space shall be computed on the basis of nine feet in width and 20 feet in length. Each stacking lane shall be a minimum of 12 feet in width.

B. No stacking space shall occupy or extend into any street, alley, sidewalk, or right-of-way, or obstruct any required parking space, maneuvering aisle, or loading area, and shall be sufficiently set back to not obstruct the intersection of any driveway and a right-of-way line. The Plan Commission may permit the use of an alley for the required escape lane when it can be demonstrated that no other reasonable alternative exists and minimal conflict would exist between users of the public right-of-way. City Commission approval where necessary.

C. Clear identification and delineation between the drive-through facility and parking

53. Editor's Note: Figure 16 is included at the end of this chapter.

lot shall be provided. Drive-through facilities shall be designed in a manner which promotes pedestrian and vehicular safety.

D. All drive-through facilities shall provide an escape lane, which allows other vehicles to pass those waiting to be serviced.

E. The number of stacking spaces per service lane shall be provided for in accordance with the following table. When a use is not specifically mentioned, the requirements for off-street stacking space for a similar use shall apply as determined by the Zoning Administrator.

Use	Stacking Spaces Per Service Lane
Banks or other financial institutions	5
Photographic service, drugstores, dry-cleaning outlets	4
Fast-food restaurants	8
Automobile service stations	2
Car washes (self-service)	
Entry	3
Exit	1
Car washes (automatic)	
Entry	16
Exit	2

ARTICLE X
Nonconforming Uses, Structures and Lots

§ 770-112. Intent.

Certain existing lots, structures and uses of lots and structures were lawful before this chapter was adopted, but have become nonconforming under the terms of this chapter and its amendments. It is the intent of this chapter to permit such nonconformities to remain under certain conditions until they are discontinued or removed, but not to encourage their survival or, where discontinuance or removal is not feasible, to gradually upgrade such nonconformities to conforming status. Nonconformities shall not be enlarged, expanded, or extended, except as provided herein, and shall not be used as grounds for adding other structures and uses of lots and structures which are prohibited. Nonconformities are declared by this chapter to be incompatible with the structures and uses permitted in the various zones.

§ 770-113. Nonconforming lots.

In any zone in which single-family dwellings are permitted, subject to limitations imposed by § 770-21 and other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on a lot of record at the effective date of adoption or amendment of this chapter. This provision shall apply even though a lot fails to meet the applicable requirements for area or width, provided that setbacks and other requirements, not involving area or width, shall conform to the regulations for the zone in which such lot is located.

§ 770-114. Nonconforming uses of land.

Where, at the effective date of adoption or amendment of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

A. No such nonconforming use shall be extended to occupy a greater area of a site or greater floor area of a structure than was occupied at the effective date of adoption or amendment of this chapter, unless approved by the Zoning Board of Appeals.

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 chapter, unless approved by the Zoning Board of Appeals.

C. If such nonconforming use of land ceases operation with the intent of abandonment for a period of more than one year, any subsequent use of such land shall conform to the regulations specified by this chapter for the zone in which such land is located.

§ 770-115. Nonconforming structures.

Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on

the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No such structure may be enlarged or altered in a way which increases its nonconformity, unless approved by the Zoning Administrator through the submission of a site plan, and provided the following remain true:

(1) The existing character of the area is maintained.

(2) Additional parking spaces are not required in order to comply with the adopted standards of this chapter.

(3) The size is comparable to adjacent uses.

(4) The construction materials and resulting style are compatible with the existing building.

(5) The expansion will not have a detrimental effect on neighboring properties.

B. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zone in which it is located after it is moved.

C. The Zoning Administrator may allow a nonconforming detached single-family dwelling to expand, provided the expansion complies with all Zoning Ordinance provisions.

§ 770-116. Nonconforming uses of structures and land.

If a lawful use of a structure, or of a structure and land in combination, exists at the effective date of adoption or amendment of this chapter that would not be allowed in the zone under the terms of this chapter, 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 chapter in the zone in which it is located shall be extended to occupy a greater number of parcels a greater area of a site, or a greater floor area of a building than was occupied at the effective date of adoption or amendment of this chapter, unless approved by the Zoning Board of Appeals.

B. No such use structure may be enlarged or altered in a way which increases its nonconformity, unless approved by the Zoning Administrator through the submission of a site plan, and provided the following remain true:

(1) The existing character of the area is maintained.

(2) Additional parking spaces are not required in order to comply with the adopted standards of this chapter.

(3) The size is comparable to adjacent uses.

(4) The construction materials and resulting style are compatible with the existing building.

C. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations pertaining to the uses permitted in the zone in which such structure is located, and the nonconforming use may not thereafter by resumed. Section 770-115, Nonconforming structures, shall apply to any nonconformity relating to the structure(s).

D. If such nonconforming use of land and structures ceases operation with the intent of abandonment for a period of more than one year, any subsequent use of such land shall conform to the regulations specified by this chapter pertaining to the uses permitted in the zone in which such land is located.

E. Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

§ 770-117. Repairs and maintenance.

A. Ordinary repairs and/or replacement of nonbearing walls, fixtures, wiring or plumbing to any building or structure devoted in whole or in part to any nonconforming structure or use may be done in any period of 12 consecutive months, provided such repairs shall not exceed 50% of the equalized assessed valuation of the building or structure, and that the cubic content of the building or structure as it existed at the time of passage or amendment of this chapter shall not be increased.

B. Destruction or damage of nonconforming building or structure.

(1) Any nonconforming building or structure which has been destroyed or damaged by fire, explosion, natural catastrophe, or by public enemy, except when such destruction or damage is caused as a direct result of riot or civil insurrection, to the extent of 50% or more of its equalized assessed valuation, exclusive of the foundation, thereafter shall be made to conform to the provisions of this chapter.

(2) If such damage is less than 50% of its equalized assessed valuation, exclusive of the foundation, then such building or structure may be restored to the same size and use as existed before such damage, provided that such restoration shall be subject to the approval of the Zoning. Administrator. The restoration must begin within one year of the date of such partial destruction, or complete destruction if caused as a direct result of a riot or civil insurrection, and shall be diligently carried on to completion. Where pending insurance claims require an extension of time, the Zoning Administrator may grant a time extension of up to one additional year, provided that the property owner submits a certification from the insurance company attesting to the delay.

(3) If a nonconforming structure, or a portion of a structure containing a nonconforming use, becomes physically unsafe or unlawful due to a lack of repairs and maintenance, and is declared by the Building Official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of this chapter for

the zone in which it is located.

§ 770-118. Uses allowed as special land uses, not nonconforming uses.

Any use for which special land use approval is permitted as provided in this chapter shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such zone.

§ 770-119. Change of tenancy or ownership.

There may be a change of tenancy, ownership, or management of any existing nonconforming uses of land, structures, and premises, provided there is no change in the nature or character of such nonconforming uses except in conformity with the provisions of this chapter.

ARTICLE XI
Zoning Board of Appeals

§ 770-120. Authority.

There is hereby established a Zoning Board of Appeals, the membership, powers, duties of which are prescribed in the Zoning Enabling Act, Act 110 of the Public Acts of the State of Michigan of 2006,[54] as amended. The Zoning Board of Appeals, in addition to the general powers and duties conferred upon it by said Act, in specific cases and subject to appropriate conditions and safeguards, shall interpret and determine the application of the regulations established under this chapter in harmony with their purpose and intent as hereinafter set forth.

§ 770-121. Membership. [Amended 6-15-2009 by Ord. No. 2009-05; 3-17-2014 by Ord. No. 2014-02]

The City Commission shall appoint a Zoning Board of Appeals, hereinafter referred to as the "Board," consisting of nine regular members and no alternate members, in accordance with Section 601 of the Zoning Enabling Act, Act 110 of the Public Acts of 2006, as amended (MCLA § 125.3601).

§ 770-122. Officers of Board; legal counsel.

The Chair and Vice Chair of the Board shall be elected annually by the members of the Board. The Zoning Administrator or his or her designee shall be the Secretary of the Board, and all records of the Board's action shall be taken and recorded under his or her direction. The City Attorney shall act as legal counsel for the Board and shall be present at all meetings upon request by the Board.

§ 770-123. Meetings.

A. All decisions of the Board shall be made at a meeting open to the public. All deliberations of the Board constituting a quorum of its members shall take place at a meeting open to the public except as provided in compliance with the Open Meetings Act, Act 267 of 1976,[55] as amended.

B. A majority of the members of the Board shall constitute a quorum for purposes of transacting the business of the Board and the Open Meetings Act, Act 267 of 1976, as amended. Each member of the Board shall have one vote.

C. Regular meetings of the Board shall be called as needed in response to receipt of a notice of appeal. The meeting can be called by the Zoning Administrator, the Chair of the Board, or, in his or her absence, the Vice Chair. Public notice of the date, time, and place of a public meeting of the Board shall be given in the manner required by the Open Meetings Act, Act 267 of 1976, as amended.

D. The business of the Board shall be conducted in accordance with its adopted bylaws.

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54. Editor's Note: See MCLA § 125.3101 et seq.

55. Editor's Note: See MCLA § 15.261 et seq.

E. The Chair or, in his or her absence, Vice Chair may administer oaths and compel the attendance of witnesses, or subpoena and require the production of documents, files and other evidence pertinent to matters before the Board.

F. The Board shall keep a record of its proceedings which shall be filed in the office of the City Clerk and shall be a public record in accordance with the Freedom of Information Act, Act 442 of 1976, as amended.[56]

§ 770-124. Powers and duties; variances.

A. General. The Board has the power to act on matters as provided in this chapter and the Zoning Enabling Act, Act 110 of the Public Acts of 2006, as amended.[57] The specific powers of the Board are enumerated in the following sections of this article:

B. Voting.

(1) The concurring vote of a majority of the members of the Board shall be necessary to reverse or modify an order, requirements, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which the Board is required to pass by law or under this chapter, or to effect a variation in this chapter except that a concurring vote of 2/3 of the members of the Board shall be necessary to grant a variance from uses of land permitted in this chapter. The decision of the Board shall not become final until the expiration of five days from the date of entry of such order, unless the Board shall find the immediate effect of such order is necessary for the preservation of property or personal rights and shall so certify on the record.

(2) The decision of the Board on any matter heard by it shall be final as it involves discretion or the findings of facts.

(3) The Zoning Board of Appeals shall determine that the variance relief granted, either as proposed, or as otherwise determined appropriate by the Zoning Board of Appeals based upon the record, is the minimum relief necessary in order to achieve substantial justice, that is, the variance would give substantial relief to the owner of the property involved and be consistent with justice to other property owners in the surrounding area.

(4) A member shall be disqualified from a vote in which there is a conflict of interest. Failure of a member to disclose a conflict of interest and be disqualified from a vote shall constitute misconduct in office.

C. Administrative review. The Board shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision, or refusal made by the Zoning Administrator or other duly authorized enforcing agent, in enforcing any provision of this chapter.

D. Interpretation.

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56. Editor's Note: See MCLA § 15.231 et seq.

57. Editor's Note: See MCLA § 125.3101 et seq.

(1) The Board shall hear and decide requests for interpretation of this chapter or the Zoning Map, taking into consideration the intent and purpose of this chapter and the Master Plan.

(2) A record shall be kept by the Board of all decisions for interpretation of this chapter or Zoning Map and land uses which are approved under the terms of this section. The Board shall request the Plan Commission to review any amendment to this chapter it deems necessary.

(3) The Board shall not have the power to alter or change the zone classification of any property, or to amend the language of this chapter, which power is reserved to the City Commission in the manner provided by the Zoning Enabling Act, Act 110 of 2006, as amended.[58]

E. Variances. Upon an appeal, the Board is authorized to grant a variance from the strict provisions of this chapter, whereby unique, 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 purpose of this chapter. 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 chapter. Further, in granting a variance, the Board shall state the grounds upon which it justifies the granting of a variance as outlined below. When granting any variance, the Board must ensure that the spirit of this chapter is observed, public safety secured, and natural resources protected. The Board shall determine that the variance approval, either as proposed by the applicant or as otherwise determined by the Board based upon the record, is the minimum relief necessary in order to achieve substantial justice. The Board shall not have the power to consider an appeal of any decision concerning a special land use or a planned unit development, unless specifically authorized to do so by the Plan Commission.

(1) Use variances. The applicant must present evidence to show that if this chapter is applied strictly, unnecessary hardship to the applicant will result, and that all five of the following requirements are met:

(a) That the property could not be reasonably used for the purposes permitted in that zone;

(b) That the appeal results from unique circumstances peculiar to the property and not from general neighborhood conditions;

(c) That the use requested by the variance would not alter the essential character of the area;

(d) That the alleged hardship has not been created by any person presently having an interest in the property; and

(e) That the use will preserve a substantial property right possessed by other

58. Editor's Note: See MCLA § 125.3101 et seq.

property owners in the same zone.

(2) Nonuse variances. The applicant must present evidence to show that if this chapter is applied strictly, practical difficulties will result to the applicant and that all four of the following requirements are met:

(a) That this chapter's restrictions unreasonably prevent the owner from using the property for a permitted purpose;

(b) That the variance would do substantial justice to the applicant as well as to other property owners in the district, and a lesser relaxation than that requested would not give substantial relief to the owner of the property or be more consistent with justice to other property owners;

(c) That the plight of the landowner is due to the unique circumstances of the property;

(d) That the alleged hardship has not been created by any person presently having an interest in the property;

(3) Additional criteria for land divisions. In addition to the criteria outlined in Subsection E(2), Nonuse variances, the Board shall consider the following for any appeals and/or variance request for a land division in their decision:

(a) The width, size and general character of the lots in the neighborhood and area;

(b) Whether the width and shape of the lot leaves adequate buildable area to allow the construction of a dwelling which is in harmony with the character of the neighborhood and/or area; and

(c) The extent to which other developed lots in the neighborhood and/or area have maintained required yards, lot area and width.

§ 770-125. Procedure for appeal.

A. An applicant requesting any action by the Board shall commence such request by filing an application on the form supplied by the City, accompanied by an appeal fee as determined by the City Commission, and all plans, studies and any other information and data as applicable, all of which shall be made a part of the record. The application shall specify the grounds upon which the appeal is based, the section number(s) of this chapter containing the standards from which a variance is sought and the nature and extent of such variance, and contain a notarized signature of the property owner or owner's agent.

B. Every appeal from a determination of the Zoning Administrator or other duly authorized enforcing agent shall be made by the applicant within 30 days of the date of the order issuance or refusal to issue a permit, requirement, or refusal. Such an appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator or other duly authorized enforcing agent shall certify that, by reason of the facts stated in the appeal, a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed other than by a restraining order granted by the circuit court.

C. The Zoning Administrator, pursuant to § 770-10, Duties, of this chapter, shall fix a time for a public hearing on each appeal. Notice of the public hearing shall be provided pursuant to § 770-13, Public hearings, of this chapter and in accordance with Section 103 of the Zoning Enabling Act, Act 110 of 2006, as amended.[59]

D. Any person may appear in person at the public hearing, or be represented by an agent or attorney, and present any evidence in support of his or her appeal. The Board shall have the power to require the attendance of witnesses, administer oaths, compel testimony, and otherwise cause the production of books, papers, files, and other evidence pertaining to matters properly coming before the Board.

E. The Board shall not decide an appeal until after a public hearing.

F. The Board may reverse, affirm, vary, or modify any order, requirement, or determination, as to which it has the power to consider, and shall have all the powers of the officer or body from whom the appeal was taken and may issue or direct the issuance of a permit.

G. The Board may impose conditions with any decision. Such conditions imposed shall meet all of the following requirements:

(1) Be designed to protect natural resources, public health, safety, and welfare and the social and economic well-being of those who will use the land 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 which are affected by the proposed use or activity.

(3) Be necessary to meet the intent and purpose of this chapter, be related to the standards established in this chapter for the land use or activity under consideration, and be necessary to insure compliance with those standards. Violations of any of these conditions shall be deemed a violation of this chapter, enforceable as such, and/or may be grounds for revocation or reversal of such decision.

H. All decisions of the Board shall be in writing and, so far as it is practicable, in the form of a general statement or resolution reciting the conditions, facts, and findings of the Board. The applicant shall be advised of the decision after the public hearing unless the Board moves for a continuation of such hearing.

I. Any decision of the Board favorable to the applicant shall remain valid only as long as the information or data relating thereto are found to be correct, and the conditions upon which the decision was based are maintained.

J. The Board may reconsider an earlier decision if, in the opinion of the Board, circumstances justify taking such action.

K. No order of the Board permitting the erection or alteration of a building shall be valid for a period of longer than one year, unless a building permit for such erection or alteration is obtained within such period, and such erection or alteration is started

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59. Editor's Note: See MCLA § 125.3103.

and proceeds to completion in accordance with the terms of such permit. No order of the Board 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 such order shall continue in force and effect if a building permit for said erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with such permit.

L. Any person or persons or any board or department of the City having an interest affected by a decision of the Board shall have the right to appeal to the circuit court on questions of law and fact. Such appeal must be taken within 21 days after the date of the Board's decision. A request for reconsideration under Subsection J above shall not toll the time for taking such appeal. In the event a request for reconsideration is granted, the time period for appeal shall commence from the approval of the minutes of the meeting where the appeal was reconsidered. In any event, only one request for reconsideration on each appeal shall be allowed.

ARTICLE XII
Amendments

§ 770-126. Procedure.

Zoning regulations and the boundaries of land use zones may be amended, supplemented or changed in the manner prescribed in the Zoning Enabling Act, Act No. 110, Public Acts of Michigan for 2006, as amended,[60] and in accordance with the following:

A. Any such amendment, supplement or change to the regulations of this chapter may be initiated by the City Commission, the Plan Commission, the Zoning Administrator, or by petition from the general public. Any such amendment, supplement or change to the boundaries of land use zones of the official Zoning Map may be initiated by the City Commission, the Plan Commission, the Zoning Administrator, or by petition from the owner or owners of the subject property or legal representative. In the case of applications initiated by petition, a filing fee as established by resolution of the City Commission shall be paid to the City Treasurer by the petitioner at the time when such petition is submitted. An application for an amendment to the regulations of this chapter or the official Zoning Map shall also be submitted to the Planning Department for processing. In all cases, a public hearing shall be conducted by the Plan Commission in accordance with § 770-13, Public hearings, of this chapter. Following the public hearing, the Plan Commission shall identify and evaluate all factors relevant to an amendment and shall report its findings and recommendation to the City Commission. The Plan Commission shall consider the criteria contained herein this article and the Master Plan in making its finding and recommendation. A summary of the comments submitted at the public hearing shall be transmitted with the Plan Commission's findings and recommendation.

B. After receipt of the Plan Commission's findings and recommendation, the City Commission may adopt a proposed amendment, supplement or change with or without modifications, or refer same again to the Plan Commission for further study and report; provided, however, that if the City Commission proposes to adopt any such amendment with any modification enlarging its scope, then such amendment shall be referred again to the Plan Commission for further public hearing, study and report on such amendment as enlarging in scope, and final action thereon shall not be taken prior to the receipt of such report from the Plan Commission.

§ 770-127. Application requirements.

Applications to amend this chapter or the official Zoning Map shall be submitted to the Zoning Administrator on a form provided by the Planning Department and include all required fees. In the case of an amendment to regulations of this chapter, the exact language of the proposed amendment and a justification for its adoption shall accompany the application form. In the case of an amendment to the official Zoning Map, the following information shall accompany the application form:

A. A legal description and street address of the subject property, together with a map or survey identifying the subject property in relation to surrounding properties.

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60. Editor's Note: See MCLA § 125.3101 et seq.

B. The name and address of the owner of the subject property, and a statement of the applicant's interest in the subject property if not the owner in fee simple title.

C. The existing and proposed zone designations of the subject property.

D. A written description of how the requested amendment meets the criteria stated in this article and the Master Plan.

E. A traffic, environmental, or public service impact study if required by the Zoning Administrator, Plan Commission or City Commission.

F. Additional information may be requested as deemed necessary by the Zoning Administrator, Plan Commission or City Commission.

§ 770-128. Public hearing and notice.

The Zoning Administrator, pursuant to § 770-10, Duties, of this chapter, shall fix a time for a public hearing on each application to amend this chapter or the official Zoning Map. Notice of the public hearing shall be provided in accordance with Section 103 of the Zoning Enabling Act, Act 110 of 2006, as amended.[61]

§ 770-129. Criteria for amendment to official Zoning Map.

In considering any application for an amendment to the official Zoning Map, the Plan Commission and City Commission shall consider the following criteria, among other factors they may deem appropriate, in making their findings, recommendations and decision:

A. The requested zone should be consistent with the goals, policies and future land use map of the Master Plan, including any location-specific or corridor studies. If conditions have changed since the Master Plan was adopted, as determined by the Plan Commission or City Commission, the consistency with recent development trends in the site's area shall be considered.

B. The site's physical, geological, hydrological and other environmental features should be compatible with the host of principal permitted and special land uses in the proposed zone.

C. Evidence should document the applicant cannot receive a reasonable return on investment through developing the property with one or more of the principal permitted and special land uses under the current zoning.

D. The potential uses allowed in the proposed zone should be compatible with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic volumes, aesthetics, infrastructure, and potential influence on property values.

E. The street system should be capable of safely and efficiently accommodating expected traffic volumes generated by potential uses in the requested zone.

F. The capacity of public utilities and services should be sufficient to accommodate

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61. Editor's Note: See MCLA § 125.3103 et seq.

the potential uses in the requested zone without compromising the City's health, safety and welfare.

G. There should be an apparent demand in the City for the types of potential uses in the requested zone in relation to the amount of land in the City currently zoned and available to accommodate the demand.

H. The requested zone shall not create an isolated and unplanned spot zone.

I. Other criteria as determined by the Plan Commission or City Commission which would protect the public health, safety and welfare, protect public and private investment in the City, promote implementation of the goals, objectives and policies of the Master Plan and any amendments thereto, and enhance the overall quality of life in the City.

§ 770-130. Criteria for amendment to regulations of chapter.

In considering any application for an amendment to the regulations of this chapter, the Plan Commission and City Commission shall consider the following criteria in making its findings, recommendations and decision:

A. The proposed amendment would correct an error or clarify the intent of this chapter.

B. Documentation has been provided from the Zoning Administrator or Zoning Board of Appeals indicating problems and conflicts in implementation or interpretation of specific sections of this chapter.

C. The proposed amendment would address potential legal issues or administrative problems with this chapter based on recent case law or opinions rendered by state or federal courts or attorneys general of competent jurisdiction.

D. The proposed amendment would address and promote compliance with changes in other City ordinances and county, state or federal legislation and regulations.

E. The proposed amendment is supported by the findings, reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements and similar technical issues.

F. Other criteria as determined by the Plan Commission or City Commission which would protect the public health, safety and welfare, protect public and private investment in the City, promote implementation of the goals, objectives and policies of the Master Plan and any amendments thereto, and enhance the overall quality of life in the City.

§ 770-131. Notice of amendment.

Following adoption of an amendment to the regulations of this chapter or the official Zoning Map by the City Commission, one notice of adoption shall be published in a newspaper of general circulation as provided by the City of Royal Oak Charter and in accordance with the Zoning Enabling Act, Act 110 of 2006, as amended.[62]

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62. Editor's Note: See MCLA § 125.3101 et seq.

§ 770-132. Protests; petition.

Upon presentation of a protest petition meeting the requirements of this section, an amendment to the official Zoning Map which is the object of the petition shall be passed only by a two-thirds vote of the City Commission. The protest petition shall be presented to the City Commission prior to final action on the amendment and shall be signed by one of the following:

A. The owners of at least 20% of the area of land included in the proposed amendment. Publicly owned land shall be excluded in calculating the twenty-percent land area requirement.

B. The owners of at least 20% of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change. Publicly owned land shall be excluded in calculating the twenty-percent land area requirement.

§ 770-133. (Reserved)

§ 770-134. (Reserved)

ARTICLE XIII
Repeals

§ 770-135. Repeal of prior zoning regulations.

The existing zoning regulations of the City of Royal Oak, being the City of Royal Oak Zoning Ordinance Volume 11, No. C-2, are hereby repealed. The adoption of this chapter, however, shall not affect or prevent any pending or future prosecution of, or action to abate, any existing violation of the aforementioned ordinance, as amended, if the use so in violation is in violation of the provisions of this chapter.

§ 770-136. Impact on business licenses and permits.

Nothing herein shall be deemed to repeal or amend any ordinance requiring a permit or license, or both, to cover any business.