

**CITY OF THE VILLAGE OF CLARKSTON  
OAKLAND COUNTY, MICHIGAN**

**ZONING ORDINANCE**  
ORDINANCE NO. 129

January 11, 2016

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## ARTICLE I

### INTENT

#### **SECTION 1.00      SHORT TITLE**

This Ordinance shall be known as the "City of the Village of Clarkston Zoning Ordinance" and may hereinafter be referred to as "this Ordinance."

#### **SECTION 1.01      INTENT**

The City of the Village of Clarkston is an older, established community settled in the 1830's that has been almost completely developed for a number of years and is surrounded by and part of the larger community of Independence Township. The "Village" is a recognized historical mill town and due to its historical nature receives protections afforded historical districts. The City has limited land use and due to its small size and the fact that it is part of the greater Independence Township area, which is much larger and accommodates many and varying land uses not commonly found in the City, it is recognized that not all land uses can be accommodated in the City of the Village of Clarkston. It is further recognized that some uses that may not be accommodated within the City's geographic area, can be accommodated in the larger community known as Independence Township.

The City of the Village of Clarkston Master Plan's primary objective is to *"preserve the distinct image and identity of the Village as a place with a quality living environment for its residents by promoting the preservation, reuse and rehabilitation of older residential and commercial structures; encouraging new development which is compatible with existing Village land uses; and maintaining the small town residential and historical character of the Village"*.

This Zoning Ordinance is based on the Master Plan, design standards, amendments to those plans and similar plans adopted by the Planning Commission addressing future development patterns and development goals. This Ordinance is intended to implement the Master Plan through regulations on use of land, buildings and structures to promote the public health, safety and general welfare and to accomplish the objectives listed below.

- A. Establish zoning districts and uniform regulations applicable to each district governing the use of the land, and dimensions for building and site development with such minimum regulations as are deemed necessary to carry out the provisions of this Ordinance.
- B. Accommodate and promote land uses which are compatible with the City's character and conserve the property values and long term stability of residential neighborhoods, commercial districts, industrial areas and special districts.



- C. Encourage use of the land and natural resources in accordance with their character and capability, thus preserving the sensitive and important environmental features in the City, such as wetlands, lakes, topography, open space, mature vegetation and wildlife habitat. This Ordinance acknowledges the importance of these features on the long term economic climate of all uses in the City and the overall quality of life for City residents.
- D. Limit or prohibit improper use of land.
- E. Reduce hazards to life and property, particularly for development in the 100 year floodplain.
- F. Promote safe conditions for motorists, pedestrians and bicyclists through maintenance of an acceptable level of service along streets and at driveways within the City. This includes assurance that property owners have reasonable, though not always direct, access to property.
- G. Facilitate adequate and cost effective infrastructure systems, and protect the substantial public investment in those systems, including: transportation, sewage disposal, safe and adequate water supply, education and recreational facilities.
- H. Establish controls over potential land use conflicts and uses which may need special regulation as special land uses to be compatible with surrounding development patterns and zoning.
- I. Promote the gradual elimination of uses, buildings and structures which do not conform with the regulations and standards of this Ordinance.
- J. Provide for administration of this Ordinance, including resolution of any conflicts with other ordinances, collection of fees, procedures for petitions, hearings and appeals; and to provide for any other matters authorized under P.A. 110 of 2006, as amended (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 et seq.), hereinafter referred to as the "Zoning Act."
- K. Balance the City's right to compatible and quality development with the property owners' right to a reasonable rate of return on investment.

## **SECTION 1.02 VESTED RIGHTS**

- A. Nothing in this Ordinance shall be deemed to require any change in the plans, construction or designated use of any building upon which actual construction was begun prior to the enactment of this Ordinance, provided significant construction has lawfully begun, is being diligently carried on and shall be completed within one (1) year of the effective date of this Zoning Ordinance. The Zoning Board of Appeals may permit one (1) extension of up to one (1) year.

- B. If a lot has an approved site plan within twelve (12) months prior to the effective date of this Zoning Ordinance, such site plan shall remain valid if construction is begun within one (1) year and completed within two (2) years of the effective date of this Zoning Ordinance.
- C. If the conditions of this section are not met, the standards and provisions of this Zoning Ordinance shall govern.
- D. Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety, and welfare.

**SECTION 1.03 VALIDITY AND SEVERABILITY CLAUSE**

This Ordinance and the various components, articles, sections, subsections, sentences and phrases are hereby declared to be severable. If any court of competent jurisdiction shall declare any part of this Ordinance to be unconstitutional or invalid, such ruling shall not affect any other provisions of this Ordinance not specifically included in said ruling. Further, if any court of competent jurisdiction shall declare unconstitutional or invalid the application of any provision of this Ordinance to a particular parcel, lot, use, building or structure, such ruling shall not affect the application of said provision to any other parcel, lot, use, building or structure not specifically included in said ruling.

**SECTION 1.04 REPEAL OF PRIOR ORDINANCE**

The Zoning Ordinance No. 72 adopted by the Village Council of the Village of Clarkston on 27th day of September 1973, and all amendments thereto, are hereby repealed insofar as they conflict with this Ordinance. The repeal of the above Ordinances and their amendments does not affect or impair any act done, offense committed or right accruing, accrued or acquired or liability, penalty, forfeiture, or punishment incurred prior to the time enforced, prosecuted or inflicted.

**SECTION 1.05 EFFECTIVE DATE**

Public hearing having been held hereon, the provisions of this Ordinance are hereby effective, pursuant to the provisions of Section 4, of Act 207 of the Public Acts of 1921 (MCL 125.584, MSA 5.2934), as amended. Made and passed by the City Council of the City of the Village of Clarkston, Oakland County, Michigan, on this 22<sup>nd</sup> day of March A.D., 1999.

- A. Date of Public Hearing: ??

- B. Date of Publication: ??
- C. Date of Adoption by City Council: January 11, 2016
- D. Date and Time Ordinance Shall Take Effect: ??

## ARTICLE II

### DEFINITIONS

#### SECTION 2.00 CONSTRUCTION OF LANGUAGE

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

- A. The particular shall control the general.
- B. In case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
- C. The word “shall” is always mandatory and not discretionary. The word “may” is permissive, with the decision made by the Planning Commission, City Council, or Zoning Board of Appeals, as indicated.
- D. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- E. A “building” or “structure” includes any part thereof. The word “dwelling” includes “residence”. The word “lot” includes the words “plot” or “parcel.”
- F. The phrase “used for” includes “arranged for,” “designed for,” “intended for,” “maintained for,” or “occupied for.”
- G. The word “person” includes an individual, a firm, an association, an organization, a corporation (public or private), a partnership or a co-partnership, a limited liability company, an incorporated or unincorporated association, a trust, or any other entity recognizable as a “person” under the laws of Michigan.
- H. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction “and,” “or,” or “either...or,” the conjunction shall be interpreted as follows:
  - 1. “And” indicates that all the connected items, conditions, provisions, or events shall apply.
  - 2. “Or” indicates that the connected items, conditions, provisions, or events may apply singly or in any combination (i.e., “or” also means “and/or”).
  - 3. “Either...or” indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

- I. The terms “abutting” or “adjacent to” include property “across from,” such as across a street, alley, or an easement. This term shall also apply to adjacent zoning districts in an adjacent community.
- J. The term “this Zoning Ordinance” or “this Ordinance” includes this Zoning Ordinance and any amendments thereto.
- K. Terms not herein defined shall have the meaning customarily assigned to them.

## **SECTION 2.01 DEFINITIONS**

**ACT:** The term “act” or “doing of an act” includes “omission to act.”

**ADULT DAY CARE FACILITY:** A facility which provides daytime care for any part of a day but less than twenty-four (24) hour care for functionally impaired elderly persons provided through a structured program of social and rehabilitative and/or maintenance services in a supportive group setting other than the client's home. Such facilities are not licensed, however those receiving funds through an Area Agency on Aging must comply with adult day care standards promulgated by the Michigan Office of Services to the Aging.

**ADULT FOSTER CARE FACILITY:** A governmental or nongovernmental establishment that provides supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks for compensation for adults over 18 years of age. 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, or residential center for persons released from or assigned to a correctional facility. These facilities are licensed and regulated by the state under Michigan Public Act 218 of 1979, as amended, and rules promulgated by the Michigan Department of Consumer and Industry Services. Such facilities are classified as follows:

- A. **Adult Foster Care Congregate Facility:** an adult foster care facility with the approved capacity to receive more than twenty (20) adults to be provided with foster care.
- B. **Adult Foster Care Small Group Home:** an adult foster care facility with the approved capacity to receive twelve (12) or fewer adults to be provided with foster care.
- C. **Adult Foster Care Large Group Home:** an adult foster care facility with approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided with foster care.
- D. **Adult Foster Care Family Home:** a private residence with the approved capacity to receive six (6) or fewer adults to be provided with foster care for twenty-four (24) hours a day for five (5) or more days a week and for two (2) or more consecutive weeks. The

adult foster care family home licensee must be a member of the household and an occupant of the residence.

**ADULT REGULATED USES OR SEXUALLY-ORIENTED BUSINESSES:**

**Uses:** Any business which primarily features sexually stimulating material and/or performances, including the following uses:

- A. **Adult Personal Service Establishment:** Any establishment, club, or business by whatever name designated, which offers or advertises, or is equipped or arranged to provide as part of its services, massages, body rubs, body painting, alcohol rubs, physical stimulation, baths, or other similar treatment by any person. An adult personal service establishment may include, but is not limited to, establishments commonly known as massage parlors, health spas, sauna baths, Turkish bathhouses, and steam baths. The following uses shall not be included within the definition of an adult personal service establishment:
  - 1. Establishments which routinely provide such services by a licensed physician, a licensed chiropractor, a licensed physical therapist, a licensed nurse practitioner, or any other similarly licensed medical professional;
  - 2. Fitness center, as defined herein;
  - 3. Electrolysis treatment by a licensed operator of electrolysis equipment;
  - 4. Continuing instruction in martial or performing arts, or in organized athletic activities;
  - 5. Hospitals, nursing homes, medical clinics, or medical offices;
  - 6. Barber shops or beauty parlors and salons which offer massages to the scalp, the face, the neck or shoulders only; and
  - 7. Adult photography studios whose principal business does not include the taking of photographs of “specified anatomical areas” as defined herein.
  
- B. **Adult Book Store:** An establishment having a substantial portion of its stock-in-trade devoted to the distribution, display, or storage of books, magazines, and other periodicals, photographs, drawings, and other print material which is distinguished or characterized by its emphasis on matters depicting, describing, or relating to “Specified Sexual Activities” or “Specified Anatomical Areas” (as defined herein), or an establishment with a segment or section devoted to the sale or display of such material.
  
- C. **Adult Cabaret:** An establishment where live entertainment is provided, presented, permitted or performed, where a substantial portion of performances are distinguished or characterized by an emphasis on or relationship to “Specified Sexual Activities” or

“Specified Anatomical Areas” (as defined herein) for observation by or participation of patrons therein. Also, an establishment which features any of the following: topless dancers and/or bottomless dancers, go-go dancers, strippers, male and/or female impersonators or similar entertainers, topless and/or bottomless waiters, waitresses and/or employees.

- D. **Adult Motion Picture Theater or Adult Live Stage Performing Theater:** An enclosed building wherein still or motion pictures, video tapes or similar material is presented or viewed where a substantial portion is distinguished or characterized by an emphasis on matter depicting, describing or relating to “Specified Sexual Activities” or “Specified Anatomical Areas” (as defined herein) for observation by patrons therein. Such an establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.
- E. **Adult Model Studio:** Any place where models who display “Specified Anatomical Areas” (as defined herein) are present to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons who pay some form of compensation or gratuity. This definition shall not apply to any accredited art school or similar educational institution.
- F. **Adult Motion Picture Arcade or Mini Motion Picture Theater:** Any place where motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images displayed depict, describe, or relate to “Specified Sexual Activities” or “Specified Anatomical Areas” (as defined herein).
- G. **Adult Video Store:** An establishment having a substantial portion of its stock-in-trade devoted to the distribution, display, storage, or on-premises viewing of films, movies, motion pictures, video cassettes, slides, or other visual representations which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to “Specified Sexual Activities” or “Specified Anatomical Areas” (as defined herein), or an establishment with a segment or section devoted to the sale or display of such material.
- H. **Adult Outdoor Motion Picture Theater:** A drive-in theater where a substantial portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing or relating to “Specified Sexual Activities” or “Specified Anatomical Areas” (as defined herein) for observation by patrons of the theater. Such establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.
- I. **Sexual Paraphernalia Store:** An establishment having a substantial portion of its stock-in-trade devoted to the distribution, display, or storage of instruments, devices, or paraphernalia designed for use related to “Specified Anatomical Areas” or as part of, in connection with, or related to “Specified Sexual Activities” (as defined herein), or an establishment with a segment or section devoted to the sale or display of such material.

**Special Definitions:** With respect to Adult Regulated Uses or Sexually Oriented Businesses, the following terms and phrases shall have the following meanings:

- A. **Substantial Portion:** A use of activity accounting for more than twenty percent (20%) of any one or more of the following: stock-in-trade, sales revenue, display space, floor space, viewing time, movie display time, or entertainment time measured per month.
  
- B. **Specified Anatomical Areas:** Portions of the human body defined as follows:
  - 1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breast below the point immediately above the top of the areola; and
  - 2. Human male genitals in a discernible turgid state, even if completely and opaquely covered.
  
- C. **Specified Sexual Activities:** The explicit display of one or more of the following:
  - 1. Human genitals in a state of sexual stimulation or arousal;
  - 2. Fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast;
  - 3. Human sex acts, normal or perverted, actual or simulated including, but not limited to human masturbation, oral copulation, sexual intercourse, or sodomy;
  - 4. Human excretory functions as part of, or as related to, any of the activities described above;
  - 5. Physical violence; bondage, mutilation, or rape, actual or simulated, as part of or related to any of the activities described above.

**AGRICULTURE:** The art or science of cultivating the ground, the production of crops, or livestock on a farm; but excluding agricultural business or industry such as commercial greenhouses, the sale of nursery stock, riding or boarding stables, fur, farms, piggeries, farms used for disposal of garbage, sewage, rubbish or offal, and slaughtering of animals except animals raised on the premises for the use and consumption of persons residing on the premises.

**ALLEY:** Any dedicated public way, other than a street, affording a secondary means of access to abutting property, and not intended for general traffic circulation.

**ALTERATIONS:** Any change, rearrangement, addition, or modification in construction or type of occupancy, or any change in the structural members of a building, such as bearing walls or partitions, columns, beams or girders, or interior partitions, as well as any change in doors or windows, or any enlargement to or diminution of a building or structure, whether horizontally or



vertically, or the moving of a building or structure from one location to another, the consummated act of which may be referred to herein as “altered” or “reconstructed.”

**APARTMENT:** A suite of rooms or a room in a multiple-family building arranged and intended for a place of residence of a single family or a group of individuals living together as a single housekeeping unit.

**APARTMENT, ACCESSORY:** (i.e., “mother-in-law” apartment) A single apartment unit contained within a single-family home meeting the regulations of this Ordinance.

**APARTMENT, EFFICIENCY:** This means a dwelling unit containing not over six hundred (600) square feet of floor area, and consisting of not more than one (1) room in addition to kitchen, dining, and necessary sanitary facilities.

**APARTMENT, ONE-BEDROOM UNIT:** This means a dwelling unit containing a minimum floor area of at least six hundred (600) square feet per unit, consisting of not more than two (2) rooms in addition to kitchen, dining, and necessary sanitary facilities.

**APARTMENT, TWO-BEDROOM UNIT:** This means a dwelling unit containing a minimum floor area of at least seven hundred fifty (750) square feet per unit, consisting of not more than three (3) rooms in addition to kitchen, dining, and necessary sanitary facilities.

**APARTMENT, THREE OR MORE BEDROOM UNIT:** This means a dwelling unit wherein for each room in addition to the three (3) rooms permitted in a two (2) bedroom unit, there shall be provided an additional area of one hundred fifty (150) square feet to the minimum floor area of nine hundred (900) square feet.

**AREA OF SHALLOW FLOODING:** This means a designated AO zone on the Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and indeterminate, and where velocity flow may be evident.

**AREA OF SPECIAL FLOOD HAZARD:** This is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year.

**ART:** Works of beauty or other special aesthetic significance produced by means of the exercise of human creative skill, including:

1. Written works, such as books, poetry, journalism, plays, or screenplays;
2. Multi-media images generated through the use of computers, software, and applications to combine text, high-quality sound, graphic, and animation;
3. Images, forms, or sounds generated for aesthetic reasons rather than solely for commercial or functional use, including drawings, paintings, printmaking, or

sculpture, using materials such as paper, plaster, stone, glass, clay, wood, metal, or textile.

4. The application of aesthetic designs to everyday functional objects, including works in photography, industrial design, graphic design, fashion design, or interior design;
5. New media and contemporary forms of expression such as assemblage, collage, conceptual, as well as photography, but not live shows or performances.

**ARTIST:** A person regularly engaged in the creation of art.

**ARTIST WORKSHOP AND/OR GALLERY:** A workshop for the production of art or for art instruction, which may include a gallery for the display or sale of art, but not in the form of live shows or performances.

**ATTACHED WIRELESS COMMUNICATIONS FACILITIES:** shall mean wireless communication facilities that are affixed to existing structures, such as existing buildings, towers, water tanks, utility poles, and the like. A wireless communication support structure proposed to be newly established shall not be included within this definition.

**AUTO REPAIR STATION:** A place where, along with the sale of engine fuels, the following services may be carried out in a completely enclosed building: General repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service, such as body, frame, or fender straightening and repair; overall painting and undercoating of automobiles.

**AUTOMOTIVE SERVICE CENTER:** A place where automobile service may be carried out for minor repair and servicing of automobiles, together with the dispensing, sale, or offering for sale of motor fuels directly to users of motor vehicles, only when the location of such Automotive Service Center is architecturally designed and located on the site so as to become an integral part of a larger planned shopping center complex.

A building or premises used primarily for the sale and installation of major automobile accessories, such as tires, batteries, radios, air conditioners and mufflers, plus such services as brake adjustment, and wheel alignment and balancing; but excluding any major mechanical repairs, collision work, undercoating or painting. Sale of gasoline (stored only in underground tanks) shall be incidental to the above enumerated activities.

**BASE FLOOD:** A flood having a one percent (1%) chance of being equaled or exceeded in any given year.

**BASEMENT:** That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story, *and shall not be used for dwelling units, offices, retail sales or manufacturing, but may be used for storage,*

*heating and utility facilities, etc.* Should the vertical distance between the floor and midpoint, and ceiling and midpoint, be equal, the area shall be counted as a basement.

**BED AND BREAKFAST INN:** Any dwelling in which overnight accommodations are provided or offered for transient guests for compensation, including provision for a morning meal only for the overnight guest. A bed and breakfast is distinguished from a motel in that a bed and breakfast establishment shall have only one set of kitchen facilities, employ only those living in the house or up to one additional employee, and have a facade style consistent with the surrounding homes.

**BEDROOM:** A room designed or used in whole or in part for sleeping purposes.

**BERM:** A mound of soil graded, shaped and improved with landscaping in such a fashion so as to be utilized for screening purposes.

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

**BOARDING HOUSE:** A dwelling where meals, or lodging and meals, are provided for compensation for three (3) or more persons by pre-arrangement for definite periods (*exceeding ten (10) days*). A boarding house shall be distinguished from a hotel.

**BOARD OF APPEALS:** The Zoning Board of Appeals of the City of the Village of Clarkston.

**BUILDABLE AREA:** The space remaining on a lot after compliance with the minimum required setbacks of this Ordinance.

**BUILDING:** Any structure, either temporary or permanent, having a roof supported by columns or walls, and intended for the shelter or enclosure of persons, animals, chattels, or property of any kind.

**BUILDING ACCESSORY:** A subordinate building, the use of which is clearly incidental to that of the main building or to the use of the land.

**BUILDING HEIGHT:** The vertical distance measured from the established grade to the highest point of the roof surface for flat roof; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip, and gambrel roofs. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall. (See illustration-Building Height Requirements).

**BUILDING INSPECTOR:** The Building Inspector, or such other official, officers or departments designated by the City of the Village of Clarkston City Council.

**BUILDING LINE:** A line formed by the face of the building, and for the purpose of this ordinance, a minimum building line is the same as a front setback line.

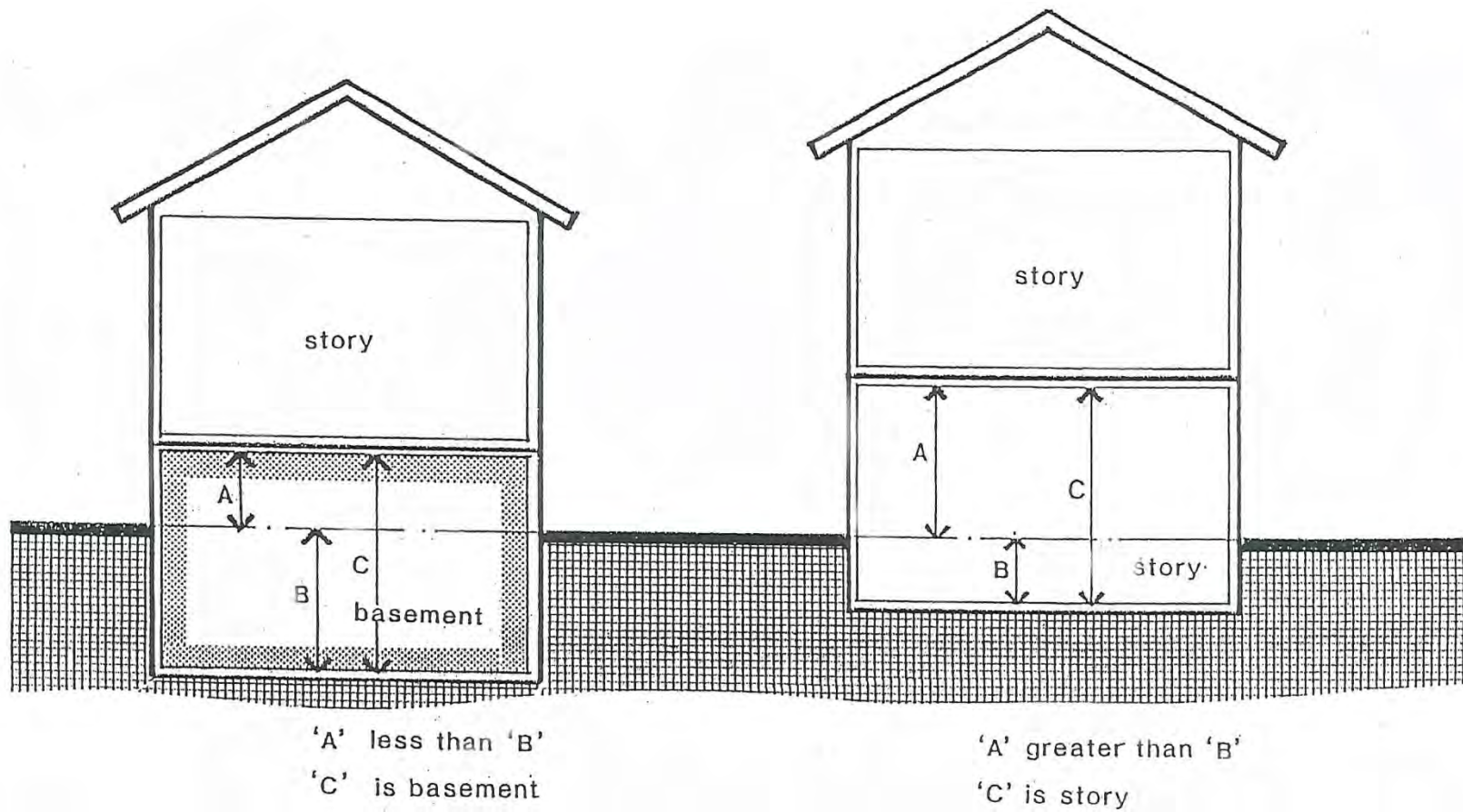
**BUILDING, MAIN OR PRINCIPAL:** A building or, where the context so indicates, a group of buildings in which is conducted the main or principal use of the lot.

**BUILD-TO LINE:** An alignment that dictates the front yard setback from a street or public right-of-way, to be followed by buildings or structures fronting thereon. The build-to line does not apply to building projections or recesses.

**BUILD-UP LINE:** An alignment that dictates an average height to the cornice line or to the roof edge line on a street or space.

**CEMETERY:** Land used or intended to be used for burial of the human dead and dedicated for such purpose.

**CERTIFICATE OF OCCUPANCY:** No building or structure or use for which a building permit has been issued shall be occupied until the Building Inspector has, after final inspection, issued a Certificate of Occupancy (C.O.) indicating his opinion that all the provisions of this Ordinance are being complied with. The issuance of a Certificate of Occupancy shall in no case be construed as waiving any provisions of this Ordinance.



McKenna Associates, Incorporated  
 Community Planning • Urban Design  
 Farmington Hills, Michigan

## BASEMENT AND STORY

**CHILD CARE ORGANIZATION:** A governmental or nongovernmental organization having as its principal function the receiving of minor children for care, maintenance, training, and supervision, notwithstanding that educational instruction may be given. These facilities care for children under the age of 18 years, and are licensed and regulated by the State under Act No. 116 of the Public Acts of 1973 and Act No. 218 of the Public Acts of 1979 and the associated rules promulgated by the State Department of Consumer and Industry Services. Such care organizations are classified below:

- A. **Child Care Center or Day Care Center:** A facility other than a private residence, receiving one (1) or more preschool or school age children for group day care for periods of less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available to the child. It includes a facility which provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day.

The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. "Child care center" or "day care center" does not include a Sunday school conducted by a religious institution or a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.

- B. **Child Care Institution:** A child care facility which is organized for the purpose of receiving minor children for care, maintenance, and supervision, usually on a twenty-four (24) hour basis, in a building maintained for that purpose, and operates throughout the year. It includes a maternity home for the care of unmarried mothers who are minors, an agency group home, and institutions for mentally retarded or emotionally disturbed minor children. It does not include hospitals, nursing homes, boarding schools, or an adult foster care facility in which a child has been placed.
- C. **Foster Family Home:** A private home in which one (1) but not more than four (4) minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.
- D. **Foster Family Group Home:** A private home in which more than four (4) but less than seven (7) children, who are not related to an adult member of the household by blood, marriage, or adoption, are provided care for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.
- E. **Family Day Care Home:** A private home in which one (1) but less than seven (7) minor children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks during a calendar year.

- F. **Group Day Care Home:** A private home in which more than six (6) but not more than twelve (12) children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian except children related to an adult member of the family by blood, marriage, or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks during a calendar year.

**CITY COUNCIL:** The duly elected or appointed City Council of the City of the Village of Clarkston.

**CLINIC:** An establishment where human patients who are not lodged overnight are admitted for examination and treatment by one or more physicians, dentists, or similar professions working in cooperation. A clinic may incorporate customary laboratories and pharmacies incidental or necessary to its operation or to the service of its patients, but may not include facilities for inpatient care or major surgery.

**CLUB:** An organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, politics, or the like, but not operated for profit.

**CLUSTER HOUSING:** A group of buildings and especially houses built close together to form relatively compact units on a sizable tract in order to preserve open spaces and environmentally sensitive areas larger than the individual yards for common recreation.

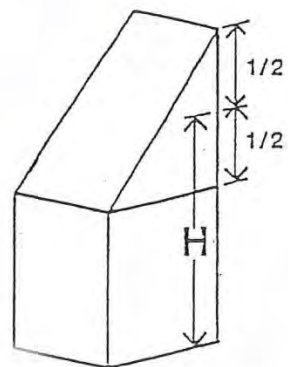
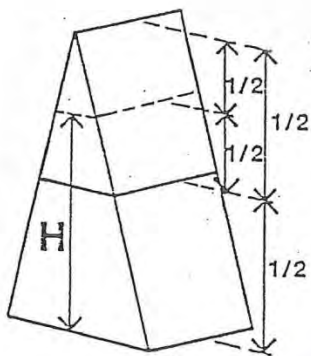
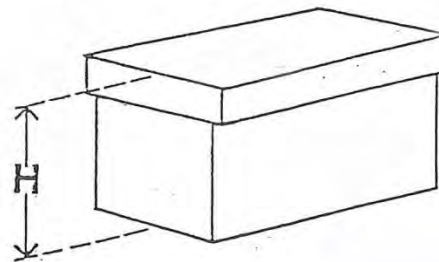
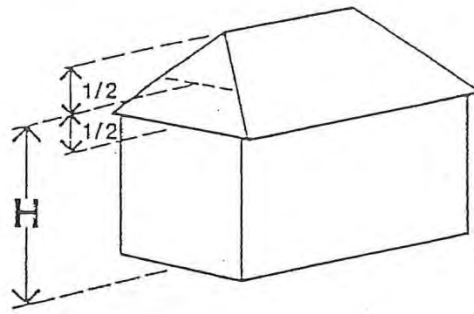
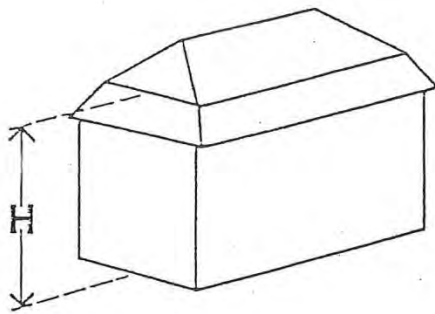
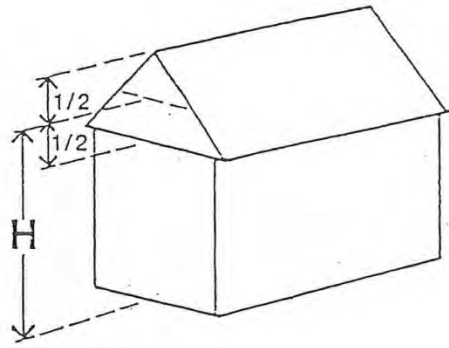
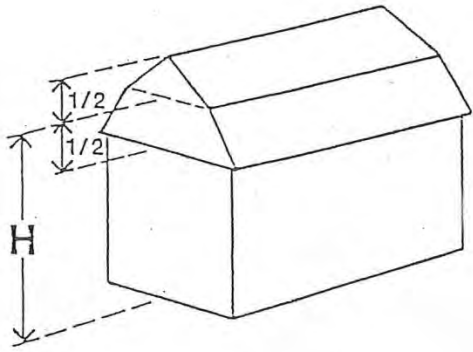
**CODE OFFICER:** The Code Officer, Building Inspector, or such other official, officers or departments designated by the City of the Village of Clarkston City Council.

**COLLOCATION:** The location by two (2) or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, with the view toward reducing the overall number of structures required to support wireless communication antennas within the community.

**COMMERCIAL USE:** “Commercial Use” relates to the use of property in connection with the purchase, sale, barter, display or exchange of goods, wares, merchandise or personal services and the maintenance or operation thereof of offices, or recreational or amusement enterprises.

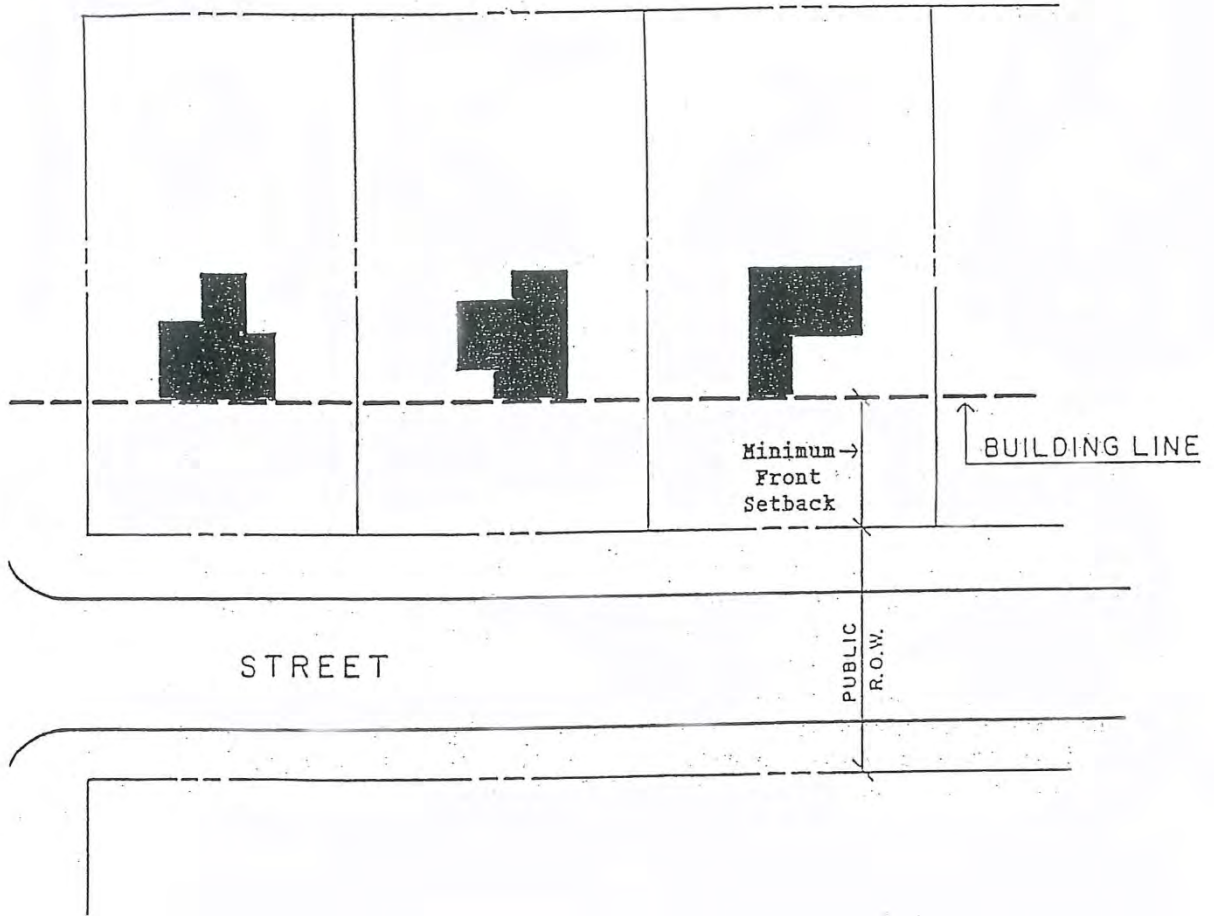
**CONDOMINIUM:** A condominium is a system of separate ownership of individual units and/or multi-unit projects according to Public Act 59 of 1978, as amended. In addition to the interest acquired in a particular unit, each unit owner is also a tenant in common in the underlying fee and in the spaces and building parts used in common by all the unit owners.

**CONDOMINIUM ACT:** Michigan Act 59 of 1978, as amended.



## BUILDING HEIGHT REQUIREMENTS





## BUILDING LINE

**CONDOMINIUM, CONTRACTIBLE:** A condominium project from which any portion of the submitted land or building may be withdrawn in pursuant to express provisions in the condominium documents and in accordance with the City of the Village of Clarkston Code of Ordinances and the Condominium Act.

**CONDOMINIUM, CONVERSION:** A condominium project containing condominium units some or all of which were occupied before the establishment of the condominium project.

**CONDOMINIUM – CONVERTIBLE AREA:** A unit or a portion of the common elements of the condominium project referred to in the condominium documents within which additional condominium units or general or limited common elements may be created pursuant to provisions in the condominium documents and in accordance with these Zoning Regulations and the Condominium Act.

**CONDOMINIUM, EXPANDABLE:** A condominium project to which additional land may be added pursuant to express provision in the condominium documents and in accordance with these Zoning Regulations and the Condominium Act.

**CONDOMINIUM – GENERAL COMMON ELEMENT:** The common elements other than the limited common elements intended for the common use of all co-owners.

**CONDOMINIUM – LIMITED COMMON ELEMENT:** A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.

**CONDOMINIUM MASTER DEED:** The condominium document recording the condominium project as approved by the City including attached exhibits and incorporated by reference the approved bylaws for the project and the approved condominium subdivision plan for the project.

**CONDOMINIUM – SITE CONDOMINIUM PROJECT:** A condominium project designed to function in a similar manner, or as an alternative to a platted subdivision. A residential site condominium project shall be considered as equivalent to a platted subdivision for purposes of regulation in these Zoning Regulations.

**CONDOMINIUM SUBDIVISION PLAN:** Drawings and information which show the size, location, area, and boundaries of each condominium unit, building locations, the nature, location, and approximate size of common elements, and other information required by Section 66 of Michigan Public Act 59 of 1978, as amended.

**CONDOMINIUM UNIT SITE (i.e., SITE CONDOMINIUM LOT):** The area designating the perimeter within which the condominium unit must be built. After construction of the condominium unit, the balance of the condominium unit site shall become a limited common element. The term “condominium unit site” shall be equivalent to the term “lot,” for purposes of determining compliance of a site condominium subdivision with the provisions of this Ordinance pertaining to minimum lot size, minimum lot width, minimum lot coverage and maximum floor area ratio.

Condominium setbacks shall be measured as described below:

- A. **Front Yard Setback:** The distance between the public street right-of-way or private road easement line and the foundation of the unit site. Where there is not public right-of-way or access easement, the front yard setback required in the district shall be measured from fifteen (15) feet from the nearest pavement edge to the foundation of the unit.
- B. **Side Yard Setback:** The distance between the side of a condominium building unit and the side unit (lot) line. Where no unit (lot) lines are provided, the distance between the closest points of two units shall be double the side yard setback required in the zoning district.
- C. **Rear Yard Setback:** The perimeter shall be the distance between the limit of the development and the rear of the unit; within the development, rear yard setbacks shall be measured as the distance between the rear building line and the rear site (lot) line, or where lot lines are not defined, the space between the rear building lines of two buildings shall be double the rear yard setback required in the zoning district.

**CONDOMINIUM UNIT:** The portion of the condominium project designed and intended for separate ownership as described in the Master Deed, regardless of whether it is intended for residential, office, industrial, business, or recreational use, or use as a time-share unit, or any other type of use.

**CONVALESCENT HOME:** See Nursing Home.

**COURT:** A yard, other than a required open space, on the same lot with a building or group of buildings, and which is bounded on two or more sides by such building or buildings.

**DEVELOPMENT:** The construction of a new building or other structures on a zoning lot, the relocation of an existing building on another zoning lot, or the use of open land for a new use.

**DISTRICT:** This term is synonymous with the term “zone” or “zoning district;” a portion of the incorporated area of the City of the Village of Clarkston within which, on a uniform basis, certain regulations and requirements or various combinations thereof apply under the provisions of this ordinance.

**DRIVE-IN:** A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure (e.g., carwash, gasoline service station, restaurants, cleaners, banks, theaters, etc.).

**DRIVE-IN RESTAURANT:** A business establishment, for the serving of food and/or beverages, with driveways and approaches so developed and designed so as to serve patrons while in the motor vehicle, or permit patron self-service so that consumption within motor vehicles may be facilitated, as differentiated from a restaurant with indoor seating only.

**DWELLING UNIT:** A building, or portion thereof, designed exclusively and occupied exclusively by one (1) family for residential purposes and having single cooking and bath

facilities. In no case shall a travel trailer, motor home, automobile, tent or other portable building defined as a recreational vehicle be considered a dwelling. In the case of mixed occupancy, where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purposes of these Zoning Regulations.

**DWELLING UNIT, ATTACHED:** A dwelling unit attached to one or more dwelling units by common major structural elements.

**DWELLING UNIT, DETACHED:** A dwelling unit which is not attached to any other dwelling unit by any means.

**DWELLING UNIT, EFFICIENCY APARTMENT:** A dwelling unit with a bathroom and principal kitchen facilities designed as a self-contained unit for living, cooking, and sleeping purposes, and having no separate designated bedroom.

**DWELLING UNIT, MANUFACTURED:** A building or portion of a building designed for long-term residential use and characterized by all of the following:

- A. A dwelling unit which is designed for long-term residential use and is wholly or substantially constructed at an off-site location. The structure is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act, as amended, and
- B. The structure is designed to be transported to the site in a nearly-complete form, where it is placed on a foundation and connected to utilities; and
- C. The structure is designed to be used as either an independent building or as a module to be combined with other elements to form a complete building on the site.

A mobile home is a type of manufactured housing, which is defined as follows:

- D. **Dwelling, Mobile Home:** A structure, transportable in one (1) or more sections, which is built upon a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. Recreational vehicles as described and regulated herein shall not be considered “mobile homes” for the purposes of this Ordinance.

**DWELLING UNIT, SITE BUILT:** Is a dwelling unit which is substantially built, constructed, assembled, and finished on the premises which are intended to serve as its final location. Site-built dwelling units shall include dwelling units constructed of pre-cut materials and paneled wall, roof, and floor sections when such sections require substantial assembly and finishing on the premises which are intended to serve as its final location.

**DWELLING, ONE-FAMILY:** A (detached) building designed exclusively for and occupied exclusively by one (1) family.

**DWELLING, TWO-FAMILY:** A (detached) building designed exclusively for occupancy by two (2) families living independently of each other.

**DWELLING, MULTIPLE-FAMILY:** A building or portion thereof designed exclusively for Occupancy by three (3) or more families living independently of each other.

**ENTRANCE RAMP:** A roadway used for access from a feeder road to a limited access highway.

**ERECTED:** Built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction, excavation, fill, drainage, and the like, shall be considered a part of erection.

**ESSENTIAL SERVICES:** Those services as outlined below, which are designed and constructed to directly serve local users within the geographic boundaries of the City of the Village of Clarkston. The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface, or overhead gas, electrical, steam, fuel or water transmission or distribution system, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, coordinate, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment in connection herewith, but not including buildings which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety, or welfare.

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

**EXIT RAMP:** A roadway used for access from a limited access highway to a feeder road.

**FAMILY:** means one of the following:

- A. A domestic family, that is, one or more persons living together and related by blood, the bonds of consanguinity, adoption or marriage and not more than two additional persons (exclusive of household servants) all residing together as a single housekeeping unit, or
- B. The functional equivalent of the domestic family, that is, persons living together in a dwelling unit whose relationship is of 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 operating as a single housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, 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 a rebuttable presumption enforceable by the Code Officer in the first instance that the number of persons who may reside as a functional equivalent family shall be limited to six (6). Such presumption may be

rebutted by application for a special land use based upon the applicable standards of the Ordinance.

**FARM:** Means the land, buildings, and machinery used in the commercial production of farm products.

**FARM OPERATION:** Means a condition or activity which occurs on a farm in connection with the commercial production of farm products, and includes, but is not limited to, marketed produce at roadside stands or farm markets; noise; odors; dust; fumes; operation of machinery and irrigation pumps; ground and aerial seeding and spraying; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides, and the employment and use of labor.

**FARM PRODUCT:** Means those plants and animals useful to human beings and includes, but is not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, livestock, including breeding and grazing, fruits, vegetables, flowers, seeds, grasses, trees, fish, apiaries, equine and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur.

**FENCE:** A structure of definite height and location to serve as a physical barrier, a screen, a marker, or an enclosure in carrying out the requirements of this Ordinance.

**FENCE, OBSCURING:** A structure of definite height and location to serve as an obscuring screen in carrying out the requirements of this Ordinance.

**FILLING:** Filling shall mean the depositing or dumping of any matter onto, or into the ground, except common household gardening and general farm care.

**FLOOD OR FLOODING:** This means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters.
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

**FLOOD HAZARD BOUNDARY MAP (FHBM):** Means an official map of a community, issued by the Federal Insurance Administration where the boundaries of the areas of special flood hazards have been designated as Zone A.

**FLOOD INSURANCE RATE MAP (FIRM):** Means an official map of a community, issued by the Federal Insurance Administration has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY:** This is the official report provided by the Federal Insurance Administration. The report contains flood profiles as well as the Flood Hazard Boundary-Floodway Map and the water surface elevation of the base flood.

**FLOODPLAIN:** This means any land area susceptible to being inundated by water from any source (See definition of flood).

**FLOODWAY:** This means the channel of a river or other watercourse and the adjacent land areas designated in the Flood Insurance Study which must be reserved in order to discharge the base flood.

**FLOOR AREA, GROSS:** The sum of the gross horizontal area of the first story measured to the interior face of the exterior walls, plus, similarly measured, that area of all other stories, including mezzanines which may be made fit for occupancy, including the floor area of all accessory buildings measured similarly and the floor area of basements used for activities related to the principal use of the building, but excluding unfinished attics, open porches, and attached garages (see FLOOR AREA illustration). Parking space located within a building shall not be considered usable floor area.

**FLOOR AREA, RESIDENTIAL:** For the purpose of computing the minimum allowable floor area in a residential dwelling unit, the sum of the horizontal areas of each story (*having more than eighty-four (84) inches of head room*) of the building shall be measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches.

**FLOOR AREA, USABLE (FOR THE PURPOSE OF COMPUTING PARKING):** That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, or for utilities or sanitary facilities, shall be excluded from this computation of "Usable Floor Area." Measurement of usable floor area shall be the sum of horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.

**GARBAGE:** The word "garbage" shall be made to include every refuse, accumulation of all waste, animal, fish, fowl, fruit or vegetable matter incidental to the preparation, use, cooking, dealing in or storage of meat, fish, fowl, fruit and vegetables, including spoiled food, dead animals, animal manure and fowl manure.

**GARAGE, AUTO REPAIR:** A place where the following activities may be carried out: vehicle body repair, engine rebuilding or repair, undercoating, painting, tire recapping, upholstery work and auto glass work.

**GARAGE, COMMUNITY:** An accessory building for the storage of non-commercial vehicles, with no public shop or service facilities in connection therewith.

**GARAGE, PRIVATE:** An accessory building, former barn, or portion of a main building, not occupying more than seven percent (7%) of the total lot area, designed or used solely for the storage of non-commercial motor driven vehicles, boats, and similar vehicles and not more than one commercial vehicle of a rated capacity not exceeding one ton, owned and used by the occupants of the building to which it is accessory. A private garage may be either attached to or detached from the principal structure.

**GARAGE, PUBLIC PARKING:** A structure available to the public for the parking and storage of motor vehicles, including such accessory uses as the sale of retail gasoline (stored only in underground tanks) or motor oil and the washing, polishing and lubrication of motor vehicles, all within the structure.

**GARAGE, SERVICE:** Any premises used for storage or care of motor-driven vehicles, or where any such vehicles are equipped for operation, repaired, or kept for remuneration, hire or sale.

**GASOLINE, SERVICE STATION:** A place for the dispensing, sale, or offering for sale of motor fuels directly to users of motor vehicles together with the sale of minor accessories and services for motor vehicles, but not including major automobile repair.

**GCWR - GROSS COMBINATION WEIGHT RATING:** The GVWR of the power unit plus the GVWR of the vehicle(s) or trailer(s) being towed.

**GRADE:** The ground elevation established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building/dwelling.

**GREENBELT:** A strip of land of definite width and location reserved for the planting of shrubs and/or trees to serve as an obscuring screen or buffer strip in carrying out the requirements of this Ordinance.

**GVW - GROSS VEHICLE WEIGHT:** The weight of a vehicle without load plus the weight of any load thereon.

**GVWR - GROSS VEHICLE WEIGHT RATING:** The recommended maximum total weight of the vehicle and load as designated by the vehicle manufacturer.

**HARMFUL INCREASE:** This means an unnaturally high stage on a river, stream or lake that causes or may cause damage to property, threat to life, personal injury, or damage to land or water resources.

**HOME OCCUPATION:** An accessory use conducted within a permitted dwelling unit and customarily carried on by the inhabitants thereof for gainful employment involving the



manufacture, provision, or sale of goods and/or services. Standards for permitted home occupations are provided in Section 18.10.

**HOSPITAL:** A building, structure, or institution in which sick or injured persons are given medical or surgical treatment and operating under license by the Health Department and the State of Michigan.

**HOTEL:** A building or part of a building, with a common entrance or entrances, in which the dwelling units or rooming units are used primarily for transient occupancy (*dwelling units shall not exceed ten percent (10%)*), and in which one or more of the following services are offered:

- A. Maid service;
- B. Furnishing of linen;
- C. Telephone, secretarial, or desk service;
- D. Bellboy service.

A hotel may include a restaurant or cocktail lounge, public banquet halls, ballrooms, or meeting rooms.

**HOUSING FOR THE ELDERLY:** An institution other than a hospital or hotel, which provides room and board to non-transient persons primarily fifty-five (55) years of age or older. Housing for the elderly may include:

- A. **Senior Apartments:** Multiple-family dwelling units occupied by persons fifty-five (55) years of age or older.
- B. **Elderly Housing Complex:** A building or group of buildings containing dwellings where the occupancy is restricted to persons fifty-five (55) years of age or older or couples where either the husband or wife is fifty-five (55) years of age or older.
- C. **Congregate or Interim Care Housing:** A semi-independent housing facility containing congregate kitchen, dining, and living areas, but with separate sleeping rooms. Such facilities typically provide special support services, such as transportation and limited medical care.
- D. **Dependent Housing Facilities:** Facilities such as convalescent homes and nursing homes which are designed for older persons who need a wide range of health and support services, including personal nursing care.

**INDUSTRIAL USE:** Any land or building occupied or used for manufacturing or processing purposes.

**JUNK:** For the purpose of this Ordinance, “junk” in addition to including garbage and rubbish shall mean any motor vehicles, machinery, appliances, product, merchandise with parts missing, or scrap metals or other scrap materials that are damaged, deteriorated or are in a condition that renders them incapable of performing the function for which they were intended.

**JUNK YARD:** An open area where waste, used or secondhand material are bought and sold, exchanged or secondhand material are bought and sold, exchanged, stored, baled, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles. A “Junk Yard” includes automobile wrecking yards and includes any area of more than two hundred (200) square feet for storage, keeping, or abandonment of junk but does not include uses established entirely within enclosed buildings.

**KENNEL, COMMERCIAL:** Any lot or premises on which three (3) or more dogs, cats or other household pets, six (6) months old or older, are either permanently or temporarily boarded for sale, breeding, boarding, or training purposes. Kennel shall also include any lot or premises where household pets are bred or sold.

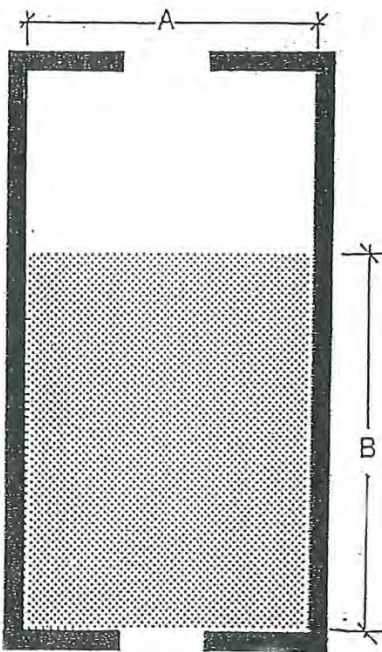
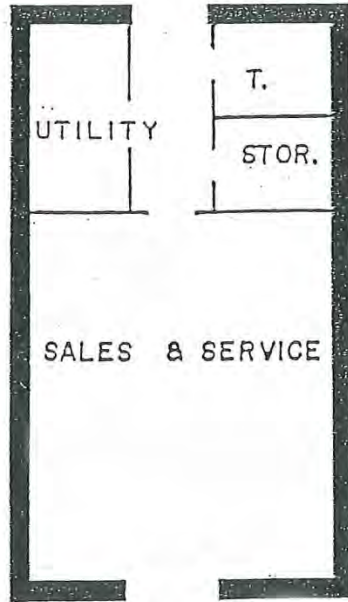
**LABORATORY:** A place devoted to experimental study such as testing and analyzing, but not devoted to the manufacturing of a product or products.

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

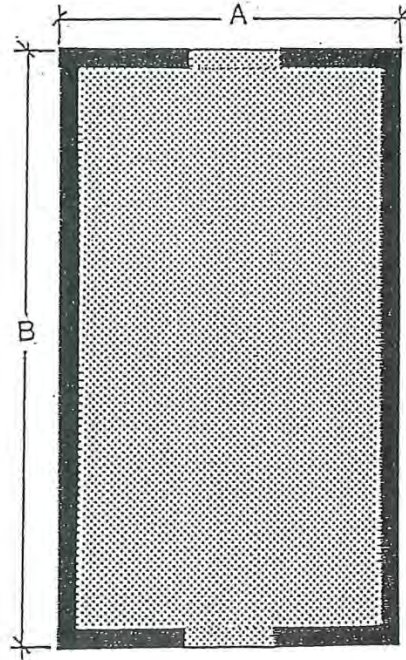
**LOT:** A parcel of land occupied, or intended to be occupied by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such yards and open spaces as are required under the provisions of this Ordinance. A lot may or may not be specifically designated as such on public records.

**LOT AREA:** The total horizontal area within the lot lines of the lot. For lots fronting or adjacent to private streets, lot area shall mean that area within lot lines and not including any portion of said private street.

# FLOOR AREA



USABLE FLOOR AREA  
(A x B)



GROSS FLOOR AREA  
(A x B)

**LOT, CORNER:** A lot where the interior angle of two (2) adjacent sides at the intersection of two (2) streets is less than one hundred thirty-five (135) degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this Ordinance if the arc is of less radius than one hundred fifty (150) feet and the tangents to the curve, at the two (2) points, where the lot lines meet the curve or the straight street line extended, form an interior angle of less than one hundred thirty-five (135) degrees.

**LOT COVERAGE:** The part or percent of the lot occupied by buildings including accessory buildings.

**LOT DEPTH:** The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

**LOT, INTERIOR:** Any lot other than a corner lot or through lot.

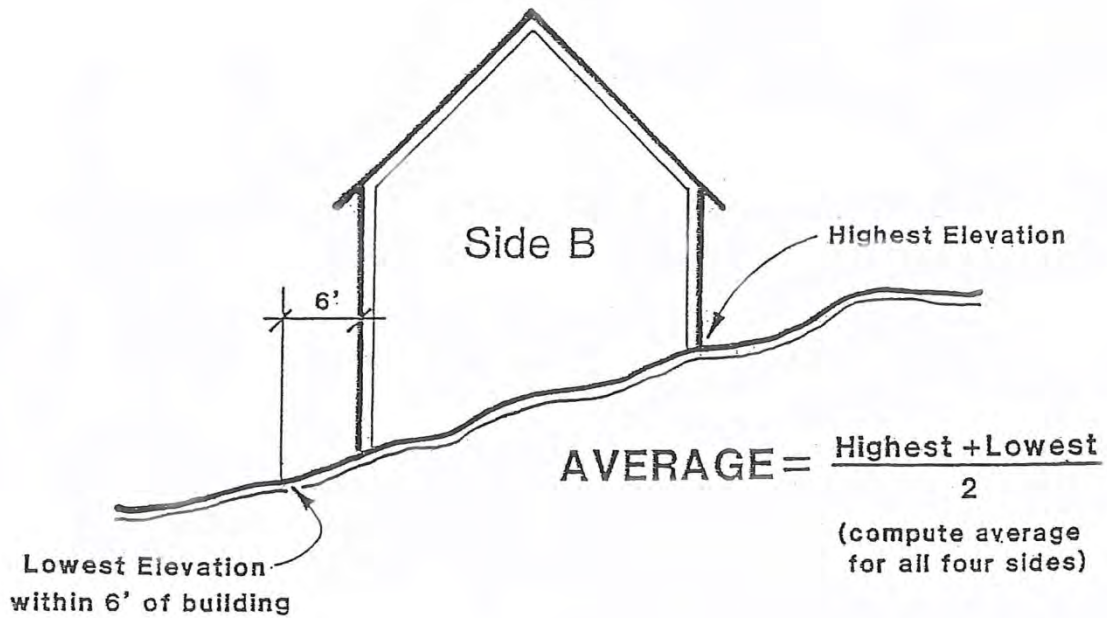
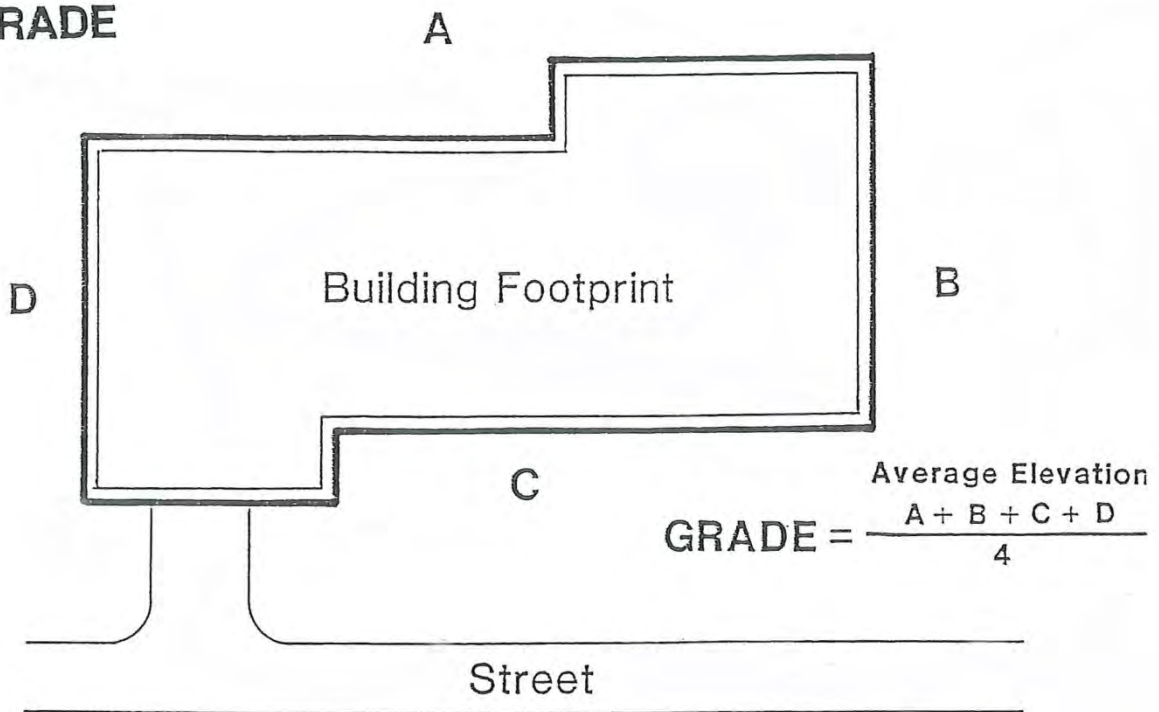
**LOT LINES:** The lines bounding a lot as defined herein:

- A. **Front Lot Line:** In the case of an interior lot, it is that line separating said lot from the street. In the case of a corner lot, or double frontage lot, it is that line separating said lot from either street.
- B. **Rear Lot Line:** That lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long lying farthest from the front lot line and wholly within the lot.
- C. **Side Lot Line:** Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a street side lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.
- D. **Lot of Record:** A parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by Municipal or County Officials, and which actually exists as so shown, or any part of such parcel held in a record ownership separate from that of the remainder thereof. A lot of record must front a public street which is dedicated for access as a public street.

**LOT, THROUGH:** Any interior lot having frontage on two (2) more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, all sides of said lots adjacent to streets shall be considered frontage, and front yards shall be provided as required.

**LOT WIDTH:** The horizontal distance between the side lot lines, measured at the two (2) points where the building line, or setback line intersects the side lot lines.

**GRADE**



**LOT, ZONING:** A single tract of land, located within a single block, which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control.

A zoning lot shall satisfy this Ordinance with respect to area, size, dimensions, and frontage as required in the district in which the zoning lot is located. A zoning lot therefore, may not coincide with a lot of record as filed with the County Register of Deeds, but may include one (1) or more lots of record.

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

**MAIN USE:** The principal use to which the premises are devoted and the principal purpose for which the premises exist.

**MANUFACTURED HOME:** See DWELLING UNIT, MANUFACTURED.

**MANUFACTURED HOUSING DEVELOPMENT, PLANNED:** A planned unit development which includes manufactured homes including modular or mobile homes, in which a concept plan is included with a rezoning to achieve integration with the characteristics of the project area.

**MANUFACTURED HOUSING SUBDIVISION:** Individually-owned lots subdivided according to the provisions of Act 288 of the Public Acts of Michigan of 1967, as amended, intended as a site for the placement for dwelling purposes of mobile, modular or pre-manufactured homes.

**MARQUEE:** A roof-like structure of a permanent nature projecting from the wall of a building.

**MASTER (COMPREHENSIVE) PLAN:** The comprehensive plan including graphic and written proposals indicating the general location for streets, parks, schools, public buildings, and all physical development of the City of the Village of Clarkston, and includes any unit or part of such plan, and any amendment to such plan or parts thereof. Such plan may or may not be adopted by the Planning Commission and/or the Council.

**MEZZANINE:** An intermediate or fractional story between the floor and ceiling of any story occupying not more than forty-nine percent (49%) of the floor area of such story.

**MIGRATORY LABOR CAMP:** Temporary facilities provided for the housing of workers who for seasonal purposes are employed in the planting, harvesting, or processing of crops, or for other essential, but temporary employment.

**MOBILE HOME:** See DWELLING, MOBILE HOME.

**MOBILE HOME PARK:** A parcel or tract of land under the control of a person upon which three (3) or more mobile homes are located on a continual non-recreational basis and which is

offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home, subject to conditions set forth in the Mobile Home Commission Rules and Michigan Public Act 419 of 1976, as amended.

**MOBILE HOME LOT:** An area within a mobile home park which is designated for the exclusive use of a specific mobile home.

**MOTEL:** A series of attached, semi-detached rental units containing a bedroom, bathroom and closet space. Units shall provide for overnight lodging and are offered to the public for compensation, and shall cater primarily to the public traveling by motor vehicle.

**MUNICIPALITY:** The City of the Village of Clarkston.

**NEW CONSTRUCTION:** This means structures for which the “start of construction” is commenced on or after the effective date of this Ordinance.

**NONCONFORMING BUILDING/STRUCTURE:** A building or portion thereof lawfully existing at the effective date of this Ordinance, or amendments thereto and that does not conform to the provisions of the Ordinance relative to height, bulk, area, placement, or yards for 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 Ordinance, or amendments thereto and that does not conform to the use regulations of the zoning district in which it is located.

**NURSERY:** A space, building or structure, or combination thereof, for the storage of live trees, shrubs or plants offered for retail sale on the premises including products used for gardening or landscaping. The definition of nursery within the meaning of this Ordinance does not include any space, building, or structure used for the sale of fruits, vegetables, or Christmas trees.

**NURSERY SCHOOL:** see Child Care Center/Day Care Center.

**NURSING HOME, CONVALESCENT HOME, OR REST HOME:** A home for the care of the aged, infirm, or those suffering from bodily disorders, wherein two (2) or more persons are housed or lodged and furnished with nursing care. Such facilities are licensed in accordance with Michigan Public Act 139 of 1956, as amended.

**NUISANCE FACTORS:** An offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of an activity or use across a property line which can be perceived by or affect a human being, or the generation of an excessive or concentrated movement of people or things such as: (a) noise, (b) dust, (c) smoke, (d) odor, (e) glare, (f) fumes, (g) flashes, (h) vibration, (i) shock waves, (j) heat, (k) electronic or atomic radiation, (l) objectionable effluent, (m) noise of congregation of people, particularly at night, (n) passenger traffic, (o) invasion of non-abutting street frontage by traffic.

**OCCUPIED:** Includes the meaning of intent, design or arranged for occupancy.

**OCCUPANCY LOAD:** The number of individuals normally occupying a building or part thereof, or for which the existing facilities have been designed.

**OFF-STREET LOADING SPACE:** A facility or space that permits the standing, loading, or unloading of trucks and other vehicles other than on or directly from a public right-of-way.

**OFF-STREET PARKING LOT:** A facility providing vehicular parking spaces along with adequate drives and aisles, for maneuvering, so as to provide access for entrance and exit for the parking of more than three (3) vehicles.

**OPEN FRONT STORE:** A business establishment so developed that service to the patron may be extended beyond the walls of the structure not requiring the patron to enter the structure. The term "Open Front Store" shall not include automobile repair stations or automobile service stations.

**OPEN SPACE:** For the purposes of this Ordinance, open space shall apply to the improved dedicated or reserved area to be used for leisure or active recreation purposes.

**PARKING SPACE:** An area of definite length and width. Said area shall be exclusive of drives, aisles or entrances giving access thereto, and shall be fully accessible for the storage or parking of permitted vehicles.

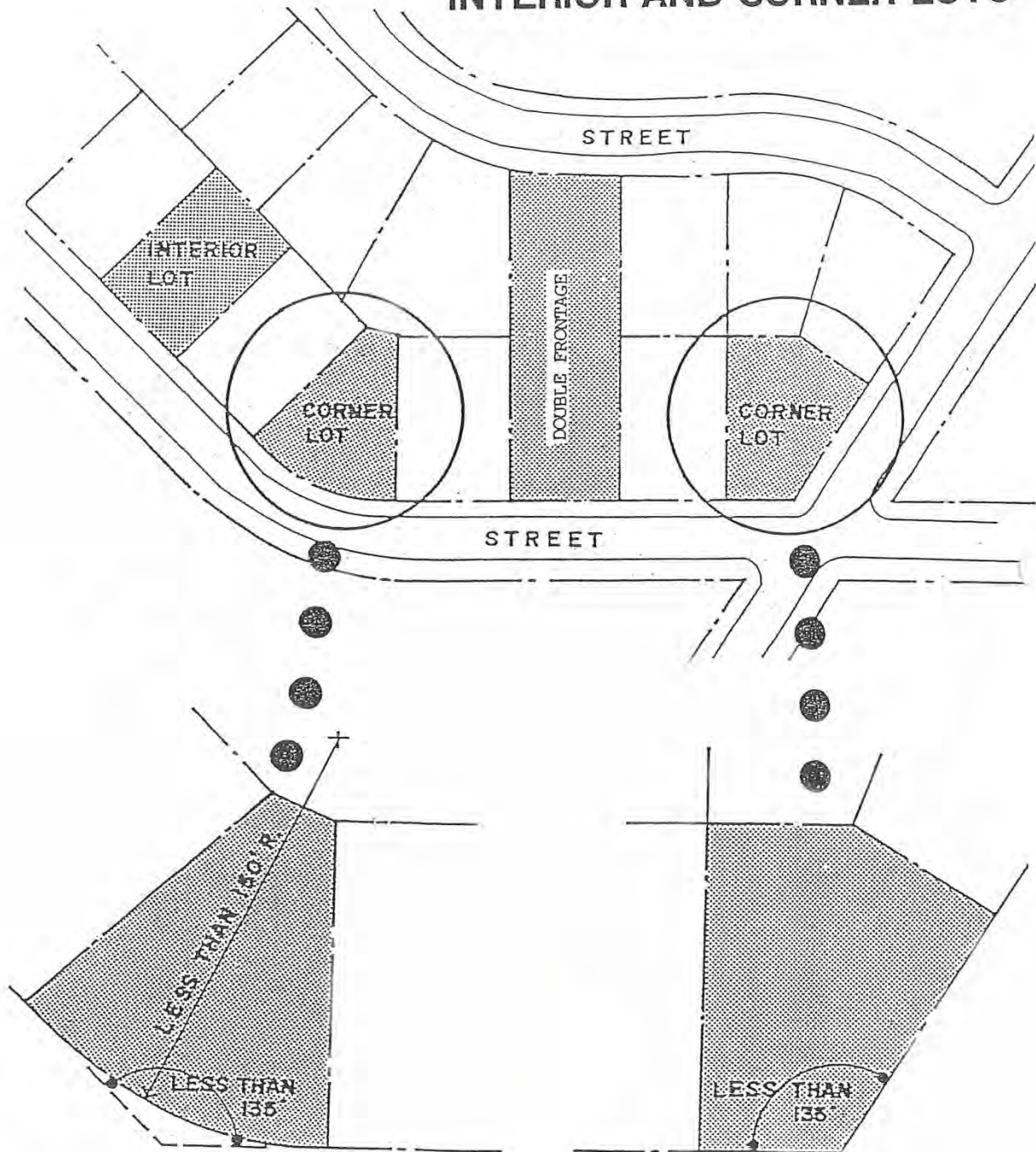
**PLANNED COMMERCIAL CENTER:** A business development under single ownership consisting of two (2) or more retail or service outlets characterized by common architecture, a pedestrian and vehicle circulation system, and off-street parking.

**PLANNING COMMISSION:** The City of the Village of Clarkston Planning Commission created by Ordinance, being the agency designated to prepare a Zoning Ordinance and to recommend amendments to same Ordinance, in accordance with authority of Act 33 of 2008 as amended, shall throughout this Ordinance be known as the Planning Commission.

**PROPERTY LINES:** The lines bounding a lot, the lot line.



# INTERIOR AND CORNER LOTS



**PUBLIC SERVICE:** Public Service Facilities within the context of this Ordinance shall include such uses and services as voting booths, pumping stations, fire halls, police stations, temporary quarters for welfare agencies, public health activities, and similar uses, including essential services.

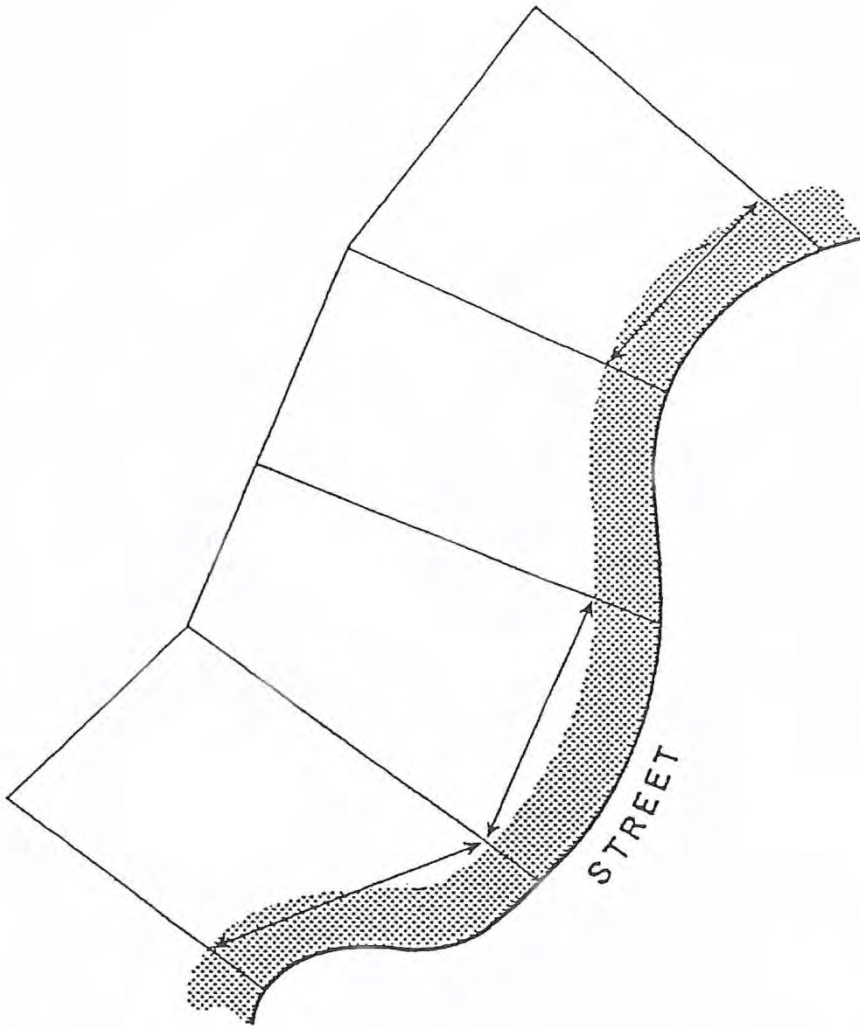
**PUBLIC UTILITY:** A person, firm, or corporation, municipal department, board or commission duly authorized to furnish and furnishing under Federal, State or Municipal regulations to the public: gas, steam, electricity, sewage disposal, communication, telegraph, transportation, or water.

**RECREATION LAND:** Any public or privately owned lot or parcel that is utilized for recreation activities such as, but not limited to camping, swimming, picnicking, hiking, nature study, hunting, boating, and fishing.

**RECREATIONAL VEHICLE:** “Recreational Vehicles” shall include the following:

- A. **Travel Trailer:** A portable vehicle on a chassis, not exceeding two hundred (200) square feet in area, which is designed to be used as a temporary dwelling during travel, recreational, and vacation uses, and which may be identified as a “travel trailer” by the manufacturer. Travel trailers generally contain sanitary, water, and electrical facilities.
- B. **Pickup Camper:** A structure designed to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling during the process of travel, recreational, and vacation uses.
- C. **Trailer Coach (Motor Home):** A recreational vehicle intended for temporary human habitation, sleeping, and/or eating, mounted upon a chassis with wheels and capable of being moved from place to place under its own power. Motor homes generally contain sanitary, water, and electrical facilities.
- D. **Folding Tent Trailer:** A folding structure mounted on wheels and designed for travel and vacation use.
- E. **Boats and Boat Trailers:** “Boats” and “boat trailers” shall include boats, floats, rafts, canoes, plus the normal equipment to transport them on the highway.
- F. **Other Recreational Equipment:** Other recreational equipment includes snowmobiles, all terrain or special terrain vehicles, utility trailers, plus normal equipment to transport them on the highway.

**ROADSIDE STANDS OR MARKETS:** A roadside stand or market is the temporary use of property or facilities for the selling of produce.



← → LOT WIDTH

▨ MINIMUM SETBACK

## LOT WIDTH

**ROOM:** For the purpose of determining lot area requirements and density in a multiple-family district, a living room, dining room and bedroom, equal to at least eighty (80) square feet in area. A room shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, hallways, and storage. Plans presented showing one (1), two (2), or three (3) bedroom units and including a “den,” “library,” or other extra room shall count such extra room as a bedroom for the purpose of computing density.

**ROOMING UNIT:** A room or group of rooms, from a single habitable unit used for living and sleeping, but not containing kitchen or eating facilities.

**ROW HOUSE:** A row of houses having at least one sidewall in common with a neighboring dwelling, and usually uniform or nearly uniform plans, fenestration, and architectural treatment.

**RUBBISH:** Rubbish means the miscellaneous waste materials resulting from housekeeping, mercantile enterprises, trades, manufacturing and offices, including other waste matter such as slag, stone, broken concrete, fly ash, ashes, tin cans, glass, etc.

**SCHOOL, CHARTER (PUBLIC SCHOOL ACADEMY):** A charter school or public school academy is a public school and a school district, and is subject to the leadership and general supervision of the state board over all public education. A public school academy is authorized by the executive action of an authorizing body which may be the board of a school district, an intermediate school board, or the board of a community college or a state public university. A charter school shall not be organized by a church or other religious organization.

**SCHOOL, HOME:** Home school enables a child to be educated at the child's home by his or her parent or legal guardian in an organized educational program in the subject areas of reading, spelling, mathematics, science, history, civics, literature, writing and English grammar. The home school family may choose whether to operate as a nonpublic school. If a home school family chooses to operate as a nonpublic school, it must register with the Michigan Department of Education.

**SCHOOL, NONPUBLIC:** A nonpublic school is any school other than a public school giving instruction to children below the age of sixteen (16) years and not under the exclusive supervision and control of the officials having charge of the public schools of the state. Nonpublic schools include private, denominational, and parochial schools.

**SCHOOL, PUBLIC:** A public school is a public elementary or secondary educational entity or agency that has as its primary mission the teaching and learning of academic and vocational-technical skills and knowledge, and is operated by a school district, local act school district, special act school district, intermediate school district, public school academy corporation, public state university, or by the department or state board.

**SETBACK:** The distance required to obtain the minimum front, side or rear yard open space provisions of this Ordinance.

**SEXUALLY-ORIENTED BUSINESSES:** see “ADULT REGULATED USES.”

**SIGN:** The use of a device to display any word, numeral, figure, device, letter, symbol, insignia, illustration, design, trademark, or combination of these by which information is made known to the general public and is visible from off the site or lot.

**SIGN, ACCESSORY:** A sign which is accessory to the principal use of the premises.

**SIGN, ADVERTISING:** A sign which shall relate to a business, use, or service conducted on the premises upon which the sign is placed.

**SIGN, AREA OF:** The height multiplied by the width of the sign including all component projections in that measurement. The sign area calculations will not include the necessary supports of uprights on which the sign is placed.

**SIGN, BILLBOARD:** A non-accessory sign used for outdoor advertising purposes which pertain to other than the principle use of the premises and which exceeds one hundred fifty (150) square feet of area.

**SIGN, BULLETIN BOARD OR ANNOUNCEMENT:** A sign which indicates church services, religious activities, a directory of offices or activities for a building or group of buildings.

**SIGN, FACING OF SURFACE:** The area of this sign upon, against, or through which the message is displayed or illuminated.

**SIGN, FESTOON:** Banners, pennants or other such features which are hung or strung overhead, and which are not an integral, physical part of the building or structure they are intended to serve.

**SIGN, FLASHING, ANIMATED OR MOVING:** A sign that has intermittently reflecting lights, or signs which have movement of any illumination such as intermittent, flashing, scintillating, or varying intensity, or a sign that has any visible portions in motion, either constantly or at intervals, whether caused by artificial or natural sources.

**SIGN, FLOODLIGHT ILLUMINATION:** external lighting sources provided by a floodlight or a spotlight.

**SIGN, GROUND:** A sign supported by one or more upright brace or braces of reasonable size necessary to support such sign, permanently mounted in or upon the ground and in no way attached to a building or structure.

**SIGN, IDENTIFICATION AND NAMEPLATE:** A wall sign of two (2) square feet in area or less stating the name of a person or firm.

**SIGN, ILLUMINATED "OPEN":** Any internally illuminated sign displaying the word "OPEN" in the Village Commercial District intended to enable a passerby to discern whether an establishment is open for business.

**SIGN, INDIRECT ILLUMINATION:** A light source concealed or contained within the sign and which becomes visible in darkness through a translucent surface.

**SIGN, NON-ACCESSORY:** A sign which is not accessory to the principal use of the premises.

**SIGN, POLITICAL:** A temporary sign, relating to the election of persons to public office, or relating to a political party, or relating to a matter to be voted upon at an election called by a public body.

**SIGN, PYLON OR POLE:** A type of support for a sign which has its base anchored in the ground and with a specified clear space between the bottom of the face of the sign and the established grade.

**SIGN, REAL ESTATE:** A sign placed upon a property advertising that particular property for sale, rent, or lease on which the sign is placed.

**SIGN, REAL ESTATE DEVELOPMENT:** A temporary sign placed on premises of a subdivision or other real estate developments to indicate a proposed startup or to inform relative to availability.

**SIGN, TEMPORARY:** Any sign, regardless of size and materials, to be displayed for special events, sales, and notices that are not permanently fastened to any structure, including posts with permanent footings.

**SIGN, VEHICLE BUSINESS:** A sign when the vehicle upon which the sign is painted or attached is parked or placed upon the owner's premises primarily for advertising purposes. Currently licensed commercial vehicles such as buses or cabs in general daily off-site use are not included in this definition.

**SIGN, WALL:** A sign attached to, or placed flush against, the exterior wall or surface of any building wherein no portion of which projects more than twelve (12) inches from the wall.

**STORY:** That part of a building, except a mezzanine as defined herein, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next as above. Any portion of a building between the topmost floor and the roof having a usable floor area equal to at least fifty percent (50%) of the usable floor area of the floor immediately below it shall also be considered a story. A story thus defined shall not be counted as a story when more than fifty percent (50%), by cubic content, is below the height level of the adjoining ground.

**STORY, HALF:** An uppermost story lying under a sloping roof having an area of at least two hundred (200) square feet with a clear height of seven feet six inches (7'-6"). For the purpose of the Ordinance the usable floor area is only that area having at least four (4) feet clear height between floor and ceiling.

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

**STREET, PRIVATE:** A non-dedicated right-of-way, other than an alley that affords the principal means of access to abutting property.

**STREET LINE:** (Right-of-Way Line) The dividing line between the street and a lot.

**STRUCTURAL ADDITION:** Any alteration that changes the location of the exterior walls or area of a building.

**STRUCTURAL ALTERATIONS OR SUBSTANTIAL IMPROVEMENT:** Any repair, alteration, reconstruction or improvement of a structure, which essentially changes the use of that structure or the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either, 1) before the improvement or repair is started, or 2) if the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition, “substantial improvement” or “structural alterations” are considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either: 1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or 2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**STRUCTURE:** Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, including but not limited to principal and accessory buildings, towers, decks, sheds, fences, privacy screens, walls, antennae, swimming pools, hot tubs, and signs, but excepting walks, drives, pavements and similar access or circulation facilities.

**SWIMMING POOL:** For the purposes of this Ordinance a swimming pool shall be any receptacle utilized for holding water which has a water depth greater than two (2) feet. Any structure or container located above or below grade designed to hold water to a depth of greater than twenty-four (24) inches and intended for swimming or bathing. A swimming pool shall be considered an accessory building for the purpose of determining required yard spaces and maximum lot coverage.

**TEMPORARY USE OR BUILDING:** A use or building permitted by the Board of Appeals to exist during periods of construction of the main building or use, or for special events.

**TENTS:** A shelter of canvas or the like supported by poles and fastened by cords or pegs driven into the ground. Tents as used in this Ordinance shall not include those used solely for children's recreational purposes.

**TERRACE HOME:** One of a row of houses situated on or near the top of a slope.

**TRAILER COACH (MOTOR HOME):** See RECREATIONAL VEHICLE.

**TRAILER COURT (MOTOR HOME PARK):** Any plot of ground upon which two or more trailer coaches, occupied for dwelling or sleeping purposes are located.

**TRAVEL TRAILER:** See RECREATIONAL VEHICLE.

**THOROUGHFARES, MAJOR:** An arterial street which is intended to serve as a large volume trafficway for both the immediate municipal area and the region beyond, and may be designated as a major thoroughfare, parkway, freeway, expressway, or equivalent term.

**THOROUGHFARES, SECONDARY:** An arterial street which is intended to serve as a trafficway serving primarily the immediate municipal area and serving to connect with major thoroughfares.

**TOURIST HOME:** Any dwelling used or designed in such a manner that certain rooms other than those used by the family, and occupied as a dwelling unit are related to the public for compensation and shall cater primarily to the public traveling by motor vehicle.

**TOWNHOUSES:** A residential structure or group of structures, each of which contains three (3) or more attached single-family dwelling units with individual rear yards and or front yards designed as an integral part of each single-family dwelling unit.

**TRUCK STORAGE:** An area used for the temporary storage of private trucks or trucks for hire.

**TRUCK TERMINAL:** A structure to which goods, except raw or unprocessed agricultural products, natural minerals, or other resources, are delivered for immediate distribution to other parts of the City or to be amalgamated for delivery in larger units to other points in the metropolitan area; or for distribution or amalgamation involving transfer to other modes of transportation.

**USE:** The principal purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

**USE, ACCESSORY:** A use subordinate to the main use of a lot and used for purposes clearly incidental to those of the main use.

**UTILITY ROOM:** A utility room is a room used primarily for storage, for housing a heating unit, or for laundry purposes.



**VARIANCE:** A modification of the literal provisions of this Ordinance granted by the Zoning Board of Appeals in situations or under circumstances where permitted by law.

**WADING POOL:** For the purposes of the Ordinance a wading pool shall be any receptacle utilized for holding water which has a water depth not exceeding two (2) feet.

**WALLS, OBSCURING:** An obscuring structure of definite height and location constructed of wood, masonry, concrete or similar material.

**WIRELESS COMMUNICATION 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.

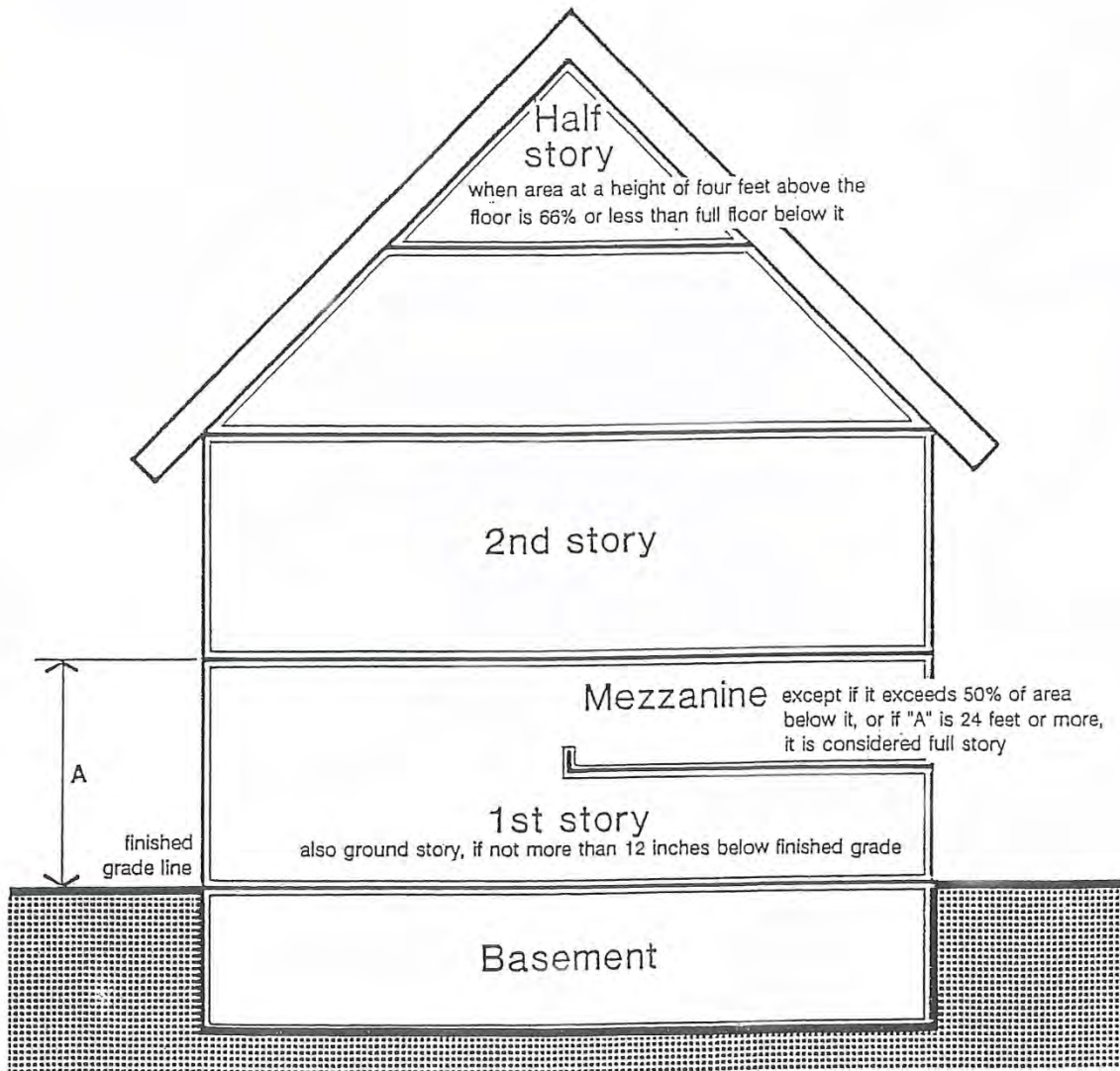
**WIRELESS COMMUNICATION SUPPORT STRUCTURES:** Structures erected or modified to support wireless communication antennas. Support structures within this definition include, but shall not be limited to, monopoles, lattice towers, light poles, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure.

**YARDS:** The open spaces on the same lot with a main building, unoccupied and unobstructed from the ground upward except as otherwise provided in this Ordinance, and as defined herein:

- A. **Front Yard:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building.
- B. **Front Yard, Double:** An open space on corner lots (as defined in this Ordinance) extending the full width of the lot which sides to the intersecting street, both open spaces shall be considered front yards with setbacks as required in each particular zoning district.
- C. **Rear Yard:** An open space extending the full width of the lot the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building. In the case of a corner lot, the rear yard may be opposite either street frontage.
- D. **Side Yard:** An open space between a main building and the side lot line, extending from the front yard to the rear yard the width of which is the horizontal distance from the nearest point on the side lot line to the nearest point of the main building.

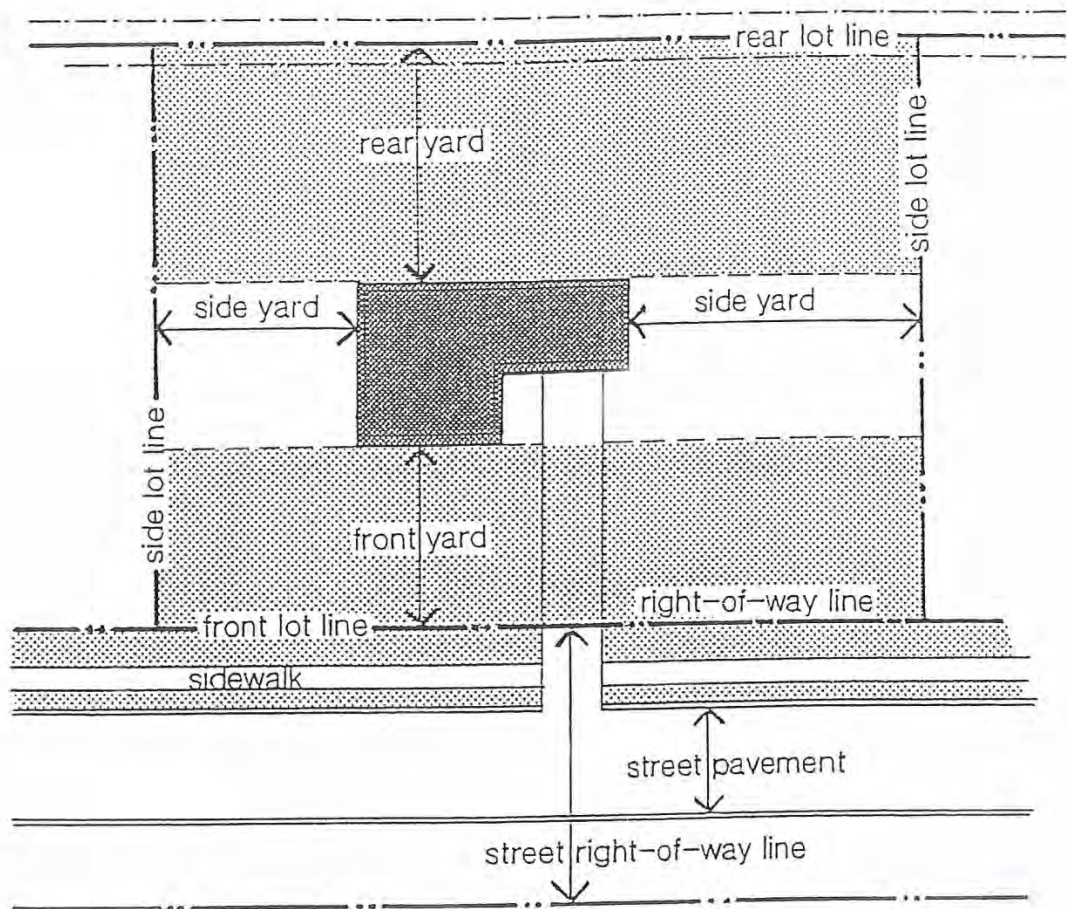
**ZONING DISTRICT:** See DISTRICT.

**ZONING LOT:** See LOT, ZONING.



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Community Planning • Urban Design  
Farmington Hills, Michigan

## BASIC STRUCTURAL TERMS



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 Farmington Hills, Michigan

## YARD TERMS

## ARTICLE III

### ZONING DISTRICTS AND MAP

#### **SECTION 3.00            DISTRICTS**

For the purpose of this Ordinance, the City of the Village of Clarkston is hereby divided into the following Districts:

RC	Recreation District
R-1	Single-Family Residential District
R-2	Single-Family Residential District
RM	Multiple-Family Residential District
RPDD	Residential planned Development District
VC	Village Commercial District
I-1	Light Industrial District

#### **SECTION 3.01            BOUNDARIES**

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

- A. Unless shown otherwise, the boundaries of the Districts are lot lines, section lines, the center lines of streets, alleys, roads, streams, rivers, bodies of water, or such lines extended, and the Corporate limits of the City of the Village of Clarkston.

Boundaries indicated as approximately following the shoreline of a body of water shall be construed to follow such shoreline; in the event of a change in the shoreline, the boundary shall be construed as moving with the actual shoreline.

- B. Where, due to the scale, lack of detail, or illegibility of the Zoning Map accompanying this Ordinance, if there is any uncertainty, contradiction, or conflict as to the intended location of any District boundaries, shown thereon, interpretation concerning the exact location of District boundary lines shall be determined, upon written application, by the Board of Appeals. The Board in arriving at a decision on such matters shall apply the following standards:

1. The boundaries of zoning districts are intended to follow center lines of alleys, streets, or other rights-of-way, water courses, or lot lines, or be parallel or perpendicular thereto, unless such district boundary lines are otherwise clearly indicated on the Zoning Map.

2. Where district boundaries are so indicated that they approximately follow lot of record lines, such lines shall be construed to be boundaries.
3. In unsubdivided property, or where a district boundary divides a lot of record, the location of such boundary, unless shown by dimensions of the Zoning map, shall be determined by use of the map scale shown thereon.

If, in accordance with the provisions of this Ordinance and Public Act 110 of 2006, as amended, changes are made in district boundaries or other matter portrayed on the Zoning Map, such changes shall be entered on the Zoning Map promptly after the amendment has been approved by the City Council and has been published in a newspaper of general circulation in the City. The changes in the district boundaries or other matters affecting the Zoning Map shall be clearly portrayed on the Zoning Map and reference made to the ordinance number and date of publication effecting the change shall be written on such portrayal, signed by the Mayor and attested by the City Clerk.

No changes of any nature shall be made to the Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance and punishable as provided for in this Ordinance.

Regardless of the existence of purported copies of the Zoning Map which may, from time to time, be made or published, the Zoning Map shall be located in the Office of the City Clerk and shall be the final authority as to the current zoning status of all land and water areas, buildings, and other structures in the City.

### **SECTION 3.02 ZONING OF VACATED AREAS**

Whenever any street, alley or other public way within the City of the Village of Clarkston shall have been vacated by official governmental action, and when the lands within the boundaries thereof attach to and become a part of the land adjoining such street, alley or other public way, such lands formerly within such vacated street, alley or public way shall automatically, and without further governmental action, thenceforth acquire and be subject to the same zoning regulations as are applicable to the lands to which same shall attach, and the same shall be used for that same use as is permitted under this Ordinance for such adjoining lands.

### **SECTION 3.03 ZONING OF ANNEXED AREAS**

Any areas annexed to the City of the Village of Clarkston shall immediately upon such annexation be automatically classified as an R-1, One-family Residential District until a Zoning Map for said area has been adopted by the City Council. The Planning Commission shall recommend appropriate zoning for such area within three (3) months after the matter is referred to it by the City Council.

**SECTION 3.04      DISTRICT REQUIREMENTS**

All buildings and uses in any District shall be subject to the provisions of Article XIII "SCHEDULE OF REGULATIONS" and Article XIV "GENERAL PROVISIONS".

## ARTICLE IV

### RC, RECREATIONAL DISTRICT

#### **SECTION 4.00 INTENT**

The RC, Recreational District is intended to provide those uses of land that are found in the City's recreational and open space inventory.

#### **SECTION 4.01 PRINCIPAL USES PERMITTED**

In recreational districts no building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses, unless otherwise provided in this Ordinance.

- A. Publicly owned and operated libraries, parks, parkways, recreational facilities, municipal buildings, and single-family house of a caretaker
- B. Accessory buildings and uses customarily incident to any of the above permitted uses, including, but not limited to: private garages, garden houses, tool houses, play houses, non-commercial greenhouses, non-commercial swimming pools of not more than thirty-five (35) feet in length, private stables on lots or parcels containing at least two acres of land area per horse, home occupations, off-street parking areas, storage of a single boat or small utility trailer owned by the occupant of the dwelling; and any other use customarily incidental to the principal uses in Section 4.01.A.

#### **SECTION 4.02 SPECIAL LAND USES**

The following uses shall be permitted upon review by the Planning Commission and approval by the City Council, in accordance with the general standards for all Special Land Uses listed in Section 18.02, and the standards for the specific use listed in Section 18.10.

- A. Private noncommercial recreational areas; institutional or community recreation centers; nonprofit swimming pools.
- B. Cemeteries.
- C. Cellular towers, wireless communication facilities, attached wireless communication facilities, and wireless communication support structures.

**SECTION 4.03      GENERAL DEVELOPMENT STANDARDS**

Buildings and uses in the Recreational District shall be subject to all applicable standards and requirements set forth in this Ordinance, including the following:

Article XIII	Schedule of Regulations
Article XIV	Exterior Lighting (Sec. 14.06)
Article XIV	Area, Height, and Use Exceptions (Sec. 14.13)
Article XX	Off-Street Parking Requirements
Article XVII	Site Plan Review
Article XX	Off-Street (Un)Loading Space Requirements
Article XXI	Landscaping
Article XXII	Sign Regulations

Clarkston Local Historic District Ordinance, as amended



## ARTICLE V

### R-1 AND R-2, ONE-FAMILY RESIDENTIAL DISTRICTS

#### **SECTION 5.00 INTENT**

These Districts are designed to be composed of low density residential home development. The regulations are intended to stabilize, protect and encourage the residential character of the District and prohibit activities not compatible with a residential neighborhood. Development is limited to single-family dwelling plus such other uses as schools, parks, places of worship and certain public facilities which serve residents of the District. Commercial and other uses which tend to be incompatible with this intent are prohibited.

#### **SECTION 5.01 PRINCIPAL USES PERMITTED**

In one-family residential districts no building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses, unless otherwise provided in this Ordinance.

- A. One-family detached dwellings (including Manufactured Homes).
- B. Home occupations subject to requirements of Section 18.10.
- C. Adult Foster Care Small Group Home (6 or less adults).
- D. Family Day Care Home (private residence, 6 or less unrelated children).
- E. Foster Family Home (1-4 children, 24-hour care).
- F. Adult Foster Care Family Home (6 or less adults; foster care 5 or more days/week).
- G. Accessory buildings and uses customarily incident to any of the above permitted uses.

#### **SECTION 5.02 SPECIAL LAND USES**

The following uses shall be permitted upon review by the Planning Commission and approval by the City Council, in accordance with the general standards for all Special Land Uses listed in Section 18.02, and the standards for the specific use listed in Section 18.10.

- A. Churches, temples and similar places of worship.
- B. Schools: Public and nonpublic elementary, intermediate or secondary schools.

- C. Group day care homes (7-12 unrelated children/private residence).
- D. Adult foster care small group homes (7-12 adults).
- E. Foster family group home (4-7 children, 24-hour care).
- F. Publicly owned and operated libraries, parks, parkways, recreational facilities, and municipal buildings.
- G. Essential public service buildings and uses (without storage yards) when operating requirements necessitate their location within the district to serve the immediate vicinity.
- H. Home Occupations.
- I. Limited Use Overlay, subject to the standards set forth in Section 18.10.B.35.
- J. Use of the same nature or class as the majority of the uses listed in this district as either a Principal Use Permitted or a Special Land Use, but not listed elsewhere in this Zoning Ordinance, as determined by the Zoning Board of Appeals, following a public hearing. The determination shall be based on the standards of Section 16.04. Any use not listed and not found to be “similar” is prohibited in this zoning district.
- K. Accessory uses, buildings, and structures customarily incidental to an approved Special Land Use Permit; however, a separate Special land Use Permit shall be required for any use or storage of hazardous materials and any fuel storage tanks.

**SECTION 5.03 GENERAL DEVELOPMENT STANDARDS**

Buildings and uses in the One-Family Residential Districts shall be subject to all applicable standards and requirements set forth in this Ordinance, including the following:

Article XIII	Schedule of Regulations
Article XIV	Exterior Lighting (Sec. 14.06)
Article XIV	Area, Height, and Use Exceptions (Sec. 14.13)
Article XVII	Site Plan Review
Article XX	Off-Street Parking Requirements
Article XX	Off-Street (Un)Loading Space Requirements
Article XXI	Landscaping
Article XXII	Sign Regulations

Clarkston Local Historic District Ordinance, as amended

**ARTICLE VI**  
**RESERVED**

## ARTICLE VII

### RM, MULTIPLE-FAMILY RESIDENTIAL DISTRICT

#### **SECTION 7.00 INTENT**

The RM, Multiple-Family Residential District is designed to provide sites for multiple-family dwelling structures (including town houses, row houses, and walk-throughs), and related uses, which will generally serve as zones of transition between the non-residential districts and the lower density One-Family Residential District, but whose height limitations are generally conducive to single-family residential areas.

#### **SECTION 7.01 PRINCIPAL USES PERMITTED**

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

- A. All principal uses permitted and as regulated in the R-1 and R-2, Single-Family Residential Districts.
- B. Attached or clustered single-family dwelling units provided no more than fifty percent (50%) of any wall may be a common party wall for adjacent units and at least twenty-five percent (25%) of the units have a recessed garage (i.e. the garage is set back farther than the dwelling portion of the unit) or side entry garage.
- C. Condominium projects meeting the dimensional standards listed in the Schedule of Regulations and shall comply with site plan review requirements in Article XVII.
- D. Townhouses not to exceed four (4) attached dwelling units per building.
- E. Other types of multiple-family dwellings such as, but not limited to, apartments, senior apartments, elderly housing complexes (subject to 1., below), row houses, terrace homes, and similar types of multiple-family units provided the maximum height is thirty-five (35) feet.
  - 1. All housing for the elderly shall be provided as a planned development consisting of at least five (5) acres with a minimum of one thousand, two hundred (1,200) square feet of lot area per occupant.
    - a. Cottage type and/or apartment type dwelling or rooming units.
    - b. Common services containing, but not limited to, central dining rooms, recreational rooms, central lounge and workshops.

- F. Adult foster care small group homes (7 to 12 adults).
- G. Group day care home (7 to 12 unrelated children/private residence).
- H. Foster family group home (4 to 7 children, 24-hour care).
- I. Accessory buildings and uses customarily incident to any of the above permitted uses.

## **SECTION 7.02 SPECIAL LAND USES**

The following uses shall be permitted upon review by the Planning Commission and approval by the City Council, in accordance with the general standards for all Special Land Uses listed in Section 18.02, and the standards for the specific use listed in Section 18.10.

- A. Adult foster care large group homes (13 to 20 adults).
- B. Child care centers and nursery schools (not private residence, 1 or more children for less than 24 hours).
- C. Adult day care facilities (adults, less than 24-hour care).
- D. Public and nonpublic elementary, intermediate, and secondary schools.
- E. Churches, temples, and similar places of worship including accessory schools or day care.
- F. Nursing homes.
- G. Adult foster care congregate facility (over 20 adults).
- H. Child care institution (usually 24-hour care).
- I. Essential public service buildings and uses (without storage yards), including transformer stations and switchboards, when operating requirements necessitate their location within the district to serve the immediate vicinity.
- J. Use of the same nature or class as the majority of the uses listed in this district as either a Principal Use Permitted or a Special Land Use, but not listed elsewhere in this Zoning Ordinance, as determined by the Zoning Board of Appeals, following a public hearing. The determination shall be based on the standards of Section 16.04. Any use not listed and not found to be "similar" is prohibited in this zoning district.
- K. Accessory uses, buildings, and structures customarily incidental to an approved Special Land Use Permit.

**SECTION 7.03      GENERAL DEVELOPMENT STANDARDS**

Buildings and uses in the Multiple-Family Residential Districts shall be subject to all applicable standards and requirements set forth in this Ordinance, including the following:

Article XIII	Schedule of Regulations
Article XIV	Exterior Lighting (Sec. 14.06)
Article XIV	Area, Height, and Use Exceptions (Sec. 14.13)
Article XVII	Site Plan Review
Article XX	Off-Street Parking Requirements
Article XX	Off-Street (Un)Loading Space Requirements
Article XXI	Landscaping
Article XXII	Sign Regulations

Clarkston Local Historic District Ordinance, as amended.

## ARTICLE VIII

### RPDD, RESIDENTIAL PLANNED DEVELOPMENT DISTRICT

#### **SECTION 8.00**      **PURPOSE**

Residential Planned Development District (RPDD) standards are provided as a design option to permit flexibility in the regulation of land development; to encourage innovation in land use, form of ownership and variety in design, layout, and type of structures constructed; to preserve significant natural features and open space; to promote efficient provision of public services and utilities; to minimize adverse traffic impacts; to provide adequate housing and employment; to encourage development of convenient recreational facilities; and to encourage the use and improvement of existing sites when the uniform regulations contained in other zoning districts alone do not provide adequate protection and safeguards for the site or its surrounding areas. The RPDD standards are not intended to avoid the imposition of standards and requirements of other zoning classifications rather than to achieve the stated purposes herein set forth.

For properties approved for RPDD designation, these RPDD standards provide the residential developer with flexibility in design and permit variation of the specific bulk, area, and in some specified situations the density requirements of this Ordinance on the basis of the total RPDD plan, subject to the approval of the RPDD plan by the Planning Commission and City Council in accordance with the requirements as herein set forth.

#### **SECTION 8.01**      **QUALIFYING CONDITIONS**

The following provisions shall apply to all Residential Planned Development Districts:

- A. The RPDD site shall be under the control of one owner or group of owners and shall be capable of being planned and developed as one integral unit.
- B. A RPDD zoning classification may be initiated only by a petition.
- C. A minimum size of one (1) acre of contiguous land is required.
- D. The site shall have significant natural or historic features which will be preserved through development under the RPDD standards, as determined by the Planning Commission, or the RPDD will provide a complementary mixture of uses, a variety of housing types or a design that preserves common open space, which is not possible under the standards of another zoning district.
- E. The site shall be served by a sanitary sewer system.
- F. The RPDD will create a more desirable environment than would be possible through the application of strict zoning requirements applied in other sections of this Ordinance.

**SECTION 8.02 RESIDENTIAL RPDD ZONING DESIGNATION**

A property meeting the qualifying conditions may be rezoned to a Residential RPDD District, based on the standards shown in the following table and appropriate standards contained elsewhere in this Zoning Ordinance. The rezoning shall be concurrent with the approval of a RPDD Conceptual Plan. The RPDD designation shall be noted in the application, and on the Official Zoning Map upon approval.

**SECTION 8.03 CITY OF THE VILLAGE OF CLARKSTON RESIDENTIAL PLANNED DEVELOPMENT DISTRICT**

<b>District Name</b>	<b>Type of District</b>	<b>Permitted Uses</b>	<b>Special Land Uses</b>	<b>Additional Provisions</b>
Residential Planned Development District (RPDD)	Overlay of a residential district	Detached single-family dwelling units: open space or cluster housing projects with one or more types of residential uses	Same as underlying residential district	Maximum density, minimum floor area and maximum height shall comply with the dimensional standards of the underlying zoning district, but the lot area, setback and width requirements may be reduced by up to twenty percent (20%) with the resultant area preserved as open space. Wetland setbacks may not be reduced. Wetlands and land without perkable soils shall be credited as twenty-five percent (25%) of their area for purposes of calculating overall density.

- A. **Common Property in the Planned Development.** Common property in the RPDD District consists of a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the planned development. When common property exists, the ownership of such common property may be either public or private. When common property exists in private ownership, satisfactory arrangements must be made for the improvement, operation, and maintenance of such common property and facilities, including private streets, drives, service and parking areas, and areas for recreation and open space.

**SECTION 8.04 APPLICATION AND REVIEW PROCEDURE**

The application process for a RPDD involves:

- A. Request for rezoning to appropriate RPDD designation and a conceptual (preliminary) site plan.
- B. A Final Site Plan(s).



- C. A Contractual Agreement between the applicant and the City.
- D. A Final Site Plan review for each building or project phase, where appropriate.

**SECTION 8.05 APPLICATION PROCEDURE AND ZONING APPROVAL PROCESS**

Process for rezoning to appropriate RPDD designation and Conceptual RPDD Plan.

- A. General. Whenever any Planned Development District or an area plan for such District is proposed, before any building permit for the erection of a permanent building in such district shall be granted, and before any subdivision of any point thereof may be filed in the office of the City Clerk, the developer or his authorized agent shall apply for and secure approval of such RPDD District and the area plan for such District in accordance with the following procedures.
- B. An optional preapplication workshop with the Planning Commission may be requested by the applicant to discuss the appropriateness of a RPDD concept, solicit feedback and receive requests for additional materials supporting the proposal. An applicant desiring such a workshop shall request placement on the Planning Commission agenda.
- C. A petition for a RPDD district classification for a parcel of land may be made by the owner(s) of record or by any person(s) acting on behalf of the owner(s) of record of the subject parcel.
- D. The petition shall be filed with the City Clerk who shall transmit the petition and the area plan to the City Council. The City Council shall forward the petition to the Planning Commission.
- E. The applicant shall prepare and submit to the City Clerk a request for rezoning to the appropriate RPDD designation, including twelve (12) copies of a Conceptual RPDD Site Plan meeting the submittal requirements of Article XVII. The Conceptual RPDD Site Plan shall illustrate uses within each component lots, road layout, parking areas and open space. Materials shall be submitted at least thirty (30) days prior to the meeting at which the Planning Commission shall first review the request; fourteen (14) days for an applicant who has had a preapplication workshop session on the proposal within one hundred twenty (120) days of the Conceptual RPDD Site Plan submittal.
- F. The Planning Commission shall, at the meeting at which it receives the petition and area plan from the Clerk, establish a public hearing on the petition and area plan, said hearing to be held within thirty-two (32) days of the receipt by the Planning Commission of the information required in subparagraph 8.10(D) below. The Planning Commission shall give notice of the public hearing as required by P.A. 110 of 2006, as amended.

- G. The Planning Commission shall review the rezoning request, and the Conceptual RPDD Site Plan, conduct a public hearing, and make a recommendation to the City Council based on the review standards of this Article.
- H. Within ninety (90) days following receipt of a recommendation from the Planning Commission, the City Council shall conduct a public hearing on the requested RPDD rezoning and the Conceptual RPDD Site Plan and either approve, deny or approve with a list of conditions made part of the approval. The City Council may require submittal of the Conceptual RPDD Site Plan reflecting the conditions for approval by the Code Officer (prior to submittal of a RPDD Final Site Plan).

**SECTION 8.06 EXPIRATION**

Approval of the Conceptual RPDD Site Plan by the City Council shall confer upon the owner the right to proceed through the subsequent planning phase for a period not to exceed two (2) years from date of approval. If application for Final RPDD Site Plan approval is not requested within this time period, resubmittal of the application shall be required. The City Council may extend the period up to an additional two (2) years, if requested in writing by the applicant prior to the expiration date.

**SECTION 8.07 PROCESS FOR FINAL RPDD SITE PLAN(S)**

- A. The applicant shall submit twelve (12) copies of a detailed Final Site Plan for the entire approved Conceptual RPDD Site Plan to the City Clerk at least thirty (30) days prior to the Planning Commission meeting at which the Planning Commission shall first review the request.
- B. Upon submission of all fees as established by the City Council and required materials required by Article XVII, the Planning Commission shall hold such hearings as may be required by law, and shall approve, deny, or approve with conditions in accordance with the standards and regulations of Article XVII, Site Plan Review.
- C. If the Final RPDD Site Plan was approved with conditions, the applicant shall submit a revised site plan to the City Clerk for approval prior to the issuance of any building permits.

**SECTION 8.08 CONTRACTUAL AGREEMENT**

Upon approval of the Final RPDD Site Plan, the applicant shall submit a written agreement setting forth the conditions upon which the RPDD approval was based, as specified, including a specific list of any approved deviations from the standards of this Ordinance. The Planning Commission shall review the agreement, with assistance from the City Attorney. The agreement

shall be recorded in the office of Oakland County, Register of Deeds at the expense of the applicant.

### **SECTION 8.09 FINAL SITE PLANS**

A Final Site Plan review for each building or project phase shall be submitted according to the procedures and standards contained within this Ordinance.

### **SECTION 8.10 CONCEPTUAL SUBMITTAL REQUIREMENTS**

The purpose of the conceptual review is to provide a mechanism whereby the applicant can obtain a substantial review of the proposed project in order to prepare final site engineering and architecture plans, and to execute necessary agreements between the applicant and the City. Submittal requirements are listed below.

- A. Current proof of ownership of the land to be utilized or evidence of a contractual ability to acquire such land, such as an option or purchase agreement.
- B. A completed application form, supplied by the City Clerk and an application fee. A separate escrow deposit may be required for administrative charges to review the RPDD submittal.
- C. Sheet size of submitted drawings shall be twenty-four (24) inches by thirty-six (36) inches, with graphics at an engineer's scale.
- D. Cover Sheet providing:
  - 1. The applicant's name, address, telephone/fax number(s);
  - 2. The name of the development;
  - 3. The preparer's name and professional seal of architect, engineer, surveyor or landscape architect, indicating license in the State of Michigan;
  - 4. Date of preparation and any revisions;
  - 5. North arrow;
  - 6. Property lines and dimensions;
  - 7. Complete and current legal description and size of property in acres;
  - 8. Small location sketch of the subject site and area within one-half mile; and scale;

9. Zoning and current land use of applicant's property and all abutting properties and of properties across any public or private street from the RPDD site;
  10. Lot lines and all structures on the property and within one hundred (100) feet of the RPDD property lines;
  11. Location of any access points on both sides of the street within one hundred (100) feet of the RPDD site along streets where access to the RPDD is proposed.
- F. A Plan Sheet(s) labeled "Existing Site Conditions," including the location of existing buildings and structures, rights-of-way and easements, significant natural and historical features, existing drainage patterns (by arrow), surface water bodies, floodplain areas, wetlands, the limits of major stands of trees and a tree survey indicating the location, species and caliper of all trees with a caliper over eight (8) inches, measured four feet above grade. This sheet shall also illustrate existing topography of the entire site at two (2) foot contour intervals and a general description of grades within one hundred (100) feet of the site.
- G. A Conceptual RPDD Site Plan Sheet including:
1. Conceptual layout of proposed land use, acreage allotted to each use, residential density overall and by underlying zoning district (calculations shall be provided for both overall and useable acreage), building footprints, structures, roadways, parking areas, drives, driveways, pedestrian paths and identification signs.  
  
Note: *Useable area* is total area less public road rights-of-way, year-round surface water bodies, and MDEQ regulated wetlands.
  2. Building setbacks and spacing.
  3. General location and type of landscaping proposed (evergreen, deciduous, berm, etc.) noting existing trees over eight (8) inches in caliper to be retained, and any woodlands that will be designated as "areas not to be disturbed" in development of the RPDD.
  4. A preliminary layout of contemplated stormwater drainage, detention pond location, water supply and wastewater disposal systems, any public or private easements, and a note of any utility lines to be removed.
  5. A list of any requested deviations from the dimensional standards of the Zoning Ordinance that otherwise would apply (permitted deviations include: minimum lot width, area or setbacks; private road standards; and sign standards).
  6. If a multi-phase Residential Planned Development District is proposed, identification of the areas included in each phase. For residential uses identify the number, type, and density proposed by phase.

**SECTION 8.11      STANDARDS FOR APPROVAL OF CONCEPTUAL RPDD SITE PLAN**

Based upon the following standards, the Planning Commission may recommend denial, approval, or approval with conditions, and the City Council may deny, approve, or approve with conditions the proposed Residential Planned Development District.

- A.     The planned development district meets the qualification requirements.
- B.     The uses proposed will have a beneficial effect, in terms of public health, safety, welfare, or convenience, on present and future potential surrounding land uses. The uses proposed will not adversely affect the public utility and circulation system, surrounding properties, or the environment. The public benefit shall be one which could not be achieved under the regulations of the underlying district alone, or that of any other zoning district.
- C.     The planned development district is generally consistent with the goals, objectives and land use map of the future land use plan.
- D.     Judicious effort has been used to preserve significant natural and historical features, surface and underground water bodies and the integrity of the land.
- E.     Sewer facilities are available or shall be provided for by the developer as part of the site development.
- F.     Safe, convenient, uncongested, and well-defined vehicular and pedestrian circulation within and to the site is provided. Drives, streets and other elements shall be designed to discourage through traffic, while promoting safe and efficient traffic operations within the site and at its access points. Review and approval by the Fire Chief is required.
- G.     Any deviations from the applicable zoning regulations are reasonable and meet the intent of this Article.

The City Council may impose additional reasonable conditions, 1) to ensure that public services and facilities affected by a Residential Planned Development District will be capable of accommodating increased service and facility loads caused by the Residential Planned Development District, 2) to protect the natural environment and conserve natural resources and energy, 3) to ensure compatibility with adjacent uses of land, and 4) to promote the use of land in a socially and economically desirable manner.

**SECTION 8.12      APPROVAL OF CONCEPTUAL RPDD SITE PLAN**

Upon approval of the Conceptual RPDD Site Plan by the City Council, the property shall be rezoned to an appropriate Residential Planned Development District Zoning District, with the underlying zoning district noted on the Official Zoning Map for a Residential Planned Development District.

**SECTION 8.13 FINAL RPDD SITE PLAN SUBMITTAL PROCEDURES AND APPROVAL**

The purpose of the RPDD final review is to consider the Final Site Plan for the entire RPDD which is consistent with the approved Conceptual RPDD Site Plan. Receipt of a building permit shall require final approval by the City Council.

The final submittal shall include the materials required by Article XVII, Site Plan Review, and the following:

- A. A proposed written agreement specifying all the terms and understanding of the RPDD development.
- B. The Planning Commission may determine that a hydrologic impact assessment is needed describing the existing ground and surface water resources including, but not limited to, a description of the water table, direction of groundwater flow, recharge and discharge areas, lake levels, surface drainage, floodplains, and water quality as well as the projected impact of the proposed development on such resources, in particular impacts associated with water supply development, wastewater disposal, and storm water management.

For projects over ten (10) acres, the applicant may submit a schematic site plan illustrating general building footprints, parking lot areas, road alignments, open space and general landscaping; with more detailed site plans submitted for the first building or project phase. Each detailed site plan shall be reviewed according to the procedures and standards of Article XVII, Site Plan Review.

The final site plan shall be reviewed by the Planning Commission, which shall make recommendations to City Council, according to the procedures outlined in Article XVII, Site Plan Review and Impact Assessment. The impact assessment for an individual phase or site may consist of minor modifications to the material submitted for the overall RPDD if the proposed uses are consistent with the approved RPDD Plan.

**SECTION 8.14 CONDOMINIUM PROJECTS**

For any condominium section of a RPDD, the applicant shall provide a copy of the Master Deed and Condominium Association Bylaws for approval by the City Council. The condominium documents shall provide limits on use of common areas or open space for accessory structures, such as swimming pools, decks, playground equipment and buildings. A plan shall be provided indicating the limits of such accessory structures within a defined envelope.

Following approval of the Final RPDD Site Plan, the applicant shall submit a written agreement to the City Attorney for review and approval by the City Council. The agreement shall:

- A. Set forth the conditions upon which the approval is based, with reference to the approved Final RPDD Site Plan.

- B. When open space or common areas are indicated in the RPDD plan for use by the residents, the open space or common areas shall be conveyed in fee or otherwise committed by dedication to an association of the residents, and the use shall be irrevocably dedicated for the useful life of the residences, and retained as open space for park, recreation or other common uses.
- C. Set forth a program and financing for maintaining common areas and features, such as walkways, signs, lighting and landscaping.
- D. Assure that trees and woodlands will be preserved as shown on the site plan, or replaced on a caliper-for-caliper basis.
- E. Assure the construction and maintenance of all streets and necessary utilities (including public water, wastewater collection and treatment) through bonds or other satisfactory means, for any and all phases of the RPDD. In the case of phased RPDDs this requirement shall be reviewed at the time of any final site plan approval.
- F. Address any other concerns of the City regarding construction and maintenance.

#### **SECTION 8.15 SCHEDULE OF CONSTRUCTION**

Final site plan approval of a RPDD, RPDD phase, or a building within a RPDD shall be effective for a period of three (3) years. Further submittals under the RPDD procedures shall be accepted for review upon a showing of substantial progress in development of previously approved phases, or upon a showing of good cause for not having made such progress.

In the development of a RPDD, the percentage of one-family dwelling units under construction, or lots sold, shall be at least in the same proportion to the percentage of multiple-family dwelling units under construction at any one time, provided that this Section shall be applied only if one-family dwelling units comprise twenty-five percent (25%) or more of the total housing stock proposed for the RPDD. Non-residential structures designed to serve the RPDD residents shall not be built until the RPDD has enough dwelling units built to support such non-residential use. The Planning Commission may modify this requirement in their conceptual or final submittal review process.

#### **SECTION 8.16 AMENDMENTS AND DEVIATIONS FROM APPROVED FINAL RPDD SITE PLAN**

Deviations from the approved Final RPDD Site Plan may occur only when an applicant or property owner who was granted Final RPDD Site Plan approval notifies the Code Officer of the proposed amendment to such approved site plan in writing, accompanied by a site plan illustrating the proposed change. The request shall be received prior to initiation of any construction in conflict with the approved Final RPDD Site Plan.

- A. **Procedure.** Within fourteen (14) days of receipt of a request to amend the Final RPDD Site Plan, the Code Officer shall determine whether the change is major, warranting review by the Planning Commission, and City Council or minor, allowing administrative approval, as noted below.
- B. **Minor Changes.** The Code Officer may approve the proposed revision upon finding the change would not alter the basic design nor any conditions imposed upon the original plan approval by the Planning Commission. The Code Officer shall inform the Planning Commission of such approval in writing. The Code Officer shall consider the following when determining a change to be minor.
1. For residential buildings, the size of structures may be reduced or increased by five percent (5%), provided the overall density of units does not increase and the minimum square footage requirements are met.
  2. Gross floor area of non-residential buildings may be decreased or increased by up to five percent (5%) or ten thousand (10,000) square feet, whichever is smaller.
  3. Floor plans may be changed if consistent with the character of the use.
  4. Horizontal and/or vertical elevations may be altered by up to five percent (5%).
  5. Relocation of a building by up to five (5) feet, if consistent with required setbacks and other standards.
  6. Designated "areas not to be disturbed" may be increased.
  7. Plantings approved in the Final RPDD Landscape Plan may be replaced by similar types of landscaping on a one-to-one or greater basis. Any trees to be preserved which are lost during construction must be replaced by at least two (2) trees of the same or similar species.
  8. Improvements or slight relocation of site access or circulation, such as inclusion of deceleration lanes, boulevards, curbing, pedestrian/bicycle paths, etc.
  9. Changes of building materials to another of higher quality, as determined by the Code Officer.
  10. Slight modification of sign placement or reduction of size.
  11. Internal rearrangement of parking lot which does not affect the number of parking spaces or alter access locations or design.
  12. Changes required or requested by the City, County or State for safety reasons.



- C. **Major Changes.** Where the Code Officer determines the requested amendment to the approved Final RPDD Site Plan is major, resubmittal to the Planning Commission and City Council with applicable fees shall be required. Should the Planning Commission determine that the modifications to the Final RPDD Site Plan significantly alter the intent of the Conceptual RPDD Site Plan, a revised conceptual RPDD Site Plan shall be submitted.

## **SECTION 8.17 APPEALS AND VIOLATIONS**

The Board of Zoning Appeals shall have the authority to hear and decide appeal requests by property owners for variances from the City Zoning Ordinance. However, the Board of Zoning Appeals shall not have the authority to change conditions or make interpretations to the RPDD site plan or written agreement.

Violations of any RPDD plan or agreement approved under this Section, or failure to comply with any requirements of this Section, including any agreements and conditions attached to any approved plan, shall be considered a violation of this Ordinance as provided in Section 15.09.

## **SECTION 8.18 REGULATIONS AND STANDARDS**

- A. **General.** All uses, structures, and properties shall comply with all regulations and requirements of this Zoning Ordinance, and other City specifications and standards, except as provided in this Article.
- B. **Setbacks.**
1. The setbacks of the RPDD shall be established by the Planning Commission on a case-by-case basis. Traditional and historical setbacks of adjacent properties and the surrounding neighborhood will be used as benchmarks when establishing appropriate setbacks.
  2. All required setbacks shall be landscaped and adequately and permanently maintained by the property owner, tenant, or organization responsible for maintaining common areas as provided herein.
- C. **Distances Between Buildings.**
1. The distance between residential dwelling structures shall be determined on a case-by-case basis by the Planning Commission.
  2. The location of buildings and uses, and the distances between buildings shall be clearly shown on the area plan and shall control the development and continued use of the property.

3. Distances between buildings shall comply with all federal, state, and local building codes.

D. **Height.** The maximum height of buildings in the RPDD district shall not exceed a height of two and one-half (2½) stories or thirty-five (35) feet.

E. **Circulation and Access.**

1. Each lot or principal building in a RPDD district shall have vehicular access from a public street or from a private street.
2. Each lot or principal building in a RPDD district shall have pedestrian access from a public or private sidewalk where deemed necessary by the City Council. All parts and phases of the RPDD shall be interconnected by a sidewalk system which will provide the necessary, safe and convenient movement of pedestrians. A bicycle path system shall also be provided in the RPDD and may be part of the sidewalk system, where approved by the City Council. Said system shall be connected to the public sidewalk system.
3. Public and private streets shall be designed and constructed according to standards established for public streets. If, in the future, private streets in a RPDD are to be dedicated to a public agency, the owners shall first fully agree to bear the full expense of construction or any other action required to make streets suitable for public acceptance.
4. An individual dwelling unit in any single-family, two-family townhouse, or similar residential structure shall not have direct access to a collector or arterial street.

F. **Utilities.**

- 1 Each principal building in a RPDD district shall be individually connected to a sanitary sewer line.
- 2 Each site in a RPDD district shall be provided with adequate storm drainage. Open drainage courses and storm water retention ponds may be permitted by the City Council under special circumstances. The standard shall be to provide an enclosed drainage system.
- 3 Electrical, telephone, and cable television lines shall be underground.

G. **Open Space Regulations.**

1. Buildings, parking lots, driveways, and similar improvements may be permitted in open space areas if related and necessary.

2. Open space areas shall be conveniently and equitably located through the RPDD in relation to the location of dwelling units and natural features.
3. Open space areas shall have minimum dimensions which, in the Planning Commission's opinion, are usable for the functions intended and which will be maintainable.
4. The City Council may require that natural amenities such as ravines, rock outcrops, wooded areas, tree or shrub specimens, unique wildlife habitats, ponds, streams, and marshes be preserved as part of the open space system of the RPDD
5. The City Council may require dedication for road rights-of-way, schools and/or parks, but it is under no obligation to do so.

**ARTICLE IX**  
**RESERVED**

**ARTICLE X**  
**RESERVED**

## ARTICLE XI

### VC, VILLAGE COMMERCIAL DISTRICT

#### **SECTION 11.00 LEGISLATIVE INTENT**

The Village Commercial District is designed and intended to promote the development of a pedestrian oriented and accessible, central commercial service district in which a variety of retail, commercial, office, civic and residential uses are permitted. Each use shall be complementary to the stated function and purpose of the District and shall not have adverse impact upon adjacent street capacity and safety, utilities, and other city services.

The Village Commercial District is further designed and intended to:

- A. Encourage innovative, neo-traditional commercial/mixed use developments.
- B. Extend greater opportunities for traditional community living, working, housing, and recreation to all citizens and residents of the City.
- C. Encourage a more efficient use of land and of public services and to reflect changes in technology of land development, by directing new development in a traditional pattern of mixed use and varied commercial styles.
- D. Reduce the excessive sprawl of development and the segregation of land uses that cause unnecessary traffic congestion.
- E. Discourage the development of drive-through facilities, which contributes to traffic congestion.
- F. Discourage the development of separate off-street parking facilities for each individual use, and to encourage the development of off-street parking facilities designed to accommodate the needs of several individual uses.
- G. Prohibit uses that are disruptive to pedestrian activities and have as their principal function the sale and services of motor vehicles, such as automobile service stations, auto parts retail stores, car washes, new and used motor vehicle sales or service establishments, drive-in restaurants and restaurants with drive-through facilities, business with drive-through facilities (such as but not limited to banks, credit unions, pharmacies, etc.).
- H. Promote the creation of urban places which are oriented to the pedestrian, thereby promoting citizen security and social interaction.
- I. Promote developments where the physical, visual and spatial characteristics are established and reinforced through the consistent use of compatible urban design and

architectural design elements. Such elements shall relate to the design characteristics of an individual structure or development to other existing and planned structures or developments in a harmonious manner, resulting in coherent overall development patterns and streetscape.

- J. Discourage commercial and business uses that create objectionable noise, glare, or odors.
- K. Encourage development of an urban "Main Street" with mixed land uses and shared parking.

### **SECTION 11.01 PRINCIPAL USES PERMITTED**

No building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this Ordinance.

- A. Accessory structures, uses, and signs incidental customarily to the permitted uses in this district.
- B. Apartments. All public utilities must hook up to public water where available. All units shall have at least one (1) living room and one (1) bedroom, except that five percent (5%) of the units may be of an efficient apartment type, and not more than twenty-five percent (25%) may be of one bedroom units, or fifty percent (50%) in a mixed-use building.

Business and office uses may occupy a building used for residential uses provided that no such business or office use may be located on the same floor as used for residential purposes, and no floor may be used for business or office use on a floor located above a floor used for residential purposes. Further, where there is mixed business/office and residential use in a building there shall be provided a separate, private pedestrian entranceway for the residential use.

- C. Business schools and colleges.
- D. Business establishments which perform services on premises such as, but not limited to: banks, savings and loans, and credit unions (not including drive-thru branches), insurance offices, real estate offices and travel agencies. Pedestrian-oriented ATM facilities.
- E. Churches, temples, and similar places of worship.
- F. Clubs, fraternal organizations, and lodge halls.
- G. Dry cleaning establishments (not to exceed four thousand [4,000] square feet), or pick-up stations, dealing directly with the consumer. Central dry cleaning plants serving more than one (1) retail outlet shall be prohibited.

- H. Generally recognized retail businesses which supply commodities on the premise, (under ten thousand [10,000] square feet), such as but not limited to: groceries, meats, fruits and produce, dairy products, baked goods, and other specialty food products (excluding all restaurants); and stores selling drugs, dry goods, flowers, clothing, notions, furniture, and hardware. Retail sales may be conducted outdoors on sidewalks provided:
1. At least five (5) feet of sidewalk width is unobstructed for pedestrian traffic.
  2. All equipment and merchandise is kept indoors during non-business hours.
- I. Medical offices including offices of doctors, dentists, and similar or allied professions, with up to ten thousand (10,000) square feet gross floor area.
- J. Indoor commercial recreational facilities such as health clubs, hard ball and racquetball facilities, pool and billiard establishments, tennis, archery, and other similar type facilities.
- K. Newspaper offices.
- L. Offices of an executive, administrative or professional nature, with up to ten thousand (10,000) square feet gross floor area.
- M. Outdoor theater, plazas, parks, and public gathering places.
- N. Personal service shops providing that each occupies a total usable floor area of not more than four thousand (4,000) square feet, including but not limited to such uses as: repair shops (watches, radio, television, shoe, etc.), tailor and dressmaking shops, beauty parlors, barber shops, and photographic studios.
- O. Public and quasi-public uses such as municipal offices, court houses, public off-street parking facilities, libraries, museums, public safety facilities and fraternal organizations.
- P. Retail sales in which both a workshop and retail outlet or showroom are required, such as plumbing, electrician, interior decorating, upholstering, printing, photographic-reproducing, radio, and home appliance and similar establishments of similar character subject to the provision that not more than eighty percent (80%) of the total useable floor area of the establishment shall be used for servicing, repairing, or processing activities and further provided that such retail outlet or showroom activities area shall be provided in that portion of the building where the customer entrance is located.
- Q. Restaurants (except drive-throughs), taverns and bars where the patrons are served while seated within the building occupied by such establishment.
- R. Theaters, assembly halls, community centers, or similar places of assembly when conducted completely within enclosed buildings.



## **SECTION 11.02 SPECIAL LAND USES**

The following uses may be permitted, upon review and approval by the City Council, in accordance with the general standards for all Special Land Uses listed in Section 18.02, and the standards for the specific use listed in Section 18.10.

- A. Child care centers, nursery schools, day nurseries, and adult day care centers (not including dormitories or any type of overnight care). Reduced outdoor play space may be allowed by the Planning Commission upon a showing that alternative indoor space is available and that at least thirty-five (35) square feet of outdoor space per child is available either on site or on nearby available open space or publicly dedicated park land provided that safe pedestrian access is afforded across any intersecting road and that appropriate security is provided.
- B. Essential services and buildings within an enclosed building in keeping with the character of the surrounding area and this zoning district.
- C. Hotels, bed and breakfast inns, and motels.
- D. Mixed-use buildings.
- E. Mortuaries.
- F. Outdoor cafes, outdoor eating areas, carry-out, and open front restaurants.
- G. Self-service Laundromats.
- H. Veterinary offices, clinics and kennels providing medical, surgical, grooming and boarding facilities for small non-farm animals.
- I. Uses of the same nature or class as the majority of the uses listed in this district as either a Principal Use Permitted or a Special Land Use, but not listed elsewhere in this Zoning Ordinance, as determined by the Zoning Board of Appeals, following a public hearing. The determination shall be based on the Standards of 16.04. Any use not listed and not found to be “similar” is prohibited in this zoning district.

## **SECTION 11.03 VILLAGE COMMERCIAL DEVELOPMENT STANDARDS**

Except as otherwise noted, buildings and uses in the Village Commercial District shall comply with the following requirements:

Rehabilitation of existing buildings and resources or construction of new buildings located within the Historic District shall comply with the requirements of the Clarkston Local Historic District Ordinance, the State of Michigan Bureau of History standards and the U.S. Department

of Interior's Standards for Rehabilitation, as amended. Where it is unclear how these standards apply to new construction, then the following building design requirements shall apply:

A. **Building Entrances.** All buildings shall have at least one public entrance that faces the street. Rear entrances are permitted only if there is a primary entrance from the main street.

1. **Doors.** Doors measuring seven (7) and eight (8) feet high are strongly suggested. Doors, measuring six feet eight inches (6'-8") high, shall have a glass transom with a minimum height of twelve (12) inches. Entrance doors shall be constructed out of wood. Aluminum store fronts are prohibited.

B. **Façade Design.** All building façades that face a street shall conform with the following design criteria (see illustrations):

1. **Fenestration.** All façades visible from the street must be glazed with transparent glass, with the following requirements:

a. First floor: minimum forty percent (40%) of façade, seventy percent (70%) maximum.

b. Second floor: minimum twenty-five percent (25%) of façade, sixty percent (60%) maximum.

c. Butt-joint glazing is prohibited.

d. The use of shutters is discouraged.

e. Glazing on first floor (retail space) to occur two feet (2'-0") minimum above finished floor.

2. **Building Materials.** Buildings to be constructed from permanent materials that will weather handsomely over time, such as brick, stone, masonry, or other natural materials. The use of bare metal, aluminum siding, metal panels, plastic, imitation stucco (Dry-Vit, Sto-Wall, and other brands), Texture 1-11, and mirrored glass shall be prohibited.

C. **Side or Rear Façade Design.** Wherever a side or rear façade is visible from a public street, or if parking is located at the side or rear of a building, the façade shall be designed to create a pleasing appearance, in accordance with the following design criteria:

1. Materials and architectural features similar to those present on the front of the building shall be used on the side or rear façade.

2. Dumpster and service areas shall be completely screened with a landscape hedge, a fence, a wall, or a combination thereof.

D. **Awnings.** Awnings shall be permitted on buildings as follows:

1. All awnings must be made from canvass fabric or similar water-proofed material, rather than metal, aluminum, plastic, or rigid fiberglass.
2. All awnings shall be attached directly to the building, rather than supported by columns or poles.

E. **Lighting.** Exterior lighting must be placed and shielded so as to direct the light onto the site and away from adjoining properties. The lighting source shall not be directly visible from adjoining properties. Floodlights, wallpack units, other types of unshielded lights, and lights where the lens is visible outside of the light fixture shall be prohibited, except where historical-style lighting is used that is compatible with existing historic-style lamps approved by the Planning Commission.

1. Sidewalks and parking areas shall be properly lighted to facilitate the safe movement of pedestrians and vehicles and provide a secure environment. In parking areas, the light intensity shall average a minimum of 1.0 footcandle, measured five (5) feet above the surface. In pedestrian areas, the light intensity shall average a minimum of 2.0 footcandles, measured five (5) feet above the surface.

F. **Parking.** Parking and parking lot design shall comply with the standards below, in addition to the provisions of Article XX.

1. No new parking lot shall be created nor any existing parking lot expanded in front of a building unless the Planning Commission determines that parking in front of the building would be acceptable for either of the following reasons:
  - a. Front yard parking is required to maintain the continuity of building setbacks in the block while making efficient use of the site, or
  - b. Front yard parking is required for the purposes of traffic safety and to minimize driveway curb cuts where the new parking lot is proposed to connect with one or more parking lots on adjoining parcels.

If the Planning Commission determines that a new parking lot must be created or an existing parking lot must be expanded, the parking lot shall be located to the rear of buildings, (unless F.1. a. & b. are satisfied), on the interior of the lots, accessed by means of common driveways, preferably from side streets or lanes. Such parking lots shall be small in scale where possible, and interconnected with commercial parking lots on adjacent properties. Cross-access easements for adjacent lots with interconnected parking lots shall be required, in language acceptable to the City attorney. Common, shared parking facilities are encouraged, where possible.

2. In order to maximize the amount of land area left for landscaping and open space, paving shall be confined to the minimum area necessary to comply with the parking requirements of Article XX.
  3. Parking lot layout shall take into consideration pedestrian circulation: pedestrian crosswalks shall be provided, where necessary and appropriate, shall be distinguished by textured paving and shall be integrated into the pedestrian network system. Pavement textures shall be required on pedestrian access ways, and strongly encouraged elsewhere in the parking lot, as surfacing materials, or when used as accents.
- G. **Building Setback.** Buildings to be built at zero lot line or the average of the block as determined by the Planning Commission.
- H. **Service Access.** A service alley or designated loading space shall be reserved at the rear of the building.
- I. **Signage.** All signs shall comply with the requirements of Section 22.05.D, Downtown Sign District.
- J. **Sidewalk Displays.** Sidewalk displays shall be permitted directly in front of an establishment, provided at least five (5) feet of clearance is maintained along pedestrian circulation routes.
1. Display cases shall be located against the building wall and shall not be more than two (2) feet deep. The display area shall not exceed fifty percent (50%) of the length of the store front.
  2. Display cases shall be permitted only during normal business hours, and shall be removed at the end of the business day. Cardboard boxes shall not be used for sidewalk displays.
  3. Sidewalk displays shall maintain a clean, litter-free and well-kept appearance at all times and shall be compatible with the colors and character of the storefront from which the business operates.
- K. **Courtyards and Plazas.** Exterior public and semi-public spaces, such as courtyards or plazas, shall be designed for function to enhance surrounding buildings and provide amenities for users, in the form of textured paving, landscaping, lighting, street trees, benches, trash receptacles, and other items of street furniture, as appropriate. Courtyards shall have recognizable edges defined on at least three (3) sides by buildings, walls, elements of landscaping and elements of street furniture, in order to create a strong sense of enclosure.

- L. **Mechanical Equipment.** All air conditioning units, HVAC systems, exhaust pipes or stacks, elevator housing, and satellite dishes and other telecommunications receiving devices shall be thoroughly screened from view from the public right-of-way and from adjacent properties, by using walls, fences, roof elements, penthouse-type screening devices or landscaping.

Fire escapes shall not be permitted on a building's front façade. In buildings requiring a second means of egress pursuant to the local building codes, internal stairs or other routes of egress shall be used.

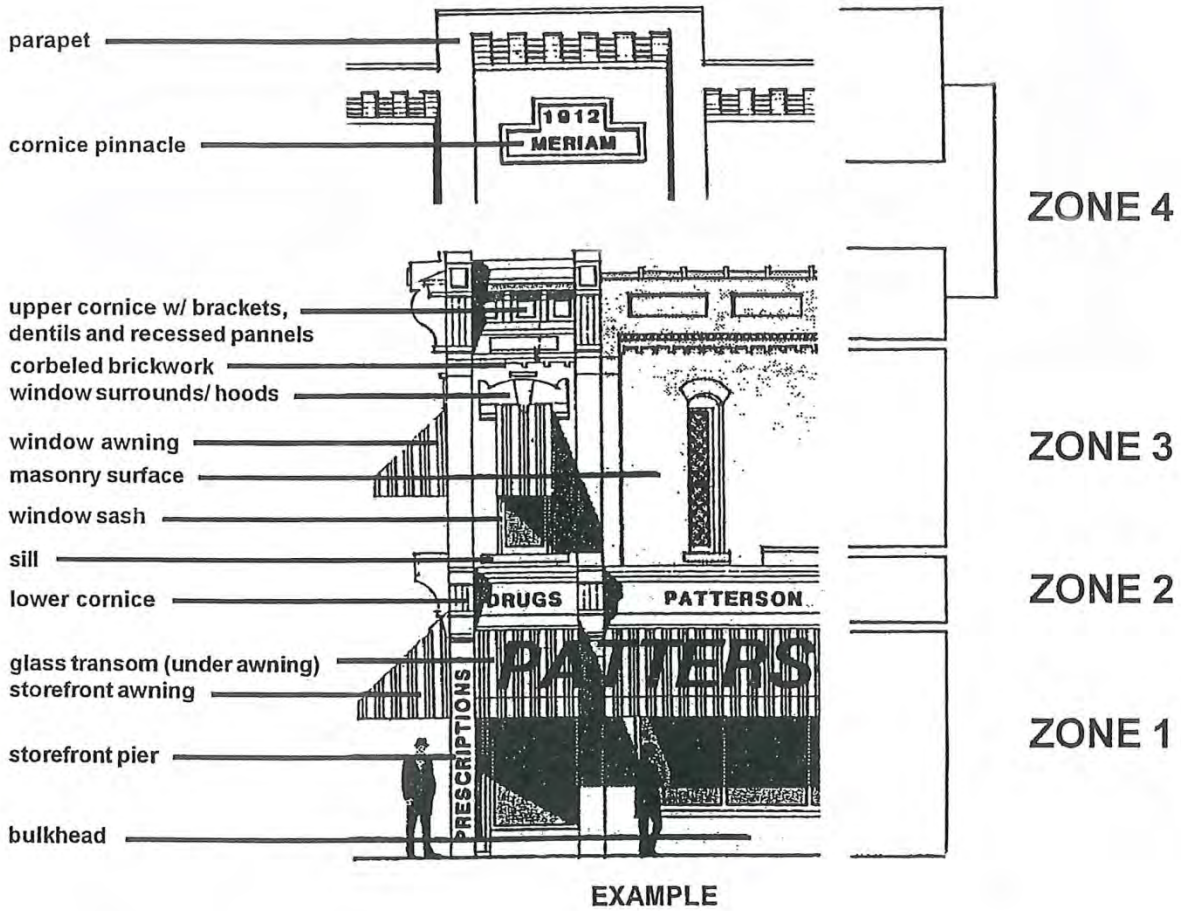
Solid metal security gates or solid roll-down metal windows shall be prohibited. Link or grill type security devices shall be permitted only if installed from inside, within the window or door frames or, if installed on the outside, if the coil box is recessed and concealed behind the building wall. Security grills shall be recessed and concealed during normal business hours. Models which provide a sense of transparency, in light colors, are encouraged. Other types of security devices fastened to the exterior walls are prohibited.

#### **SECTION 11.04 GENERAL DEVELOPMENT STANDARDS**

Buildings and uses in the Village Commercial District shall be subject to all applicable standards and requirements set forth in this Ordinance, including the following:

Article XIII	Schedule of Regulations
Article XIV	Exterior Lighting (Sec. 14.06)
Article XIV	Area, Height, and Use Exceptions (Sec. 14.13)
Article XVII	Site Plan Review
Article XX	Off-Street Parking Requirements
Article XX	Off-Street (Un)Loading Space Requirements
Article XXI	Landscaping
Article XXII	Sign Regulations

Clarkston Local Historic District Ordinance, as amended.



## BUILDING TERMINOLOGY AND FACADE ZONES

## The Facade

ornamental cornice forms a cap to the building

double-hung windows on upper floors; type varies with style

continuous lintel separates upper floors from storefronts



pilasters are used in some of the styles to express the structural bays of the building; windows are grouped between them

storefront is contained under lintel and between masonry piers

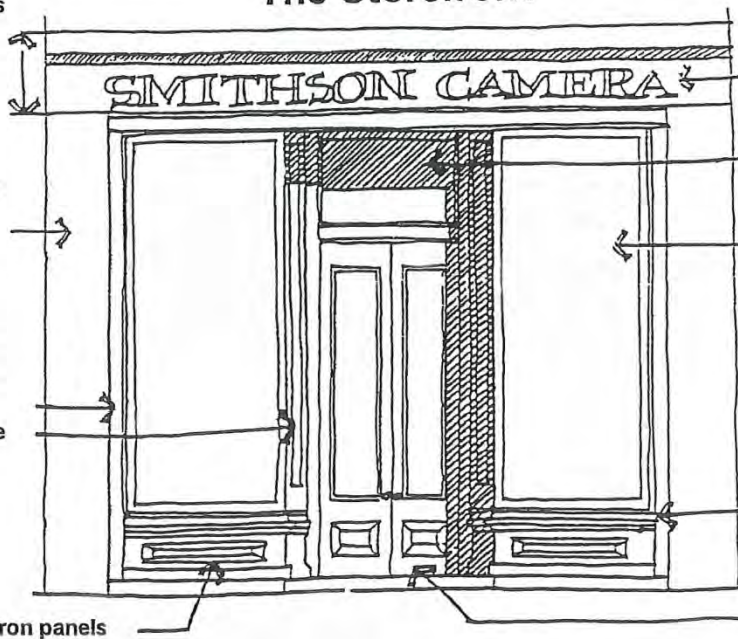
## The Storefront

lintel separates upper from ground floors

masonry piers are carried down from upper floors

wood or cast iron columns form the structure of the storefront

wood or cast iron panels



signs may be located on lintel

transom windows over doors

storefront windows have vertical proportions, may have transom windows above

heavy sills

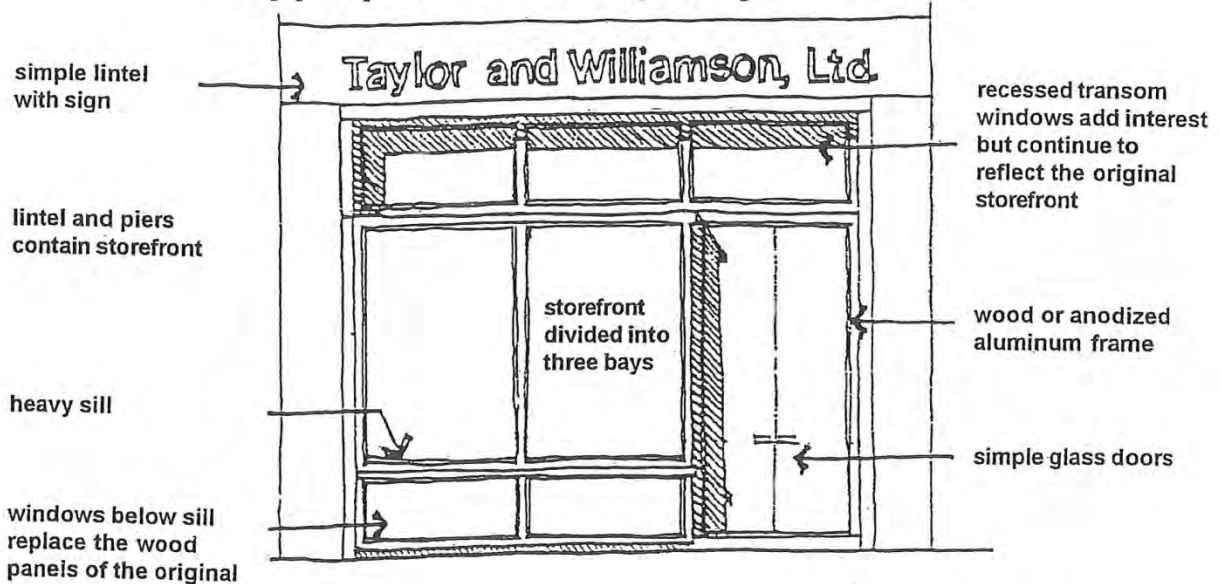
wood and glass paneled doors

## PARTS OF A COMMERCIAL BUILDING

### Simplified Traditional Storefront



### Appropriate Contemporary Storefront



## STOREFRONTS



## ARTICLE XII

### I-1, LIGHT INDUSTRIAL DISTRICTS

#### **SECTION 12.00 INTENT**

The I-1, Light Industrial District is designed so as to primarily accommodate wholesale activities, warehousing, and industrial operations whose external physical effects are restricted to the area of the district and will not affect in a detrimental way any of the surrounding districts. The I-1 District is so structured as to permit, along with any specified uses, the manufacturing, compounding, processing, packaging, assembly, and/or treatment of finished or semi-finished products from previously prepared material.

Uses in this district shall emit a minimum of smoke, dust, dirt, odor or gases, subject to the pollution standards of the State of Michigan, County of Oakland, and City of the Village of Clarkston. All uses located within this district shall be so designed and operated as to produce no sound or vibration discernible at the property lines in excess of the normal intensity of street or traffic noises or vibration noticeable at such points, nor any production of heat or glare noticeable at such points. Manufacturing uses in the district normally involve the manufacturing, compounding, processing, packaging, assembly or treatment of finished or semi-finished products from previously prepared material. The processing of raw material for shipment in bulk form for use in an industrial operation at another location shall not be permitted.

#### **SECTION 12.01 PRINCIPAL USES PERMITTED**

In a Light Industrial District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this Ordinance, and which shall comply with the performance standards set forth in ARTICLE XIV; "GENERAL PROVISIONS AND EXCEPTIONS," SEC. 14.05.

- A. Accessory structures, uses and signs customarily incidental to a principal use in this district, except use and storage of hazardous materials or accessory incinerators, which require a Special Use Permit.
- B. Any uses charged with the principal function of basic research design (industrial, scientific, and business), and pilot or experimental product development when conducted within a completely enclosed building. The growing of any vegetation requisite to the conducting of basic research shall be excluded from the requirement of enclosure.
- C. Greenhouses.
- D. Mini or self-storage warehouses that meet the following requirements:
  - 1. Minimum lot size shall be three (3) acres.

2. Minimum building and parking setback shall be fifty (50) feet from any public street right-of-way line, fifty (50) feet from any residential district and twenty-five (25) feet from any non-residential zoning district.
3. The front yard and any side yards adjacent to residential districts shall include wrought iron or similar decorative fencing and evergreen plantings spaced a maximum of ten (10) feet apart on-center. If approved by the City Council, a fence, which meets the requirements of Section 21.02 E may be constructed provided evergreen trees spaced a maximum of ten (10) feet apart on center are planted outside of the fence.
4. Mini storage/warehouse establishments shall provide storage only. All storage must be completely within an enclosed building, unless a separate Special Land Use Permit is granted for commercial outdoor storage on the premises.
5. Buildings must be oriented so that open service bays do not face adjacent major thoroughfares or arterial roads unless screened by an adjoining lot, building, or buffer area by a fence in compliance with 3. above.
6. The exterior of any mini or self-storage warehouse shall be of finished quality and design, compatible with the design of structures on surrounding property.
7. The following standards shall apply to on-site circulation and parking.
  - a. All one-way driveways shall be designed with one ten (10) foot wide loading/unloading lane and one fifteen (15) foot travel lane.
  - b. All two-way driveways shall be designed with one ten (10) foot wide loading/unloading lane and two twelve (12) foot travel lanes.
  - c. The parking lanes may be eliminated if the driveway does not serve storage units. Signs and painted lines shall be used to indicate parking and traffic direction throughout the site.
8. The hours of operation may be limited by the City Council when mini- or self-storage warehouse establishments abut a residentially zoned district or residential use.
9. All on-site lighting is to be shielded and directed downward to prevent off-site glare. Where such establishments abut a residential district or use, on-site lighting is to be limited to pole lights that do not exceed fifteen (15) feet in height. There is to be no more than one (1) foot candle at the property line.
10. Public address systems are prohibited.

11. A resident manager may be permitted on-site with the responsibility of maintaining the operation of the facility in conformance with the conditions of approval. The manager's residence shall conform with the provision of this Ordinance.
- E. Offices, professional or corporate offices.
- F. Print shops, book publishing, and allied industries.
- G. Radio or television studios.
- H. Water supply and sewage substation plants, water and gas tank holders when accessory to a principal permitted use.
- I. Building and construction material wholesalers and contractors.
- J. Trade or industrial schools.
- K. Other light manufacturing plants and uses similar to the above uses having performance characteristics that are consistent with those described in Section 12.00.

## **SECTION 12.02 SPECIAL LAND USES**

The following uses shall be permitted upon review of the site plan by the Planning Commission, and approval by the City Council, in accordance with the general standards for all Special Land Uses listed in Section 18.02, and the standards for the specific use listed in Section 18.10:

- A. Automobile repair garages, painting and varnishing shops, lumber and planing mills.
- B. Child care centers when on the perimeter of the district or affiliated with firms within the district.
- C. Indoor recreation centers (skating rink, bowling alley, arcades).
- D. Major auto repair, such as auto engine, undercoating, and body repair shops conducted within an enclosed building.
- E. Municipal uses, such as water treatment plants, and reservoirs, sewage treatment plants, and all other municipal buildings.
- F. New car sales establishments.
- G. Retail uses which have an industrial character in terms of either their outdoor storage requirements or activities (such as, but not limited to: lumber yards, building materials,

outlets, garage sales, upholsterer, cabinet maker, outdoor boat, or house trailer, automobile, or agricultural implement sales).

- H. Retail, restaurant, and service establishments serving the needs of the industrial district, such as, but not limited to: banks, credit unions, savings and loan associations, automobile service stations, motels, bowling alleys, trade or industrial schools, or industrial clinics.
- I. Storage facilities for building materials, sand, gravel, stone, lumber, or storage of contractor's equipment and supplies, provided such is enclosed within a building or within an obscuring wall or fence on those sides abutting all Residential or Business Districts, and on any yard abutting a public thoroughfare. The extent of such fence or wall may be determined by the City Council in consideration of the type of use and surrounding uses.
- J. Storage and transfer, and electric and gas service buildings and yards; public utility buildings, telephone exchange buildings, electrical transformer stations and substations, and gas regulator stations; water supply and sewage disposal plants; water, water tank holders; railroad transfer and storage tracks, and railroad rights-of-way.
- K. Uses of the same nature or class as the majority of the uses listed in this district as either a Principal Permitted Use or a Special Land Use, but not listed elsewhere in this Zoning Ordinance, as determined by the Zoning Board of Appeals, following a public hearing. The determination shall be based on the standards of Section 16.04. Any use not listed and not found to be "similar" is prohibited.
- L. Accessory uses, buildings and structures customarily incidental to an approved Special Land Use Permit; except use or storage of hazardous materials or above ground fuel storage, or accessory incinerators which require a separate Special Land Use Permit.

**SECTION 12.03 GENERAL DEVELOPMENT STANDARDS**

- A. A Traffic Impact Statement/Assessment is required for all uses that are expected to generate over one hundred (100) directional trips during peak hour or over seven hundred fifty (750) trips in an average day.

Buildings and uses in the I-1, Light Industrial District shall be subject to all applicable standards and requirements set forth in this Ordinance, including the following:

Article XIII	Schedule of Regulations
Article XIV	Exterior Lighting (Sec. 14.06)
Article XIV	Area, Height, and Use Exceptions (Sec. 14.13)
Article XVII	Site Plan Review
Article XX	Off-Street Parking Requirements
Article XX	Off-Street (Un)Loading Space Requirements

Article XXI      Landscaping  
Article XXII     Sign Regulations

Clarkston Local Historic District Ordinance, as amended

**ARTICLE XIII**

**SCHEDULE OF REGULATIONS**

**SECTION 13.00 LIMITING HEIGHT, BULK, DENSITY, AND AREA BY LAND USE**

USE DISTRICT	MINIMUM LOT SIZE OR MAXIMUM DENSITY		MAXIMUM HEIGHT OF STRUCTURES		FRONT (m)	MINIMUM YARD SETBACK (PER LOT IN FEET) SIDES		REAR (p)	MINIMUM FLOOR AREA PER UNIT (SQ. FT.)	MAXIMUM PERCENTAGE OF LOT AREA COVERED BY ALL BUILDING
	LOT AREA	LOT WIDTH IN FEET	IN STORIES	IN FEET		LEAST ONE	TOTAL TWO			
RC, Recreation District	--	--	2-1/2	35	25	10 (a)	25 (a)	35	--	--
R-1, One-Family Residential District	16,000 sq. ft.	80	2-1/2	35	30	15 (a)	25 (a)	35	2,000 (b)	25%
R-2, One-Family Residential District	12,000 sq. ft.	65	2-1/2	35	20	10 (a)	20 (a)	35	1,600 (b)	25%
RM, Multiple-Family Residential	(c)	(c)	2-1/2 (c)	35 (c)	25 (c)	20 (c)	30 (c)	30	(d)	30%
RPDD, Planned Development District	REFER TO ARTICLE 8.00 FOR REGULATIONS REGARDING RPDD DISTRICTS									
VC, Village Commercial	--	--	2	35	(n)	(e, g, l)	(e, g, l)	20 (f, g, l)	--	(h)
I-1, Light Industrial	43,560 sq. ft.	150	3	40	50 (i, l)	30 (j, l)	50 (j, l)	50 (j, l)	--	(h)

Footnotes:

Schedule of Regulations (To Section 13.00)

(a) Yards:

1. Front yards only: R-1, and R-2 One-Family Residential Districts in a required front yard, a porch may project a distance not to exceed six (6) feet. The porch may be covered with an awning or other type of roof projection not to exceed seven (7) feet. The covered porch shall remain open between the floor line and eave line, except for an open railing not to exceed three (3) feet six (6) inches in height. In no case shall the projection be nearer than ten (10) feet to the front lot line. An uncovered stair, necessary landing and/or ramp may project a distance not to exceed forty-four (44) inches beyond the covered porch, but in no case may be nearer than ten (10) feet to the front lot line. See Note (n).
  2. Side yards only: The side yard abutting upon a street shall not be less than fifteen (15) feet. When there is a common rear yard abutting a side yard on an adjacent lot, the side yard abutting a street shall not be less than twenty-five (25) feet.
- (b) Where a single- or two-family home is constructed without a basement, an additional one hundred (100) square feet shall be added to the minimum required first floor area requirement to provide space for utilities such as, but not limited to: furnace, hot water tank, laundry tubs, incinerators, and the like.
- (c) The following minimum lot area per dwelling unit type shall be met in all RM Multiple-Family Residential:

Dwelling Unit Type	RM Minimum Lot Area Per Unit	Minimum Floor Area Per Unit	Minimum Lot Width
Efficiency	6,000 sq. ft.	600	Per requirements set forth in Schedule of Regulations
One-Bedroom*	6,000 sq. ft.	600	“
Two-Bedroom*	8,000 sq. ft.	750	“
Three-Bedroom*	10,000 sq. ft.	900	“

\*See Article II – “ROOM”

Allocate fifteen thousand (15,000) sq. ft. in density count for first unit in the multiple-family residential district.

Yards abutting major thoroughfares in the RM District shall have a minimum depth of fifty (50) feet. For the purpose of yard regulations, all multiple-family dwellings shall be considered as one (1) building occupying one (1) lot. Front, side and rear yards relating to the spacing between buildings within RM Districts shall have the following minimum overall dimensions:

Building Relationship	Overall Distance Between Buildings (Exclusive of Parking Area)
Front to Side	50 feet
Front to Front	50 feet +
Front to Rear	60 feet +
Rear to Rear	60 feet +
Rear to Side	45 feet
Side to Side	20 feet
Corner to Corner	15 feet

+Parking may be permitted in fifty percent (50%) of the required rear yard provided that there shall be at least twenty (20) feet of yard space between said parking area and the multiple-family building.

In the RM Multiple-Family District, the front and rear of the multiple-family building shall be considered to be the faces along the longest dimension of said structure. The front of the multiple-family building shall be considered to be the direction faced by the living rooms of the dwelling units in said building; the rear of the multiple-family building shall be considered to be the direction faced by the service entrance of the dwelling units in said building; and the side of the multiple-family building shall be considered to be the face along the narrowest dimension of said building.

In the RM Multiple-Family District, every lot on which a multiple structure is erected shall be provided with a side yard of at least thirty (30) feet on each side of such lot. Each side yard shall be increased by one (1) foot for each ten (10) feet or part thereof by which length the multiple structure exceeds forty (40) feet in overall dimension along the adjoining lot line provided that no multiple-family structure shall exceed one hundred eighty (180) feet in length along any one face of the building. Any court shall have a width equal to not less than fifty (50) feet for the front yard and sixty (60) feet for the rear yard. The depth of any court shall not be greater than three (3) times the width. In all RM Multiple-Family Districts, service drives shall have a width of at least thirty-three (33) feet and shall not be located in any required front yard.

In the RM Multiple-Family District, not more than ten (10) percent of the total number of units shall be of the efficiency type, and in no instance shall the maximum density exceed twelve (12) units per acre.

In the RM District, the maximum heights of buildings shall be two and one-half (2½) stories or thirty-five (35) feet. The Zoning Board of Appeals may modify the height requirements where unusual architectural features exist.

- (d) Minimum floor areas for Efficiency Apartments, One-Bedroom Unit, Two-Bedroom Unit, and Three or More Bedroom Unit shall be as described in Section 2.01 Definitions.
- (e) No side yards are required along the interior side lot lines, except as otherwise specified in the Building Code. On the exterior side yard which borders on a residential district there shall be provided a setback of not less than ten (10) feet on the side, or residential



street. If walls of structures facing such interior side lot lines contain windows, or other openings, side yards of not less than fifteen (15) feet shall be provided.

- (f) Loading space shall be provided in the rear yard in the ratio of at least ten (10) square feet per front foot of building and shall be computed separately from the off-street parking requirements. Where an alley exists or is provided at the rear of the buildings, the rear setback and loading requirements may be computed from the center of said alley.
- (g) As provided by Section 21.02, wall or fence shall be provided on those sides of the property abutting land zoned for residential use.
- (h) The maximum percentage of coverage shall be determined by the use and the provisions of required off-street parking, loading and unloading and required yards (See Article XX).
- (i) Off-street parking for visitors may be permitted within the required front yard provided that such off-street parking is not located within thirty (30) feet of the front lot line. The Zoning Board of Appeals may permit the front yard requirement to be reduced to not less than twenty (20) feet for buildings constructed prior to the effective date of this Ordinance, provided that minimum off-street parking requirements can still be met.
- (j) No building shall be closer to the outer perimeter (property line) than the herein required side yard, except that no yard shall be required along the interior side lot lines when said property line is adjacent to like use districts. When I-1 industrial uses abut residential districts, a twenty (20) foot greenbelt shall be provided, in addition to five (5) to eight (8) foot high completely obscuring wall, within the required yard area and adjacent to the property line.
- (k) Loading space shall be provided in the rear yard in the ratio required in Article XX, and shall be computed separately from the off-street parking requirement.
- (l) A minimum of a ten (10) foot-wide greenbelt shall be provided adjacent to a residential district and no structures or off-street parking spaces shall be located within the greenbelt. Grade changes to the greenbelt area shall not be permitted unless the Planning Commission finds that improved screening could be accomplished by changing the grade. The greenbelt area shall be maintained by one of, or a combination of, the following, depending, upon the characteristics of the area:
  - 1. The greenbelt shall be left in its natural state if, in the judgment of the Planning Commission, it would provide the best protection for the residential district and preservation of the natural setting. The Commission may require supplemental plantings, in accordance with the landscape design principles if it is necessary to provide adequate year-round screening.
  - 2. If sufficient natural vegetation does not exist in the greenbelt area or if, in the opinion of the Planning Commission, it would not survive or is not suitable for

saving, a minimum four (4) foot high landscaped earth berm shall be constructed in the greenbelt area. Landscaping shall be carried out in accordance with the landscape design principles adopted by the Planning Commission.

3. In determining the proper buffering technique, the Planning Commission shall consider the effectiveness of the buffer in protecting the surrounding area and shall also consider the overall natural and manmade characteristics of the Village Commercial District. The construction of the wall shall be in accordance with Section 21.02.E Screening, Obscuring Walls and Fences.
- (m) Front yard setbacks are measured from the edge of the existing and planned right-of-way, said planned right-of-way as shown on the officially adopted Master Plan of the City of the Village of Clarkston. Where a parcel or lot is at an intersection, the setback shall be measured the maximum requirement for the district considering each side as a front yard area. See Section 11.03 for additional requirements in the Village Commercial District. See note (o) for setbacks from water frontage.
- (n) Each block shall be designated with a build-to line, as designated by the Planning Commission, which shall establish the front yard setback for the lots on the block. The build-to line shall fall between the existing minimum and maximum front yard setbacks for the proposed uses. A minimum of 80% of all buildings on the block shall conform to the build-to line, with the remaining 20% allowed to vary by being further setback no greater than seventy-five percent (75%) of the distance from the right-of-way to the build-to line for residential or no further than the maximum setback for commercial uses. Buildings shall be allowed to come forward of the build-to line by no greater than twenty-five percent (25%) of the distance between the right-of way and the build-to line for residential structures. Required build-to lines:
- |                                |   |
|--------------------------------|---|
| Commercial/retail uses:        | zero (0) feet                                       |
| Mixed-use, retail/office:      | minimum of zero (0) feet, maximum of four (4) feet  |
| Mixed-use, retail/residential: | minimum of zero (0) feet, maximum of four (4) feet. |
- (o) Water frontage setback: Each side of a major water body shall be designated with a water frontage setback line, as designated by the Planning Commission, which shall establish the water frontage setback for each side of Middle Lake, Deer Lake, Mill Pond, Upper Mill Pond, and Parke Lake located within City limits. The water frontage setback line shall fall between the existing minimum and maximum water frontage setbacks of existing principle buildings located along each lakefront.

## ARTICLE XIV

### GENERAL PROVISIONS AND EXCEPTIONS

#### SECTION 14.00 CONFLICTING REGULATIONS

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

#### SECTION 14.01 SCOPE

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

#### SECTION 14.02 NONCONFORMING LOTS, NONCONFORMING USES OF LAND, NONCONFORMING STRUCTURES, AND NONCONFORMING USES OF STRUCTURES AND PREMISES

- A. **Intent.** It is the intent of this Ordinance to permit legal nonconforming lots, structures, or uses to continue until they are removed, but not to encourage their survival.

It is recognized that there exists within the districts established by this Ordinance uses which were lawful before this Ordinance was passed or amended which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments.

Such uses are declared by this Ordinance to be incompatible permitted uses in the districts involved. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction

was lawfully begun prior to the effective date of adopting or amendment of this Ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

- B. Nonconforming Lots.** In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that the dimensions and other requirements not involving area or width, or both, of the lots shall conform to the regulations for the district in which such lot is located. Variance to yard requirements shall be obtained through approval of the Board of Appeals.

No division of any lot or parcel, for the purpose of constructing structures allowed within the district wherein said lot or parcel is located, shall be made which leaves remaining any lot or parcel with width or area less than the minimum regulations provided for the district within which said lot or parcel is located.

This Ordinance created a number of situations where an existing developed site does not conform to all of the various current site design standards (such as site lighting, landscaping, waste receptacle screening, sidewalks, and access management). The intent of this Section is to permit improvements and minor modifications to a conforming building containing a conforming use, with an upgrade to the site in a reasonable relationship to the extent of changes to the building. This Section permits the Planning Commission, with input from City staff, to work with the applicant toward compliance with the site related requirements. Full compliance shall be required for any improvement determined to be safety related.

A change in use, improvements or expansions to an existing building may be permitted without a complete upgrade of all site elements under the following conditions:

1. The applicant is proposing reasonable site improvements in relation to the scale and construction cost of the building improvements or expansion.
2. The applicant has addressed safety related site issues.
3. The applicant has upgraded the site landscaping consistent with Article XXI "Landscaping."
4. The improvements or minor expansion will not increase noncompliance with site requirements.

5. A site plan shall be submitted in accordance with Article XVII, Site Plan Review.

C. **Nonconforming Uses of Land.** Where, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.
2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.
3. If such nonconforming use of land ceases operation for a period of more than six (6) consecutive months, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.

D. **Nonconforming Structures.** Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such structure may be enlarged or altered in a way which increases its nonconformity.
2. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

E. **Nonconforming Uses of Structures and Land.** If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of this Ordinance that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
3. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that the Board of Appeals either by general rule or by making findings in the specific case shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this Ordinance.
4. 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 for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.
5. If such nonconforming use of land ceases operation for a period of more than six (6) consecutive months, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.

Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

- F. **Repairs and Maintenance.** On any building or structure devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing to an extent not exceeding fifty percent (50%) of the replacement value of the building, provided that the content of the building as it existed at the time of passage or amendment of this Ordinance shall not be increased.

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

- G. **Uses Allowed as Conditional Uses, Not Nonconforming Uses.** Any use for which a general exception, conditional approval, or special approval is permitted as provided in this Ordinance shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.
- H. **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 Ordinance.

- I. **Recording of Nonconforming Uses.** The Code Officer shall be responsible for maintaining records of nonconforming uses and structures as accurate as is feasible, and for determining legal nonconforming uses and structures in existence on the effective date of this Ordinance. Failure on the part of a property owner to provide the Code Officer with necessary information to determine legal nonconforming status may result in denial of required or requested permits.
- J. **Acquisition.** The City may acquire by purchase, condemnation, or otherwise, private property for the removal of nonconforming uses and structures provided that said property shall not be used for public housing. Pursuant thereto, the City Council may, in its discretion, provided that the cost and expense of acquiring such private property be paid from General Funds, or the cost and expense or any portion thereof be assessed to a special district.

### **SECTION 14.03 ACCESSORY BUILDINGS AND STRUCTURES**

Accessory buildings and structures, except as otherwise permitted in this Ordinance, shall be subject to the following regulations:

- A. Where the accessory building is structurally attached to a main building, it shall be subject to, and must conform to, all yard regulations of this Ordinance applicable to main buildings.
- B. A building accessory to a residential building shall not be erected in any side or front yard unless such accessory building will permit the required minimum yard setbacks as established in Article XIII.
- C. A building accessory to a residential building, not exceeding one (1) story or fifteen (15) feet in height, may occupy not more than twenty-five percent (25%) of a required rear yard, plus twenty percent (20%) of any non-required rear yard, provided that in no instance shall the accessory building exceed the ground floor area of the main building.
- D. A detached building accessory to a residential building shall be located no closer than ten (10) feet to any main building nor shall it be located closer than three (3) feet to any side or rear lot line. In those instances where the rear lot line is coterminous with an alley right-of-way, the accessory building shall be no closer than one (1) foot to such rear lot line. In no instance shall an accessory structure be located within a dedicated easement right-of-way.
- E. No detached accessory building in a R-1, R-2, RM, or RPDD, District shall exceed one (1) story or fifteen (15) feet in height. Accessory buildings in all other districts may be

constructed to equal the permitted maximum height of structures in said districts, subject to Planning Commission review and recommendation, and City Council approval.

- F. When a building accessory to a residential building is located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, said building shall not project beyond the front yard line required on the lot to the rear of such corner lot. An accessory building shall in no case be located nearer than thirty (30) feet to a street right-of-way line.
- G. An accessory building shall not be used prior to the principal building or use, except as a temporary construction facility (in accordance with Section 14.04) for such principal building.
- H. Swimming pools, spas, hot tubs, or similar devices (below ground or above ground) which contain twenty-four (24) inches or more of water in depth at any point, shall be enclosed by a solid or impervious fence, enclosure, or lock and cover for hot tubs approved by the Building Inspector surrounding the device sufficient to make such device inaccessible to small children. Such fence or enclosure, including the gates shall not be less than four (4) feet or greater than six (6) feet above grade. All gates shall be self-latching with latches placed no less than four (4) feet above grade or otherwise made inaccessible from the outside to small children.
- I. Swimming pools, spas, hot tubs, and similar devices that are in excess of two (2) feet above grade, shall be located a minimum of six (6) feet from any lot line. Such devices that are two (2) feet or less above grade shall be located a minimum of four (4) feet from any lot line. All such devices shall not be located in any front yard.

#### **SECTION 14.04 TEMPORARY STRUCTURES AND USES**

A. **General Requirements.** Temporary structures and uses shall comply with the following requirements:

- 1. **Temporary Structures Used for Residential Purposes.** A building or structure may be approved for temporary residential use only while damage to the principal dwelling due to fire, flood, ice, wind, or other natural disaster is being repaired. Any such temporary building shall not be used as a residence without prior review and approval by the Police, Fire, and Code Officer.

Also, a mobile home or other approved living quarters may be occupied as a residence on a temporary basis on sites for which a building permit has been issued for construction, major repair, or remodeling of a damaged dwelling unit, subject to the following:



- a. Such permits may be issued by the Code Officer for up to six (6) months in duration and may be renewed for periods of up to six (6) months, provided that work is proceeding in an expeditious manner.
  - b. Temporary structures shall comply with the setback standards for the district in which they are located.
  - c. The Code Officer shall approve electrical and utility connections to any temporary structure.
  - d. An approved temporary structure may be moved onto a site fourteen (14) days prior to commencement of construction and shall be removed within fourteen (14) days following issuance of a Certificate of Occupancy for the permanent dwelling.
  - e. The applicant shall furnish the City with a performance guarantee or letter of credit in the amount as set by the City Council of five hundred dollars (\$500.00) to assure removal of the temporary structure.
2. **Temporary Structures Used for Nonresidential Purposes.** Temporary buildings for nonresidential use, including semi-trucks/trailers and concrete batch plants, shall be permitted only when the intended use is by a contractor or builder in conjunction with a construction project, and only after review and approval by the Code Officer. Such temporary structures shall be removed immediately upon completion of the construction project and prior to a request for a Certificate of Occupancy for the project.
  3. **Permits.** Permits for the utilization of temporary structures shall be issued by the Code Officer. The permit shall specify a date for the removal of the temporary structure, and the Code Officer may require posting of a bond to insure removal. A Certificate of Occupancy shall be required for such structures.
  4. **Use as an Accessory Structure.** A temporary building or structure shall not be used as an accessory building or structure, except as permitted herein.
  5. **Special Events and Other Temporary Uses.** The City Council may grant temporary use of land and structures for special events and other temporary uses, as defined in Article II of this Ordinance, subject to the following general conditions:
    - a. Adequate off-street parking shall be provided.
    - b. The applicant shall specify the exact duration of the temporary use.
    - c. Electrical and utility connections shall be approved by the Code Officer.

- d. The City Council may require a performance bond to assure proper clean-up.
  - e. Liability issues for use of the public sidewalk shall be addressed and reviewed by the City Attorney.
  - f. Public safety issues shall be reviewed and approved by the Police and Fire departments.
6. The following conditions apply to specific temporary uses:
- (a) **Carnival, Circus, or Festival**
    - Maximum duration: Five (5) days
    - Operator or sponsor: Non-profit entity
    - Location: Shall not be located in or adjacent to any developed residential area except on church, school or park property.
  - (b) **Sidewalk Display and Sale of Bedding Plants**
    - Maximum duration: Ninety (90) days
    - Location: In commercial districts only.
    - Sidewalk Coverage: To allow for pedestrian circulation, a minimum of five (5) feet of sidewalk along the curb and leading to the entrance to the establishment must be maintained free of displays and other encumbrances.
  - (c) **Christmas Tree Sales**
    - Maximum duration: Thirty-three (33) days.
    - Location: Shall not be located in or adjacent to any developed residential area.
    - Clean-up: Stumps, branches, and other debris shall be completely removed from site.
  - (d) **Roadside Stands**
    - See Article XVIII (NO MENTION OF ROADSIDE STANDS IN ARTICLE XVIII)
  - (e) **Commercial Festival.**
    - Maximum duration: Three (3) days.
    - Operator: Private.
    - Location: In commercial districts only.
    - Circulation: Pedestrian circulation and access to business entrances shall not be impaired.
    - Clean-up: The operators of the festival shall be responsible for a clean, litter-free, and well-kept appearance within and immediately adjacent to the area of the festival. Noise and lighting shall not be objectionable to adjacent uses.

- Signage: Additional signs shall comply with the requirements of Article XXII.
- The sale and consumption of alcohol are governed by the Michigan Liquor Control Act and local ordinances.

**SECTION 14.05 PERFORMANCE STANDARDS**

Creation of noxious odors, noises, particulates, radiation or vibrations in such quantities or intensities so as to constitute a nuisance, unreasonable annoyance or hazard outside of the portion of the VC and I-1 districts in which any permitted or special use activity is undertaken is prohibited.

- A. **Smoke.** It shall be unlawful for any person, firm or corporation, to permit the emission of any smoke from any source whatever that constitutes a nuisance.
- B. **Dust, Dirt and Fly Ash.** No person, firm or corporation shall operate or cause to be operated, maintained or cause to be maintained, any process for any purpose, or furnace or combustion device for the burning of coal or other natural or synthetic fuels, which creates a nuisance, unreasonable annoyance or hazard.
- C. **Open Storage.** The open storage of any industrial equipment; vehicles and all materials including wastes, shall be screened from public view, from a public street and from adjoining properties by an enclosure consisting of a wall not less than the height of the equipment, boats, RV's, trailers and vehicles and all materials to be stored. Whenever such open storage is adjacent to a residential zone or mobile home park in either a front, side or rear lot line relationship, whether immediately abutting or across a right-of-way from such zone, there shall be provided an obscuring masonry wall or wood fence as provided by Section 21.02.

Such masonry wall or wood fence shall be repaired, maintained and kept in good condition by the owners, and where necessary, if the wall or fence is not properly maintained, money shall be put in escrow for repair and maintenance so as not to allow disrepair to continue.

- D. **Glare and Radioactive Materials.**
  - 1. **Glare.** Glare, whether direct or reflected, such as from floodlights or high temperature processes, and as differentiated from general illumination, shall not be visible at any property line.
  - 2. **Radiation.** Research operations shall cause no dangerous radiation at any property line as specified by the regulations of the United States Nuclear Regulatory Commission.

3. **Electrical Radiation.** Any electrical radiation shall not adversely affect at any point any operations or any equipment, including not only professional research equipment but also equipment reserved for personal uses such as reception or public radio transmissions, use of cellular phones, etc., except equipment belonging to the creator of the radiation.
  4. **Lighting.** Exterior lighting, except for overhead street lighting and warning, emergency or traffic signals, shall be installed in such a manner that the light source will be sufficiently obscured to prevent glare on public streets and walkways or into any residential area.
- E. **Fire and Explosive Hazards.** The storage and handling of flammable liquids, liquefied petroleum, gases, and explosives shall comply with the State Rules and Regulations as established by Public Act No. 207 of 1941 (MCL 29.1 et seq., MSA 4.559(1) et seq.), as amended.
- F. **Noise.** The emission of noises in such intensities that constitute a nuisance shall be prohibited.
- G. **Odors.** Creation of offensive odors shall be prohibited.
- H. **Wastes.** No waste shall be discharged in the public sewer system which is dangerous to the public health and safety. The following standards shall apply at the points wastes are discharged into the public sewer.
1. Acidity or alkalinity shall be neutralized within an average pH range of between 5.5 to 7.5 as a daily average on the coulometric basis, with a temporary variation of pH 4.50 to 10.0.
  2. Wastes shall contain no cyanides. Wastes shall contain no chlorinate solvents in excess of 0.1 p.p.m.; no fluorides shall be in excess of 10 p.p.m.; and shall contain no more than 5 p.p.m. of hydrogen sulphate and shall contain not more than 10 of sulphur dioxide and nitrates; and shall contain not more than 25 p.p.m. of chromates.
  3. Wastes shall not contain any insoluble substance in excess of 10,000 p.m. or exceed a daily average of 500 p.m. or fail to pass a number eight standard sieve or have a dimension greater than one-half (1/2) inch.
  4. Wastes shall not have chlorine demand greater than 15 p.p.m.
  5. Wastes shall not contain phenols in excess of 0.05 p.p.m.
  6. Wastes shall not contain any grease or oil or any oil substance in excess of 100 p.p.m. or exceed a daily average of 25 p.p.m.

- I. **Waste and Rubbish Dumping.** No garbage, sewage, filth, refuse, waste, trash, debris or rubbish, including cans, bottles, waste paper, cartons, boxes and crates, or other offensive or obnoxious matter shall be kept in open containers, or piled, placed stored or dumped on any land within the City in such a manner as to constitute a nuisance or create a hazard to health, safety, morals and general welfare of the citizens of the City. All waste material, trash and rubbish must be disposed of at least once in every two week period and in accordance with the laws and ordinances of the City.

## **SECTION 14.06 EXTERIOR LIGHTING**

All lighting for parking areas or for the external illumination of buildings or grounds or for the illumination of signs and other uses shall be directed away from and shall be shielded from adjacent residential districts and shall also be so arranged as to not adversely affect driver visibility on adjacent thoroughfares.

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 public or common areas.

- A. **Time Period.** Required lighting shall be turned on daily from one-half hour after sunset to one-half hour before sunrise, except that in commercial or industrial areas reduction of lighting during non-business hours is encouraged.
- B. **Permitted Lighting.** Only non-glare, color-corrected lighting shall be permitted. Lighting shall be placed and shielded so as to direct the light onto the site and away from adjoining properties. The lighting source shall not be directly visible from adjoining properties. Lighting shall be shielded so that it does not cause glare for motorists (see diagram).
- C. **Intensity.** In parking areas, the light intensity shall average a minimum of one (1.0) footcandle, measured five (5) feet above the surface. In pedestrian areas, the light intensity shall average a minimum of two (2.0) footcandles, measured five (5) feet above surface.
- D. **Height.** Except as noted below, lighting fixtures shall not exceed a height of twenty (20) feet measured from the ground level to the centerline of the light source, except that fixtures as high as thirty (30) feet shall be permitted in industrial districts. These light fixture height standards shall not apply to public lighting in a road right-of-way.

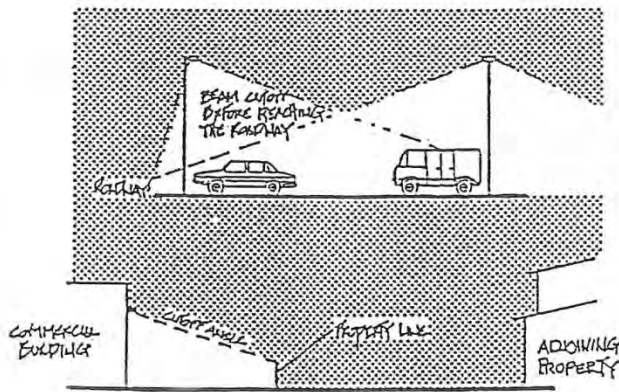
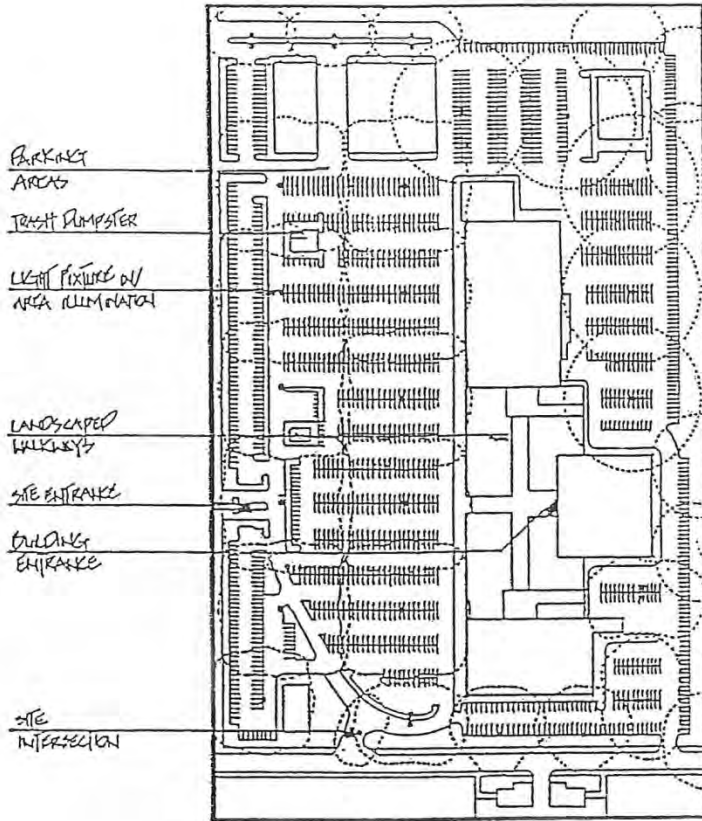
The Planning Commission may modify these height standards in commercial and industrial districts, based on consideration of the following: the position and height of buildings, other structures, and trees on the site; the potential off-site impact of the lighting; the character of the proposed use; and, the character of surrounding land use. In

no case shall the lighting exceed the maximum building height in the district in which it is located.

- E. **Sign Lighting.** Signs shall be illuminated in accordance with the regulations set forth in Article XXII.
- F. **Site Plan Requirements.** 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, traffic safety, and overhead sky glow. The objective of these specifications is to minimize undesirable off-site effects.

#### **SECTION 14.07 USE RESTRICTIONS**

No portion of a lot or parcel once used in complying with the provisions of this Ordinance for yards, lot area per family, density as for a development in the multiple family district, or percentage of lot occupancy, in connection with an existing or proposed building or structure, shall again be used as part of the lot or parcel required in connection with any other building or structure existing or intended to exist at the same time.



## LIGHTING REQUIREMENTS

**SECTION 14.08 STORAGE OF VEHICLES**

- A. No motor vehicle shall be kept, parked or stored in any district zoned for residential use unless it shall be in operating condition and properly licensed, or kept inside a building. The purpose of this provision is to prevent the accumulation of junk motor vehicles, and therefore, it shall not apply to any motor vehicle ordinarily used, but temporarily out of running condition; if a motor vehicle is being kept for actual use, but is temporarily unlicensed, the Code Officer may grant the owner a reasonable time, not to exceed six (6) months, to procure such license.

No old, rusty and unsightly machinery, machines or parts of machines not suited for use upon the premises, or quantities of old and used building materials, shall be kept or stored outside a building; provided, however, that building materials fit to be used to improve the premises may be kept if it is piled off the ground so as not to become a rat and rodent harbor.

- B. The open parking and/or storage of a trailer, boat, or similar vehicle not owned by a resident of the City, for periods exceeding twenty-four (24) hours on lands not approved for said parking or storage, shall be expressly prohibited, except that the Code Officer may extend temporary permits allowing the parking of a trailer coach in a rear yard on private property not to exceed a period of two (2) weeks. All trailers, boats, and similar vehicles owned by residents of the City and stored on their individual lots shall not be stored within any front yard or any required side yard; and shall further respect the requirements applicable to Accessory Buildings, Section 14.03, insofar as distances from principal structures, lot lines, and easements are concerned. All trailer coaches parked or stored on lands not approved for trailer courts shall not be connected to sanitary facilities and shall not be occupied.

**SECTION 14.09 RESIDENTIAL ENTRANCEWAY**

In "R" Districts, so called entranceway structures, including but not limited to walls, columns, and gates, marking entrances to single-family subdivisions, multiple housing projects, or mobile home parks, may be permitted and may be located in a required yard provided that such entranceway structures shall comply with the requirements of Section 21.02 E. Screening, Obscuring Walls, and Fences and to all codes and ordinances of the City and be approved by the Code Official and a permit issued.

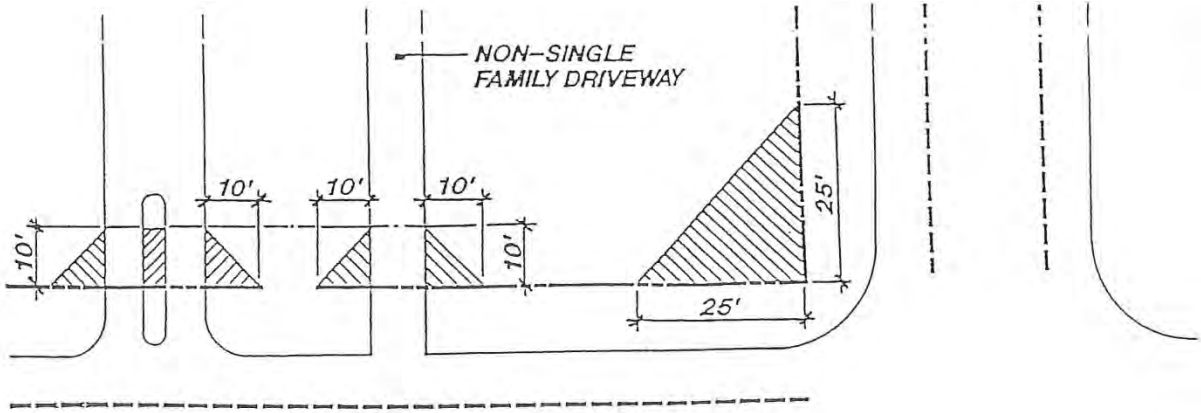


**SECTION 14.10 CORNER CLEARANCE**

No fence, wall, shrubbery, sign or other obstruction to vision above a height of thirty (30) inches from the established street grades shall be permitted within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between said right-of-way lines at a distance along each line of twenty-five (25) feet from their point of intersection.

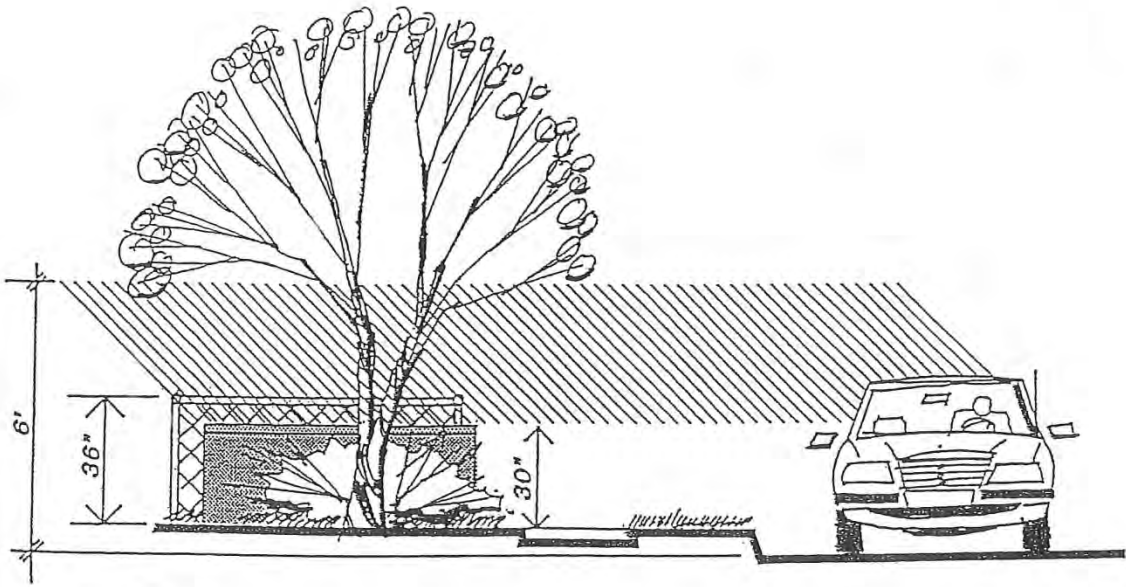
**SECTION 14.11 BASEMENT RESIDENCY**

Basement residency (“walkouts” excluded) is expressly prohibited in the City of the Village of Clarkston.



**BOULEVARD  
ENTRY**

**PLAN VIEW**



**MAXIMUM HEIGHT 36" FOR  
CHAIN LINK FENCE**

**MAXIMUM HEIGHT 30" FOR WALLS OR  
SOLID FENCES, SHRUBS, ETC.**

**CLEAR VISION ZONES**

## **SECTION 14.12     TRANSPORTATION IMPACT STUDIES**

A.     **Developments Requiring a Transportation Impact Study (TIS).** A TIS may be required by the Planning Commission or City Council prior to approval of any of the following types of projects:

1.     Medical offices, including offices of doctors, dentists, and similar allied professionals.
2.     Residential projects containing thirty (30) or more dwelling units in the total project.
3.     Commercial recreational facilities, theaters, assembly halls, community centers, or similar places of assembly.
4.     Child care centers, nursery schools, day nurseries, adult day care centers, assisted living facilities, hotels, bed and breakfast inns, and motels.
5.     Any commercial, office, or industrial use that the Planning Commission determines that a transportation impact study may be warranted.
6.     On multi-phase projects, a TIS shall be required if the entire project exceeds the threshold levels cited above, even if one or more phases of the project do not meet the threshold levels.
7.     The Planning Commission may require a TIS for a proposed development even though it does not meet the criteria listed above where there is evidence that the traffic that would be generated by the development would cause or aggravate unsafe traffic conditions. In making this determination, the Planning Commission may consider the design of proposed roads, driveways, and parking lots as well as conditions that exist on or around the site that may contribute to traffic safety concerns.

B.     **Qualifications of Person Preparing the TIS.** The TIS shall be prepared by a traffic or transportation engineer or community planner selected by the City and who has a minimum of three (3) years of experience preparing traffic impact studies. The resume and qualifications of the person who prepared the TIS shall be included in the study.

The full cost of the TIS shall be paid for by the applicant. The City may require funds to be placed in escrow to cover such costs prior to initiation of the TIS.

C.     **Contents of the TIS.** The TIS shall contain the following elements, at a minimum:

1.     **Description of Project.** A description of the project and site plan shall be provided, showing the location of buildings, driveways, parking, adjoining roads, nearby intersections, and driveways on adjacent parcels. The project description

should identify the proposed use, the gross and net square footage, and the number of parking spaces proposed.

2. **Existing Conditions.** Maps and narrative shall be used to identify all roads within the impact area of the project, the number of lanes and right-of-way of each road, the most recent a.m. and p.m. peak hour traffic counts, and Average Daily Traffic (ADT) counts on each road as are available from the Road Commission for Oakland County.
  - a. The historical growth rate of traffic on adjacent roads shall be determined by examining traffic counts over the past three (3) to five (5) years. The growth rate shall be used to project background growth for the next five (5) years or for the number of years to complete the proposed project, whichever is longer. Where information is available from the Code Officer or City consultants, trips from proposed projects in the impact area shall be included in the background growth projections.
  - b. Where existing traffic counts are more than three (3) years old, new counts shall be taken. Traffic counts shall be taken during average or higher than average volume conditions, generally on a Tuesday, Wednesday or Thursday of a non-holiday week. For commercial development, additional Saturday counts shall also be taken.
  - c. The description of existing conditions shall also include accident history within five hundred (500) feet of the site and for any intersection that is expected to experience a traffic volume increase of at least five percent (5%) per 24-hour period or during peak hour due to the proposed project.
3. **Projections.** Maps and narrative shall be used to estimate the impact of the proposed project on traffic. Morning and evening peak hour and average daily traffic shall be forecast for the proposed development, based on the data and procedures outlined in the most recent edition of the *Institute of Traffic Engineers (ITE) Trip Generation Manual*. The preparer may use other commonly-accepted sources of data or supplement the ITE data with empirical data from similar projects in Michigan.
4. The directional distribution of the projected traffic shall be distributed onto the existing road network (inbound v. outbound, left turn v. right turn) to project turning movements at major site access points, intersections, and interchange ramps. The rationale for the directional distribution shall be provided.

D. **Analysis of Data.** The TIS shall contain the following analysis, at minimum:

1. **Capacity Analysis.** The impact of the projected traffic on the capacity of roads serving the proposed development shall be analyzed, using procedures outlined in the most recent edition of the *Highway Capacity Manual* published by the

Transportation Research Board. Pre- and post-construction capacity analysis shall also be performed at all street intersections and expressway ramps where the expected traffic will comprise five percent (5%) or more of the existing intersection capacity.

2. **Gap Analysis.** A "gap study" shall be completed to analyze the frequency and duration of gaps in the flow of through traffic.
3. **Access Analysis.** Maps and narrative shall be used to:
  - a. Identify the location and design of proposed access driveways and new road intersections.
  - b. Identify sight distance limitations.
  - c. Determine the distance to adjacent driveways and intersections.
  - d. Provide sufficient evidence that the design and number of driveways proposed is the fewest necessary, that the driveways will provide safe and efficient movement of traffic, and that all driveways comply with the sight distance requirements of the Road Commission for Oakland County.

E. **Mitigation Measures.** The TIS shall identify realistic public and private mitigation measures needed to accommodate the projected traffic including the following, at minimum:

1. The TIS shall identify improvements to intersections and roads to accommodate future volumes and provide adequate capacity.
2. Using City and Road Commission for Oakland County standards, the TIS shall identify taper lanes, turn lanes, and passing lanes necessary to provide safe and adequate ingress and egress to the site.
3. The TIS shall identify opportunities to accommodate bicyclists and pedestrians.
4. The TIS shall identify opportunities to coordinate development and access with adjoining sites so as to alleviate the impact of increased traffic on public roads.

### **SECTION 14.13 AREA, HEIGHT, AND USE EXCEPTIONS**

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

- A. **Essential Services.** Essential services shall be permitted as authorized and regulated by law and other Ordinances of the City of the Village of Clarkston; it being the intention hereof to exempt such essential services from the application of this Ordinance.

- B. **Voting Place.** The provisions of this Ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.
- C. **Height Limit.** Chimneys, church spires, belfries, cupolas, domes, penthouses, water towers, masts and aerals, smokestacks, ventilators, derricks, cooling towers, other similar and necessary mechanical appurtenances pertaining to and necessary to the permitted uses on the districts, public monuments or wireless transmission towers may be erected to a height not exceeding sixty (60) feet, flag poles may be up to forty (40) feet; provided, however, that the Zoning Board of Appeals may specify a height limit for any such structure when such structure requires authorization as a use subject to Article XVIII Special Land Use Approval. In addition, any height variance in excess of fifty (50) feet shall require mandatory Federal Aviation Administration approval.
- D. **Lots Adjoining Alleys.** In calculating the area of a lot that adjoins a dedicated alley or lane, for the purpose of applying lot area requirements of this Ordinance, one-half (½) the width of such alley abutting the lot shall be considered as part of such lot.
- E. **Yard Regulations.** When yard regulations cannot reasonably be complied with, as in the case of a planned development in the multiple-family district or where their application cannot be determined on lots existing and of record at the time this Ordinance became effective; and, on lots of peculiar shape, topography, or due to architectural or site arrangement, such regulations may be modified or determined by the Zoning Board of Appeals by the granting of a variance.
- F. **Multiple Dwelling Side Yard.** For the purpose of side yard regulations, a two-family, or multiple dwelling shall be considered as one (1) building occupying one (1) lot.
- G. **Terrace.** An open, unenclosed paved terrace may project into a front yard for a distance not exceeding ten (10) feet, but this shall not be interpreted to include or permit fixed canopies.
- H. **Projections into Yards.**
1. Certain architectural features, such as cornices, eaves and gutters, may project three (3) feet into the required front yard or open space, five (5) feet into the required rear yard or open space and two (2) feet into the required side yard or open space provided that such projection is a minimum of eight (8) feet above the grade level of the lot.
  2. Other architectural features not mentioned above and not including vertical projections, may extend or project into a required side yard not more than two (2) inches for each one (1) foot of width of such side yard; and may extend or project into a required front yard or rear yard not more than three (3) feet. Architectural features shall not include those details which are normally demountable.

3. An unenclosed, uncovered balcony or porch, terrace fire escape, or a metal awning may project into the required front yard or open space or into the required rear yard or open space or for a distance not to exceed ten (10) feet, or into the required side yard or open space for a distance not to exceed three (3) feet; however, a glass-enclosed porch may not so project. An enclosed vestibule containing not more than forty (40) square feet may project into the required front yard or open space for a distance not to exceed four (4) feet.
- I. **Residential Yard Fences.** Fences or walls of not more than six (6) feet in height may be constructed in residential districts within a required rear yard or side yard, and fences, hedges, or walls not more than thirty-six (36) inches in height within a required front yard, e.g. along the property line. Fences installed within the front yard shall be constructed of one or more of the following materials: wood, wrought iron, ornamental (tubular aluminum), brick, or natural stone. Chain link and vinyl fences are prohibited within the front yard. See Section 21.02 E. Screening, Obscuring Walls and Fences for additional requirements.
  - J. **Access through Yards.** For the purpose of this Ordinance, access drives may be placed in the required front or side yards so as to provide access to rear yards and/or accessory or attached structures. These drives shall not be considered as structural violations in front and side yards. Further, any walk, terrace, or other pavement servicing the like function, and not in excess of nine (9) inches above grade upon which placed, shall for the purpose of this Ordinance not be considered to be a structure, and shall be permitted in any required yards.
  - K. **Averaging Existing Front Setback Lines.** For any lot in a residential district where the average of the front setback, for existing buildings located within one hundred (100) feet on either side of said lot, is greater than the required setback specified in this Ordinance, a required setback shall be provided on the lot equal to this greater average depth. For the purpose of computing such average, an adjacent vacant lot shall be considered as having the minimum required front setback specified in the Zoning District. The Planning Commission shall determine and establish the average existing front yard setback on a block by block basis (see Section 13.00, footnote [n]).
  - L. **Noise.** Objectionable sounds, including those of an intermittent nature, shall be controlled so as not to become a nuisance to adjacent uses. The permitted noise in the VC and I-1 Districts shall not exceed seventy-five (75) decibels between the hours of 6:00 a.m. and 10:00 p.m., nor more than seventy (70) decibels between the hours of 10:00 p.m. and 6:00 a.m. All measurements shall be made at the property line. The Zoning Board of Appeals may grant a temporary waiver of this requirement.

## ARTICLE XV

### ADMINISTRATION AND ENFORCEMENT

#### **SECTION 15.00 ENFORCEMENT**

The provisions of this Ordinance shall be administered and enforced by the Code Officer, or by such deputies of his department as the Code Officer may delegate to enforce the provisions of this Ordinance, who shall be appointed by the City Council for such term and subject to such conditions and at such rate of compensation as said Council shall determine. In the exercise of his duties, the Code Officer shall have the right to enter private premises as provided by law.

#### **SECTION 15.01 DUTIES OF CODE OFFICER**

The Code Officer shall have the power to grant zoning compliance and occupancy permits, to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this Ordinance. It shall be unlawful for the Code Officer to approve any plans or issue any permits or certificates of occupancy for any excavation or construction until he has inspected such plans in detail and found them to conform with this Ordinance.

The Code Officer and/or such other officers or departments as shall be designated by the City Council, shall record in duplicate, one (1) copy of which shall be filed with the City Clerk, all nonconforming uses existing at the effective date of this Ordinance for the purpose of carrying out the provisions of Section 14.02.

The Code Officer is under no circumstances permitted to make changes in this Ordinance, nor to vary the terms of this Ordinance in carrying out his duties as Code Officer.

The Code Officer is under no circumstances permitted to grant exceptions to the actual meaning of any clause, order, or regulation contained in this Ordinance, to any person making application to excavate, construct, remove, alter, or use other buildings, structures or land within the City.

The Code Officer shall not refuse to issue a permit when conditions imposed by this Ordinance are complied with by the applicant despite violations of contracts, such as covenants or private agreements which may result upon the granting of said permit. If any application is not approved, the Code Officer shall state in writing on the application the cause for such disapproval. Issuance of permit shall in no case be construed as waiving any provision of this Ordinance.

The Code Officer shall record all non-conforming uses existing at the effective date of the Ordinance.



With regard to the National Flood Insurance Program, and the Regulation of Development within the flood hazard zone as prescribed in Article XXIII, the duties of the Code Officer shall include, but are not limited to:

- A. Notification to adjacent communities and the Department of Environmental Quality of the proposed alteration or relocation of any watercourse, and the submission of such notifications to the Federal Emergency Management Agency.
- B. Verification and recording of the actual elevation in relation to mean sea level of the lowest flood, including basement, of all new or substantially improved structures constructed within the flood hazard area, and in case of floodproofed structures, the elevation to which the structure was floodproofed.
- C. Recording of all certificates of floodproofing, and written notification to all applicants to whom variances are granted in a flood hazard area zone indicating the terms of the variance, the increased danger to life and property, and that the cost of flood insurance will increase commensurate with the increased flood risk, and may reach amounts in excess of \$25.00 for \$100.00 of insurance coverage per year. A record of all variance notifications shall be maintained together with the justification for each variance.
- D. All records and maps pertaining to the National flood Insurance Program shall be maintained in the office of the Code Officer and shall be open for public inspection.
- E. It shall be the responsibility of the Code Officer to obtain and utilize the best available flood hazard data for purposes of administering this Ordinance, in the absence of data from the Federal Emergency Management Agency.

## **SECTION 15.02 PLOT PLAN**

The Code Officer shall require that all applications for building permits (excavation, construction, moving, or alteration change in type of use) shall be accompanied by written statement and plans and specifications including a plot plan, in triplicate, drawn to scale, showing the following:

- A. The actual shape, location and dimensions of the lot.
- B. The shape, size and location of all buildings or other structures to be erected, altered or moved and of any building or other structures already on the lot.
- C. The existing and intended use of the lot and of all such structures upon it including, in residential areas, the number of dwelling units the building is intended to accommodate.
- D. The signature of the fee holder owner of the premises concerned.

- E. Such other information concerning the lot or adjoining lots as may be essential to determining whether the provisions of this Ordinance are being observed.

**SECTION 15.03 PERMITS**

The following shall apply in the issuance of any permit:

- A. **Permits Not to be Issued.** No building permit shall be issued for the erection, alteration, or use of any building or structure as part thereof, or for the use of any land, which is not in accordance with all provisions of this Ordinance.
- B. **Permits for New Use of Land.** No land heretofore vacant shall hereafter to be used or an existing use of land be hereafter changed to a use of a different class or type unless a certificate of occupancy is first obtained for the new or different use.
- C. **Permits for New Use of Building.** No building or structure, or part thereof, shall be changed to or occupied by a use of a different class or type unless a certificate of occupancy is first obtained for the new or different use.
- D. **Permits Required.** It shall be unlawful for any person to commence excavation for or construction of any building or structure, structural changes, or repairs in any existing building or structure, or moving of an existing building, without first obtaining a permit from the Code Officer. No building or structure, or part thereof, shall be hereafter erected, altered, moved or repaired unless a building permit shall have been first issued for such work. The terms "altered" and "repaired" shall include any changes in structural parts, stairways, type of construction, type, class or kind of occupancy, light or ventilation, means of egress and ingress, or other changes affecting or regulated by the City Building Code, Housing Law of Michigan, or this Ordinance, except for minor repairs or changes not involving any of the aforesaid features.

No plumbing, electrical, drainage or other permit shall be issued until the Code Officer has determined that the plans and designated use indicate that the structure and premises, if constructed as planned and proposed, will conform to the provisions of this Ordinance.

- E. **Flood Hazard Area Application Information.** In addition to the information required for an application for a building permit, special use permit or any other type of development permission required under this Ordinance, the following information must be submitted as a part of an application to commence any type of development within a flood hazard zone:
  - 1. The elevation in relation to mean sea level of the floor, including basement, of all structures;
  - 2. Where floodproofing will be employed, the elevation in relation to mean sea level to which a structure will be floodproofed.

3. Where flood proofing will be employed, a certificate from a registered professional engineer or architect that the floodproofing criteria of this Ordinance will be met.
4. Where it can be determined that development is proposed within zones A1-30 on the FIRM or the regulatory floodway, a certification as required by this Ordinance.
5. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
6. Proof of development permission from appropriate local, state, and federal agencies as required by Section 23.03 A.3., including a floodplain permit approval, or letter of authority from the Michigan Department of Environmental Quality under authority of Act 245, Public Acts of 1929, as amended by Public Act 167, Public Acts of 1968, as amended by Public Act 451, Public Act of 1994.
7. Base flood elevation data where the proposed development is subject to Public Act 288 of 1967, as amended by Public Act 451 of 1994 or greater than five (5) acres in size.
8. Additional information which may be reasonably necessary to determine compliance with the provisions of this Ordinance.

F. **Inspection.** The Code Officer shall be notified by the person, firm, or corporation obtaining the permit when the foundations are completed and the Inspector shall inspect same within three (3) days after notification. If in conformance with the provisions of this Ordinance, the Code Officer shall endorse each fact upon the building permit.

#### **SECTION 15.04 CERTIFICATES**

It shall be unlawful to use or permit the use of any land, building, or structure for which a permit is required, and to use or permit to be used any building or structure hereafter altered, extended, erected, repaired, or removed until the Code Officer shall have issued a Certificate of Occupancy stating that the provisions of this Ordinance have been met.

The following shall apply in the issuance of any certificate:

A. **Certificates Not to be Issued.** No certificate of occupancy pursuant to the Building Code of the City of the Village of Clarkston shall be issued for any building, structure or part thereof or for the use of any land, which is not in accordance with all the provisions of this Ordinance.

- B. **Certificates Required.** No building or structure, or parts thereof, which is hereafter erected or altered, shall be occupied or used or the same caused to be done, unless and until a certificate of occupancy shall have been issued for such building or structure.
- C. **Certificates Including Zoning.** Certificates of occupancy as required by the Building Code for new buildings or structures, or parts thereof, or for alterations to or changes of use of existing buildings or structures, shall also constitute certificates of occupancy as required by this Ordinance.
- D. **Certificates for Existing Buildings.** Certificates of occupancy may be issued for existing buildings, structures, or parts thereof, or existing uses of land if, after inspection, it is found that such buildings, structures, or parts thereof, or such use of land, are in conformity with the provisions of this Ordinance. Certificates of occupancy may be issued for business buildings in VC district existing at the effective date of this Ordinance which change occupancy and which do not provide sufficient parking as required under Article XX, provided there is no decrease in the number of spaces existing at the effective date of this Ordinance.
- E. **Temporary Certificates.** Nothing in this Ordinance shall prevent the issuance of a temporary certificate of occupancy for a portion of a building or structure in process of erection or alteration, provided that such temporary certificate shall not be effective for a period of time in excess of six (6) months, and provided further that such portion of the building, structure, or premises is in conformity with the provisions of this Ordinance.
- F. **Records of Certificates.** A record of all certificates issued shall be kept on file in the office of the Code Officer, and copies shall be furnished upon request to any person having proprietary or tenancy interest in the property involved.
- G. **Certificates for Dwelling Accessory Buildings.** Buildings accessory to dwellings shall not require separate certificates of occupancy but may be included in the certificate of occupancy for the dwelling when shown on the plot plan when completed at the same time as such dwellings.
- H. **Applications for Certificates.** Application for certificates of occupancy shall be made in writing to the Code Officer on forms furnished by the City and such certificates shall be issued within ten (10) days after receipt of such application if it is found that the building or structure, or part thereof or the use of land is in accordance with the provisions of this Ordinance.

If such certificate is refused for cause, the applicant therefore shall be notified of such refusal and cause thereof, within the aforesaid ten (10) day period.

### **SECTION 15.05 FINAL INSPECTION**

The holder of every building permit for the construction, erection, alteration, repair, or moving of any building, structure, or part thereof, shall notify the Code Officer immediately upon the completion of the work authorized by such permit, for a final inspection.

### **SECTION 15.06 FEES**

Applicants for permits required by this Ordinance shall pay to the City, at the time of application for such permit is made, fees as established by the City Council.

### **SECTION 15.07 INTERPRETATION, PURPOSE, AND CONFLICT**

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, morals and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any Ordinance, rules, regulations or permits previously adopted or issued, and not in conflict with any of the provisions of this Ordinance, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises and likewise not in conflict with this Ordinance; nor is it intended by this Ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties, provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon heights of buildings or requires larger open spaces or larger lot areas than are imposed or required by such Ordinance or agreements, the provisions of this Ordinance shall control.

### **SECTION 15.08 PUBLIC HEARING NOTICES**

- A. **When Required.** Public hearings are required in these instances where public hearings are required by this Ordinance and Public Act 110 of 2006, as amended.
- B. **Notice Requirements.** Notice shall be given not less than fifteen (15) days before each public hearing at which an application will be considered. Notice shall be given by publication in a newspaper that circulates in the City of the Village of Clarkston, and by personal delivery or mailing, where required, to the following:
  - 1. The applicant, and the owner(s) of the property, if the applicant is not the owner.
  - 2. All persons to whom real property is assessed within three hundred (300) feet of the boundary for the property for which the approval has been requested, as shown by the latest assessment roll, regardless of whether the owner and property is located within Clarkston.
  - 3. The occupants of any structures within three hundred (300) feet of the boundary for the property for which the approval has been requested, regardless of whether the owner and property is located within the City, except as set forth below.

4. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different persons, one (1) occupant of each unit or spatial area shall be given notice. If a single structure contains more than four (4) dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.
5. The notice under this section is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States Postal Service or other public or private delivery service. If the name of the occupant is not known, the term “occupant” may be used for the intended recipient of the notice.

**C. Actions Exempt from Notification**

1. Requirements for individual notice to property owners shall not apply to Ordinance text amendments.
2. For any group of adjacent properties numbering eleven (11) or more that is proposed for rezoning, the requirement for individual notice as set forth in Section 15.08.B. 3 and 4 does not apply to that group of adjacent properties.

**D. Content of Notice.** The notice shall include:

1. The nature of the request.
2. The property(ies) for which the request has been made.
3. A listing of all existing street addresses within the property(ies) which is (are) the subject of the request. Street addresses do not need to be created and listed if no such addresses exist. If there are no street addresses, another means of identification may be used.
4. The location where the application documents can be viewed and copied prior to the date the application will be considered.
5. The date, time, and location of when the hearing on the application will take place.
6. The address at which written comments should be directed prior to the consideration.

**SECTION 15.09 VIOLATIONS**

- A. Any violation of any provision of this Ordinance or any permit, license or exception granted hereunder, or any lawful order of the Code Officer, Planning Commission, Board

of Appeals, or the City Council issued in pursuance of this Ordinance shall be a municipal civil infraction. A "violation" includes any act which is prohibited or made or declared to be unlawful or an offense by this Ordinance and any omission or failure to act where the act is required by this Ordinance.

- B. The sanction for any violation of this Ordinance which is a municipal civil infraction shall be a civil fine as provided in Section 15.10 of this Ordinance, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of Act 236 of the Public Acts of 1961, as amended, and other applicable laws.
- C. The Code Officer, together with the police officers of the City, are the City officials authorized to issue municipal civil infraction citations and municipal civil infraction notices for violations of this Ordinance.

### **SECTION 15.10 SCHEDULE OF FINES**

#### **A. General.**

- 1. A person, corporation or firm who, as a result of violating any provision of this Ordinance, is responsible for a municipal civil infraction shall pay a civil fine as established by City Council, for each infraction.
- 2. Repeat offenses shall be subject to increased fines as established by City Council. As used in this Section, "repeat offenses" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this Ordinance (1) committed by a person, corporation or firm within any twelve (12) month period; and (2) for which the person admits responsibility or is determined to be responsible.

- B. **Fines for Violation Notices.** A person, corporation or firm who, as a result of violating any provision of this Ordinance, receives a municipal civil infraction violation notice, upon a determination of responsibility thereon, shall pay a civil fine at the City of the Village of Clarkston Municipal Ordinance Violations Bureau as established by City Council.

### **SECTION 15.11 PUBLIC NUISANCE PER SE**

In addition to all other remedies, including the penalties provided in this Section of this Ordinance, the City may commence and prosecute appropriate actions or proceedings in a court of competent jurisdiction, to restrain or prevent any noncompliance with or violation of any of the provisions in this Ordinance, or to correct, remedy or abate such non-compliance or violation. Buildings erected, altered, razed, or converted, or uses carried on in violation of any provisions of this Ordinance or in violation of any regulations made under the authority Public

Act 110 of 2006, as amended , as amended, are hereby declared to be a nuisance per se, and the court shall order such nuisance abated.

Any building or structure which is altered or converted, or any use of premises or land which is begun or changes subsequent to the time of passage of this Ordinance and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se and shall be abated by order of a court by competent jurisdiction.

#### **SECTION 15.12 RIGHTS AND REMEDIES ARE CUMULATIVE**

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

- A. **Civil Rights and Remedies not Affected.** The Provisions of this Ordinance are not to be deemed to affect any civil rights or remedies existing at the time when this Ordinance takes effect, by virtue of common law or any provisions of statute.
- B. **Civil Remedies Preserved.** The omission to specify or affirm in this Ordinance any liability to damages, penalty or forfeiture or other remedy, imposed by law and allowed to be recovered or enforced in any civil action or proceeding, for any act or omission declared punishable herein does not affect any right to recover or enforce the same.

#### **SECTION 15.13 FORBEARANCE NOT CONDONED**

Patience and/or tolerance in enforcing this Ordinance shall not be construed as allowing or condoning violations of the Ordinance.

#### **SECTION 15.14 FINES, IMPRISONMENT**

The owner of any building, structure or premises of part thereof, where any condition in violation of this Ordinance shall exist or shall be created, and who has assisted knowingly in the commission of such violation shall be guilty of a separate offense and upon conviction thereof shall be liable for the fines and sanctions herein provided. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this Ordinance.

#### **SECTION 15.15 EACH DAY A SEPARATE OFFENSE**

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

#### **SECTION 15.16 VARIANCE**



A zoning variance is a modification of the literal provisions of the Zoning Ordinance granted when strict enforcement would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted. The crucial points of variance are undue hardship, and unique circumstances, applied to property. A variance is not justified unless all of these elements are present in the case

### **SECTION 15.17      EXCEPTION**

An exception is a use permitted only after review by the Planning Commission, City Council, or Board of Appeals of an application, such review being necessary because the provisions of the Ordinance covering conditions, precedent or subsequent, are not precise enough to all applications without interpretation, and such review is required by Ordinance

### **SECTION 15.18      PLANNING COMMISSION**

- A. The City Planning Commission is hereby designated as the Commission specified in P.A. 110 of 2006, as amended; and shall perform the duties of said Commission as provided in the statute in connection with the amendment of this Ordinance.
- B. The City Planning Commission consists of five (5) members including one ex officio member of the City Council as a voting member of the Planning Commission. The members must represent insofar as is possible different professions or occupations. The Mayor appoints the members subject to the approval by a majority vote of the City Council. Members of the Planning commission may be compensated at a rate to be determined by the City Council by a majority vote. A member may hold no other municipal office except the one member of City Council, and also that one of the members may be a member of the Zoning Board of Appeals. The City Council must establish the powers and duties of the Planning Commission by ordinance.
- C. In cases where the Planning Commission is required to recommend certain use of premises under the provisions of this Ordinance, the applicant shall furnish such surveys, plans, or other information as may be required (see Article XVII) by said commission for the proper consideration of the matter.
- D. The Planning Commission shall investigate the circumstances of each such case and shall notify such parties who may in its opinion be affected thereby of the time and place of any hearing that may be held relative thereto as required under its rules of procedure.
- E. The Planning Commission may impose such conditions or limitations in recommending approval as may, in its judgment, be necessary to fulfill the spirit and purpose of this Ordinance.
- F. When site plan review is required by the Planning Commission under the terms of this Ordinance, a site plan fee may be required to cover the cost of such reviews including

plans, planning and engineering consultants, and other such professional services in accordance with a schedule of fees adopted by the City Council.

### **SECTION 15.19 PLANNING COMMISSION APPROVAL**

In cases where the Planning Commission is empowered to recommend approval for certain use of premises under the provisions of the Ordinance, the applicant shall furnish such surveys, plans or other information as may be reasonably required by said Commission for the proper consideration of the matter.

The Planning Commission shall investigate the circumstances of each such case and shall notify such parties, who may in its opinion be affected thereby, as required under its rules of procedure. The Planning Commission may recommend imposing such conditions or limitations in recommending approval as may in its judgment be necessary to fulfill the spirit and purpose of this Ordinance.

### **SECTION 15.20 PERFORMANCE GUARANTEES**

- A. Performance bonds, irrevocable bank letters of credit, cash deposits, or other forms of security acceptable as to type and amount to the City Council shall be provided by the applicant to the City Clerk. Such security shall be for construction of site improvements shown on the approved site plan.
- B. The applicant shall submit a cost estimate of the improvements to be covered by the guarantee, and verified as to amount by the City Manager. The City Council may release portions of a deposit in relation to work completed and approved upon inspection as complying with an approved plan provided however, that the balance on deposit will be sufficient to complete remaining site improvements. In the event that the applicant shall fail to provide improvements according to an approved site plan, the City Council shall have the authority to have such work completed, and to reimburse itself for costs of such work by appropriating funds from the deposited security, or may require performance by the bonding company.

## ARTICLE XVI

### ZONING BOARD OF APPEALS

#### **SECTION 16.00 INTENT AND PURPOSE**

The purpose of this Article is to ensure that the objectives of this Ordinance are fully and equitably achieved, that a means be provided for competent interpretation of this Ordinance, that flexibility be provided for the strict application of this Ordinance, that the spirit of the Ordinance be observed, public safety secured and substantial justice done.

#### **SECTION 16.01 CREATION AND MEMBERSHIP**

- A. A Zoning Board of Appeals is hereby established in accordance with Public Act 110 of 2006, as amended. The Board shall consist of not less than five (5) members appointed by a majority vote of the City Council: including one member of the City Council appointed by the City Council; and the remaining members appointed by the City Council from the electors residing in the City. The members selected shall be representative of the population, distribution and of the various interests present in the City. In addition to the five (5) regular members, the Council shall appoint two (2) alternate members to serve the same term as regular members in the absence of a regular member. Alternate members may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. Alternate members shall have the same voting rights as regular members.
- B. Members may be reappointed. An elected officer of the City shall not serve as chairperson of the Zoning Board of Appeals. An employee of the City may not serve as a member of the Board. Appointments shall be for a period of one (1), two (2), and three (3) years, respectfully, so as nearly as may be to provide for appointment at an equal number each year, thereafter, each member to hold office for the full three (3) year term. Terms for those members serving because of their membership on the Planning Commission or City Council shall be limited to the time that they are members of those bodies. Vacancies shall be filled by resolution of the legislative body for any expired term of the vacant term. Successors shall be appointed not more than one (1) month after the term of the preceding member has expired. Members of the Board of Appeals shall be removable by the City Council for nonfeasance, malfeasance, and misfeasance of office upon written charges and after a public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure to do so shall constitute misconduct in office.
- C. The compensation of the appointed members of the Zoning Board of Appeals may be fixed by the City Council.

## **SECTION 16.02 ORGANIZATION**

- A. **Rules of Procedure.** The Zoning Board of Appeals shall adopt rules of procedure for the conduct of its meetings and the implementation of its duties. The Board shall annually elect a chairperson, a vice-chairperson, and a secretary at its first meeting following January 1 of each year. The officers shall serve until successors are elected.
- B. **Meetings and Quorum.** Meetings of the Zoning Board of Appeals shall be held at the call of the chairperson and at such other times as the Board in its Rules of Procedure may specify. Three (3) members of the Board shall constitute a quorum for the conduct of business. The ZBA shall not conduct business unless a majority of its members are present. All meetings shall be open to the public.
- C. **Oaths and Witnesses.** The chairperson shall have the power to administer oaths, and compel the attendance of witnesses,
- D. **Votes.** The concurring vote of a majority of the members of the ZBA is necessary for any decision.
- E. **Representation.** Any person may appear on his behalf at a hearing or may be represented by an agent or attorney.
- F. **Records.** Minutes shall be kept for each meeting, and the Board shall record into the minutes all findings, conditions of approval, facts, or other relevant factors, and all its official actions for every determination made by the Board. The vote of each member upon a question, or a member's absence or abstention, shall be recorded into the minutes of the meeting. The Zoning Board of Appeals shall file its minutes in the office of the City Clerk.
- G. **Fees.** The City Council may from time to time prescribe and amend by resolution a reasonable schedule of fees to be charged to applicants for appeals to the Zoning Board of Appeals. At the time the notice of appeal is filed said fee shall be paid over to the City Treasurer to the credit of the general revenue fund of the City.

## **SECTION 16.03 JURISDICTION**

The Zoning Board of Appeals acts upon questions as they arise in the administration of this Ordinance. The Board shall perform its duties and exercise its powers as provided in Public Act 110 of 2006, as amended. The Zoning Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor make any change in the terms or intent of this Ordinance, but does have the power to act on those matters for which this Ordinance provides an administrative review, interpretation, variance, or temporary use permit. Within this capacity the Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of the Code Officer, Planning

Commission or any official administering or enforcing the provisions of this Ordinance as set forth in Section 16.04.

#### **SECTION 16.04 AUTHORIZED APPEALS**

The Zoning Board of Appeals shall hear the following specified categories of appeals as provided for in this chapter and the Zoning Act, as amended, in accordance with the following standards:

- A. **Administrative Review.** The Zoning Board of Appeals 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 Code Officer or by any other administrative official in administering or enforcing the provisions of this Ordinance.
  
- B. **Interpretation of the Ordinance.** The Board of Appeals shall hear and decide upon request to:
  - 1. Interpret the provisions of this Ordinance when it is alleged that certain provisions are not clear or that they could have more than one meaning. In deciding upon such request the Zoning Board of Appeals shall insure that its interpretation is consistent with the intent and purpose of the Ordinance and the article in which the language in question is contained.
  - 2. Interpret the Zoning Map. The Board shall be governed by the rules of interpretation set forth in Section 19.04.
  - 3. Classify a use which is not specifically mentioned as part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district.
  - 4. Determine the parking space requirements of any use not specifically mentioned either by classifying it with one of the groups listed by an analysis of the specific needs.
  
- C. **Variance.** The Zoning Board of Appeals shall have the power to authorize a specific variance from site development requirements so that the spirit of the Zoning Ordinance is observed, public safety secured, and substantial justice done. Examples of site development requirements for which variances can be issued include lot area and width regulations, building height and bulk regulations, yard width and depth regulations, off-street parking and loading space requirements, of this ordinance, provided that all the required findings listed below are met:
  - 1. That there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this Ordinance. These difficulties or hardships shall

not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.

2. That a genuine hardship or difficulty exists because of unique circumstances or physical condition such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not generally apply to other property uses in the same zoning district, and shall not be recurrent in nature.
3. That the hardship, difficulty, or special conditions or circumstances are not self-created and do not result from actions of the applicant.
4. That the variance will be in harmony with the general purpose and intent of this Ordinance and will not cause a substantial adverse effect upon surrounding property, property values, and the use and enjoyment of property in the neighborhood or district.
5. That granting the variance will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.
6. That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship or difficulty.
7. That the variance shall not permit the establishment, within a district, of any use which is not permitted by right within the zoning district, or any use for which a special use permit or a temporary use permit is required.
8. Temporary buildings and uses may be permitted for periods not to exceed two (2) years in undeveloped sections of the City and for periods not to exceed six (6) months in developed sections.
9. In granting the variance, the Zoning Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made part of the terms under which the variance is granted, shall be deemed a violation(s) of this Ordinance and shall automatically invalidate the permit.
10. Each variance granted under the provisions of this Ordinance shall become null and void unless:
  - a. The construction authorized by such variance or permit has commenced within six (6) months of granting of the variance.
  - b. The occupancy of land, premises, or building has taken place within one (1) year after the granting of the variance.

11. No application for the variance which has been denied, wholly or in part, by the Zoning Board of Appeals shall be resubmitted for a period of one (1) year from the date of the last denial, except on the ground of newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid.
12. Variances may be granted for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the Michigan Historic Markers listing of historic sites, or any other state register of historic places without regard to the requirements of this section governing variances in flood hazard areas.

D. **Variance from Flood Hazard Areas.** Variances from the provisions of Article XXIII, Flood Hazard Areas shall only be granted by the Zoning Board of Appeals upon a determination of compliance with the general standards for variances contained in this ordinance and each of the following specific standards:

1. A variance shall not be granted within a regulatory floodway where the result would be any increase in flood levels during a base flood discharge; except upon certification by a registered professional engineer of the Department of Environmental Quality that the cumulative effect of the proposed development will not harmfully increase the water surface elevation of a base flood. In determining whether a harmful increase will occur, compliance with Public Act 451 of 1994, as amended, shall be required, provided that the allowable increase, including the increase used as the design standard for delineating the floodway, shall not exceed one (1) foot.
2. A variance shall be granted only upon:
  - a. A showing of good sufficient cause;
  - b. A determination that failure to grant a variance would result in exceptional hardship to the applicant; and
  - c. A determination that the granting of the variance will not result in flood heights in excess of those permitted by this ordinance, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.
3. The variance granted shall be the minimum necessary, considering the flood hazard, to afford relief to the applicant.

## **SECTION 16.05 APPEAL PROCEDURES**

- A. **Notice of Appeal.** Appeals to the Zoning Board of Appeals may be made by any person firm or corporation aggrieved, or by an officer or department of the City affected by a decision of the Code Officer or Planning Commission when exercising its administrative role. Such appeal shall be taken within such time as shall be prescribed by the Zoning Board of Appeals by general rule, by filing a written Notice of Appeal with the City Clerk. The notice of appeal shall specify the specific grounds upon which the appeal is based and shall be signed. It shall also specify the requirements from which a variance is sought and the nature and extent of such variance. Upon receipt of a Notice of Appeal, the City Clerk shall promptly transmit the records concerning the appealed action to the chairperson of the Appeals Board. Any appeal from the ruling of the Code Officer concerning the enforcement of the provisions of this Ordinance shall be filed within ten (10) days after the date of the Code Officer's decision.

The appeal stays all proceedings in furtherance of the action appealed, unless the body or office from whom the appeal is taken certifies to the ZBA that by reason of facts stated in the certificate, a stay would, in the opinion of the body or officer cause imminent peril of life or property, in which case proceedings may be stayed by a restraining order issued by the ZBA or a circuit court.

- B. **Hearing.** Upon receipt of a Notice of Appeal, the chairperson of the Board of Appeals shall fix a reasonable time and date for a Public Hearing, not to exceed forty-five (45) days from the date of filing of the Notice of Appeal. Upon determination of the date and time of the Public Hearing, the City Clerk shall publish a notice of the public hearing per Section 15.08 of this ordinance.
- B. **Appearance.** Upon the hearing, any party may appear in person or by agent or attorney. The Board may recess such hearing from time to time, and, if the time and place of the continued hearing are announced at the time of adjournment, no further notice shall be required.
- C. **Official Record.** The Board of Appeals shall prepare an official record for each appeal and shall base its decision on this record. The official record shall include:
1. The relevant administrative records and the administrative orders issued thereon relating to the appeal.
  2. The notice of appeal.
  3. Such documents, exhibits, photographs, or written reports as may be submitted to the Board for its consideration.
  4. The requisite written findings of fact, the conditions attached, and the decisions and orders by the Board of Appeals in disposing of the appeal shall be entered into the official record after they have been signed by the chairman of the Board and after written notice of the disposition of the appeal has been served, either in person or by mail, upon the parties to the appeal and the Code Officer. The



Chairman shall within ten (10) days after the date the Board has reached its final decision on an appeal, sign the necessary orders to effectuate the decision of the Board.

5. A copy of the official record of an appeal shall be made available for the parties to the appeal upon request and after the payment of such fee therefore as may be provided by the City Council.
- D. **Fee.** A fee as established by the City Council shall be paid to the City Clerk at the time the petitioner files an application with the Board. The purpose of such fee is to cover the necessary advertisements, investigations, hearing records and other expenses incurred by the Board in connection with the appeal. No fee shall be charged if the City or any official body of the City is the moving party.
- E. **Decision.** The Board of Appeals shall render its decision within forty-five (45) days of filing of Notice of Appeal unless an extension of time is necessary to review new information pertinent to making the decision, and is agreed upon by the appellant and a majority of members of the Appeals Board present. The concurring vote of the majority of the members of the of the Board shall be necessary:
1. To reverse any order, requirements, decision or determination of the Code Official, an administrative official or body; or
  2. To decide in favor of the applicant any matter upon which it is authorized by this Ordinance to render a decision; or
  3. To effect any variance in this Ordinance, except for a use variance.
  4. The granting of a use variance shall require the concurring vote of two-thirds (2/3) of the members of the Board. Nothing herein contained shall be construed to give or grant to the Board the power or authority to alter or change this Ordinance or the Zoning Map, such power and authority being reserved to the City Council of the City of the Village of Clarkston in the manner provided by law.
- F. **Bonding.** In authorizing any variance, or in granting any conditional, temporary or special approval permits, the Board may require that a cash deposit, certified check, irrevocable bank letter of credit or surety bond acceptable to the City covering the estimated cost of improvements associated with a project for which zoning approval is sought, be deposited with the City Clerk to insure faithful completion of the improvements. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project. The Board may not require the deposit of the performance guarantee before the date on which the permit is to be issued. The Board shall establish procedures under which a rebate of any cash deposits in reasonable proportions to that portion of work completed on the required improvements will be made as work progresses.

## **SECTION 16.06 REVIEW BY CIRCUIT COURT**

Any party aggrieved by an order, determination or decision of any officer, agency, board, commission, Board of Appeals or legislative body of the City of the Village of Clarkston which has acted pursuant to the provisions of P.A. 110 of 2006, as amended may obtain a review thereof both on the facts and the law, in the Circuit Court of Oakland County, provided that all other means of local appeal and review as provided in this Ordinance have first been exhausted. The Circuit Court shall review the record and decision of the Board of Appeals to insure that the decision:

- A. Complies with the constitution and laws of the State.
- B. Is based upon proper procedure.
- C. Is supported by competent, material, and substantial evidence on the record.
- D. Represents the reasonable exercise and discretion granted by the Board of Appeals.

## **SECTION 16.07 ORDERS**

In exercising the above powers, the Board may reverse or affirm wholly or partly, or may modify the orders, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Administrative Official from whom the appeal is taken.

## **SECTION 16.08 MISCELLANEOUS**

No order of the Board permitting the erection of a building shall be valid for a period longer than one (1) year, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

No order of the Board permitting a use of a building or premises shall be valid for a period longer than one (1) year unless such use is established within such period, provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and affect 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 the terms of such permit.

## **ARTICLE XVII**

### **SITE PLAN REVIEW**

#### **SECTION 17.00 INTENT AND PURPOSE**

The intent of this article is to establish the procedures and consistent standards for review and approval of site plans to ensure full compliance with the regulations in this Ordinance and other applicable ordinances and state and federal regulations of development proposals. Site plan review standards are intended to encourage consultation and cooperation between the applicant and the City to balance the property owner's right to a reasonable rate of return on investment with the City's overall land use goals and desire to minimize adverse impacts on the investments of surrounding landowners. Therefore, these site plan review standards ensure a thorough evaluation of a development in relation to the goals of the Master Plan and the potential impacts on the environment, drainage, utilities, traffic, aesthetics, property values and other public health, safety and welfare issues.

This section also contains special provisions to evaluate impacts of particular uses and to allow administrative approval in certain cases where there is a change in use, a minor change to an existing site or a minor change determined necessary in the field during construction.

#### **SECTION 17.01 RELATIONSHIP TO PLATTING AND LAND DIVISIONS OR COMBINATIONS**

The City Council shall require the platting of parcels of property and/or the approval of land divisions or land combinations prior to the consideration of site plans where the City Council determines a site plan is needed to ensure capability to comply with the standards of the Zoning Ordinance or other ordinances.

#### **SECTION 17.02 USES REQUIRING SITE PLAN REVIEW**

Except as specifically provided in Section 17.03 and Section 17.04, the development of any new use, the construction of any new structures, any change of an existing use of land or site, and all other building or development activities in R-1, R-2, RM, RC, VC, RPDD, and I-1 districts shall require site plan approval by the Planning Commission pursuant to the conditions of Article XVII.

- A. Site plan review as provided for in this Ordinance, any other provision notwithstanding, shall apply to:
  - 1. New construction, excluding single-family residences; provided however all right to review proposed plats as provided by this Ordinance and State law shall continue.

2. All additions to existing structures, excluding single-family, which will result in an increase of existing floor area, including multiple floors if such exist, in excess of ten percent (10%) or one thousand (1,000) square feet, whichever is the lesser; provided further that changes from one allowable use to another allowable use within the same district shall not require site plan review.
- B. Any development, except single-family residential, for which off-street parking areas are provided as required in Article XX, OFF-STREET PARKING REQUIREMENTS.
- C. Any use in a VC, I, RM, or RPDD district lying contiguous to or across a street from a single-family residential district.
- D. Any use except single-family residential which lies contiguous to a major thoroughfare or collector street.
- E. Development of any non-single-family use or building in the Residential Districts.
- F. Any residential development, except construction or expansion of one single-family or two-family dwelling unit on an individual lot or parcel in the Residential zoning districts, or placement of dwelling units in an approved manufactured housing park.
- G. Development of any nonresidential use or building.
- H. The erection, relocation, conversion or structural alteration to any non-single-family or two-family building, structure or site which results in additional floor space.
- I. Any development which would establish more than one (1) principal use on a single lot: for example, a single-family site condominium or similar project where a single parcel is to be developed with more than one (1) detached dwelling unit.
- J. Special Land Uses in all zoning districts.
- K. Cellular phone towers, located on municipal property only.
- L. Essential public service buildings and storage areas.
- M. Any change in the use of land or a building to a different class or type to a more intensive use, as determined by the Code Officer, that may involve significant changes to features such as building appearance, parking needs, traffic flow, traffic volumes, buffering needs, hours of operation, noise, effluent discharge, drainage and similar impacts. Any significant change adjacent to, or across the street from, a Single-Family Residential District shall require site plan review.
- N. A change in use on a site which does not conform to the site design standards of this Zoning Ordinance.

**SECTION 17.03 PROJECTS ELIGIBLE FOR SKETCH PLAN REVIEW (I.E. ADMINISTRATIVE APPROVAL)**

- A. **Intent.** The intent of this Section is to permit submittal of sketch plan in certain specific instances where a complete site plan is not considered essential to ensure compliance with the intent and standards of this Zoning Ordinance.
- B. **Procedure.** The process for administrative approval shall involve submittal of a sketch plan and required application form and fee to the Code Officer. The Code Officer shall review the sketch plan to ensure compliance with standards of this ordinance and make a report of administrative approvals to the Planning Commission.

The Code Officer retains the option to require a complete site plan for review by the Planning Commission, particularly for sites which do not comply with previously approved site plans, sites with parking deficiencies, sites abutting residential districts or sites experiencing problems with drainage, traffic, noise, aesthetics or other general health and safety issues. If a full site plan is required, the Code Officer shall inform the applicant to submit a set of plans in accordance with Section 17.06 of this Ordinance within fourteen (14) days of receipt of the application.

- C. **Eligibility.** A sketch plan, rather than a complete site plan package, may be submitted for minor modifications to a legally existing and conforming use and building which is permitted in the zoning district (i.e. Special Land Uses are not eligible) including alterations to a building or site that do not result in expansion or substantially affect the character or intensity of the use, vehicular or pedestrian circulation, drainage patterns, the demand for public infrastructure or services, significant environmental impacts or increased potential for hazards; including the following uses and situations:

- 1. Group day care homes.
- 2. Home occupations.
- 3. Temporary uses, sales and seasonal events.
- 4. An increase in the floor area on the site by up to one thousand (1,000) square feet or ten percent (10%) of the existing floor area, whichever is less, with no required increase in parking area. Administrative approval is not permitted if the cumulative total of the proposed expansion and any expansion within the last five (5) years, as determined by the Code Officer exceeds this amount.
- 5. An existing building and site are to be re-occupied by a use permitted in the subject zoning district and the new use will not require any significant changes in the existing site facilities such as parking, landscaping, lighting, signs, bike paths, or sidewalks.
- 6. Improvements to outdoor recreational uses and parks.

7. Expansion, replanting or alterations of landscaping areas consistent with the other requirements of this Ordinance.
8. Improvements or installations of walls, fences, lighting or curbing consistent with the other requirements of this Ordinance.
9. Alterations to the off-street parking layout or installation of pavement or curbing improvements provided the total number of spaces shall remain constant, and the construction plans and lot construction are approved by the City Engineer.
10. Relocation of a waste receptacle to a more inconspicuous location or installation of screening around the waste receptacle.
11. Changes to the facade or architectural features (an elevation plan describing changes and construction materials is required).
12. Construction or relocation of a permitted accessory building of less than one hundred (100) square feet.
13. Approved changes to utility systems.
14. Grading, excavation, filling, soil removal, creation of ponds or clearing of trees.
15. A change in use in a nonconforming use building or site to a more conforming situation.
16. Modifications to upgrade a building to improve barrier-free design, or to comply with the Americans with Disabilities Act (ADA) or other federal, state or county regulations.
17. Accessory structures.

D. **Requirements for a Sketch Plan.** A “sketch plan” submittal shall include at least the following:

1. Application form and review fee.
2. Name, address and telephone number of the applicant and the person(s) responsible for preparing the plot plan.
3. North arrow.
4. Legal description of the property.
5. The “sketch plan” shall be drawn at an engineer’s scale. Any building expansion over five hundred (500) square feet within a five (5) year period involving public

safety issues, as determined by the Code Officer shall require a professional seal of an architect, landscape architect or engineer.

6. Property lines and dimensions.
7. Existing and proposed buildings and structures with dimensions, setbacks and details or elevations where appropriate.
8. Existing and proposed parking including number of spaces provided as required according to Article XX. If changes are made to the parking area, a detail of pavement, storm water runoff calculations and description of detention methods shall be provided.
9. Details on any new driveways or changes to existing driveways (radii, throat width, slope, boulevard design, etc.).
10. Location of existing signs and details on any proposed changes or new signs.
11. General illustrations of existing landscaping; location, size and species of any new landscaping.
12. Layout of any proposed changes to utilities.
13. Description of any proposed changes to drainage.
14. Floor plan of any new building area or building elevations, if applicable.
15. Any other items requested by City staff or the Planning Commission.

#### **SECTION 17.04 EXCEPTIONS TO SITE PLAN REVIEW**

- A. Site plan review shall not be required for the following:
1. Construction or erection of permitted accessory buildings and structures accessory to a single or two-family dwelling unit.
  2. Construction or erection of permitted accessory buildings and structures less than one hundred (100) square feet in area accessory to a single-family, commercial, office, essential service, municipal or industrial use.
  3. Grading, excavation, filling, soil removal, creation of ponds or clearing of trees within an area up to one hundred (100) square feet, provided such activity is normally and customarily incidental to single-family uses on the site.

4. Permitted family foster care homes, family day homes and adult day care homes in single-family zoning districts.
5. Keeping of animals, except kennels.
6. Internal construction or change in the floor plan that does not increase gross floor area, increase the intensity of use or affect parking requirements on a site which meets all site design standards of the Ordinance.
7. Construction or erection of signs, retaining walls, fences, waste receptacles, sidewalks, antennas, lights, poles, cooling/heating or other mechanical equipment, telephone booths, newspaper boxes, landscaping and similar structures which conform to other City standards.

#### **SECTION 17.05 CRITERIA FOR SITE PLAN REVIEW**

- A. The Planning Commission (and City Council for Special Land Uses) shall review the site plan to ensure that it complies with all of the criteria below:
  1. The proposed use will not be injurious to the surrounding neighborhood.
  2. The location of buildings, outside storage receptacles, parking areas, fences or obscuring walls, and utility areas will minimize adverse effects of the proposed use for the occupants of that property and the tenants, owners, and occupants of surrounding properties.
  3. There is a proper relationship between major thoroughfares and proposed service drives, driveways, and parking areas to encourage the safety and convenience of pedestrian and vehicular traffic. The site plan includes the minimum number of driveways required to provide reasonable access. Driveways are spaced as far apart from intersections and other driveways as practical to reduce accident and congestion potential. Sharing with adjacent uses is encouraged. The Planning Commission may require a Transportation Impact Study as outlined in Section 14.12.
  4. The site plan provides for proper development of roads, easements, and public utilities and protects the general health, safety, and welfare of the City and its residents.
  5. Building architecture, materials, roof line, colors, windows and similar elements shall be consistent with the majority of other buildings in the City, as determined by the Planning Commission (or City Council for Special Land Uses). Approval of architectural design is required by the Clarkston Historic Commission in accordance with the requirements of the CLARKSTON LOCAL HISTORIC DISTRICT ORDINANCE for all buildings located within in the Historic District.



6. The proposed site plan complies with all City codes and ordinances. Site plans for Mobile Home Park Districts shall comply with the preliminary plan requirements established in the Michigan Mobile Home Commission Acts.

#### **SECTION 17.06 APPLICATION FOR SITE PLAN REVIEW**

The detailed site plan presented for consideration shall contain all information required in this Ordinance.

- A. An application form provided by the City and required fee established by resolution of the City Council, shall include the following:
  1. Applicant's name, address, and telephone/fax number(s).
  2. Name and address of property owner, if different from applicant.
  3. Common description of property and complete legal description including the Tax Identification Number.
  4. Dimensions of land and total acreage.
  5. Existing zoning.
  6. Proposed use of land and name of proposed development, if applicable.
  7. Proposed buildings to be constructed, including square feet of gross floor area.
  8. Proof of property ownership.
  9. Employment opportunities created, if applicable.
  10. Names, addresses, and telephone/fax number(s) of engineers, attorneys, architects, and other professionals associated with the project.
- B. **Site Plan Drawings and Illustrations (Fully Dimensioned).** Site plans shall contain all of the required data prior to approval of such plans by the City. Site plans shall consist of an overall plan for the entire development. Sheet size shall be at least 24" x 36", with the plan view drawn to a scale of 1" = 20' for property less than three (3) acres or 1" = 100' for property of three (3) or more acres.
- C. **Descriptive and Identification Data.** The following descriptive and identification information shall be included on all site plans:
  1. Applicant's name, address, and telephone/fax number(s).

2. Title block indicating the name of the development.
3. Scale.
4. North arrow.
5. Dates of submission and revisions (month, day, year).
6. Location map drawn to scale with northpoint.
7. Legal and common description of property.
8. The dimensions of all lots and property lines, showing the relationship of the site to abutting properties. If the site is a part of a larger parcel, the plan should indicate the boundaries of total land holding.
9. A schedule for completing the project, including the phasing or timing of all proposed developments.
10. Identification and seal of architect, engineer, land surveyor, or landscape architect who prepared plan.
11. Written description of proposed land use.
12. Zoning classification of applicant's parcel and all abutting parcels.
13. Proximity to driveways serving adjacent parcels.
14. Proximity to section corner and major thoroughfares.
15. Notation of any variances which have or must be secured.
16. Net acreage (minus rights-of-way) and total acreage, to the nearest one (1) acre.

**D. Site Data.**

1. Existing lot lines, building lines, structures, parking areas, and other improvements on the site and within one hundred (100) feet of the site.
2. Front, side, and rear setback dimensions.
3. Topography on the site and within one hundred (100) feet of the site at two (2) foot contour intervals, referenced to a U.S.G.S. benchmark.
4. Proposed site plan features, including buildings, roadway widths and names, and parking areas.

5. Dimensions and centerlines of existing and proposed roads and road rights-of-way.
6. Acceleration, deceleration, and passing lanes, where required.
7. Proposed location of driveway entrances and on-site driveways.
8. Typical cross-section of proposed roads and driveways.
9. Location of existing drainage courses, floodplains, lakes and streams, with elevations.
10. Location and dimensions of wetland areas. If deemed necessary because of site or soil conditions or because of the scope of the project, a detailed hydrology study may be required.
11. Location of sidewalks within the site and within the right-of-way.
12. Exterior lighting locations and method of shielding lights from shining off the site.
13. Trash receptacle locations and method of screening, if applicable.
14. Transformer pad location and method of screening, if applicable.
15. Parking spaces, typical dimensions of spaces, indication of total number of spaces, drives, and method of surfacing involving state and federal barrier-free requirements.
16. Information needed to calculate required parking in accordance with Zoning Ordinance standards.
17. The location of lawns and landscaped areas, including required landscaped greenbelts.
18. Landscape plan, including location, size, type and quantity of proposed shrubs, trees and other live plant material.
19. Location, sizes, and types of existing trees five (5) inches or greater in diameter, measured at one (1) foot off the ground, before and after proposed development.
20. Cross-section of proposed berms.
21. Location and description of all easements for public right-of-way, utilities, access, shared access, and drainage.

22. Designation of fire lanes.
23. Loading/unloading area.
24. The location of any outdoor storage of materials and the manner by which it will be screened.

**E. Building and Structure Details.**

1. Location, height, and outside dimensions of all proposed buildings or structures.
2. Indication of the number of stores and number of commercial or office units contained in the building.
3. Building floor plans.
4. Total floor area (gross floor area and usable floor area).
5. Location, size, height, and lighting of all proposed signs.
6. Proposed fences and walls, including typical cross-section and height above the ground on both sides.
7. Building façade elevations, drawn to a scale of one (1) inch equals four (4) feet, or another scale approved by the Code Officer and adequate to determine compliance with the requirements of this Ordinance. Elevations of proposed buildings shall indicate type of building materials, proposed colors, roof design, projections, canopies, awnings and overhangs, screen walls and accessory buildings, and any outdoor or roof-located mechanical equipment, such as air conditioning units, heating units, and transformers.

**F. Information Concerning Utilities, Drainage, and Related Issues.**

1. Schematic layout of existing and proposed sanitary sewers and septic systems; water mains, well sites, and water service leads; hydrants that would be used by public safety personnel to service the site; and, the location of gas, electric, and telephone lines.
2. Location of exterior drains, dry wells, catch basins, retention/detention areas, sumps and other facilities designed to collect, store, or transport stormwater or wastewater. The point of discharge for all drains and pipes should be specified on the site plan. Direction of flow should be indicated.
3. Engineering calculations consistent with the City's 25-year Storm Detention Plan shall be submitted.

4. Indication of site grading and drainage patterns.
5. Types of soils and location of floodplains and wetlands, if applicable.
6. Soil erosion and sedimentation control measures.
7. Proposed finish grades on the site, including the finish grades of all buildings, driveways, walkways, and parking lots.
8. Listing of types and quantities of hazardous substances and polluting materials which will be used or stored on-site at the facility in quantities greater than twenty-five (25) gallons or two hundred twenty (220) pounds per month.
9. Areas to be used for the storage, use, loading/unloading, recycling, or disposal of hazardous substances and polluting materials, including interior and exterior areas.
10. Underground storage tank locations.
11. Delineation of areas on the site which are known or suspected to be contaminated, together with a report on the status of site cleanup.

**G. Information Concerning Residential Development.**

1. The number, type and location of each type of residential unit (one bedroom units, two bedroom units, etc.).
2. Density calculations by type of residential unit (dwelling units per acre).
3. Lot coverage calculations.
4. Floor plans of typical buildings with square feet of floor area.
5. Garage and carport locations and details, if proposed.
6. Pedestrian circulation system.
7. Location and names of roads and internal drives with an indication of how the proposed circulation system will connect with the existing adjacent roads. The plan should indicate whether proposed roads are intended to be private or dedicated to the public.
8. Community building location, dimensions, floor plans, and façade elevations, if applicable.

9. In the case of all RM or RPDD Districts, typical floor plans shall be submitted. In addition, the method of trash collection shall be described, and in the case of outdoor trash receptacles the location and method of screening shall be indicated. Covered carports, if any, shall also be located on the site plan.

H. **Site Plan Review Process.** The City Clerk shall refer the site plans to the City Planning Commission for processing. After considering all information, the Planning Commission shall forward its recommendations of the site plans and all other pertinent data to the City Council. The City Council shall then make its determination of approval, approval with conditions, or denial. Upon approval of the site plans by the City Council, an application for a building permit shall be made by the petitioner in accordance with provisions of Article XV of this Ordinance.

Upon approval of a site plan by City Council, construction consistent with said site plan shall be commenced within one (1) year of the date said site plan was approved. In the event construction is not so commenced said site plan approval shall become void and of no force and effect.

Upon a site plan approval becoming void pursuant to the provisions hereof no construction may commence upon said site unless and until the site plan approval process has been reinstated and completed. In such event all applicable fees shall be paid.

1. The applicant shall submit the required number of copies of an application for site plan approval, site plans, and other information where applicable. The number of copies required will be determined by the Code Officer. The applicant or the applicant's representative must be present at the scheduled reviews or the matter will be tabled.
2. If the site plan is in order and contains the required information, the site plan shall be placed on the agenda of a regular or special Planning Commission meeting.
3. The Planning Commission shall make a recommendation on the site plan and Special Land Uses, with the final action by the City Council.
4. The City Council, as a condition of its approval of a site plan, may require reasonable modifications relating to the location, height, number of stories, and size of dwellings, buildings, and other structures; the area of the yards, courts, and other open spaces; and the sanitary, safety, and protective measures which shall be required for such dwellings, buildings, and structures; and any other changes to meet the standards and intent of this Zoning Ordinance and other ordinances, laws, and regulations.
5. For any approval with condition(s), the applicant shall submit a revised plan within sixty (60) days illustrating compliance with all conditions for approval by the Code Officer. No permits shall be issued until such revised plan is submitted and approved.

6. The applicant shall be responsible for the cost of preparing all site plan submittal information and for the evaluation of the site plan and related documents by consultants selected by the City.

I. **Additional Considerations.** In the process of reviewing the site plan, the Planning Commission shall also consider:

1. Single-family development on the basis of a subdivision.
2. The location and design of driveways providing vehicular ingress to and egress from the site, in relation to street giving access to the site, and in relation to pedestrian traffic.
3. The traffic circulation features, within the site and location of automobile parking areas; and may make such requirements with respect to any matter as will assure:
  - a. Safety and convenience of both vehicular and pedestrian traffic both within the site and in relation to access streets.
  - b. Satisfactory and harmonious relationship between the development on the site and the existing and prospective development of contiguous land and adjacent neighborhoods.
4. The Planning Commission may further require landscaping, fences and walls in pursuance of these objectives and same shall be provided and maintained as a condition of the establishment and the continued maintenance of any use to which they are appurtenant.
5. Samples of building materials are required for review and approval by the Planning Commission.

**ARTICLE XVIII**  
**SPECIAL LAND USES**

**SECTION 18.00 INTENT**

This Article is intended to regulate uses which may be compatible with uses in some, but not all, locations within a particular zoning district. Among the purposes of the Special Land Use standards of this Article are to accomplish the following:

- A. Provide a mechanism for public input on decisions involving more intense land uses.
- B. Establish criteria for both new development and infill/redevelopment consistent with the City's land use goals and objectives as stated in the Master Plan.
- C. Regulate the use of land on the basis of impact to the City overall and adjacent properties in particular.
- D. Promote a planned and orderly development pattern which can be served by public facilities and service in a cost-effective manner.
- E. Ensure uses can be accommodated by the environmental capability of specific sites.
- F. Provide site design standards to diminish negative impacts of potentially conflicting land uses.
- G. Provide greater flexibility to integrate land uses within the City.

This Article provides both general standards for all Special Land Uses (Section 18.02) and specific location, site or operational standards for particular Special Land Uses (Section 18.10). The process for a Special Land Use involves a Public Hearing with the Planning Commission with final review on the use and site plan by the City Council. Approval of any Special Land Use requires a Special Land Use Permit.

**SECTION 18.01 APPLICATION, REVIEW, AND APPROVAL PROCEDURES**

The procedure for Special Land Use review shall be as follows:

- A. An applicant for a Special Land Use shall submit an application for review and pay the required fee. The application presented for consideration shall contain the following:
  - 1. Name of proposed development.



2. Common description of the property and complete legal description (also address, if available).
  3. Dimensions of land: width, length, acreage, and frontage.
  4. Existing zoning classification and zoning of all adjacent properties.
  5. Proposed use of the land.
  6. Name, address, City and phone number of:
    - a. Firm or individual who prepared the application.
    - b. Legal owner of the property.
    - c. Applicant (including basis of representation).
  7. Signature of the legal owner and the Applicant.
  8. A site plan, prepared in accordance with the provisions of Article XVII of this Ordinance.
- B. Planning Commission Public Hearing.
1. If the Code Officer finds all of the information required above is in order, the Planning Commission shall schedule a Public Hearing to review the request, according to the procedures outlined in Section 15.08.
- C. The Planning Commission shall conduct the required public hearing.
- D. The Planning Commission shall review the application in terms of the requirements of the Special Land Use General standards listed in Section 18.02 below and any specific standards of Section 18.10.
- E. The Planning Commission shall recommend that the City Council either approve, approve with conditions (as described below in Section 18.03), or deny the Special Land Use and the accompanying site plan.
- F. The Special Land Use request and other pertinent information, together with the recommendation of the Planning Commission, shall be placed on the agenda of the next City Council meeting. The City Council shall either approve or reject the request within sixty (60) days, unless an extension has been agreed upon in writing by both the City Council and the Applicant.

**SECTION 18.02 GENERAL REVIEW STANDARDS FOR ALL SPECIAL LAND USES**

Prior to approving a Special Land Use application, the Planning Commission and City Council shall require the following general standards be satisfied for the use at the proposed location. In addition to specific standards for individual Special Land Uses listed in Section 18.10, the Planning Commission and City Council shall require stipulation to ensure that the following are met:

- A. The Special Land Use will be consistent with the goals, objectives and future land use plan described in the Master Plan.
- B. The Special Land Use will be consistent with the stated intent of the zoning district.
- C. The Special Land Use will be designed, constructed, operated, and maintained to be compatible with, and not significantly alter, the existing or intended character of the general vicinity in consideration of environmental impacts, views, aesthetics, noise, vibration, glare, air quality, drainage, traffic, property values, or similar impacts.
- D. The Special Land Use will not significantly impact the natural environment.
- E. The Special Land Use can be served adequately by public facilities and services such as police and fire protection, drainage structures, water and sewage facilities, refuse disposal and schools.
- F. The proposed use shall be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration the following:
  - 1. Vehicular turning movements;
  - 2. Proximity and relationship to intersections;
  - 3. Adequacy of sight distances;
  - 4. Location and access of off-street parking; and
  - 5. Provisions for pedestrian traffic.
- G. The proposed use shall be such that the location and height of buildings or structures, and the location, nature and height of walls, fences, and landscaping will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.

The proposed use shall be designed, located, planned, and operated to protect the public health, safety, and welfare.

### **SECTION 18.03      CONDITIONS OF APPROVAL**

- A. The City Council may impose conditions of approval, which will help ensure the Special Land Use meets the standards of this Ordinance provided that the conditions:
1. Protect the health, safety, and welfare of those affected;
  2. Are related to the valid exercise of the police power of the City;
  3. Are necessary to meet the intent and purpose of this Ordinance;
  4. Are related to the standards established in this Ordinance for the land use or activity under consideration and are necessary to ensure compliance with those standards; and
  5. Provide adequate protection to existing land uses so the proposed land use will not be detrimental or injurious to the surrounding neighborhood.
- B. Approval of a Special Land Use, including conditions made part of the approval, is attached to the property described in the application and not to the owner of such property. A record of conditions imposed shall be made a part of the City Council minutes and maintained by the Code Officer. The conditions shall remain unchanged unless an amendment to the Special Land Use permit is approved by the City Council.

### **SECTION 18.04      VALIDITY OF PERMIT**

- A. **Building Permit.** The Code Officer may issue a building permit in conformity with the particular Special Land Use so approved. In all cases where a particular Special Land Use has been granted as provided herein, application for a building permit must be made and received by the City no later than one hundred twenty (120) days thereafter, or such approval shall automatically be revoked unless an extension is granted. The City Council may grant an extension of the first approval for good causes shown under such terms and conditions for such a period of time not to exceed six (6) months.
- B. **Performance Guarantee.** The City Council shall require a performance guarantee to ensure completion of the improvements (excluding the building). The performance guarantee may take the form of a cash deposit, surety bond, certified check, or an irrevocable bank letter of credit.
- C. Where actual physical construction of a substantial nature of structures authorized by a Special Land Use permit has not commenced within one (1) year of issuance, and a written application for extension of the approval has not been filed as provided below, the permit shall become null and void and all rights thereunder shall terminate (note: it is the responsibility of the applicant to request such an extension).

- D. Upon written application filed prior to the termination of the one (1) year period as provided above, the City Council may authorize a single extension of the time limit for a further period of not more than one (1) year. Such extension shall be granted only based on evidence from the applicant that the development has a reasonable likelihood of commencing construction during the one (1) year extension period.
- E. Any approved Special Land Use shall be deemed a use permitted in the district in which it is located and is not to be considered a non-conforming use.
- F. If a use regulated as a Special Land Use which has not previously received a Special Land Use permit ceases operations for more than one (1) year, the Special Land Use permit shall become null and void, and a new Special Land Use permit shall be required to reopen the use.

#### **SECTION 18.05 INSPECTIONS**

The Code Officer shall make periodic investigations of developments authorized by a Special Land Use permit to determine continued compliance with all requirements imposed by the Planning Commission and this Ordinance. Non-compliance with the requirements and conditions approved for the Special Land Use shall constitute grounds to terminate said approval following a public hearing.

#### **SECTION 18.06 REVOCATION**

The revocation of a Special Land Use may occur if its recipient fails to continuously abide by its terms and conditions. The revocation procedure is as follows:

- A. The City Council, through its designated administrators, shall notify the recipient, in writing, of any violations of City codes or provisions of the Special Land Use.
- B. The recipient shall have thirty (30) days to correct all deficiencies to the satisfaction of the City Council.
- C. If after thirty (30) days any deficiencies remain, the City Council may then revoke the Special Land Use, or if the conditions warrant, allow additional time.
- D. A repeat violation may cause immediate revocation of the Special Land Use.

#### **SECTION 18.07 AMENDMENTS TO SPECIAL LAND USE PERMITS**

Any person or agency who has been granted a Special Land Use permit shall notify the Code Officer of any proposed amendment to the approved site plan of the Special Land Use permit. The Code Officer shall determine whether the proposed amendment constitutes a minor or major amendment based on the determination standards for all site plans in accordance with Article

XVII. A major amendment to a Special Land Use permit shall comply with the application and review procedures contained in this Article.

### **SECTION 18.08 SPECIAL LAND USES EXPANSIONS**

The expansion, change in activity, reuse or redevelopment of any use requiring a Special Land Use Permit shall require resubmittal in manner described in this Article. A separate Special Land Use Permit shall be required for each use requiring Special Land Use review on a lot, or for any expansions of a Special Land Use which has not previously received a Special Land Use Permit.

### **SECTION 18.09 RESTRICTIONS ON RESUBMITTAL OF A SPECIAL LAND USE REQUEST**

No application for a Special Land Use permit which has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of denial, except on the grounds of new evidence or proof of changed conditions relating to all of the reasons noted for the denial found to be valid by the Planning Commission or City Council. A resubmitted application shall be considered a new application.

### **SECTION 18.10 SPECIAL LAND USE SPECIFIC REQUIREMENTS**

The following sections identify specific requirements which shall be complied with by individual Special Land Uses, as determined by the Planning Commission and City Council, in addition to the general standards of Section 18.02.

- A. **Listing.** Special Land Uses with specific site and/or use standards described on the following pages:
1. Accessory apartment in a single-family home.
  2. Adult Day Care Centers (VC).
  3. Adult Day Care Facilities (RM).
  4. Adult Congregate Foster Care Facilities (RM).
  5. Adult Foster Care Small Group Homes (R-1).
  6. Adult Foster Care Large Group Home (RM).
  7. Automobile service centers (minor repair) and major auto repair establishments (I-1).
  8. Bed-and-breakfast inns (VC).

9. Cellular towers, wireless communication facilities, attached wireless communication facilities, and wireless communication support structures (RC).
10. Cemeteries (RC).
11. Child Care Centers (VC, RM, I-1).
12. Child Care Institutions (usually 24 hour care) (RM).
13. Churches, Temples, and similar places of worship (RM, R-1).
14. Essential public service buildings and structures (utilities) (VC, RM, R-1).
15. Essential public service storage yards (VC, R-1).
16. Group Day Care Homes (7-12 unrelated children/private residence) (R-1).
17. Group Foster Care Homes (R-1).
18. Home Occupations (R-1).
19. Laundromats (self-serve) (VC).
20. Lumber and planing mills (I-1).
21. Mixed use of a building for residential and office/business purposes (VC).
22. Motels, hotels, bed and breakfast inns (other than in R-1 and R-2 districts) including accessory convention/meeting facilities and restaurants (VC).
23. Municipal uses such as water treatment plants, and reservoirs, sewage treatment plants, and all other municipal buildings (I-1).
24. Nursing and convalescent homes (RM).
25. Outdoor cafes, outdoor eating areas, and open front restaurants (VC).
26. Publically owned and operated libraries, parks, parkways, recreational facilities and municipal buildings (R-1).
27. Recreation: Indoor commercial recreation (bowling alleys, billiard halls, indoor golf, ice arenas, skating rinks, etc.) (I-1).
28. Recreation: Private, non-commercial institutional or community recreation facilities, and swimming pool clubs (RC).

29. Retail uses that have an industrial character – see commercial outdoor display, sales and storage (I-1).
30. Retail, restaurant, and service establishments serving the needs of the industrial district, such as but not limited to: banks, credit unions, savings and loan associations, automobile service stations, motels, bowling alleys, trade or industrial schools, or industrial clinics (I-1).
31. Schools: Public and nonpublic, elementary, intermediate, or secondary schools (R-1, RM).
32. Storage facilities for building materials, sand, gravel, stone, lumber, or storage of contractor's equipment and supplies, provided such is enclosed within a building or within an obscuring wall or fence on those sides abutting all Residential or Business Districts, and on any yard abutting a public thoroughfare. The extent of such fence or wall may be determined by the City Council in consideration of the type of use and surrounding uses (I-1).
33. Storage and transfer, electric and gas service buildings and yards; public utility buildings, telephone exchange buildings, electrical transformer stations and substations, and gas regulator stations; water supply and sewage disposal plants; water and water holders; railroad transformer and storage tanks and railroad right-of-way (I-1).
34. Veterinary Clinics (VC).
35. Limited Use Overlay (R-1).

**B. List of Specific Requirement by Use.**

**1. Accessory Apartment in a Single-Family Home.**

- a. These standards are intended to assist in accommodating the needs of the growing number of senior citizens in the City while providing reasonable control in recognition of the high percentage of owner occupied single-family homes in the City. The purpose of these standards is also to prevent the undesirable proliferation of permanent two-family units which would, over time, disrupt the character of single-family neighborhoods.
- b. Accessory apartments shall be entirely within the existing structure and shall include no more than twenty-five percent (25%) of the total floor area of the home.
- c. The exterior of the home shall remain unchanged so it does not give the appearance of being divided into separate units. The addition of a separate exterior door is prohibited. The applicant shall demonstrate the home may

be easily converted back to a one unit single-family home when the accessory apartment dweller(s) leave the premises or the house is sold.

**2./3. Adult Day Care Center/Facility.**

- a. Buildings and lots so used shall conform to all state and local code requirements.
- b. Adequate off-street parking shall be provided.
- c. Indoor living area and sanitary facilities shall be adequate to accommodate the number of persons intended to occupy the facility.
- d. An adequate buffer shall be provided from adjacent residential district uses; or
- e. The facility shall not result in an excessive concentration of such facilities in the general area or the City of the Village Clarkston overall, as determined by the City Council.

**4. Adult Congregate Foster Care Facility.**

- a. Such uses shall be duly licensed by the State Department of Consumer and Industry Services.
- b. Buildings and lots so used shall conform to all state and local code requirements.
- c. Adequate off-street parking shall be provided.
- d. Indoor living area and sanitary facilities shall be adequate to accommodate the number of persons intended to occupy the facility.
- e. An adequate buffer shall be provided from adjacent residential districts uses or
- f. The facility shall not result in an excessive concentration of such facilities in the general area or the City of the Village of Clarkston overall, as determined by the City Council.

**5./6. Adult Foster Care Small Group or Large Group Homes.**

- a. Such uses shall be duly licensed by the State Department of Consumer and Industry Services.



- b. Buildings and lots so used shall conform to all state and local code requirements.
- c. The facility shall not result in an excessive concentration of such facilities in the general area or the City of the Village of Clarkston overall, as determined by the City Council.

7. **Automobile Service Centers (minor repair) and Major Automotive Repair (such as body shops) Establishments.**

- a. All principal and accessory structures shall be set back a minimum of five hundred (500) feet from a single-family residential district.
- b. If the gas station has auto repair or automobile mall, there shall be a minimum lot frontage on a paved road of two hundred (200) feet.
- c. Overhead doors shall not face a public street or residential district. The City Council can modify this requirement upon determining there is no reasonable alternative and the poor visual impact will be diminished through use of landscaping beyond that required in Article XXI.
- d. Only one driveway shall be permitted from any street unless the City Council determines additional driveways are necessary and will not increase potential for accidents or congestion.
- e. Where adjoining residential district, a wall six (6) feet in height shall be erected along any common lot line. Such fence or wall shall be continuously maintained in good condition.
- f. All repair work shall be conducted completely within an enclosed building.
- g. There shall be no outdoor storage or display of vehicle components and parts, materials, commodities for sale, supplies or equipment.
- h. Storage of wrecked, partially dismantled, or other derelict vehicles, or overnight parking of any vehicle except a wrecker is prohibited beyond one (1) day.
- i. The applicant shall submit a Pollution Incidence Protection Plan (PIPP). The PIPP shall describe measures to prevent groundwater contamination caused by accidental gasoline spills or leakage, such as: special check valves, drain back catch basins, and automatic shut off valves, as approved by the Fire Department.
- j. The applicant must submit an Impact Assessment.

8. **Bed-and-Breakfast Inns in the VC Districts.**

- a. Sufficient parking for the rooms shall be located off-street and shall not be located in the front yard.
- b. No bed-and-breakfast inn shall be located closer than three hundred (300) feet to another bed-and-breakfast inn.
- c. Meals or other services provided on the premises shall only be available to residents, employees and overnight guests of the inn.
- d. The dwelling unit in which the bed and breakfast establishment is located shall be the principal residence of the operator, and said operator shall live on the premises while the establishment is active.
- e. There shall be a maximum of six (6) rooms for lodging.
- f. Sufficient landscaping shall be used to screen adjacent residences from parking areas or any outdoor eating area.
- g. A sketch plan showing the floor plan shall be submitted for approval.
- h. Maximum sign size shall be twenty (20) square feet with a maximum height of five (5) feet. Sign materials are to be comparable with the architecture of the building.

9. **Cellular Towers, Wireless Communication Facilities, Attached Wireless Communication Facilities, and Wireless Communication Support Structures.**

- a. **Purpose and Intent.** It is the general purpose and intent of the City of the Village of Clarkston to carry out the will of the United States Congress by authorizing 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.

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:

- i. Facilitate adequate and efficient provision of sites for wireless communication facilities.
- ii. 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.
- iii. Ensure that wireless communication facilities are situated in appropriate municipally owned locations and relationships to other land uses, structures and buildings.
- iv. Limit inappropriate physical and aesthetic overcrowding of land use activities and avoid adverse impact upon existing population, transportation systems, and other public services and facility needs.
- v. Promote the public health, safety and welfare.
- vi. Provide for adequate information about plans for wireless communication facilities in order to permit the community to effectively plan for the location of such facilities.
- vii. Minimize the adverse impacts of technological obsolescence of such facilities, including a requirement to remove unused and/or unnecessary facilities in a timely manner.
- viii. 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. This contemplates the establishment of as few structures as reasonably feasible, and the use of structures which are designed for compatibility, including the use of existing structures and the avoidance of lattice structures that are unnecessary, taking into consideration the purposes and intent of this section.
- ix. The legislative body of the community finds that the presence of numerous tower structures, particularly if located within residential areas, would decrease the attractiveness and destroy the character and integrity of the community. This, in turn, would have an adverse impact upon property values. Therefore, it is necessary to minimize the adverse impact from the presence of numerous relatively tall tower structures having low architectural and other aesthetic appeal to most persons, recognizing that the absence of regulation would result in a material impediment to the maintenance and promotion of property values, and further

recognizing that this economic component is an important part of the public health, safety and welfare.

**b. Authorization.**

i. Subject to the standards and conditions set forth in subparagraph e.i) below, wireless communication facilities shall be permitted uses in the following circumstances:

(a) An existing structure which will serve as an Attached Wireless Communication Facility within a nonresidential zoning district, where the existing structure is not, in the discretion of the Code Official, proposed to be either materially altered or materially changed appearance.

(b) A proposed colocation upon an Attached Wireless Communication Facility which had been pre-approved for such colocation as part of an earlier approval by the City.

(c) An existing structure which will serve as an Attached Wireless Communication Facility consisting of a utility pole located within a right-of-way, where the existing pole is not proposed to be modified in a manner which, in the discretion of the Code Official, would materially alter the structure and/or result in an impairment of sight lines or other safety interests.

**c. Standards and Conditions Applicable to All Facilities.** All applications for wireless communication facilities shall be reviewed in accordance with the following standards and conditions, and, if approved, shall be constructed and maintained in accordance with such standards and conditions. In addition, if the facility is approved, it shall be constructed and maintained with any additional conditions imposed by the Planning Commission and City Council in its discretion:

i. Facilities shall not be demonstrably injurious to neighborhoods or otherwise detrimental to the public safety and welfare.

ii. Facilities shall be located on municipality owned property only and designed to be harmonious with the surrounding areas.

iii. Wireless communication facilities shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions.

- iv. Applicants shall demonstrate a justification for the proposed height of the structures and an evaluation of alternative designs which might result in lower heights.
- v. The following additional standards shall be met:
  - (a) The maximum height of the 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 collocate on the structure). The accessory building contemplated to enclose such things as switching equipment shall be limited to the maximum height for accessory structures within the respective district.
  - (b) The setback of the support structure from any residential district shall be at least the height of the highest point of any structure on the premises. The setback of the 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.
  - (c) Where the proposed new or modified support structure abuts a parcel of land zoned for a use other than residential, the minimum setback of the structure, and accessory structures, shall be in accordance with the required setbacks for main or principal buildings as provided in the schedule of regulations for the zoning district in which the support structure is located. (See Section f.3, below.)
  - (d) There shall be unobstructed access to the support structure, for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement. This access shall have a width and location determined by such factors as: the location of adjacent thoroughfares and traffic and circulation within the site; utilities needed to service the tower and any attendant facilities; the location of buildings and parking facilities; proximity to residential districts and minimizing disturbance to the natural landscape; and the type of equipment which will need to access the site.
  - (e) The division of property for the purpose of locating a wireless communication facility is prohibited unless all zoning requirements and conditions are met.

- (f) Where an attached wireless communication facility is proposed on the roof of a building if the equipment enclosure is proposed as a roof appliance or penthouse on the building, it 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 with all district requirements for principal buildings, including yard setbacks.
  - (g) The Planning Commission shall, with respect to the color of the support structure and all accessory buildings, review and approve so as to minimize distraction, reduce visibility, maximize aesthetic appearance, and ensure compatibility with surroundings. It shall be the responsibility of the applicant to maintain the wireless communication facility in a neat and orderly condition.
  - (h) The support system shall be constructed in accordance with all applicable building codes and shall include the submission of a soils report from a geotechnical engineer, licensed in the State of Michigan. This soils report shall include soil borings and statements confirming the suitability of soil conditions for the proposed use. The requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission shall be noted.
  - (i) A maintenance plan, and any applicable maintenance agreement, shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to ensure the long term, continuous maintenance to a reasonably prudent standard.
- vi. 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:
- (a) Proximity to an interstate or major thoroughfare.
  - (b) Areas of population concentration.
  - (c) Concentration of commercial, industrial, and/or other business centers.

- (d) Areas where signal interference has occurred due to tall buildings, masses of trees, or other obstructions.
  - (e) Topography of the proposed facility location in relation to other facilities with which the proposed facility is to operate.
  - (f) Other specifically identified reason(s) creating facility need.
- vii. The proposal shall be reviewed in conformity with the collocation requirements of this Section.
- viii. If it is demonstrated to the satisfaction of the City Council by an applicant that a wireless communications facility may not reasonably be established as a Special Land Use is required to be established in an area other than municipally owned property in order to operate a wireless communications service, then wireless communications facilities may be permitted elsewhere in the district by Special Land Use approval only subject to approval by the City Council, the requirements of this Section, and the following criteria and standards:
- (a) At the time of submittal, the applicant shall demonstrate that a location within an allowable municipally owned property cannot reasonably meet the coverage and/or capacity needs of the applicant.
  - (b) Wireless communications facilities shall be of a design such as a steeple, bell tower, or other form which is compatible with the existing character of the proposed site, neighborhood, and general area, as approved by the Planning Commission.
  - (c) In the RC district, site locations shall be permitted on a priority basis on the following sites, subject to application of all other standards contained in this Section:
    - (1) Municipally owned sites.
    - (2) Other governmentally owned sites.
    - (3) Religious or institutional sites.
    - (4) Public parks and other large permanent open space areas when compatible.

(5) Public or private school sites.

d. **Application Requirements.**

- i. A site plan prepared in accordance with Article XVII shall be submitted, showing the location, size, screening and design of all buildings and structures, including fences, and the location and size of outdoor equipment, and the location, number, and species of proposed landscaping.
- ii. The site plan shall also include a detailed landscaping plan where the support structure is being placed at a location which is not otherwise developed, or where a developed area will be disturbed. The purpose of landscaping is to provide screening and aesthetic enhancement for the structure base, accessory buildings and enclosure. In all cases, there shall be shown on the plan fencing which is required for protection of the support structure and security from children and other persons who may otherwise access facilities.
- iii. The application shall include a signed certification by a State of Michigan licensed professional engineer with regard to the manner in which the proposed structure will fall, which certification will be utilized, along with other criteria such as applicable regulations for the district in question, in determining the appropriate setback to be required for the structure and other facilities.
- iv. The application shall include 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 paragraph (h) below. In this regard, the security shall, at the election of the applicant, be in the form of: (1) cash; (2) surety bond; (3) letter of credit; or, (4) an agreement in a form approved by the attorney for the community and recordable at the office of the Register of Deeds, establishing a promise of the applicant and owner of the property to remove the facility in a timely manner as required under this section of the ordinance, 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 community in securing removal.
- v. The application shall 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 collocation or in demonstrating the need for the proposed facility. If and to the extent the information in question is on file with the community, the applicant shall be required only to update as needed. Any such information which is trade secret and/or other confidential commercial information which, if released would result in commercial disadvantage to the applicant, may be submitted with a request for confidentiality in connection with the development of governmental policy MCL 15.243(l)(g). This Section 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 community.

- vi. The name, address and phone number 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. **Colocation.**

- i. **Statement of Policy.** It is the policy of the City to minimize the overall number of newly established locations for wireless communication facilities and Wireless Communication Support Structures within the community, and encourage the use of existing structures for Attached Wireless Communication Facility purposes, consistent with the statement of purpose and intent, set forth in paragraph (c) of this Section above. Each licensed provider of a wireless communication facility must, by law, be permitted to locate sufficient facilities in order to achieve the objectives promulgated by the United States Congress. However, particularly in light of the dramatic increase in the number of wireless communication facilities reasonably anticipated to occur as a result of the change of federal law and policy in and relating to the Federal Telecommunications Act of 1996, it is the policy of the City that all users should collocate on Attached Wireless Communication Facilities and Wireless Communication Support Structures in the interest of achieving the purposes and intent of this Section, as stated above, and as stated in paragraph (c) of this section. If a provider fails or refuses to permit collocation on a facility owned or otherwise controlled by it, where collocation is feasible, the result will be that a new and unnecessary additional structure will be compelled, in direct violation of and in direct contradiction to the basic policy, intent and purpose of the City. The provisions of this subsection are designed to carry out and encourage conformity with this policy.

ii. **Feasibility of Colocation.** Colocation 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 colocation will undertake to pay market rent or other market compensation for colocation.
- (b) The site on which colocation is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.
- (c) The colocation being considered is technologically reasonable, e.g. the colocation will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the structure, antennas, and the like. The height of the structure necessary for colocation will not be increased beyond a point deemed to be permissible by the City, taking into consideration the several standards contained in part (e) of this Section, above.

iii. **Requirements for Colocation.**

- (a) A special land use permit for the construction and use of a new wireless communication facility shall not be granted unless and until the applicant demonstrates that a feasible colocation is not available for the coverage area and capacity needs.
- (b) All new and modified wireless communication facilities shall be designed and constructed so as to accommodate colocation.
- (c) The policy of the community is for colocation. Thus, if a party who owns or otherwise controls a wireless communication facility shall fail or refuse to alter a structure so as to accommodate a proposed and otherwise feasible colocation, 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.
- (d) If a party who owns or otherwise controls a wireless communication facility shall fail or refuse to permit a feasible colocation, and this requires the construction

and/or use of a new facility, the party failing or refusing to permit a feasible colocation shall be deemed to be in direct violation and contradiction of the policy, intent and purpose of the City, and, consequently such party shall take responsibility for the violation, and shall be prohibited from receiving approval for a new wireless communication support structure within the City for a period of five (5) years from the date of the failure or refusal to permit the colocation. Such a party may seek and obtain a variance from the Zoning Board of Appeals if and to the limited extent the applicant demonstrates entitlement to variance relief which, in this context, shall mean a demonstration that enforcement of the five (5) year prohibition would unreasonably discriminate among providers of functionally equivalent wireless communication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication services.

- iv. **Incentive.** Review of an application for colocation, and review of an application for a permit for use of a facility permitted under paragraph d.i.(a), above, shall be expedited by the City.

f. **Removal.**

- i. 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 one hundred eighty (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 (6) months after new technology is available at reasonable cost, as determined by the legislative body of the community, which permits the operation of the communication system without the requirement of the support structure.
- ii. The situations in which removal of a facility is required, as set forth in paragraph (i) above, may be applied and limited to portions of a facility.

- iii. Upon the occurrence of one or more of the events requiring removal, specified in paragraph (i) 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 Code Official.
- iv. If the required removal of a facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (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 and/or enforced from or under the security posted at the time application was made for establishing the facility.

**10. Cemeteries.**

- a. Minimum property size shall be twenty (20) acres.
- b. All grave sites, buildings and structures shall be setback at least one hundred (100) feet from all property lines.
- c. The City Council shall determine that the cemetery will have a "park-like" setting.
- d. Uses such as crematoriums, mausoleums, casket sales and monument sales shall be permitted as an accessory use to a cemetery. Setbacks and landscaping shall be compatible with adjacent uses.

**11. Child Care Centers.**

- a. Such uses shall be duly licensed by the State Department of Consumer and Industry Services.
- b. Buildings and lots so used shall conform to all state and local code requirements. The lot upon which the nursery school is located shall contain at least three hundred (300) square feet of land area per pupil, and is at least fifteen thousand (15,000) square feet in area.
- c. A minimum of fifty (50) square feet of indoor play area shall be provided per child between 2 weeks and 2½ years old, and a minimum of thirty-five (35) square feet of indoor play area shall be provided per child over 2½ years old. Indoor play areas shall be computed exclusively of hallways, bathrooms, reception and office areas, kitchens, storage areas and closets,

basements, except those which are finished and have dual means of egress, and areas used exclusively for rest or sleep.

- d. A minimum of five thousand (5,000) square feet of outdoor play area shall be provided. The outdoor play area shall be in the rear or side yard, fenced and screened from adjacent property in accordance with Section 21.02 E.
- e. An on-site drive shall be provided for drop-off/pick-ups. This drive shall be arranged to allow maneuvers without affecting traffic flow on the public street.
- f. Adequate off-street parking shall be provided in accordance with Article XX.
- g. Indoor living area and sanitary facilities shall be adequate to accommodate the number of persons intended to occupy the facility. No dormitory accommodations shall be provided.
- h. An adequate buffer shall be provided from adjacent residential uses or districts.
- i. The facility shall not result in an excessive concentration of such facilities in the general area or the City of the Village of Clarkston overall, as determined by the City Council.

**12. Child Care Institutions.**

- a. Such uses shall be duly licensed by the State Department of Consumer and Industry Services.
- b. Buildings and lots so used shall conform to all state and local code requirements.
- c. A minimum of fifty (50) square feet of indoor play area shall be provided per child between 2 weeks and 2½ years old, and a minimum of thirty-five (35) square feet of indoor play area shall be provided per child over two and one-half (2½) years old. Indoor play areas shall be computed exclusively of hallways, bathrooms, reception and office areas, kitchens, storage areas and closets, basements, except those which are finished and have dual means of egress, and areas used exclusively for rest or sleep.
- d. A minimum of one thousand two hundred (1,200) square feet of outdoor play area shall be provided, plus an additional one hundred (100) square feet for each child to be cared for over twelve (12). The outdoor play area shall be in the rear or side yard, fenced and screened in accordance with Section 21.02 E.

- e. Adequate off-street parking shall be provided.
- f. Indoor living area and sanitary facilities shall be adequate to accommodate the number of persons intended to occupy the facility.
- g. An adequate buffer shall be provided from adjacent residential uses or districts.
- h. The facility shall not result in an excessive concentration of such facilities in the general area or the City of the Village of Clarkston overall, as determined by the City Council.

13. **Churches, Temples, and Similar Places of Worship.**

- a. Minimum lot area shall be three (3) acres for any such place of worship with a seating capacity of over five hundred (500) persons and an additional fifteen thousand (15,000) square feet for each one hundred (100) persons of sanctuary seating capacity.
- b. Buildings of greater than the maximum height permitted in Article XIII Schedule of Regulations may be allowed provided the front, side and rear yard setbacks are increased above the minimum required by one (1) foot for each foot of building height that exceeds the maximum permitted.
- c. All vehicular access to the site shall be onto a Regional Arterial, Arterial or Collector street, as referenced in the Master Plan. The Planning Commission may allow secondary access onto local (residential) streets if the uses fronting the street which would be most impacted by traffic flow are predominantly non-single-family homes.
- d. Wherever an off-street parking area is adjacent to a residential district, a continuous obscuring wall, fence, and/or landscaped area at least six (6) feet in height shall be provided. The City Council may reduce this buffer based on the presence of existing trees or topographic conditions.
- e. The City Council may require a Transportation Impact Study, particularly if the place of worship is to have services or activities during peak times on the roadway, or if there are other religious institutions in the vicinity which could create traffic conflicts (refer to Section 14.12).

14. **Essential Public Service Buildings and Structures (utilities).**

- a. Operating requirements necessitate that the facility be located at the subject site to serve the immediate vicinity.

- b. Electric or gas regulator equipment and apparatus shall be setback a minimum of thirty (30) feet from all lot lines or equal to district setbacks, whichever is greater. They cannot be located in the district front yard setback.
- c. Essential Public Service Storage Yards shall be screened from any adjacent residential district by a buffer strip or berm (Article XXI).
- d. The buildings or structures shall be architecturally compatible with the surrounding buildings and shall be of brick construction.

15. **Essential Public Service Storage Yards.**

- a. Requirements of item 33 below must be satisfied.
- b. The minimum lot size shall be three (3) acres.
- c. A vinyl coated (black or brown) chain link fence six (6) feet in height shall be constructed on the boundary property lines.
- d. Views from the public right-of-way or adjacent residence shall be screened by landscape material per the Planning Commission.

16. **Group Day Care Homes (0-12 unrelated children/private residence).**

- a. Such uses shall be duly licensed by the State Department of Consumer and Industry Services.
- b. Buildings and lots so used shall conform to all state and local code requirements.
- c. Group Day Care Homes shall have a minimum lot area of one half acre (21,780 square feet).
- d. An on-site drive shall be provided for drop-offs/pick-ups. This drive shall be arranged to allow maneuvers without affecting traffic flow on the public street.
- e. A minimum of thirty-five (35) square feet of indoor play area shall be provided for each child. Indoor play area shall be computed exclusive of hallways, bathrooms, reception and office areas, kitchens, storage areas and closets, basements, except those which are finished and have dual means of egress, and areas used exclusively for rest or sleep.
- f. A minimum of four hundred (400) square feet of outdoor play area must be provided. The outdoor play area shall be in the rear or side yard and

fenced or otherwise enclosed on all sides and screened from adjacent properties with landscaping.

- g. Indoor living area and sanitary facilities shall be adequate to accommodate the number of persons intended to occupy the facility.
- h. An adequate buffer shall be provided from adjacent residential uses or districts.
- i. The facility shall not result in an excessive concentration of such facilities in the general area or the City of Village of Clarkston overall, as determined by the City Council.

17. **Group Foster Care Homes.**

- a. Such uses shall be duly licensed by the State Department of Consumer and Industry Services.
- b. Buildings and lots so used shall conform to all state and local code requirements.
- c. No group foster care home shall be located closer than fifteen hundred (1,500) feet to any other foster care group home or foster care family home, measured from the nearest wall of each such structure.
- d. Indoor living area and sanitary facilities shall be adequate to accommodate the number of persons intended to occupy the facility.
- e. An adequate buffer shall be provided from adjacent residential uses or districts.
- f. The facility shall not result in an excessive concentration of such facilities in the general area or the City of Village of Clarkston overall, as determined by the City Council.

18. **Home Occupations.** Home occupations are permitted in any single-family dwelling unit subject to the conditions in this section and the related provisions of the Zoning Ordinance of the City of the Village of Clarkston.

- a. **Purpose.** Home occupations are permitted as an accessory use to the principal use of a residence. The provisions are herein detailed to the extent necessary to insure that the neighborhood, under normal circumstances, would not be aware of their existence. Home occupations are temporary by nature. A person may request a home occupation permit by procuring a Special Land Use Permit, as described in Section 18.01.
  - i. The Special Use Permit shall be renewed every two years, subject to review and approval of the Planning Commission. Review of an



existing home occupation special use permit requires notification of neighbors within 300 ft. and does not require a public hearing unless the use has been expanded substantially or is requested by an adjacent neighbor. The Planning Commission shall have final approval on renewable permits only.

b. The following uses shall be permitted as customary accessory uses, subject to the requirements below of c) Performance Standards, and not require approval as home occupations:

- i. Tutoring for six (6) or fewer persons at a time.
- ii. Economic enterprises conducted by minor children who are occupants of the dwelling unit provided that no adult occupants are employed in the enterprises and the gross income from such enterprises does not exceed five hundred dollars (\$500.00) annually for all such enterprises conducted on that property.
- iii. Garage sales that do not run in excess of fourteen (14) total days in any one calendar year. Garage sales shall not occur within the right-of-way (R. O.W.).
- iv. Dress making, sewing and tailoring without direct sales to customers on site.
- v. Paintings and sculpting (excluding galleries) or writing.
- vi. Telephone answering or telemarketing.
- vii. Home crafts, such as model making, quilt making, rug weaving, and lapidary work.
- viii. Computer program and software development.
- ix. Salesperson's office or home office of a professional that meet all the conditions specified in c. Performance Standards. No sales or direct customers are permitted on premises.
- x. Repair of clocks, instruments, or other small appliances (watches, jewelry, etc.).
- xi. Home schools.

c. **Performance Standards for Home Occupations:**

- i. **Bi-Annual Permit.** A permit and fee are required every two years.

- ii. **Employees.** No employees other than occupants of the premises shall be engaged in such occupation. The operator of a home occupation shall reside within the same dwelling in which the activity is conducted.
- iii. **Appearance.** In no way shall the appearance of the structure be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, or the emission of sounds, noises, or vibrations.
- iv. The home occupation shall not occupy a portion of the dwelling unit or associated accessory buildings which is greater than ten percent (10%) of the usable floor area of the dwelling unit. Usable floor area of a dwelling unit, in this case, shall include the floor area of all heated and ventilated (habitable) rooms and areas within the dwelling unit including basements and habitable attic space. If more than one home occupation is conducted within a particular dwelling unit or associated accessory buildings, the total of all space devoted to said home occupations shall not exceed ten percent (10%) of the useable floor area of the dwelling unit. Further, the use shall not exceed four hundred (400) square feet and at least eight hundred fifty (850) square feet of the dwelling unit must remain in residential use.
- v. There shall be no outside or visible storage of any kind related to the home occupation.
- vi. **Nuisance Controls.** No equipment or process shall be used in a home occupation which creates noise, vibration, glare, fumes, heat, dust, odors, or electrical interference detectable to the normal senses off the lot. The production, storage or dumping of combustible, hazardous materials, or toxic substances on the property is prohibited.
- vii. No use shall require internal or external alterations or involve construction features or the use of electrical or mechanical equipment that would change the fire rating of the structure or the fire district in which the structure is located.
- viii. In order to preserve the residential appearance and character of a neighborhood, signs and window or yard displays of merchandise for sale or trade shall not be permitted. Exterior storage of any kind is prohibited.

- ix. The home occupation may increase vehicular traffic and parking only such that no more than two (2) additional vehicles other than those owned and operated by the resident family, are parked on the subject parcel at any time. The use shall not necessitate, or result in, on-street parking of vehicles. Parking shall not be permitted in the front yard.
- x. The pickup and delivery of goods in connection with the home occupation shall not exceed one pickup and one delivery each day (between the hours of 6:00 a.m. and 8:00 p.m.) and shall be restricted to the use of a vehicle having a gross vehicle weight of fourteen thousand (14,000) pounds or less.
- xi. **Utilities.** No home occupation shall cause an increase in the use of any one or more utilities (water, sewer, electricity, trash removal, etc.) such that the combined total use for the dwelling unit and home occupation exceeds by more than ten percent (10%) the average for the residence itself, measured over the previous twelve (12) month period.

d. **Uses Specifically Not Permitted as Home Occupations:**

- i. Stables or kennels.
- ii. Automobile body repair, machine shop or any similar business.
- iii. Animal hospitals.
- iv. Welding service.
- v. Funeral parlors or undertaking establishments.
- vi. Antique shops.
- vii. Rooming houses.
- viii. Dancing schools.
- ix. Tourist homes.
- x. Trailer rental.
- xi. Private clubs.
- xii. Restaurants and tea rooms.

- xiii. Repair shops of any kind that may create nuisance factors.
  - xiv. Repair, maintenance, painting service, and storage of automobiles, machinery, tools, trucks, boats, recreational vehicles and similar items.
  - xv. Utility and public service buildings.
  - xvi. Any proposed home occupation neither specifically permitted above, nor specifically prohibited above, shall be reviewed as a Special Land Use. The City Council may establish appropriate standards for the operation of such special land use to meet the standards of the Ordinance. The Council may determine after public hearing that a use not specifically mentioned above that has similar negative impacts as one or more of the uses above is also not permitted.
- e. A site plan and a home occupation information sheet shall accompany a special use permit application for a home occupation. Issuance of a special use permit, by the Planning Commission shall be based on a site plan. For purposes of this section, the site plan shall illustrate at a minimum, the following:
- i. Dimensions of a subject parcel.
  - ii. Dimensions of the building in which the home occupation is proposed.
  - iii. Dimensions of the exact area which is to be utilized for the home occupation.
  - iv. Location of exterior doors.
  - v. The proposed location and dimensions of the parking area.
- f. **Voiding of permit.** Home occupations may be monitored and reviewed to insure that they are operated in compliance with the requirements herein or any conditions stipulated in their approval. Noncompliance with the requirements herein and/or the conditions of approval relating to the special use permit for a home occupation shall constitute grounds for the Planning Commission to terminate said permit following a public hearing.

The Planning Commission, in reviewing any such proposed dwelling unit with respect to items ii, iv, and v, above, shall not seek to discourage architectural variation, but shall seek to promote the reasonable compatibility of the character of dwelling units, thereby protecting the

economic welfare and property of surrounding residential uses and the City at large.

In reviewing any such proposed dwelling unit, the Planning Commission may require the applicant to furnish such plans, elevations, and similar documentation as it deems necessary to permit a complete review and evaluation of the proposal.

19. **Laundromats (self-serve).**

20. **Lumber and Planing Mills.**

- a. Mixed use of a building for residential and office/business purposes.
  - i. The combined use of a building for residential and business use shall not provide more than one (1) dwelling and not more than one (1) business or two (2) offices in any one (1) building.
  - ii. The combined use of a building for residential and office use shall not provide more than three (3) units maximum within a building, and not more than one (1) of which may be a dwelling.
- b. The floor area for a dwelling unit in a building shall not be less than four hundred (400) square feet.
- c. The architectural character of buildings shall be maintained. New construction for such mixed use structures shall be undertaken in character with existing structures.

21. **Mixed Use of a Building for Residential and Office/Business Purposes.**

- a. The combined use of a building for residential and business use shall not provide more than one (1) dwelling and not more than one (1) business or two (2) offices in any one (1) building.
- b. The combined use of a building for residential and office use shall not provide more than three (3) units maximum within a building, and not more than one (1) of which may be a dwelling.
- c. The floor area for a dwelling unit in a building shall not be less than four hundred (400) square feet.
- d. The architectural character of buildings shall be maintained. New construction for such mixed use structures shall be undertaken in character with existing structures.

22. **Motels, Hotels, Bed and Breakfast Inns, (other than in R-1 & R-2 districts) including Accessory Convention/Meeting Facilities and Restaurants.**
- a. Access shall be provided so as not to conflict with the adjacent business uses or adversely affect traffic flow on a major thoroughfare.
  - b. Each unit shall contain not less than two hundred fifty (250) square feet of floor area.
  - c. No guest shall establish permanent residence at a motel for more than thirty (30) days within any calendar year.
23. **Municipal Uses**, such as water treatment plants, and reservoirs, sewage treatment plants, and all other municipal buildings.
- a. Adequate landscaping and screening is required adjacent to residential homes.
24. **Nursing and Convalescent Homes.**
- a. There shall be provided on the site, not less than fifteen hundred (1,500) square feet of open space for each bed in the home. The fifteen hundred (1,500) square feet of land area shall provide for landscape setting, off-street parking, service drives, loading space, yard requirement and accessory uses, but shall not include the area covered by main or accessory buildings.
  - b. Principal buildings shall not be closer than forty (40) feet to any property line.
25. **Outdoor Cafes, Outdoor Eating Areas and Open Front Restaurant (i.e. Window Service).**
- a. Any outdoor eating area shall not exceed fifteen percent (15%) of the gross floor area of the principal building and shall not be located in any required front, side or rear setback area; except in the VC District when specifically approved by the City Council (See standards below).
  - b. Outdoor eating areas (with the exception of sidewalk cafes {see f. below}) shall be located no closer than fifteen (15) feet from any street right-of-way or any vehicular parking or maneuvering areas. Such eating areas shall be separated from all vehicular parking and maneuvering areas by means of a greenbelt, wall, or architectural feature.
  - c. The outdoor eating area shall not be located within fifty (50) feet of any properties used or zoned for residential purposes. The area shall be

completely screened from view from all residential properties by an obscuring wall or greenbelt, in compliance with this Ordinance.

- d. The outdoor eating area shall be kept clean and void of litter at all times. Fences or landscaping shall be provided to control blowing debris.
- e. All vending machines and arcades shall be located within a completely enclosed building.
- f. Outdoor sidewalk cafes shall be subject to the following standards:
  - i. To allow for pedestrian circulation, a minimum of five (5) feet of sidewalk along the curb and leading to the entrance to the establishment must be maintained free of tables and other encumbrances. If the sidewalk is not wide enough to allow for a five (5) foot wide clearance for circulation, the cafe should not be permitted. Planters, posts with ropes, or other removable enclosures should be encouraged and should be used to define the area occupied by the outdoor seating.
  - ii. Pedestrian circulation and access to store entrances should not be impaired. Thus, a boundary (maximum encroachment width and length) into the public sidewalk should be established, with an accessible aisle being maintained between this line and the curb, in accordance with the provisions of the national Americans with Disabilities Act (ADA) and Michigan barrier-free requirements.
  - iii. The operators of the outdoor cafe should be responsible for a clean, litter-free, and well-kept appearance within and immediately adjacent to the area of the tables and chairs. Additional outdoor trash receptacles should be required. Written procedures for cleaning and trash containment and removal responsibilities of the cafe must be noted on the revised plan to the satisfaction of the City.
  - iv. Tables, chairs, planters, trash receptacles, and other elements of street furniture should be compatible with the architectural character of the adjacent buildings. If table umbrellas will be used, they should complement building colors.
  - v. Additional signs should not be permitted, beyond what is permitted for the existing restaurant.
  - vi. The hours of operation for the outdoor seating area should be established and noted on the plan.

- vii. Preparation of food and beverages should be prohibited in this outdoor area. The sale and consumption of alcohol are governed by the Michigan Liquor Control Act and local ordinance.
  - viii. Liability issues for use of the public sidewalk should be addressed and reviewed by the City Attorney.
26. **Publicly Owned and Operated Libraries, Parks, Parkways, Recreational Facilities, and Municipal Buildings.**
- a. Subject to nationally recognized design standards and other related considerations of the Planning Commission.
27. **Recreation: Indoor.** Commercial recreation such as bowling alleys, indoor golf, ice arenas, skating rinks, etc.
- a. The principal and accessory buildings and structures shall not be located within one hundred (100) feet of any residential district or permitted use.
  - b. All uses shall be conducted completely within a fully enclosed building.
  - c. The buildings shall be sound-proofed.
  - d. A minimum three (3) foot high, twenty (20) foot wide berm landscaped with evergreen trees to create a totally obscuring screen shall be provided.
28. **Recreation: Private.** Non-commercial recreational areas; institutional or community recreation centers; and non-profit swimming pool clubs.
- a. Any use permitted herein shall not be permitted on a lot, or group of lots of record, except in those instances wherein one hundred percent (100%) of the owners of property immediately abutting and sixty-five percent (65%) of the owners of property within three (300) feet of any property line of the site herein proposed for development shall sign a petition indicating concurrence with said site.
  - b. The site for any of the uses permitted herein which would attract persons from beyond the immediate neighborhood shall be so located as to provide ingress or egress directly to or from a major or secondary thoroughfare having an existing or planned right-of-way of at least eighty-six (86) feet as indicated on the Major Thoroughfare Plan.
  - c. Front, side, and rear yards shall be at least fifty (50) feet wide, and shall be landscaped in trees, shrubs, and grass. All such landscaping shall be maintained in a healthy condition. There shall be no parking or structures



permitted in these yards, except required entrance drives and those walls used to obscure the use from abutting residential districts.

- d. Buildings erected on the premises shall not exceed one (1) story in height.
  - e. Off-street parking shall be provided so as to accommodate not less than one half of the member families and/or individual members. The City Council may modify the off-street parking requirements in those instances wherein it is determined that the users will be pedestrian and originate from the immediately adjacent areas. Prior to the issuance of a building permit or zoning compliance permit, by-laws of the organization shall be provided in order to establish the membership involved for computing the off-street parking requirements. In those cases wherein the proposed use or organization does not have by-laws or formal membership, the off-street parking requirements shall be determined by the City Council on the basis of usage.
  - f. Whenever a swimming pool is constructed, said pool area shall be surrounded with an attractive protective fence (six (6) feet in height), approved by the Planning Commission, and entry shall be provided by means of a controlled gate. Additional landscape screening may be required by the Planning Commission. Swimming pools shall meet the applicable standards of Section 21.02.E (59), and all applicable building and health codes.
29. **Retail Uses that have an Industrial Character.** See commercial outdoor display, sales and storage.
30. Retail, restaurant, and service establishments serving the needs of the industrial district, such as, but not limited to: banks, credit unions, savings and loan associations, automobile service stations, motels, bowling alleys, trade or industrial schools, or industrial clinics.
31. **Schools.** Public and nonpublic, elementary, intermediate and/or secondary schools offering courses in general education.
- a. All vehicular access to the site shall be onto a Regional Arterial, Arterial or Collector road, as referenced in the Master Plan. The City Council may allow secondary access onto local (residential) streets if the uses fronting the street which would be most impacted by traffic flow are predominantly non-single-family homes.
  - b. Adequate outdoor recreation areas shall be provided. National standards for site selection and development recommend a minimum of ten (10) acres for elementary schools and one (1) acre for each one hundred (100) pupils and twenty (20) acres for middle and junior high schools and 1 acre

for each one hundred (100) pupils. Additional land should be preserved for future expansion and provision for present and future play areas.

- c. Adequate landscape screening and a six (6) foot high obscuring wall may be required between the school site and adjacent residential districts.
32. **Storage Facilities for Building Materials.** Sand, gravel, stone, lumber, or storage of contractor's equipment and supplies, provided such is enclosed within a building or within an obscuring wall or fence on those sides abutting all Residential or Business Districts, and on any yard abutting a public thoroughfare. The extent of such fence, landscaping, or wall may be determined by the City Council in consideration of the type of use and surrounding uses.
  33. **Storage and Transfer Electric and Gas Service Buildings and Yards.** Public utility buildings, telephone exchange buildings, electrical transformer stations and substations, and gas regulator stations; water supply and sewage disposal plants; water and water holders; railroad transformer and storage tanks and railroad right-of-way. Requirements for 32 above must be satisfied.
  34. **Veterinary Clinics.**
    - a. The use shall be operated by a licensed or registered veterinarian.
    - b. The principal and all accessory buildings or structures used for the treatment or holding of animals shall be setback at least two hundred (200) feet from abutting residential districts, churches or restaurants on the same side of the street; fifty (50) feet from the front property line and fifty (50) feet from all other property lines.
    - c. All principal use activities shall be conducted within a totally enclosed principal building; no outdoor pet enclosures or runs are permitted.
    - d. Any indoor boarding shall be limited to that incidental to treatment or surgery.
    - e. Any veterinary clinic building or structure which is used for the treatment or holding of animals which is adjacent to a residential district shall have the following construction features:
      - i. Walls are soundproofed to all a maximum transmission of 65 dB measured at any point on the outside of the exterior wall,
      - ii. Doors must be solid core,
      - iii. Ventilation must be force air.

- f. Outdoor exercising is allowed when the pet is accompanied by an employee, provided no animals shall be permitted outside of the buildings between 8:00 p.m. and 7:00 a.m.
- g. A caretaker's quarters may be permitted.
- h. Additional landscaping and fencing requirements may be required by the Planning Commission.

35. **Limited Use Overlay (R-1).**

- a. **Intent.** The City of the Village of Clarkston has declared that historic preservation serves a legitimate public purpose and has enacted the Clarkston Historic District Ordinance No. 118. The City also recognizes that certain historic building(s) located within the R-1 One-Family Residential District may not be able to be reasonably used in accordance with restrictions of the zoning district. Therefore, the Limited Use Overlay is designed and intended to maintain the historic integrity of certain building(s) while permitting uses which are compatible with a historic residential environment.

It is further the intent to limit permissible uses to those which meet the following standards established taking into consideration that the subject property is situated in a residential neighborhood, with these standards applying to all uses following approval:

- i. External impacts from the use shall not exceed those anticipated to be caused by a residential use on the property, and therefore, non-residential uses shall not interfere with residential evening rest and enjoyment, and cease operating after 9:00 p.m. and shall not commence prior to 7:30 a.m.
- ii. Produce a low volume of pedestrian and vehicle traffic.
- iii. Are compatible with and avoid creating a nuisance to neighboring historic residential properties.

Are compatible with the historic residential structures in which they are located, and maintain the historic significance of the property as a whole.

b. **Applicability.**

- i. A petitioner may apply for designation as a Limited Use Overlay as a special land use solely in the R-1, One-Family Residential District in accordance with the procedure, requirements, and standards set forth in Article XVIII, Special Land Uses, including Section 18.00 through Section 18.09.

- ii. The building(s) on the subject property must have been constructed and have a long history and tradition of use for purposes other than residential living, including, without limitation, school or government use, and shall not have been used for residential purposes for more than five (5) years, and the subject property must be located within the City's designated historic district and the use is restricted to the existing building(s).
- iii. In addition to the information required in Section 18.01, the applicant shall also submit the following:
  - (a) A statement which indicates how the standards set forth in Section 18.10.B.35 are met.
  - (b) A specification of uses which conform to the uses identified in Section 18.10.B.35.d. A petitioner may voluntarily offer a restriction on use that is more limited than the uses identified in Section 18.10.B.35.d. If the applicant proposes mixed-use including residential, the number, location, and size of each dwelling unit shall be shown, and shall be part of any approval.
- iv. The standards and requirements of this Article are in addition to and supplemental of all other regulations under the City's Zoning Ordinance, which remain applicable to the extent that they do not expressly conflict with the provisions of this Article.
- c. **Standards for Approval.** In considering any petition for approval to establish a Limited Use Overlay, the Planning Commission and City Council shall consider as requirements the intent stated in paragraph a, above, and also consider all of the standards and criteria stated throughout this subsection 35 of section 18.10.B, including the following, and the criteria set forth in section 18.02 of this Ordinance:
  - i. The building(s) being considered for Limited Use Overlay approval contributes to the unique historic character of the community.
  - ii. The existing layout or configurations of the historic building(s) are not suited to the uses otherwise permitted in the R-1 District.
  - iii. The building(s) occupy a site which contributes to the unique historic character of the community.

- iv. The petitioner has made reasonable efforts to use the property as a permitted or other special use in the R-1 District.
  - v. Granting approval of the Limited Use Overlay will contribute to the preservation of the historic building(s) and site.
  - vi. Granting approval of Limited Use Overlay will be compatible with the historic residential environment, and will not alter the essential residential character of the area.
- d. **Special Land Uses Permitted, Subject to Review and Approval.** If approved as a Limited Use Overlay, only historic building(s) shall be used, and such use shall be restricted to one (1) or more of the following specified uses, unless otherwise provided in this Ordinance.
- i. Photography studios.
  - ii. Artistic and cultural uses which include:
    - (a) Art galleries, including art sales.
    - (b) Teaching art, music, and dance.
    - (c) Teaching of visual and performing arts.
    - (d) Museums, art libraries, and other similar cultural facilities.
  - iii. Galleries displaying art and photography.
  - iv. Studios for yoga, fitness, or exercise.
  - v. Interior design studios.
  - vi. Offices for executive, administrative, or professional use, excluding medical and dental offices.
  - vii. Dwelling units within mixed-use buildings, subject to the standards set forth in Sections 18.02 and 18.10.B.35.e.iii).
  - viii. For clarification purposes, the special uses permitted do not include an authorization for theaters, or for live shows or performances, or uses involving the placement of substantially permanent characters or images on human bodies.

- e. **Design Standards.** Except as otherwise noted, buildings and uses within the Limited Use Overlay shall comply with the following development standards:
  - i. **Compliance with Historic District Ordinance.** Rehabilitation of existing building(s) located within the Historic District shall comply with the Clarkston Local Historic District Ordinance, the State Historic Preservation Office standards, and the U.S. Department of Interior’s Standards for Rehabilitation, as amended.
  - ii. **Gallery Requirement** - The gross floor area of a gallery shall not exceed fifty (50%) percent of the gross floor area of any individual tenant space.
  - iii. **Dwellings within Mixed-Use Buildings.**
    - (a) Where a residential use is proposed to occupy the same floor as a permitted non-residential use, the Planning Commission shall review the compatibility of the proposed uses.
    - (b) Any residential component of the overall use shall be subject to all of the following:
      - (1) It shall meet all ordinances, codes and laws applicable to residential use.
      - (2) The minimum square footage of the residential component shall be 1,200 square feet per dwelling unit.
      - (3) Not more than two (2) dwelling units may be approved on any property.
  - iv. **Parking.**

Off-street parking shall be located only behind the front face of the building, and shall meet the standards set forth in Article XX.

    - (a) Where off-street parking abuts neighboring property which is zoned or used as residential, landscaping shall be required in accordance with Section 20.02.B. Alternative methods of screening, such as fencing, may be approved by the Planning Commission.
  - v. **Lighting.** In addition to the standards set forth in Section 14.06, exterior lighting must be placed and shielded so as to direct the

light onto the site and away from adjoining properties, and away from adjacent water bodies, including natural or artificial lakes, ponds, or streams. The lighting source shall not be directly visible from adjoining properties. Floodlights, wall pack units, other types of unshielded lights, and lights where the lens is visible outside of the light fixture shall be prohibited, except where historical-style lighting is used that is compatible with existing historic-style lamps approved by the Planning Commission.

- vi. **Signs.** Signage shall be limited to one (1) freestanding sign, subject to the applicable provisions of Article XXII, Signs, and the following conditions:
    - (a) The sign shall be set back a minimum of fifteen (15) feet from the existing right-of-way.
    - (b) The area of the signboard shall not exceed twelve (12) square feet.
    - (c) The height of the sign shall not exceed four (4) feet.
    - (d) The height of the lettering, numbers, or graphics shall not exceed four (4) inches.
    - (e) The signboard shall be constructed of wood, with wood or cast iron brackets, and shall be architecturally compatible with the style, composition, materials, colors, and details of the building.
  - vii. **Landscaping.** Landscaping requirements set forth in Article XXI, Landscaping, shall be met.
  - viii. **Noise.** Objectionable sounds, including those of an intermittent nature, shall be controlled so as not to become a nuisance to adjacent uses. The permitted noise in the Limited Use Overlay, shall not exceed seventy-five (75) decibels between the hours of 6:00 a.m. and 10:00 p.m., nor more than seventy (70) decibels between the hours of 10:00 p.m. and 6:00 a.m. All measurements shall be made at the property line. The Zoning Board of Appeals may grant a temporary waiver of this requirement.
- f. **Uses and Activities for Property Abutting a Water Body.**
- i. **Purpose.** The water bodies situated in the City are small, with relatively low environmental and recreational carrying capacities, and may be adversely affected by the introduction of new and

significant use. Accordingly, considering that the subject property is situated in a single family neighborhood, if the subject property abuts a water body such as a natural or artificial lake, pond, or stream, the exercise of riparian rights and any other access shall be compatible with use and activities similar to normal and customary single-family residential use. If the predominant use of the subject property is approved as non-residential, the standards set forth herein regarding water body access regulation are deemed to be important and necessary in order to balance the interests of the owner of the overlay approved property and people in the neighborhood and the waterfront residents on the waterbody.

- ii. In application of these regulations, the following restrictions shall apply:
  - (a) “Access” for purposes of this section shall mean access to the water body for swimming, fishing, boating, or any other recreational or non-recreational purpose.
  - (b) Not more than one permanent or seasonal dock of not more than twenty-five (25) feet in length and eight (8) feet in width may be established. Not more than one (1) off-shore raft with dimensions not to exceed one hundred (100) square feet shall be permitted. For purposes of this section, “dock” means a platform structure extending from the area of the normal high water mark of the water body into the water, intended to provide access for swimming and fishing. A dock permitted under this section shall not be used for the mooring of more than two (2) watercrafts. No other watercraft may be stored on or launched from the property or moored off the shore of the property.
  - (c) **Residential Users.** If an approved special land use authorizes Access for residential users, Access shall be limited to full time residents of the property; such residents’ family; and their occasional guests accompanied by a resident.
  - (d) **Non-Residential Users.**
    - (1) It is the intent of this ordinance to permit non-residential Access which is no more intense than the customary usage of a single-family residence on the particular water body considering average seasonal use and customary holiday usage.



- (2) Access for a non-residential use shall be restricted to a business that is the exclusive and single user of the property subject to the following restrictions:
- (i) The use shall not create a nuisance to residences in the neighborhood or on the water body.
  - (ii) The following persons are authorized to have Access:
    - (A) If a business entity owns the business, the natural person who is the principal owner of the business entity with more than a 50% interest in the business entity (the “Principal Owner”);
    - (B) The Principal Owner’s family;
    - (C) Occasional guests of the Principal Owner, accompanied by the Principal Owner or a member of the Principal Owner’s family;
    - (D) Individuals who work at the business on the property; and
    - (E) Occasional business guests of individuals who work at the business on the property, who must be accompanied by either the Principal Owner or by an individual who works at the business on the property.
  - (iii) Access under subparagraphs (ii)(D) and (E) is limited to sunrise to sunset.
  - (iv) If, following approval for such a user, the building becomes occupied by more than a single non-residential user, the Access approval shall thereupon expire and be of no effect to all persons.

- (e) The permission in this section is subject to any other more restrictive ordinance and law.

## ARTICLE XIX

### ORDINANCE AMENDMENTS

#### **SECTION 19.00 INITIATION OF AMENDMENTS**

The City Council may, from time to time, amend, modify, supplement, or revise the zoning district boundaries shown on the Official Zoning Map or the provisions of this Ordinance. Amendments to the provisions of this Ordinance may be initiated by the City Council, the Planning Commission, the Zoning Board of Appeals, the Code Officer, or by petition of one or more residents or land owners. Amendments to the Official Zoning Map may be initiated by the City Council, the Planning Commission, or by the owner or owners of the subject site. All proposed amendments to the provisions of this Ordinance or the Official Zoning Map shall be referred to the Planning Commission for public hearing and recommendation to the City Council prior to action by the City Council.

#### **SECTION 19.01 APPLICATION PROCEDURE**

An amendment to this Ordinance or the Official Zoning Map, except those initiated by the City, shall be initiated by submission of a completed application form and fee. The amount of such fee shall be set by resolution of the City Council and shall be used to defray the expense of publishing the required notices and the expense of said Planning Commission. The following information shall accompany the application form:

- A. A legal description and street address of the subject property, together with a map identifying the subject property in relation to surrounding properties.
- B. The name and address of the owner(s) of the subject site, and a statement of the applicant's interest in the subject site if not the owner in fee simple title.
- C. The existing and proposed zoning district designation of the subject property.
- D. The land use classification for the subject site as illustrated in the City's Master Plan.
- E. In the case of an amendment to this Ordinance, other than an amendment to the Official Zoning Map, a general description of the proposed amendment and rationale for the change shall accompany the application form.
- F. A written description of how the requested rezoning meets Section 19.04 "Criteria for Amendment of the Official Zoning Map," or Section 19.05 "Criteria for Amendments to the Zoning Ordinance Text."

## **SECTION 19.02 AMENDMENT PROCEDURE; PUBLIC HEARING AND NOTICE**

- A. Upon initiation of an amendment, a work session and public hearing to consider the proposed amendment shall be scheduled before the Planning Commission. Notice of the hearing shall be given as required by Public Act 110 of 2006, as amended, as described in Section 15.08.
- B. Following the public hearing, the Planning Commission shall identify and evaluate all factors relevant to the petition and shall report its findings and recommendation to the City Council. The Planning Commission shall consider the criteria listed in Section 19.04 for a requested amendment to the Official Zoning Map, and the criteria listed in Section 19.05 for requested amendments to the standards and regulations in the text.
- C. Following receipt of the findings and recommendation of the Planning Commission, the City Council shall act on the proposed amendment. In the case of an amendment to the text of this Ordinance, the City Council may modify or revise the proposed amendment recommended by the Planning Commission prior to enactment. In the case of an amendment to the Official Zoning Map, the City Council shall approve or deny the amendment, based on its consideration of the criteria in Section 19.04.
- D. In case a protest against any proposed amendment to this ordinance is presented in writing to the Clerk prior to the public hearing thereon, duly signed by the owners of twenty percent (20%) or more of the frontage proposed to be altered, or by the owner of twenty percent (20%) or more of the frontage immediately to the rear thereof, or by the owners of twenty percent (20%) or more of the frontage directly opposite the frontage proposed to be altered, such amendment shall not be passed except by a vote of three-fourths (3/4) of the Council. For purposes of this sub-section, publicly-owned land shall be excluded in calculating the twenty percent (20%) land area.

## **SECTION 19.03 AMENDMENTS REQUIRED TO CONFORM TO COURT DECREE**

Any amendment for the purpose of conforming to a decree of a court of competent jurisdiction shall be adopted by the City Council and published, without necessity of a public hearing or referral hereof to any other board or agency.

## **SECTION 19.04 CRITERIA FOR AMENDMENT OF THE OFFICIAL ZONING MAP**

In considering any petition for an amendment to the Official Zoning Map, the Planning Commission and City Council shall consider the following criteria in making its findings, recommendations and decision:

- A. Consistency with the goals, policies, and future land use map of the City of the Village of Clarkston Master Plan. If conditions upon which the Master Plan was developed (such as market factors, demographics, infrastructure, traffic and environmental issues) have changed significantly since the Master Plan was adopted, as determined by the City, the Planning Commission and Council shall consider the consistency with recent development trends in the area.
- B. Compatibility of the site's physical, geological, hydrological, and other environmental features with the host of uses permitted in the proposed zoning district.
- C. Evidence the applicant cannot receive a reasonable return on investment through developing the property with at least one (1) of the uses permitted under the current zoning.
- D. The compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.
- E. The capacity of the City's infrastructure and services sufficient to accommodate the uses permitted in the requested district without compromising the "health, safety, and welfare."
- F. The apparent demand for the types of uses permitted in the requested zoning district in relation to the amount of land currently zoned and available to accommodate the demand.
- G. The request has not previously been submitted within the past one (1) year, unless conditions have changed or new information has been provided.
- H. Other factors deemed appropriate by the Planning Commission and City Council.

**SECTION 19.05 CRITERIA FOR AMENDMENT TO THE ZONING ORDINANCE TEXT**

The Planning Commission and City Council shall consider the following criteria to determine the appropriateness of amending the text, standards, and regulation of the Zoning Ordinance.

- A. Documentation has been provided from City, Staff, or the Zoning Board of Appeals if indicating problems and conflicts in implementation of specific sections of the Ordinance.
- B. Reference materials, planning and zoning publication, information gained at seminars or experiences of other communities demonstrate improved techniques to deal with certain zoning issues, or that the City's standards are outdated.

- C. The City Attorney recommends an amendment to respond to significant case law.
- D. The amendment would promote implementation of the goals and objectives of the City's Master Plan.
- E. Other factors deemed appropriate by the Planning Commission and City Council.

**SECTION 19.06 RESTRICTIONS ON RESUBMITTAL OF A REZONING REQUEST**

An application for an amendment to the Official Zoning Map (i.e. a rezoning request) that has been denied shall not be reconsidered for one (1) year, unless the applicant demonstrates that conditions have changed.

**SECTION 19.07 COMPREHENSIVE REVIEW OF ORDINANCE**

The Planning Commission shall, from time to time at intervals of not more than three (3) years, examine the provisions of this Ordinance and the location of district boundary lines and shall submit a report to the legislative body recommending changes and amendments, if any, which are desirable in the interest of public health, safety, and general welfare.

## ARTICLE XX

### OFF-STREET PARKING AND LOADING/UNLOADING REQUIREMENTS

#### SECTION 20.00 PURPOSE

The purpose of this section is to ensure sufficient automobile off-street parking space with adequate access to all spaces at the time of erection, enlargement or change in use, of any principle building or structure. Off-street parking and loading areas are to be designed, maintained and operated in a manner that will ensure their efficient use, promote public safety, improve aesthetics and, where appropriate, protect surrounding uses from undesirable impacts. The number of off-street parking spaces, in conjunction with all land or building uses shall be provided, prior to the issuance of a certificate of occupancy, as hereinafter prescribed.

#### SECTION 20.01 SCOPE

Compliance with the off-street parking regulations shall be required as follows:

- A. **General Applicability.** For all buildings and uses established after the effective date of this Ordinance, off-street parking shall be provided as required in this Section prior to issuance of a Certificate of Occupancy. However, where a building permit has been issued prior to the effective date of the Ordinance and construction has been diligently carried on, compliance with the parking requirements at the time of issuance of the building permit shall be required.
- B. **Change in Use or Intensity.**
  - 1. Whenever use of a building, structure, or lot is changed, parking facilities shall be provided as required by this Ordinance for the new use; regardless of any variance which may have been in effect prior to change of use.
  - 2. If the intensity of use of any building, structure, or lot is increased through the addition of dwelling units, increase in floor area, increase in seating capacity, or through other means, additional off-street parking shall be provided for such increase in intensity of use.
- C. **Review Procedures.** Compliance with the requirements in this Article shall be subject to site plan review and approval as specified in Article XVII.

#### SECTION 20.02 GENERAL REQUIREMENTS

In all zoning districts, off-street vehicle parking facilities shall be provided and maintained as herein prescribed:

A. **Location.**

1. **Proximity to Building or Use Being Served.** Off-street parking for multi-family and non-residential uses shall be located on the same lot or parcel as the building or use being served or within three hundred (300) feet of the building it is intended to serve, measured from the nearest public building entrance to the nearest parking space, except as otherwise permitted for collective use of off-street parking. Ownership shall be shown on all lots or parcels intended or used as parking by the applicant.
2. **Within Yards.** Off-street parking in commercial, office, multiple-family, and industrial uses may only be located in a rear yard or non-required front or side yard, provided that all landscaping requirements in Article XXI are complied with, and provided further that off-street parking shall not be permitted within twenty (20) feet of a single-family residential district boundary, nor within ten (10) feet of any road right-of-way line.

B. **Perimeter Landscaping.** Greenbelts along the street frontage and buffer zones along lot lines may also be required (see Article XXI).

1. **Residential Setback.** When required off-street parking in a non-residential district abuts a residential district, there shall be located a landscaped buffer strip fifteen (15) feet wide and parallel to the mutual boundary. The buffer strip shall be composed of trees and/or foliage. In lieu of a buffer strip, the Planning Commission may permit or require a solid fence or wall between six (6) and twelve (12) feet in height and shall be located along a mutual boundary.
2. **Waterfront Setback.** No portion of any off-street parking lot shall be located closer than ten (10) feet to the water line, unless otherwise specified in this Ordinance.

C. **Internal Landscaping.** Internal landscape islands may be required by the Planning Commission for all lots in excess of twenty-five (25) spaces in accordance with the standards of Section 21.02 F.

D. **Residential Parking.**

1. **Single-Family.** Off-street parking spaces in single-family and two-family residential districts shall consist of a parking strip, driveway, garage, or combination thereof, and shall be located on the premises they are intended to serve and subject to the provisions of Section 14.03 of this Ordinance. **No parking shall be permitted on lawns or other unpaved areas on residential lots**, with the exception of approved gravel parking driveways and areas. A minimum three (3) feet wide lawn or landscape strip, where feasible, shall be required between the edge of pavement and all property lines.



2. **Other Uses.** Parking areas other than for single-family detached homes or duplexes on individual lots shall be approved as part of a site plan. Minor changes to the parking layout, as determined by the Code Officer shall require submittal of a parking plan which indicates property lines, existing and proposed ground elevations at two (2) foot contour intervals, the number of spaces, calculations for meeting the minimum space requirements of this Article, dimensions of aisles, driveways and typical parking stalls, location of curbs and curb blocks, location and size of signs, existing and proposed landscaping, and existing and proposed lighting and drainage facilities.
- E. **Control of Off-Site Parking.** It shall be unlawful to park or store any motor vehicle on private property without the expressed or implied consent of the owner, holder, occupant, lessee, agent, or trustee of said private property. Where required parking is permitted on land other than on the same lot as the building or use being served, the land on which the parking is located shall be under the same ownership or control as the lot occupied by said building or use.
- F. **Limits on Storage and Repair.** The use of required parking areas for material storage, refuse storage stations/dumpsters, storage or display of vehicles and/or merchandise, or for vehicle or machinery repair or maintenance is expressly prohibited. The use of semi-trailers for storage purposes on the premises for five (5) or more consecutive days is prohibited. Emergency service required to start vehicles shall be permitted.
- G. **Duration.** Except when land is used as permitted storage space in direct connection with a legitimate business, a twenty-four (24) hour time limit for parking in non-residential off-street parking areas shall prevail, provided that it shall be unlawful to permit the storage of wrecked, inoperable, or junked vehicles in any parking area in any district for any period of time.
- H. **Access to Parking.** Each off-street parking space shall open directly onto a clearly-defined aisle or driveway of sufficient width and design as to provide safe and efficient access to or from a public street or alley in a manner that will least interfere with the smooth flow of traffic. Parking designed for backing directly onto a street or road is prohibited. Access to off-street parking which serves a non-residential use shall not be permitted across land that is zoned or used for residential purposes.
- I. **Ingress and Egress.** A suitable means of ingress and egress shall be provided and located to minimize traffic congestion and interference with pedestrian movement. The location of all entrances and exits and directional signs, shall be approved by the Planning Commission, and where required, by the Oakland County Road Commission, and the Michigan Department of Transportation.
- J. **Limits on Excessive Parking.** In order to minimize excessive areas of pavement which depreciate aesthetic standards and contribute to high rates of stormwater runoff, exceeding the minimum parking space requirements by greater than twenty percent (20%) shall not be allowed, except as approved by the Planning Commission. In granting

such additional space, the Planning Commission shall determine that such parking will be required, based on documented evidence, to accommodate the use on a typical day.

**K. Collective Use of Off-Street Parking.** Off-street parking for separate buildings or uses may be provided collectively subject to the following:

1. The total number of spaces provided collectively shall not be less than the sum of spaces required for each separate use; unless the operating hours of the building or uses do not overlap, in which case the Planning Commission may reduce the total number of spaces to a number deemed reasonable based on the characteristics of the buildings or uses.
2. Each use served by collective off-street parking shall have direct access to the parking without crossing streets.
3. The collective off-street parking shall not be located farther than five hundred (500) feet from the building or use being served.
4. Written easements which provide for continued use and maintenance of the parking shall be submitted to the City for approval.

Note: A twenty percent (20%) reduction may be permitted for collective off-street parking lots if a signed agreement is provided by the property owner, and the Planning Commission determines that the peak usage will occur at different periods of the day.

**L. Limits on Changes.** Any area once designated as required off-street parking shall not be changed to any other use unless and until equal facilities meeting the standards of this section are provided elsewhere, or the parking requirements of the site change. Off-street parking existing at the effective date of this Ordinance, in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or new use.

**M. Parking Lot Deferment.** Where the property owner can demonstrate or the Planning Commission finds that the required amount of parking is excessive, the Planning Commission may approve a smaller parking area; provided that the area of sufficient size to meet the parking space requirements of this Article is retained as open space, and the owner agrees to construct the additional parking at the direction of the Planning Commission based on observed usage within six (6) months of being informed of such request in writing by the Planning Commission. A written legal agreement, which has been approved by the City Attorney, to construct the deferred parking shall be provided by the applicant. The Planning Commission may require posting of a performance bond to cover the estimated construction cost of the deferred parking with a refund in two (2) years if the additional parking is not found to be necessary. The site plan shall note the area where parking is being deferred, including dimensions and dotted parking lot layout.

- N. **Parking Structures.** Parking structures shall be permitted subject to the following standards:
1. Any parking structure shall comply with the required setbacks for the district in which it is located.
  2. Parking structures shall be designed as integral elements of the overall site plan, taking into account the relationship to the principal building and other structures on the site.
  3. The facade of the parking structure shall be compatible in design, color, and type of material to the principal building(s) on the site.
  4. Landscaping shall be placed around the parking structure in accordance with an approved landscape plan. Any such landscaping shall be compatible with the overall landscape plan for the entire site.
- O. **Snow Removal.** All off-street parking and loading facilities required by this Article shall be maintained free of accumulated snow, standing water, debris or other materials which prevent full use and occupancy of such facilities in accordance with the intent of this Article, except for temporary periods of no more than five (5) days in the event of heavy rainfall or snowfall.
- P. **Carports and Garages.** Carports and garages for multiple-family dwellings shall be calculated as parking spaces on a one-to-one basis. Carports and garages in multiple-family dwelling developments shall have a maximum height of fifteen (15) feet, measured from the grade to the peak of the structure. Carports shall be screened on the sides or front end facing any public or internal street or drive. A minimum four (4) foot high wall or landscape hedge may be required in accordance with the provisions of Article XXI. Design, building materials, and color shall compliment adjacent building(s) character and shall be subject to review and approval by the Planning Commission.
- Q. **Use of Garages.** Accessory garages shall only be used to store vehicles or equipment associated with a Permitted Use unless a private leasing garage or storage area is approved by the Planning Commission.
- R. **Construction Parking.** During construction, off-street parking shall be provided on site for all construction vehicles and employees.
- S. **Parking Areas.** All required non-residential parking areas shall be hard surfaced (either concrete or bituminous asphalt), prior to occupancy and shall provide adequate drainage facilities to dispose of all collected surface water. The requirements for paving may be waived by the Planning Commission through paragraph 20.05.D.
- T. **Temporary Use and Special Event Parking.** Refer to Article XVI, Zoning Board of Appeals and Section 14.04 Temporary Structures and Uses.

- U. **Parking Space Deferment.** The requirements of this section may not apply to the permitted principal uses in the Parking Space Deferment District (as shown in Figure 20-6) if the applicant can demonstrate and the Planning Commission finds that adequate public parking is provided within a reasonable walking distance from the subject site. The Planning Commission may grant an exception to the requirement of this section to uses permitted subject to Special Land Use approval.
- V. **Payment in Lieu of Parking Spaces.** Where it can be demonstrated that the reasonable and practical development of property precludes the provision of required off-street parking, the Planning Commission may permit the requirements thereof to be satisfied in all areas zoned VC, Village Commercial by the payment to the City of a sum equivalent to the estimated cost of planning, acquiring, and construction of parking spaces within the Village Commercial limits. The estimated amount to be determined at the sole discretion of the City Council, which shall set such amount by resolution after review by the City Engineer and Planning Consultants.
1. An off-street parking requirement satisfied in this manner shall run with the land, but any subsequent change in use that requires additional parking shall require compliance with all zoning and subsequent action to satisfy any additional parking requirement including the payment of additional costs as determined by the City Council.
  2. Such payment shall be a condition of site plan approval and shall be made to the City prior to the issuance of the building permit. No refund of such payment shall be made for any reason including when there is a change to a use requiring less parking.
  3. The amount of payment for each required parking space shall be fixed by resolution adopted from time to time by the City Council.
  4. Funds derived from such payment shall be deposited by the City in a Special Parking Fund that shall be used and expended exclusively for any or all of the following: planning, designing, acquiring, developing, and maintaining off-street parking facilities located within the City.
  5. An application for permission to make such payment in lieu of providing off-street parking shall be made as a part of an application to the Planning Commission for site plan approval.
  6. Where off-street parking has been provided through special assessment of property, the required number of off-street parking spaces may be reduced by the Planning Commission by that number of spaces which can be allocated to the assessment on that property. Likewise, a property which has paid pursuant to this section (20.02.V) shall be given a one hundred percent (100%) credit towards fees required as part of the special parking assessment district. If all the costs of acquisition, administration, and construction of such a district is less on a pro-rata

basis than that contributed by a property, there shall be a one hundred percent (100%) refund of the difference with no interest thereon applied provided the affected property owner makes application for such a refund not less than ninety (90) days after the final payment on construction of the district. Notice of final payment and the provisions of this section shall be posted in three (3) conspicuous places in the special assessment district; published once in a newspaper of general circulation in the City; and mailed with appropriate proof of service to the last entity on the property tax roll, which shall be deemed to be effective notice under this Ordinance.

### **SECTION 20.03 MINIMUM NUMBER OF SPACES REQUIRED**

The following standards shall be used in determining the required number of parking spaces:

#### **A. Definition of Floor Area.**

1. For the purposes of determining required number of parking spaces, “floor area” shall mean the Gross Floor Area (GFA), unless otherwise noted.
2. Where the floor area measurement is specified as Gross Leasable Floor Area, (GLA) or usable area, parking requirements shall apply to all internal building areas excluding the floor area used for storage, mechanical equipment rooms, heating/cooling systems and similar uses, and other areas not intended for use by the general public. Where these areas are yet undefined, leasable floor area shall be considered to be eighty-five percent (85%) of the gross floor area.

#### **B. Units of Measure.**

1. **Fractional Spaces.** When calculations for determining the required number of parking spaces results in a fractional space, any fraction of less than one-half ( $\frac{1}{2}$ ) may be disregarded, while a fraction of one-half ( $\frac{1}{2}$ ) or more shall be counted as one (1) parking space.
2. **Employee Parking.** Parking spaces required for employees shall be based on the maximum number of employees on the premises at any one time.
3. **Bench Seating.** In calculating bench seating for places of assembly, each twenty-four (24) inches of benches, pews or other such seating, shall be counted as one (1) seat.
4. **Stacking Space.** Each required stacking space shall be twenty (20) feet long and ten (10) feet wide.

- C. **Uses Not Cited.** For those uses not specifically mentioned, the requirements for off-street parking for a similar use shall apply or national standards may be used, subject to

review by the Planning Commission and/or Code Officer. A factor no greater than one and one-half (1.5) times the average rate listed in the *Institute of Transportation Engineers Parking Generation Manual* may be used.

D. **Parking During Construction.** Temporary off-street parking shall be provided for workers during construction at a rate of one (1) space per employee. Gravel surfacing may be permitted for such temporary parking.

E. **Accessible/Barrier-Free Parking.** Each parking lot that serves a building, except single- and two-family dwelling units, shall have a number of level parking spaces, reserved for persons with disabilities, according to the following provisions:

1. **Definitions.**

a. **Accessible/Barrier-Free:** Describes a site, building, facility, or portion thereof that complies with the Uniform Federal Accessibility Standards (UFAS) and that can be approached, entered, and used by persons with disabilities.

b. **Accessible Route:** A continuous unobstructed path connecting all accessible elements and spaces in a building or facility. Interior accessible routes may include corridors, floors, ramps, elevators, lifts, and clear floor space at fixtures. Exterior accessible routes may include parking access aisles, curb ramps, crosswalks at vehicular ways, walks, ramps, and lifts.

c. **Access Aisle:** An accessible pedestrian space between elements, such as parking spaces, seating, and desks that provides clearances appropriate for use of the elements.

2. **Location.** Parking spaces for persons with disabilities and accessible passenger loading zones that serve a particular building shall be the spaces or zones located closest to the nearest accessible entrance on an accessible route. In separate parking structures or lots that do not serve a particular building, parking spaces for persons with disabilities shall be located on the shortest possible circulation route to an accessible pedestrian entrance of the parking facility.

3. **Barrier-Free Parking Spaces.** Parking spaces for persons with disabilities shall be at least ninety-six (96) inches wide and shall have an adjacent access aisle sixty (60) inches wide minimum (see Figure 20-2). Parking access aisles shall be part of an accessible route to the building or facility entrance and shall comply with the requirements in the Uniform Federal Accessibility Standards, the State Barrier-Free Manual, and the requirements of the Americans with Disabilities Act, as amended.

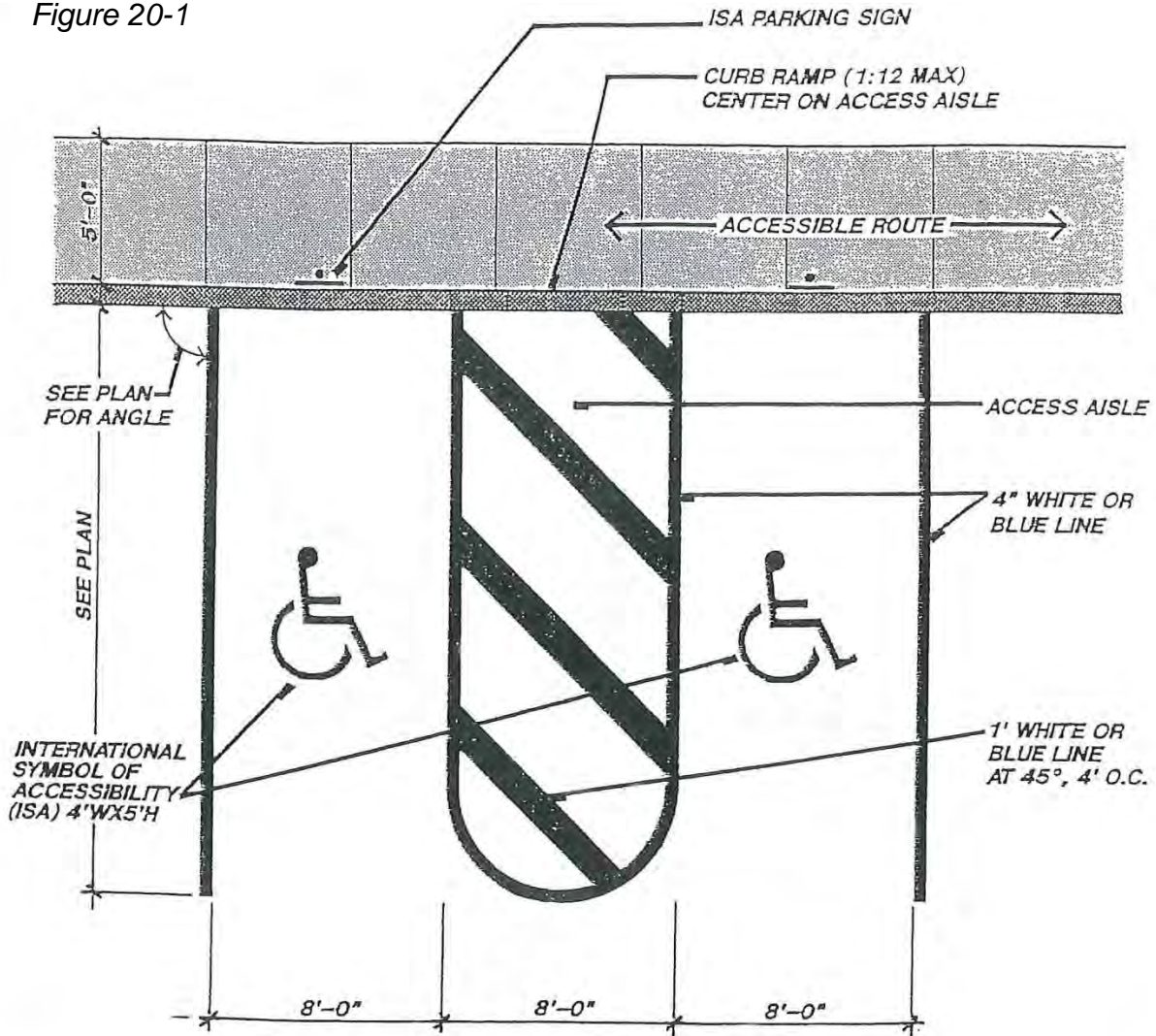
- a. Two (2) accessible parking spaces may share a common access aisle. Parked vehicle overhangs shall not reduce the clear width of an accessible circulation route.
  - b. Parking spaces and access aisle shall be level with surface slopes not exceeding 1:50 in all directions. One (1) in every eight (8) accessible spaces, **but not less than one (1)**, shall be served by an access aisle ninety-six (96) inches wide minimum (See Figure 20-1) and shall be designated “**van accessible.**” The vertical clearance at such spaces shall comply with 20.03.E.6. All such spaces may be grouped on one level of a parking structure.
4. **Signage.** Accessible parking spaces shall be designated as reserved for persons with disabilities by a sign showing the International symbol of accessibility (see Figure 20-4). Such signs shall not be obscured by a vehicle parked in the space.
  5. **Passenger Loading Zones.** Passenger loading zones shall provide an access aisle at least sixty (60) inches wide and twenty (20) feet long adjacent and parallel to the vehicle pull-up space (see Figure 20-3). If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp shall be provided. (Vehicle standing spaces and access aisles shall be level with surface slopes not exceeding 1:50 in all directions).
  6. **Vehicle (“VERTICLE CLEARANCE”?) Clearance.** Provide minimum vehicle (VERTICLE?) clearances of one-hundred fourteen (114) inches at accessible passenger loading zones and along vehicle access routes to such areas from site entrances. If accessible van parking spaces are provided, then the minimum vertical clearance should be one-hundred fourteen (114) inches.
  7. **Requirements.** If parking spaces are provided for self-parking by employees or visitors, or both, then accessible spaces complying with the following table shall be provided in each such parking area:

TOTAL PARKING IN LOT	REQUIRED MINIMUM NUMBER OF ACCESSIBLE SPACES
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2 percent of total
1,001 and over	20, plus 1 for each 100 over 1,000

8. **Compliance.** Accessibility shall be in compliance with the adopted City Building Code, the State of Michigan Barrier-Free Rules, Michigan Public Act No. 1 of 1966, as amended, and the American with Disabilities Act, as amended.
- F. **Use of Loading Space.** Required loading space shall not be counted or used for required parking.
- G. **Minimum Number of Spaces for Each Use.** The amount of required off-street parking space shall be determined in accordance with the schedule which follows. Where more than one standard is provided for a particular use, the standard that provides the most parking spaces shall be used. The Planning Commission may modify the numerical requirements for off-street parking, based on evidence that another standard would be more reasonable, because of the level of current or future employment and/or level of current or future customer traffic.



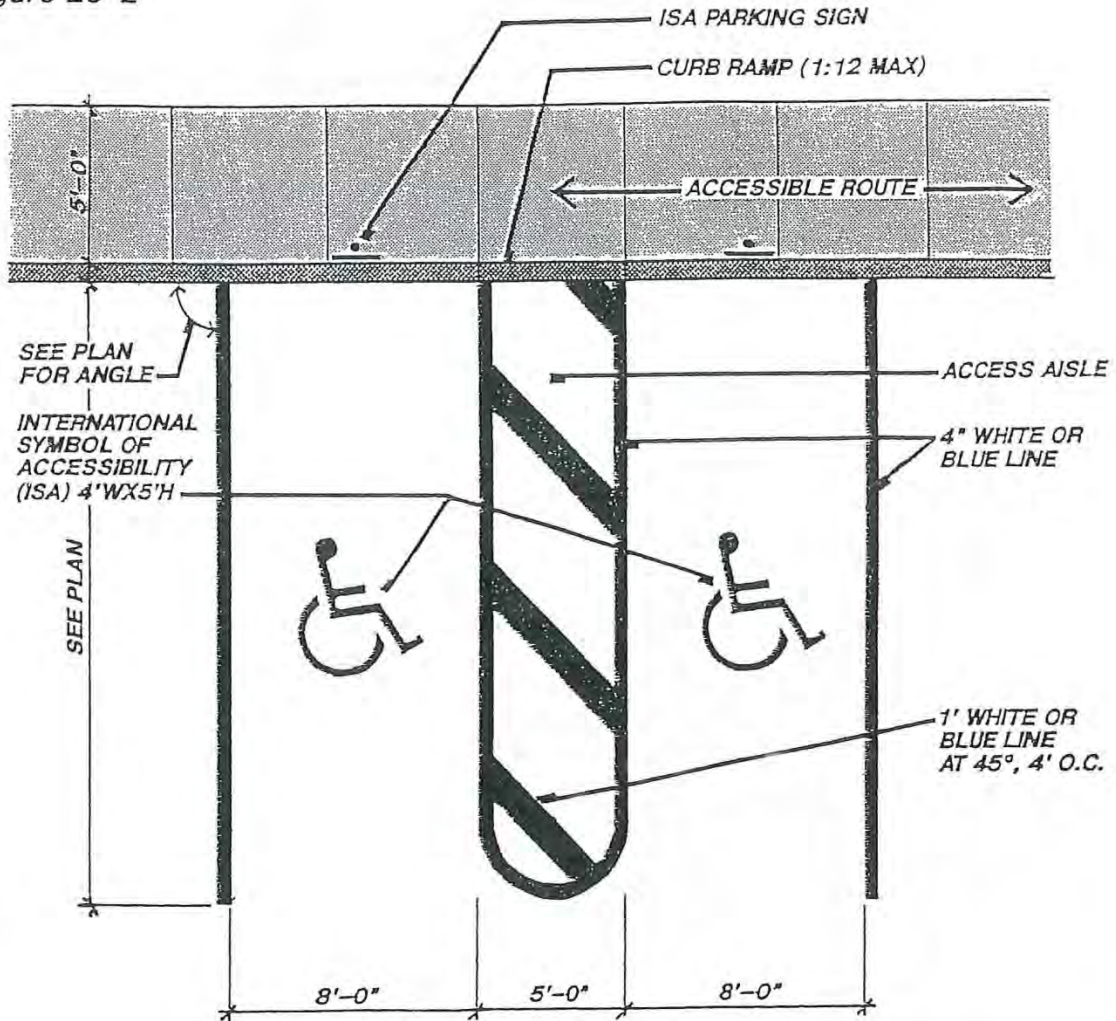
Figure 20-1



## BARRIER-FREE PARKING SPACE LAYOUT VAN ACCESSIBLE

**NOTE:** BARRIER-FREE PARKING SPACES SHALL BE LOCATED TO THE NEAREST ACCESSIBLE ENTRANCE ON AN ACCESSIBLE ROUTE. ONE (1) IN EVERY EIGHT (8) ACCESSIBLE SPACES, BUT NOT LESS THAN ONE, SHALL BE SERVED BY AN ACCESS AISLE 8'-0" WIDE MINIMUM AND SHALL BE DESIGNATED "VAN ACCESSIBLE"

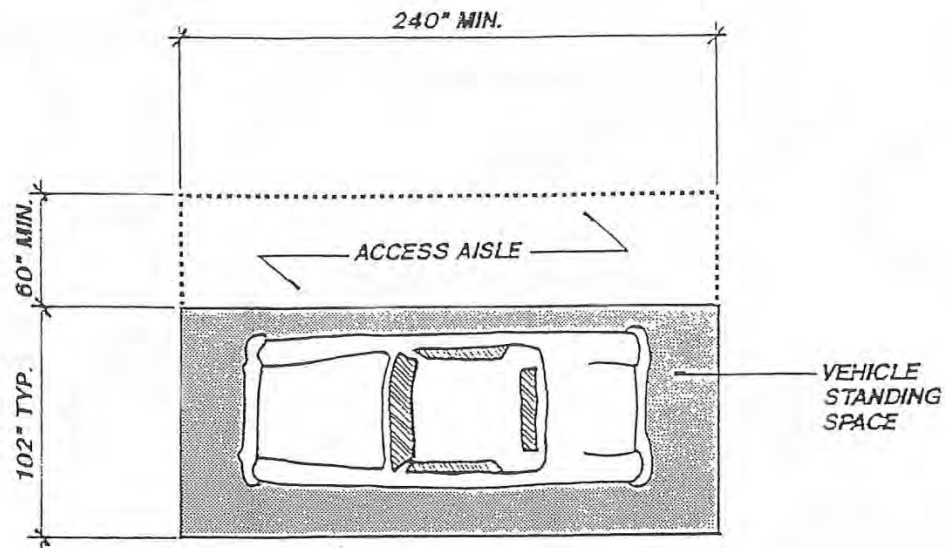
Figure 20-2



## **BARRIER-FREE PARKING SPACE LAYOUT-STANDARD**

**NOTE: BARRIER-FREE PARKING SPACES SHALL BE LOCATED TO THE NEAREST ACCESSIBLE ENTRANCE ON AN ACCESSIBLE ROUTE**

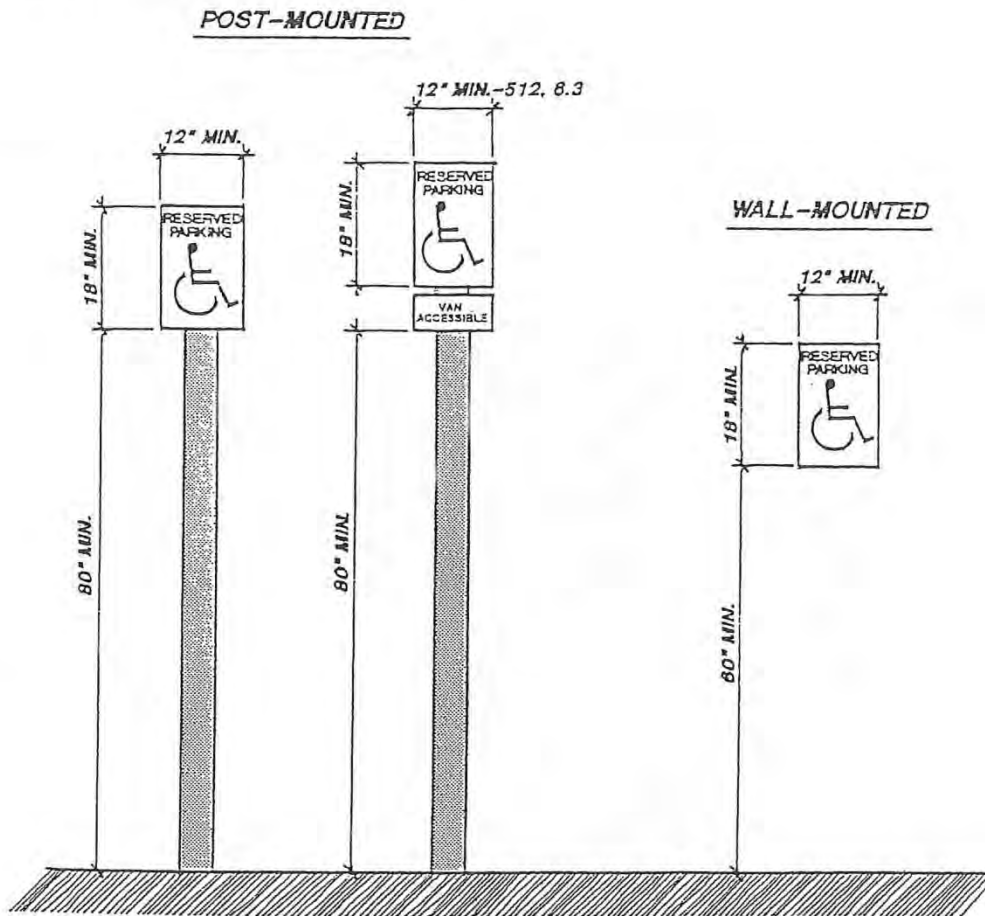
Figure 20-3



## ACCESS AISLE AT PASSENGER LOADING ZONES

**NOTE: VEHICLE STANDING SPACES AND ACCESS AISLES SHALL BE LEVEL WITH SURFACE SLOPES NOT EXCEEDING 1:50 IN ALL DIRECTIONS. IF THERE ARE CURBS BETWEEN THE ACCESS AISLE AND THE PASSENGER LOADING ZONE, THEN A CURB RAMP SHALL BE INSTALLED.**

Figure 20-4



## **BARRIER-FREE RESERVED PARKING SIGNS**

*NOTE: ACCESSIBLE PARKING SPACE SIGNS SHALL HAVE A MINIMUM HEIGHT AND SIZE TO PERMIT THE SPACE TO BE EASILY IDENTIFIED AND ARE ELEVATED SUCH THAT THEY SHALL NOT PRESENT A HAZARD TO PERSONS WALKING NEAR THE SIGN.*

**SECTION 20.04 SCHEDULE OF OFF-STREET PARKING REQUIREMENTS**

<b>RESIDENTIAL</b>	
Single- and two-family dwellings Up to 3 bedrooms 4 or more bedrooms	2.0 spaces per dwelling unit 3.0 spaces per dwelling unit
Multiple-family dwellings	1.0 spaces per each efficiency or one bedroom dwelling unit 1.5 spaces per each unit with two bedrooms 2.0 spaces for each unit with three or more bedrooms
<p>Note: In addition, multiple-family and attached single-family developments shall be required to provide supplemental guest off-street parking equal to at least twenty percent (20%) of the spaces required by the above standards. If community buildings, swimming pools, or recreation buildings are provided in the development, one (1) space for every five (5) units in the development shall be provided, and shall be within reasonable walking distance of the facility.</p>	
Manufactured homes in manufactured housing park	2.0 spaces per each manufactured home unit or site plus 1.0 for each employee during peak shift.
<b>HOUSING FOR THE ELDERLY</b>	
Senior apartments and elderly housing complexes	1.5 spaces per dwelling unit
Assisted living facilities, senior “interim care” and “intermediate care” units, retirement villages, etc.	1.0 space per each two rooms or two beds, whichever is less, plus 1.0 space per each employee expected during the peak shift.
Congregate care and dependent care (Convalescent/nursing home units)	1.0 space per each three beds or two rooms, whichever is less, up to 120 beds, plus 3.0 spaces for each bed over 120; plus 1.0 space for each employee during peak shift.
<p>Note: Should units revert to general occupancy, the requirements for multiple-family housing shall be complied with.</p>	
<b>INSTITUTIONAL OR PUBLIC USES</b>	
Churches, temples, and places of worship	1.0 space per each three (3) seats or six (6) linear feet of pews, plus land area shall be available for future development of additional spaces, equal to fifty percent (50%) of the specified parking requirements (to accommodate growth)

Municipal office buildings	4.0 spaces per 1,000 sq. ft. gross floor area
Community centers (incl. senior centers and teenage centers)	1.0 space per 100 sq. ft. gross floor area
Public libraries	1.0 space per 350 sq. ft. gross floor area
Child care or day care centers	2.0 spaces plus 1.0 additional space for each eight (8) children of licensed authorized capacity; a paved unobstructed pick-up space with adequate stacking (as determined by the Planning Commission) shall be provided.
Fraternities, Sororities, dormitories	1.0 for each 5 persons who may legally occupy the premises at one time, based on the occupancy load established by local codes, or one (1) for each two (2) beds, whichever is greater.
Group day care homes, adult foster care group homes, adult congregate care facilities, and children's homes	1.0 space per four clients plus 1.0 space per each employee plus designated drop-off spaces.
Hospitals	1.75 spaces per inpatient bed plus 1.0 spaces per each 175 gross square feet of hospital related office, research and administrative space. Other uses shall be computed separately.
Mixed health care related uses in the Health Care District Medical Center	5.0 spaces per 1,000 sq. ft. gross floor area overall if parking facilities are shared, otherwise each use is computed separately.
Primary schools (elementary and junior high schools)	1.0 space per each instructor, plus 1.0 space per each employee and administrator, plus drop-off areas for school buses, plus spaces required for any assembly hall, auditorium and/or outdoor arena.
Secondary (high) schools, commercial and business schools, colleges	1.0 space per each instructor, plus 2.0 spaces per each employee and administrator, plus 5.0 spaces per each classroom, plus drop-off areas for school buses, plus parking required for any assembly hall, auditorium or outdoor arena.
Auditorium, assembly halls, theaters and outdoor arenas	1.0 space per each three seats or six feet of bleachers, whichever is greater, plus 1.0 for each employee
Public recreation centers	5.0 spaces per 1,000 sq. ft. of gross floor area

Dance halls, pool and billiard rooms, exhibition	One (1) parking space for each three (3) persons permitted in such edifice as determined in the capacity limitations thereof, by the Fire Marshall
Dance and union halls, fraternal orders, civic clubs and similar uses	1.0 space per every three (3) persons of capacity authorized by local, county, or state Fire, Building or Health Codes.
Museum, library, cultural center, or similar facility	1.0 space per 300 sq. ft. of usable floor space, plus 1.0 space for every employee on the maximum shift.
Post office	1.0 space per 200 sq. ft. of usable floor space, plus 1.0 space for every employee on the maximum shift.
Public Utility Use	1.0 space per every employee on the maximum shift.
<b>OFFICE</b>	
Medical/dental clinic/office	7.0 spaces per 1,000 sq. ft. gross floor area, plus 1.0 for each examining room, dental chair or similar use area.
Medical clinic: Outpatient center, 24-hour urgent care centers, etc.	2.0 spaces per exam or outpatient procedure/operating room, plus care areas, 1.0 space per laboratory or recovery room, plus 1.0 space for each two rooms for employee parking.
General office building	1.0 space per 300 sq. ft. gross leasable floor area
Branch bank, credit union or savings and loan, insurance & real estate offices, and travel agencies	1.0 space per 200 sq. ft. gross floor area, (plus 2.0 spaces per each 24-hour teller for banks).
<b>COMMERCIAL/RETAIL/SERVICE</b>	
Appliance store	1.0 space per 250 sq. ft. gross leasable floor area
Automobile service center or auto repair center	3.0 spaces for employees, but not less than 2.0 for each lubrication stall, rack, pit, or similar service area, plus 2.0 waiting spaces for each service bay.

Automobile or vehicle dealership	2.5 spaces for each one thousand (1,000) square feet of interior sales space plus one and one-half (1.5) spaces per one thousand (1,000) square feet of exterior display, plus three (3) spaces per service bay.
Barber shop/beauty parlor	3.0 spaces per each of the first two (2) barber or beautician chair/stations, plus 1.5 spaces for each additional chair.
Bookstores	1.0 spaces per 125 sq. ft. gross leasable area
Conference rooms, exhibit halls and similar uses	1.0 space per every two persons of capacity authorized by the Uniform Building Code, or 1.0 space per 100 sq. ft. gross floor area, whichever is greater, plus 1.0 space per employee.
Convenience store	1.0 space per 250 sq. ft. gross leasable floor area, plus spaces required for auto service station activities or gasoline sales.
Dry cleaners	2.0 spaces per 1,000 sq. ft. gross leasable floor area
Funeral homes, mortuary establishments	1.0 space per 50 sq. ft. of service parlors, chapels and reception area, plus 1.0 space per each funeral vehicle stored on premises.
Furniture/carpet store, appliance, household equipment, repair shops, showroom of a plumber, decorator, electrician, or similar trade or uses.	1.0 spaces per 1,000 sq. ft. gross leasable floor area, plus 1.0 space for each two (2) persons employed in the processing area.
General retail business (under 10,000 sq. ft.)	3.0 spaces per 1,000 sq. ft. gross floor area
Laundromat and coin operated dry cleaners	1.0 space per each two (2) washing machines
Mini or self-storage warehouse	Minimum of 6.0 spaces
Hotels	One (1) parking space for each two (2) sleeping rooms, plus one (1) additional space for each two (2) employees
Motel/hotel with lounge, restaurant and conference or banquet rooms	1.0 space per guest room, plus 1.0 space per 100 sq. ft. of lounge, restaurant, conference or banquet rooms or exhibit space, plus 1.0 space per each two (2) employees.
Motel with restaurant/lounge	1.0 space per guest room, plus 12.0 spaces per 1,000 sq. ft. of restaurant/lounge space, plus 1.0 space per each two (2) employees.



Motel without restaurant/lounge; bed and breakfast inn	1.0 space per guest room, plus two (2) spaces, plus 1.0 space per each two (2) employees
Outdoor sales, display	1.0 space per 800 sq. ft. of such area
Recreational vehicle, boat, mobile home and similar sales	1.0 space per 800 sq. ft. gross leasable floor area, plus 2.0 spaces per each vehicle sales service bay.
Restaurant – sit-down type with liquor license	20.0 spaces per 1,000 sq. ft. gross leasable floor area, or 0.6 spaces per seat, whichever is greater.
Bars, lounges, taverns, nightclubs (majority of sales consist of alcoholic beverages)	25.0 spaces for each one thousand (1,000) square feet usable floor area
Restaurant – standard (a family-type restaurant without a bar or lounge area)	14.0 spaces per 1,000 sq. ft. gross leasable floor area or 0.5 spaces per seat, whichever is greater, plus any spaces required for any banquet or meeting rooms.
Restaurant – carry-out or delicatessen with less than six tables and/or booths	6.0 spaces plus 1.0 space for each employee on peak shift
Supermarket	1.0 space per 175 sq. ft. gross leasable floor area
Video rental establishments	1.0 space per 100 sq. ft. leasable floor area, with a minimum of 8.0 spaces provided
Wholesale establishments	1.0 space per each 500 sq. ft. of gross floor area, plus 1.0 space per each two (2) employees
<b>RECREATION/ENTERTAINMENT</b>	
Billiard parlors, pool halls, dance halls, roller or skating rinks, exhibition halls, and assembly halls without fixed seats	1.0 for each three (3) persons allowed within the maximum occupancy load as established by local, county or state fire, building, or health codes.
Bowling centers	5.0 spaces per lane, plus 25% of the required parking for any lounge
Commercial outdoor recreation centers	1.0 space per 200 sq. ft. gross floor area
Health fitness centers without swimming pool	5.0 spaces per 1,000 sq. ft. gross leasable floor space
Ice/roller skating rink	6.0 spaces per 1,000 sq. ft. gross floor area
Private golf clubs, tennis clubs, or similar uses	1.0 space for each two (2) member families or individuals

Public stadiums, sports arenas, or similar places of outdoor assembly	1.0 for each three (3) seats or six (6) feet of benches
Swimming pool	1.0 space per each three persons of capacity authorized by the City Building Code
Theater, cinema, auditoriums	1.0 space per each four seats, plus 4.0 spaces per screen or stage, plus 1.0 per employee
Racquetball/tennis centers	1.0 space per 1,000 sq. ft. gross floor area or 6.0 spaces per court, whichever is greater
Video arcades	1.0 space per 50 sq. ft. leasable floor area, with a minimum of 6.0 spaces required
<b>INDUSTRIAL</b>	
Light industrial, manufacturing, testing labs, research and development centers	2.0 spaces per 1,000 sq. ft. gross floor area or 0.6 spaces per employee at peak shift, whichever is greater; plus 1.0 space for each corporate vehicle, plus parking required for any sales area or office.
Warehousing	1.0 space per each 1,500 sq. ft. gross floor area or 1.0 space per employee at peak shift, whichever is greater, plus 1.0 space for each corporate vehicle (separate standard provided for mini-storage)

**SECTION 20.05 DESIGN, LAYOUT, AND CONSTRUCTION**

Off-street parking facilities containing four (4) or more spaces shall be designed, constructed, and maintained in accordance with the following requirements.

**A. Review and Approval Requirements.**

1. Plans for the construction of any parking lot in conjunction with a new development shall be submitted for review and approval according to the normal site plan review procedures. Plans for expansion of an existing parking lot that is not associated with other new development shall be submitted to the Code Officer for review and approval prior to the start of construction. Upon completion of construction, the parking lot must be inspected and approved by the Code Officer before a Certificate of Occupancy can be issued by the City for the parking lot and for the building or use the parking is intended to serve.
2. Two (2) sets of plans shall be prepared at a scale of not less than fifty (50) feet equal to one (1) inch. Plans shall indicate existing and proposed grades, drainage, sewers, surfacing and base materials, and the proposed parking lot layout. The plans shall conform to the construction and design standards established by the City Engineer and the requirements of this Article.

3. In the event that the required parking cannot be completed because of cold or inclement weather, a temporary Certificate of Occupancy may be issued.

B. **Dimensions.** Off-street parking shall be designed in conformance with the following standards and diagrams (see Figure 20-5) and the requirements of Section 20.03, Minimum Number of Spaces Required:

Parking Layout:

OFF-STREET PARKING STANDARDS					
Parking Angle	Maneuvering Aisle Width	Parking Stall Width	Parking Space Length	Total Width of One Tier of Spaces and Maneuvering Lane	Total Width of Two Tiers of Spaces and Maneuvering Lane
0° (parallel)	12'-0" (one-way) 24'-0" (two-way)	8'-0" 8'-0"	24'-0" 24'-0"	20'-0"	40'-0"
30°	12'-0" (one-way)	9'-0"	18'-0"	30'-0"	48'-0"
45°	12'-0" (one-way)	9'-0"	19'-0"	31'-0"	50'-0"
60°	18'-0" (one-way)	10'-0"	18'-0"	33'-0"	51'-0"
90°	24'-0" (two-way)	9'-0"	18'-0"	42'-0"	60'-0"

C. **Ingress and Egress.** All spaces shall be provided with adequate access by means of clearly defined maneuvering lanes and driveways. Spaces backing directly onto a street shall be prohibited. Entrances and exits from off-street parking lots shall be located at least twenty-five (25) feet from the nearest point of any property zoned for single-family residential use.

# PARKING LAYOUTS

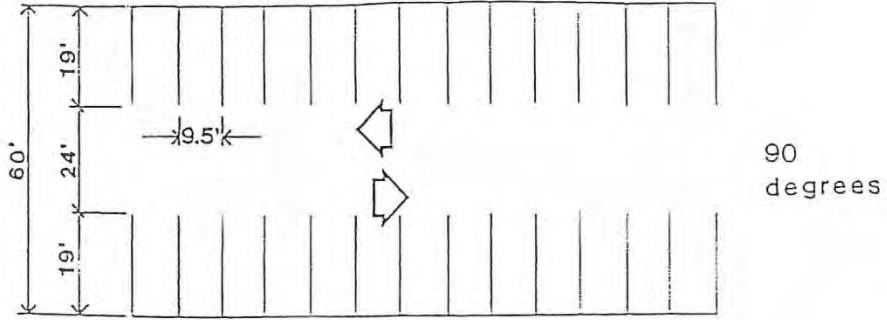
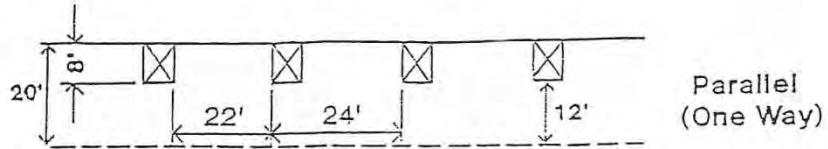
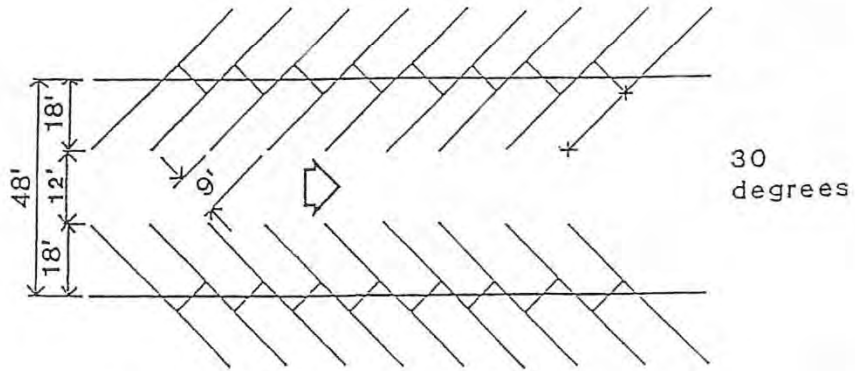
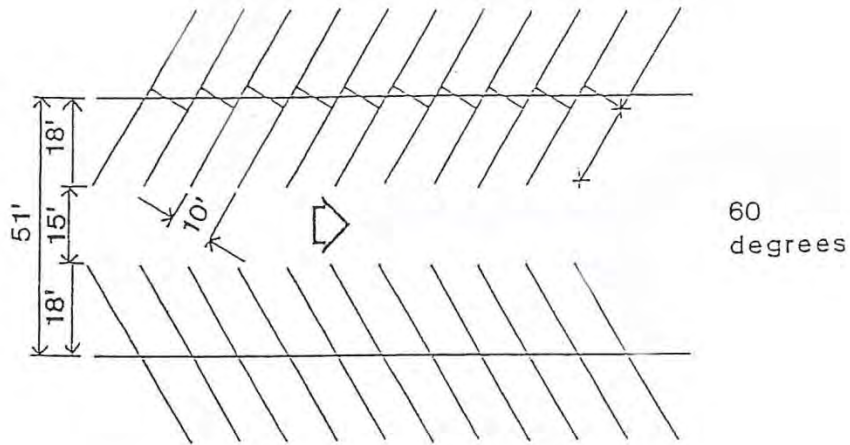


Figure 20-5



**D. Surfacing and Drainage.**

1. Grading, surfacing, and drainage plans shall be subject to review and approval by the Code Officer and/or City Engineer in accordance with the specifications approved by the City Council. All off-street parking areas, access lanes, driveways and other vehicle maneuvering areas shall be hard-surfaced with concrete or plant-mixed bituminous material. However, the Planning Commission may permit a gravel surface, provided the applicant or property owner provides sufficient evidence that a paved surface is not necessary. This determination will be based upon the following criteria:
  - a. The types of uses to be conducted in the storage area;
  - b. The types and amounts of hazardous materials to be used at the site;
  - c. The extent of natural vegetation to filter dust generated by a gravel parking or loading area;
  - d. The existence of adjacent uses which may be impacted by dust generated by a gravel parking or loading area;
  - e. Existing hydraulic and ecologic features such as adjacent wetland complexes which may be better protected by the reduced runoff resulting from gravel parking or loading area;
  - f. Existing soil permeability sufficient to provide desired infiltration; and
  - g. The potential for, or ability to minimize, erosion and sedimentation from a gravel parking or loading area.
2. Required parking lots shall be installed and completed within one (1) year of receipt of a Building Permit and before issuance of an occupancy permit. The Planning Commission may grant a single extension for an additional six (6) months in the event adverse weather conditions or unusual delays beyond the control of the property owner.
3. Off-street parking areas, access lanes, and driveways shall be graded and drained so as to dispose of surface waters. Surface water shall not be permitted to drain onto adjoining property, unless in accordance with an approved drainage plan.

- E. Curbs, Wheel Chocks.** Installation of a curb of at least six (6) inches in height may be required by the Planning Commission, to prevent motor vehicles from being driven or parked within two (2) feet of abutting landscape areas, sidewalks, streets, buildings, or adjoining property. In lieu of a curb, wheel chocks may be substituted to prevent vehicles from extending over grass areas, setback lines, or lot lines.

- F. **Lighting.** All parking areas, driveways, and walkways shall be illuminated to ensure the security of property and the safety of persons using areas, in accordance with the requirements in Section 14.06. Parking lot entrances shall be illuminated. Lighting shall be shielded from adjacent residential properties.
- G. **Buildings.** No building or structure shall be permitted on an off-street parking lot, except for a maintenance building/attendant shelter, which shall not be more than fifty (50) square feet in area and not more than fifteen (15) feet in height.
- H. **Signs.** Accessory directional signs shall be permitted in parking areas in accordance with Article XXII.
- I. **Screening and Landscaping.**
1. All off-street parking areas, except those serving single and two-family residences, shall be screened and landscaped in accordance with the provisions set forth in Article XXI.
  2. The off-street parking area shall be provided with a continuous and obscuring wall unless otherwise provided in this Ordinance. This wall shall be provided on all sides where the next zoning district is designated as a residential district and shall be subject further to the requirements of Article XIV, "GENERAL PROVISIONS AND EXCEPTIONS."
  3. When a front yard setback is required, all land between said wall and the front property line or street right-of-way line shall be kept free from refuse and debris and shall be landscaped with deciduous shrubs, evergreen material and ornamental trees. The ground area shall be planted and kept in lawn. All such landscaping and planting shall be maintained in a healthy, growing condition, neat and orderly in appearance.
- J. **Walls and Alleys.** In all cases where a wall extends to an alley which is a means of ingress or egress to an off-street parking area, it shall be permissible to end the wall not more than ten (10) feet from such alley line in order to permit a wider means of access to the parking area.
- K. **Maintenance.** All parking areas shall be maintained free of dust, trash, and debris. Surfacing, curbing, lighting fixtures, signage, and related appearances shall be maintained in good condition. All required lawns, landscaping, and plantings shall be maintained in a healthy, growing condition, neat and orderly in appearance. Trees and shrubs shall be properly pruned of dead and damaged limbs. Dead and severely damaged trees and shrubs shall be removed and replaced according to the minimum planting standards as outlined in Article XXI.
- L. **Modifications.** The Planning Commission, upon application by the property owner of the off-street parking area, may modify the yard or wall requirements where, in unusual

circumstances, no good purpose would be served by the compliance with the requirements of this Section.

**SECTION 20.06 COMMERCIAL AND RESIDENTIAL VEHICLE PARKING IN RESIDENTIAL DISTRICTS**

**A. Commercial Vehicle Parking.**

One (1) commercial vehicle owned and operated by a resident of the premises with a rated capacity of up to one (1) ton, may be parked on each lot located in a residential district, provided that the vehicle is not a utility truck, such as a wrecker, septic tank pumper, or a truck that carries flammable or toxic materials.

The parking and storage of commercial trailers, buses and converted buses in excess of eighteen (18) feet in length, and boats in excess of sixteen (16) feet in length, is prohibited. A suitable covering shall be placed over all boats whenever stored outside.

The parking of no more than one (1) commercial vehicle with a rated capacity of over one (1) ton may be permitted on a residential parcel subject to the following conditions and review and approval by the Planning Commission.

1. The parcel of land must be at least one (1) acre in size and shall not be part of a recorded plat or other single- or multiple-family residential development.
2. The parcel of land shall have a minimum width of at least two hundred (200) feet.
3. The commercial vehicle must be owned and operated by a resident of the premises.
4. The vehicle shall be fully screened when parked. Such screening may be provided by parking the vehicle in a garage, or by parking the vehicle in a rear yard which provides complete screening from adjacent properties. Screening of vehicles located outdoors may be accomplished with existing or new landscaping, topographic barriers, or through construction of screening walls or fencing.
5. Approval to park a commercial vehicle shall not constitute approval to park additional trailers, parts, or other equipment or materials associated with the operation of the commercial vehicle.
6. In considering whether to permit parking of a commercial vehicle on a site, the Planning Commission shall consider the potential off-site impacts, including: the impact from additional dust, odors, fumes, and noise generated by the vehicle; the disruption from additional vehicular traffic at various times during the day; and, possible safety hazards relating to operation of a commercial vehicle on public or private residential roads.

- B. **Recreational Vehicle Parking.** Recreational vehicles including campers, motor homes, travel trailers, utility trailers, folding (pop-up) trailers, pickup campers, snowmobiles on trailers, trailers, boats, and other similar recreational equipment and vehicles, may be parked or stored by the owner on residentially-used property subject to the following conditions:
1. **Connection to Utilities.** Recreational vehicles parked or stored shall not be connected to electricity, water, gas, or sanitary sewer facilities.
  2. **Use as Living Quarters.** At no time shall recreational vehicles parked or stored in residential districts be used for living or housekeeping purposes.
  3. **Location.** Recreational vehicles not parked in a building shall be parked or stored in the rear yard, but not closer than five (5) feet to a side or rear property line.
  4. **Lot Coverage.** Recreational vehicles may occupy no more than twenty percent (20%) of the required rear yard.
  5. **Temporary Parking.** Notwithstanding the above provisions concerning location, recreational vehicles may be parked elsewhere on the premises prior to or after a trip for loading or unloading purposes for a period of not more than forty-eight (48) hours prior to and forty-eight (48) hours after use of the vehicle within a seven (7) day period.
  6. **Condition.** Parked or stored recreational vehicles must be kept in good repair. Vehicles capable of being moved from place to place under their own power must be maintained in good running condition. All such vehicles must be properly registered in the name of the occupant of the dwelling unit.
  7. **Storage of Mobile Homes.** The parking or storage of an unoccupied mobile home being designed as a permanent structure for residential occupancy is prohibited unless it meets the requirements of a principle permitted use or as permitted in the Mobile Home Park District.
  8. **Waiver of Regulations.** The provisions concerning connection to utilities, use as living quarters, and location may be waived for a period of up to two (2) weeks to permit repair of the occupant's or owner's equipment or to permit the parking of a recreational vehicle of a guest. Permits for any such waiver shall be obtained from the Code Officer. No more than two (2) permits shall be issued for each activity (repair, storage of guest vehicle) per calendar year.
  9. **Multiple-Family Complexes and Mobile Home Parks.** The Planning Commission may require that a screened storage area be provided on the site of a multiple-family complex or mobile home park for parking and storage of recreational vehicles.

**SECTION 20.07 OFF-STREET LOADING AND UNLOADING AREAS**



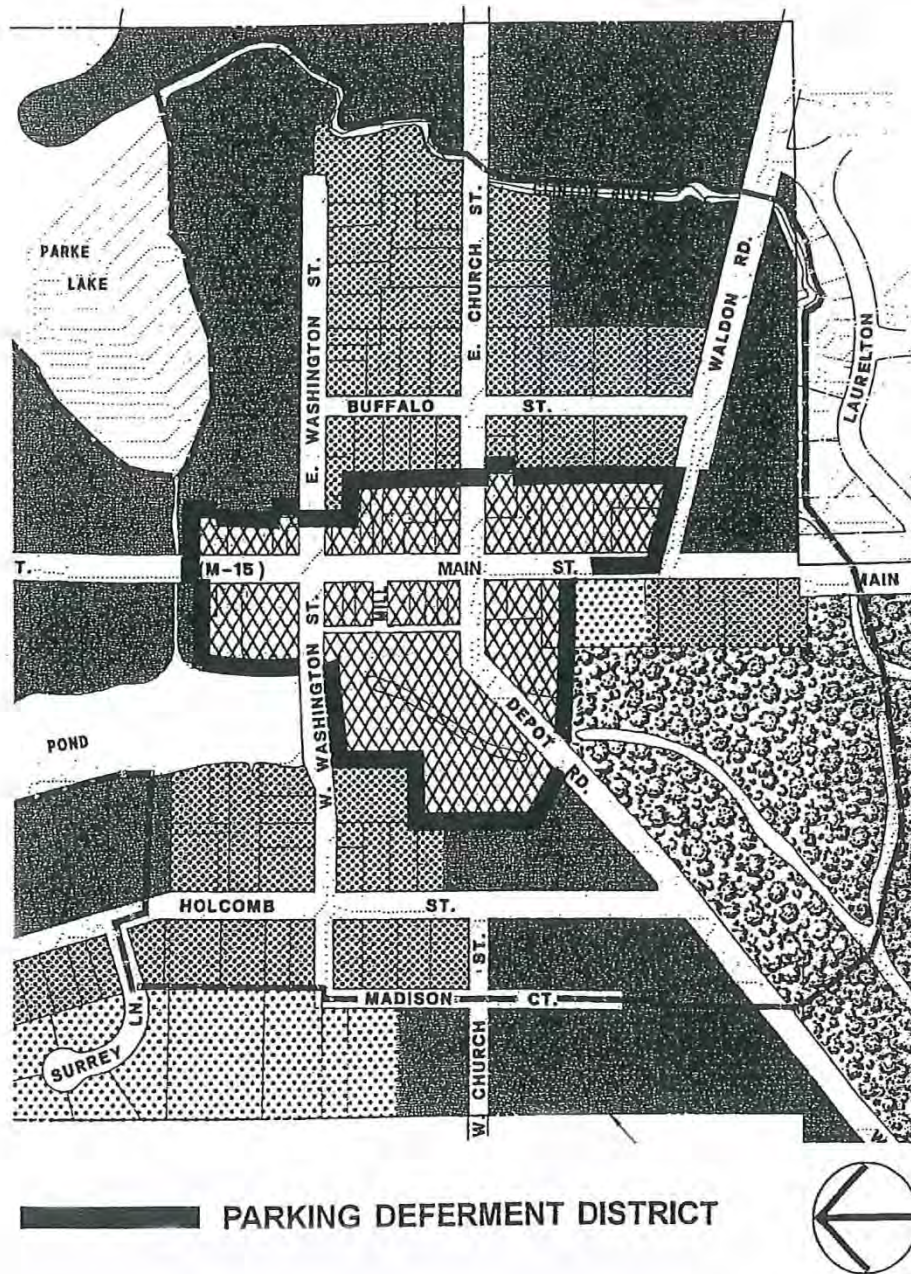
A. **Scope of Loading Space Requirements.** Compliance with the loading space regulations set forth herein shall be required in order to avoid interference with the public use of streets, alleys, parking areas, driveways, sidewalks, and other public areas.

1. **General Applicability.** On the same premises with every building, or part thereof, erected and occupied for manufacturing, storage, warehousing, display and sale of goods, including department stores, wholesale stores, markets, hotels, hospitals, mortuaries, laundries, dry cleaning establishments, and other uses involving the receipt or distribution of materials, merchandise, or vehicles; there shall be provided and maintained adequate space for loading and unloading as required in this section.
2. **Change in Use and Intensity.** For existing commercial structures and uses within the VC, Village Commercial District, no off-street loading spaces are required. Whenever use of a building, structure, or lot is changed, loading space shall be provided as required by this Ordinance for the new use, regardless of any variance which may have been in effect prior to change of use.
3. **Surfacing and Drainage.** Loading areas shall be hard-surfaced with concrete or plant-mixed bituminous material, so as to provide a permanent, durable and dustless surface. Loading areas shall be graded and drained so as to dispose of surface waters. Surface water shall not be permitted to drain onto adjoining property, unless in accordance with an approved drainage plan. Grading, surfacing, and drainage plans shall be subject to review and approval by the Code Officer and/or City Engineer in accordance with the specifications approved by the City Council. The requirement for paving may be waived by the Planning Commission through paragraph 20.05.D.
4. **Storage and Repair Prohibited.** The storage of merchandise, sale of motor vehicles, storage of inoperable vehicles, or repair of vehicles is prohibited in required loading space.
5. **Central Loading.** Central loading facilities may be substituted for individual loading spaces serving businesses on separate lots provided that all of the following conditions are fulfilled:
  - a. Each business served shall have direct access to the central loading area without crossing streets or alleys.
  - b. Total loading space provided shall meet the minimum requirements specified herein, in consideration of total floor area of all businesses served by the central loading space.
  - c. No building served shall be more than three hundred (300) feet from the central loading area.

6. **Minimum Loading Space.** The amount of required loading space shall be determined in accordance with the schedule that follows. The Planning Commission may modify these requirements upon making the determination that another standard would be more appropriate because of the number or type of deliveries experienced by a particular business or use.

Figure 20-6

# PARKING SPACE DEFERMENT DISTRICT



## SCHEDULE OF LOADING SPACE REQUIREMENTS

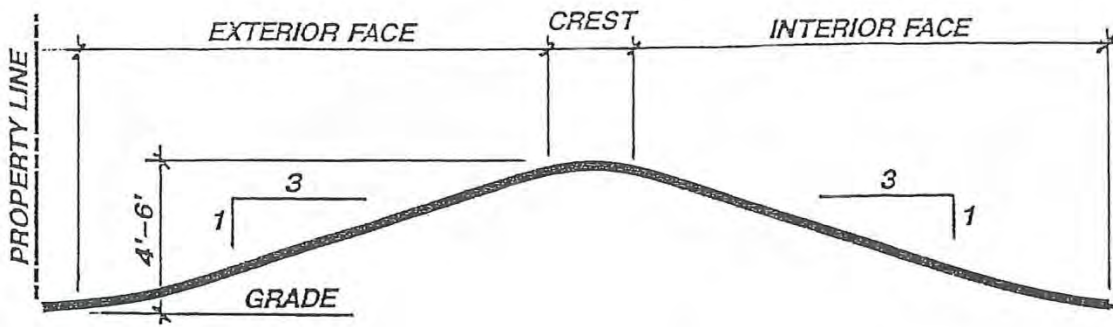
INSTITUTIONAL AND COMMERCIAL USES	
Up to 5,000 sq. ft. GFA	1.0 space. Establishments containing less than 5,000 square feet of gross floor area shall be provided with adequate off-street loading space that is accessible by motor vehicle, but which does not interfere with pedestrian or vehicular traffic. The size of any such loading space shall be based on the types of delivery vehicles typically utilized by the establishment, proved that in industrial districts, sufficient land area must be available to provide a 10 ft. by 50 ft. space (with a clearance of at least 14 ft. in height) in the event that the use of the property changes.
5,001 to 60,000 sq. ft. GFA	1.0 space, plus 1.0 space per each 20,000 sq. ft. GFA
60,001 sq. ft. GFA and over	3.0 spaces, plus 1.0 space per each additional 50,000 sq. ft. GFA
OFFICE USES	
Up to 15,000 sq. ft. GFA	1.0 space
If and over 30,000 sq. ft. GFA	2.0 spaces, plus 1.0 space for each additional 30,000 sq. ft. GFA
INDUSTRIAL USES	
Up to 1,400 sq. ft. GFA	0
1,401 – 20,000 sq. ft. GFA	1.0 space
20,001 – 100,000 sq. ft. GFA	1.0 space, plus 1.0 space per each 20,000 sq. ft. GFA in excess of 20,000 sq. ft.
100,001 sq. ft. GFA and over	5.0 spaces, plus 1.0 space for each 40,000 sq. ft. in excess of 100,000 sq. ft.

## ARTICLE XXI

### LANDSCAPING

#### SECTION 21.00 INTENT AND SCOPE OF REQUIREMENTS

- A. **Intent.** Landscaping enhances the visual image of the City, improves property values and alleviates the impact of noise, traffic, and visual distraction associated with certain land uses. Screening is important to protect less intensive uses from the noise, light, traffic, litter and other impacts of more intensive, nonresidential uses. Accordingly, these provisions are intended to set minimum standards for the design and use of landscaping, greenbelts, and screening, and for the protection and enhancement of the City's environment. More specifically, the intent of these provisions is to:
1. Improve the appearance of off-street parking areas, vehicular use areas, and property abutting public rights-of-way; and
  2. Protect and preserve the appearance, character, and value of the neighborhoods that abut non-residential areas, parking areas, and other intensive use areas, thereby protecting the public health, safety and welfare.
- B. **Scope of Application.** No site plan shall be approved unless it contains landscaping that meets or exceeds the requirements of this Article. No building permit shall be issued by the Code Officer until the required landscape plan is submitted and approved, and no certificate of occupancy shall be granted unless provisions of this section have been met or a performance guarantee has been posted in accordance with the provisions set forth in Section 15.20.
- C. **Minimum Requirements.** The requirements in this Article are minimum requirements. Under no circumstances shall they preclude the installation of more extensive landscaping. Applicants are encouraged to provide additional landscaping to improve the function, appearance and value of this property.
- D. **Design Creativity.** Creativity in landscape design is encouraged. In several instances, the standards are intentionally flexible to encourage flexibility and creative design. Accordingly, required trees and shrubs may be planted at uniform distances, randomly, or in groupings, depending on the designer's desired visual effect and, equally important, the intent of the City to coordinate landscaping on adjoining properties.



**TYPICAL BERM DESIGN**

**SECTION 21.01 DEFINITIONS**

For the purpose of this Section, the following definitions shall apply:

- A. **Berm.** A continuous, raised earthen mound with a flattened top and sloped sides, capable of supporting live landscaping materials, and with a height, width, and slope which complies with the requirements of this Ordinance.
- B. **Buffer Zone.** A strip of land often required between certain zoning districts reserved for plant material, berms, walls or fencing to serve as a visual barrier.
- C. **Common Open Space.** Designated areas unoccupied and unobstructed from the ground upward except for living plant material, recreational facilities, sidewalks, bike paths and necessary drives within a RPDD, subdivision or condominium projects designed and intended for the use and enjoyment of the public or residents of the development and/or for the protection of natural features.
- D. **Grass.** Any family of plants with narrow leaves normally grown as permanent lawns in southeastern Michigan.
- E. **Greenbelt.** A strip of land of definite width and location reserved for the planting of a combination of shrubs, trees and ground cover to serve as an obscuring screen or buffer for noise or visual enhancement, in accordance with the requirements of this Ordinance. In some cases, a wall or fence may be permitted as part of the greenbelt.
- F. **Ground Cover.** Low-growing plants (including grass) that form a dense, extensive growth after one complete growing season, and tend to prevent weeds and soil erosion.
- G. **Shrub.** A woody plant of one (1) to thirteen (13) feet in height with several erect, spreading or prostrate stems and a general bushy appearance.

H. **Tree.** A woody plant with an erect perennial trunk, which at maturity is thirteen (13) feet or more in height, which has a more or less definite crown of foliage. For purposes of this Ordinance the following definitions of types of trees shall apply:

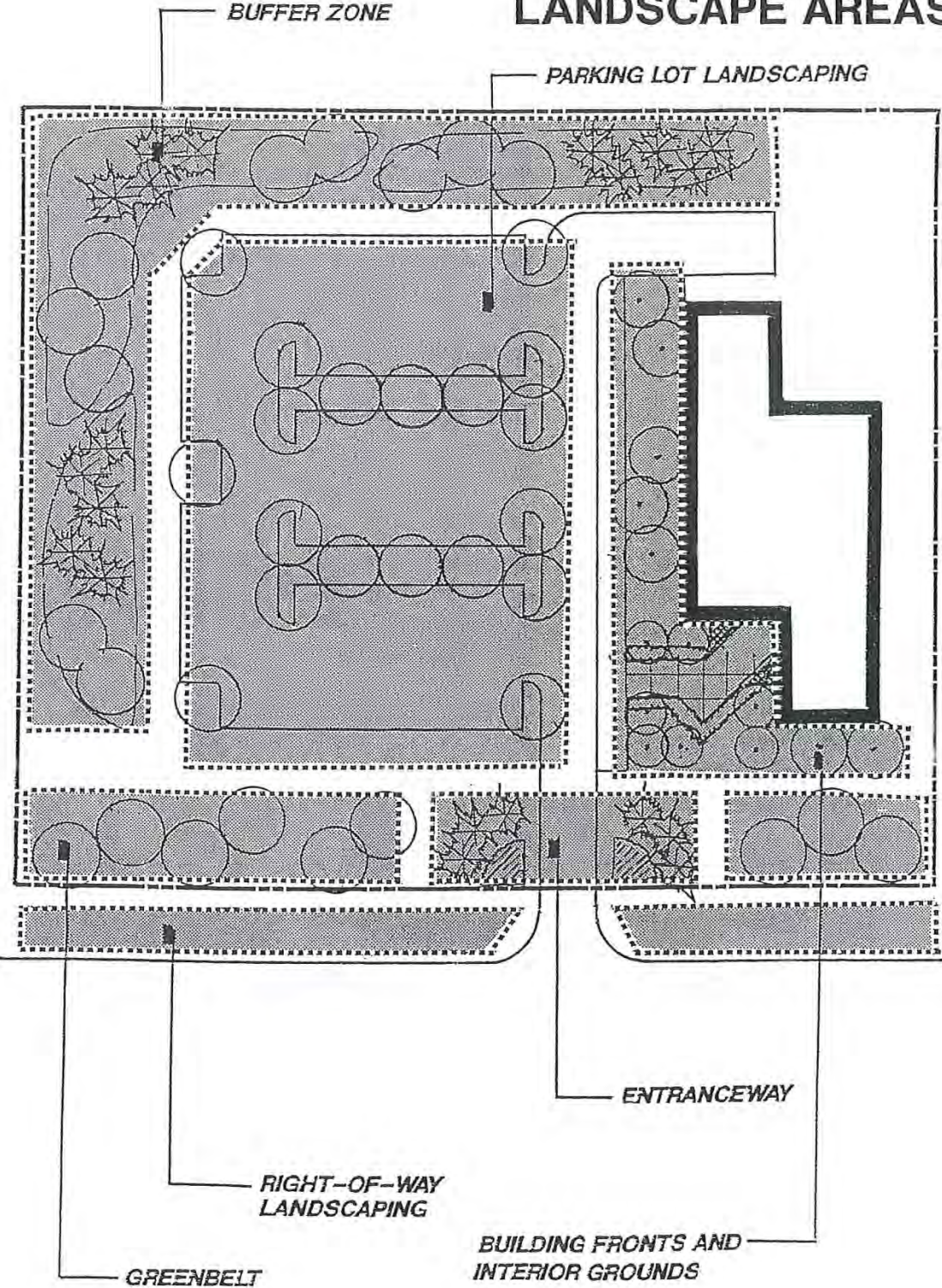
1. **Deciduous Tree:** A tree which has foliage that is shed at the end of the growing season.
2. **Evergreen Tree:** A tree which has foliage that persists and remains green throughout the year.
3. **Ornamental Tree:** A deciduous tree which is typically grown because of its shape, flowering characteristics, or other attractive features, and which grows to a mature height of twenty-five (25) feet or less.
4. **Canopy Tree:** A deciduous tree which has a mature crown spread of greater than fifteen (15) feet and a mature height of forty (40) or more feet in southern Michigan, and which has a trunk with at least five (5) feet of clear stem at maturity.

## **SECTION 21.02 GENERAL LANDSCAPING REQUIREMENTS**

A. **General Site Requirements.** All developed portions of the site shall conform to the following general landscaping standards, except where specific landscape elements, such as a greenbelt, berms, or screening are required:

1. All unpaved portions of the site shall be planted with grass, ground cover, shrubbery, or other suitable live plant material, and shall extend to any abutting street pavement edge. Grass areas in the front yard of all non-residential uses shall be planted with sod.
2. A mixture of evergreen and deciduous trees shall be planted on the unpaved open portions of non-residential parcels where specific landscaping minimums are not required within this Article. Based upon the overall appearance of the proposed site and the amount of landscaping provided elsewhere on the site, the total number of trees required shall be approved at the time of site plan review. Required trees may be planted at uniform distances, randomly, or in groupings.

# LANDSCAPE AREAS





**B. Landscaping Adjacent to Roads and Road Rights-of-Way.** Landscaping adjacent to roads and road rights-of-way shall comply with the following planting requirements:

**1. Minimum Requirements.**

- a. The landscaping area adjacent to other roads or road rights-of-way shall consist of a minimum depth of fifteen (15) feet. This landscaped area shall exclude approved openings for vehicle and pedestrian access. Through lots or corner lots shall provide such landscaping along all adjacent road rights-of-way.
- b. The Planning Commission may permit all or a portion of the landscaped area to be located within a road right-of-way or elsewhere within the front setback area, provided that the Planning Commission finds that all of the following conditions exist regarding the proposed relocation:
  - The relocation is justified because of the physical characteristics of the site, the location of existing easements, sidewalks, or landscaping, the configuration of existing parking, the need to maintain emergency vehicle access, or because of other public health or safety concerns.
  - The landscaped area will not result in less landscaped area than would be required if the landscaped area had been located on private property contiguous to the road right-of-way.
  - The landscaped area is consistent with the intent of this section.
  - The landscaped area will not jeopardize traffic safety or the general planning of the City.

**2. Required Plantings.**

Type	Requirements
Deciduous tree*	1 canopy tree per 30 lineal ft. (rounded upward) of road frontage

\*The Planning Commission may approve substitution of evergreen trees for up to fifty percent (50%) of the required trees.

For the purposes of computing length of road frontage, openings for driveways and sidewalks shall not be counted. Trees and shrubs may be planted at uniform distances, randomly, or in groupings.

3. **Location.**

a. Where planted, trees shall comply with the following minimum setbacks, as measured from the center of the tree:

- Setback from edge of road: 10 feet.
- Setback from fire hydrant: 5 feet.
- Setback from vehicular drive or sidewalk: 5 feet.
- Setback from fence line or property line: 4 feet.

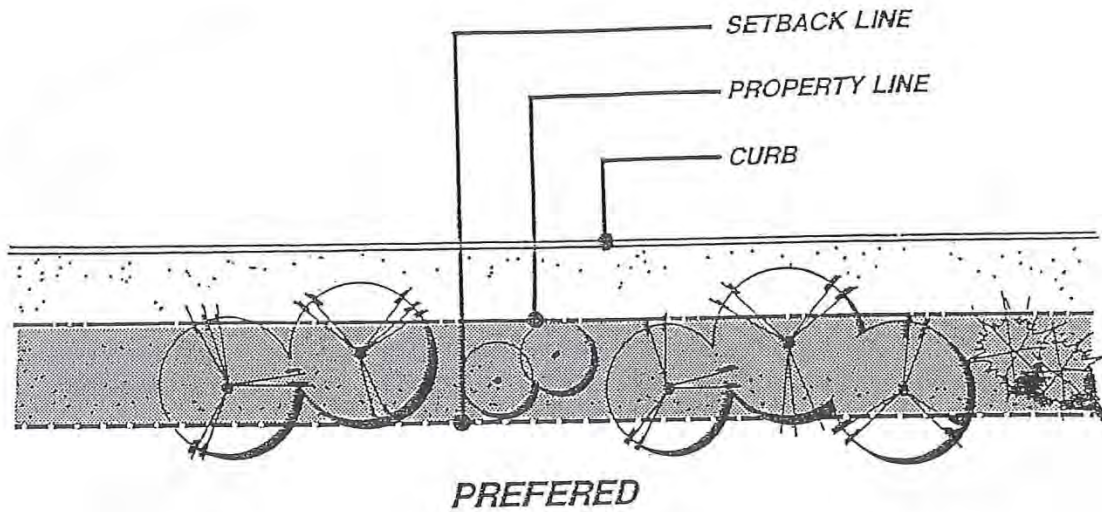
b. When planted, shrubs shall comply with the following minimum setbacks, as measured from the edge of the shrub:

- Setback from edge of road: 5 feet.
- Setback from fire hydrant: 5 feet.
- Setback from fence line or property line: 4 feet.

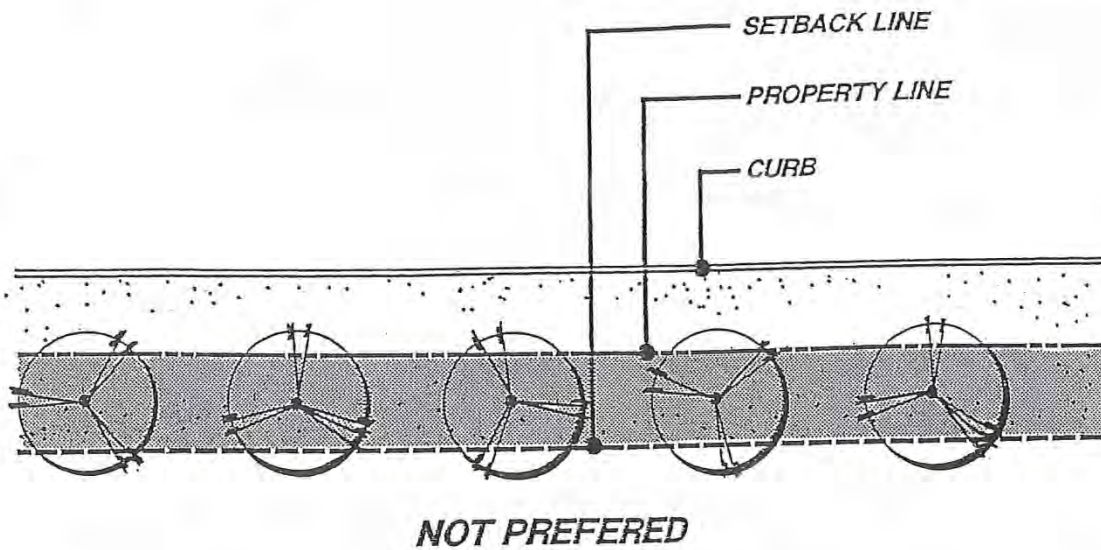
C. **Berms.** Where required, berms shall conform to the following standards:

1. **Dimensions.**

Unless otherwise indicated or appropriate, required berms shall be measured from the grade of the parking lot or first ground adjacent to the berm, and shall be constructed with slopes no steeper than one (1) foot vertical for each three (3) feet horizontal (33 percent slope), with at least a two (2) foot flat area on top. Berms may undulate in height, subject to review and approval of berm design as shown on the site plan. Unless otherwise indicated, the maximum height of required berms shall be three (3) feet (See Illustration).



GROUPINGS OF A VARIETY OF MATERIAL



CONTINUOUS ROW OF EQUALLY SPACED TREES

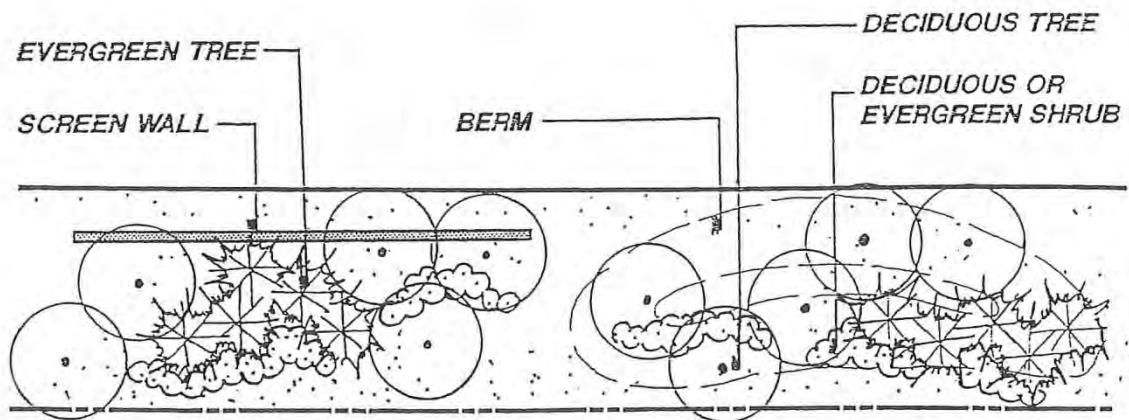
**GREENBELT**

2. **Protection from Erosion.** Any required berm shall be planted with sod, ground cover, or other suitable live plant material to protect it from erosion so that it retains its height and shape. The use of railroad ties, cement blocks, and other types of construction materials to retain the shape and height of a berm shall be prohibited unless specifically reviewed and approved as part of a site plan by the Planning Commission.
3. **Required Plantings.**
  - a. **Berms located in the front yard of non-residential parcels.** Berms located in the front yard of non-residential parcels shall be landscaped in accordance with the requirements for Landscaping Adjacent to Roads, Section 21.02, sub-section B.
  - b. **Berms used for screening other than in the front yard.** Berms used for screening other than in the front yard shall be landscaped in accordance with the requirements for Screening, Section 21.02, sub-section E.
4. **Measurement of Berm Length.** For the purpose of calculating required plant material, berm length shall be measured along the exterior edge of the berm.

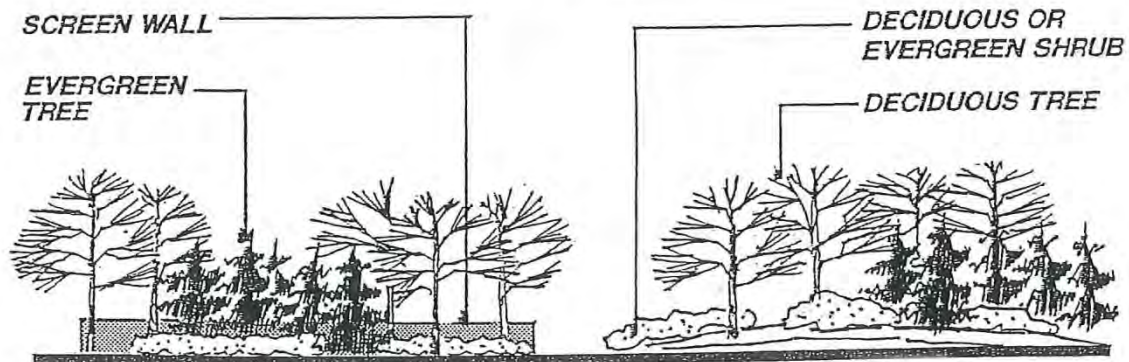
D. **Greenbelts and Buffer Zones.** Where required, greenbelts shall conform to the following standards:

1. **General Site Requirements.** All developed portions of the site shall conform to the following general landscaping standards, except where specific landscape elements, such as a greenbelt, berms, or screening are required:
  - a. All unpaved portions of the site shall be planted with grass, ground cover, shrubbery, or other suitable live plant material, which shall extend to any abutting street pavement edge. Grass areas in the front yard of all non-residential uses shall be planted with sod.
  - b. A mixture of evergreen and deciduous trees shall be planted on non-residential parcels at the rate of one (1) tree per three thousand (3,000) square feet or portion thereof of any unpaved open area for which specific landscaping requirements do not appear later in this Article. Required trees may be planted at uniform intervals, at random, or in groupings.
2. **Required Greenbelt along Street Frontage.**
  - a. Within all multiple-family residential, mobile home park, commercial and industrial districts, a twenty (20) foot wide greenbelt shall be planted along the public right-of-way including the equivalent of one (1) canopy tree, rounded upward, for every forty (40) linear feet of frontage.

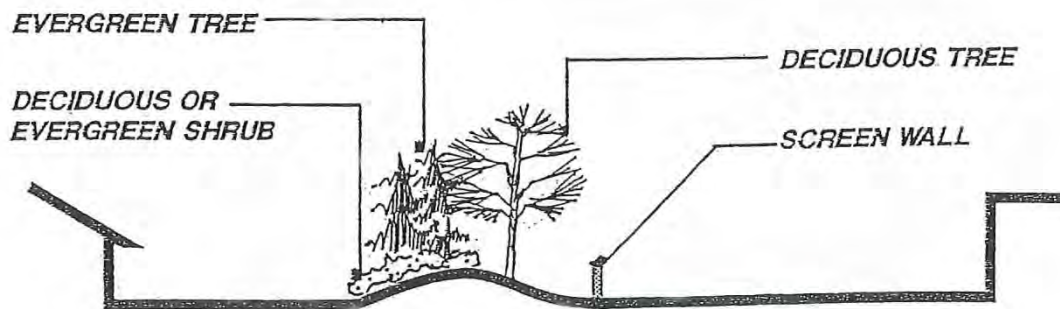
- b. The Planning Commission may require the provision of a planting berm at least three (3) feet in height in addition to the plant materials required along the public right-of-way parallel to a major arterial.
  - c. The Planning Commission may approve substitution of evergreen trees for up to fifty percent (50%) of the required trees.
  - d. All greenbelt trees shall be arranged to simulate a natural setting such as staggered rows or massings. The remaining greenbelt shall include only living materials with the exception of permitted driveways, bike paths, sidewalks, signs, and utilities.
3. **Measurement of Greenbelt Length.** For the purposes of calculating required plant material, greenbelt length shall be measured along the exterior edge of the greenbelt.
4. **General Planting Requirements.**
- a. **Grass or Ground Cover Requirements.** Grass, ground cover, or other suitable live plant materials shall be planted over the entire greenbelt area, except where paved walkways are used.
  - b. **Tree and Shrub Requirements.** Except where the greenbelt is used for screening, the following minimums are required:



PLAN



ELEVATION



SECTION

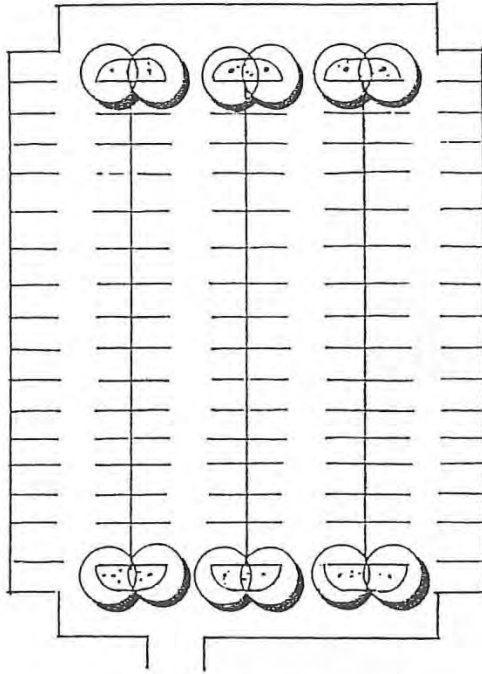
**WALL / BERM**

Type	Requirements
Deciduous tree	1 per 30 lineal ft. of required greenbelt
<b>Or in substitution:</b>	
Shrubs	8 per 32 lineal ft. of required greenbelt

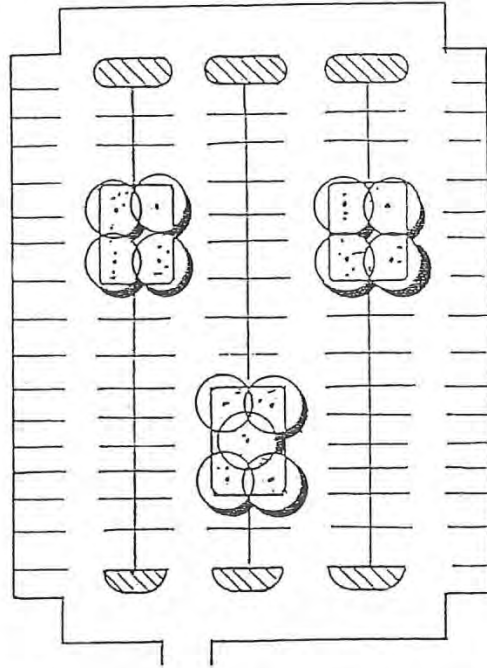
- c. **Distance from Sidewalk.** Plant materials shall not be placed closer than four (4) feet from the right-of-way line where the greenbelt abuts a public sidewalk.
  - d. **Setback from Property Line.** Plant materials shall be placed no closer than four (4) feet from the property line or fence line.
5. **Greenbelts Used for Screening.** Greenbelts used for screening shall be landscaped in accordance with the requirements for Screening, Section 21.02, sub-section E.

**E. Screening, Obscuring Walls and Fences.**

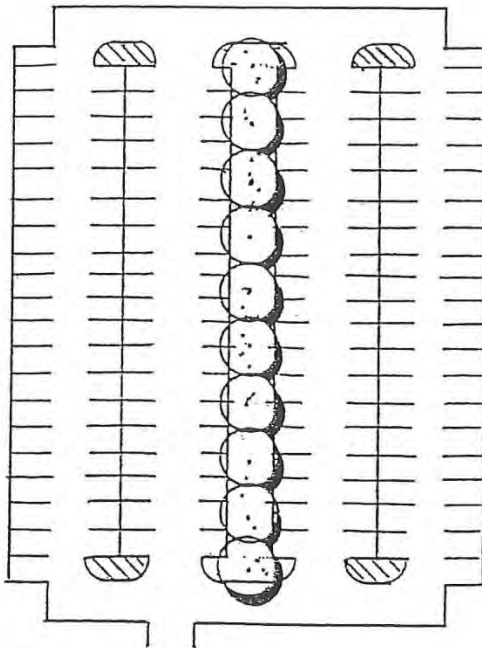
- 1. **Obscuring Walls and Fences.** There shall be provided on those sides abutting or adjacent to a residential district a completely obscuring wall or fence. The height of such wall or fence shall be determined by the Code Officer; provided, however, that he shall require only such height as shall be necessary to obscure the use within the fence from adjoining residential uses and in any event such wall or fence not exceed eight (8) feet from ground level.
  - a. Required walls or fences shall be located on the lot line except where underground utilities interfere and except in instances where this Ordinance requires conformance with front yard set-back lines in abutting Residential Districts. Required walls or fences may upon approval of the Board-of Appeals, be located on the opposite side of an alley right-of-way from nonresidential district that abuts a residential district when mutually agreeable to affected property owners. The continuity of the required wall or fence on a given block will be a major consideration of the Board of Appeals in reviewing such request.



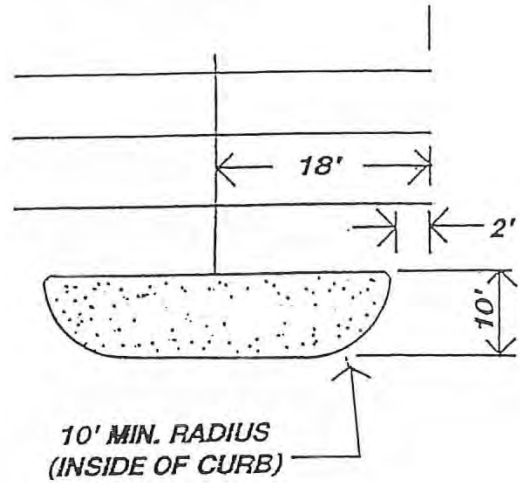
**TREES IN END ISLANDS**



**LARGER LANDSCAPE ISLANDS**



**LANDSCAPE MEDIAN**



**END ISLAND DETAIL**

**LANDSCAPE ISLANDS  
WITHIN PARKING AREAS**



- b. Such walls and screening barrier shall have no openings for vehicular traffic or other purposes, except such openings as may be approved by the City body with authority for final site plan review. All walls herein required shall be constructed of masonry materials. Walls shall be erected on a concrete foundation which shall have a minimum depth of forty-two (42) inches below a grade approved by the Code Officer and shall be not less than four (4) inches wider than the wall to be erected.
  - c. The Planning Commission may modify or waive wall requirements under circumstances where strict enforcement of such requirements would be unreasonable or serve no good purpose. Such waivers shall be in the form of written agreements, and filed with the Oakland County Register of Deeds.
  - d. In lieu of a masonry wall, the Planning Commission may permit the use of a greenbelt or other fencing material.
2. **General Screening Requirements.** Unless otherwise specified, wherever an evergreen or landscaped screen is required, screening shall consist of closely-spaced evergreen plantings (no farther than fifteen (15) feet apart) that can be reasonably expected to form a complete visual barrier that is at least six (6) feet above ground level within three (3) years of planting. Deciduous plant materials may be used provided that a complete visual barrier is maintained throughout the year.
3. **Screening of Equipment.** Mechanical equipment, such as air compressors, pool pumps, transformers, sprinkler pumps, satellite dish antennae, and similar equipment shall be screened on at least three (3) sides by evergreen trees or shrubs planted three (3) feet on-center. Insofar as practical, said screening shall exceed the vertical height of the equipment being screened by at least six (6) inches within two (2) years of planting.
4. **Residential Entranceway Structures.** Residential subdivision entranceway structures, such as walls, columns or gates that mark the entrance to a single-family subdivision or multiple-family development shall be permitted in the required setback area, provided that:
- a. Entranceway structures shall not exceed eight (8) feet in height and forty-eight (48) square feet in size.
  - b. Walls in residential districts shall be constructed of indigenous stone or masonry material that is architecturally compatible with the materials on the façade of the principal structure, such as face brick or decorative block.

- c. Entranceway structures shall not be located in the existing or planned right-of-way.
  - d. Entranceway structures shall comply with the requirements for unobstructed motorist visibility in Section 14.10 Corner Clearance.
  - e. Approval of the Code Official and issuance of a building permit shall be required prior to construction.
5. **Fences.** Fences shall consist of materials commonly used in conventional fence construction, such as wood, metal (wrought iron or tubular aluminum), brick or natural stone. Razor wire and fences that carry electric current shall not be permitted. Fences shall comply with the following additional requirements:
- a. If, because of the design or construction, one side of the fence has a more finished appearance than the other, the side of the fence with the more finished appearance shall face the exterior of the lot.
  - b. No fence shall be erected where it would prevent or unreasonably obstruct the use of adjacent property, nor shall a fence be erected where it would obstruct or prevent the continued safe use of an existing driveway or other means of access to adjacent property. In enforcing this provision, the Code Official may require a fence to be set back a minimum distance from a driveway or property line.
  - c. Fences shall be maintained in good condition. Rotten or broken components shall be replaced, repaired, or removed. As required, surfaces shall be painted, stained, or similarly treated.
  - d. The maximum height of fences shall be measured from ground level adjacent to the fence.
  - e. See Section 14.13.I Residential Yard Fences for location and height requirements.

F. **Parking Lot Landscaping.** In addition to required screening, all off-street parking areas shall also provide landscaping as follows:

- 1. **Landscaping Ratio.** Off-street parking areas containing greater than twenty-five (25) spaces shall be provided with at least ten (10) square feet of interior landscaping per parking space. The amount of parking lot landscaping may be decreased to seven (7) square feet per parking space where a berm is constructed to screen the parking from the road in accordance with Section 21.02, subsections B.3, or C. Whenever possible, parking lot landscaping shall be designed to improve the safety of pedestrian and vehicular traffic, guide traffic movement,

screen parked vehicles from public view and improve the appearance of the parking area.

2. **Minimum Area.** Landscaped areas in parking lots shall be no less than five (5) interior feet in any single dimension and no less than one hundred and fifty (150) square feet in area. Landscaped areas in or adjacent to parking lots shall be protected with curbing or other means to prevent encroachment of vehicles,
3. **Other Landscaping.** Required landscaping elsewhere on the parcel shall not be counted in meeting the parking lot landscaping requirements.
4. **Required Plantings.** Requirements for plant material shall be based on the location, size, and shape of the parking lot landscaped area. A minimum of one (1) tree (rounded upward) shall be planted per three hundred (300) square feet or fraction thereof of interior landscaped area. At least fifty percent (50%) of each interior landscaped area shall be covered by living plant material, such as sod, shrubs, ground cover, or trees. Plantings within parking lots shall comply with the requirements for unobstructed site distance set forth in Section 14.10. The landscape plan shall indicate the species, sizes, and quantities of plant material proposed for such area.

- G. **Landscaping of Rights-of-Way.** Public rights-of-way located adjacent to required landscaped areas and greenbelts shall be planted with grass or other suitable live ground cover, and shall be maintained by the owner or occupant of the adjacent property as if the rights-of-way were part of the required landscaped areas or greenbelts. Trees and shrubs shall not be planted in the road right-of-way without first obtaining approval from the agency that has jurisdiction over the road.

Trees and shrubs shall be planted no closer to the edge of the road pavement than the distances specified in the following chart:

**Road Setback Requirements for Plantings:**

Trees	10 feet (measured from center of tree)
Shrubs	5 feet (measured from perimeter of shrub)

- H. **Maintenance of Unobstructed Visibility for Drivers.** No landscaping shall be established or maintained on any parcel or in any parking lot that will obstruct the view of drivers. Accordingly, all landscaping shall comply with the provisions set forth in Section 14.10, Corner Clearance.
- I. **Potential Damage to Utilities and Public Facilities.** Landscaping material shall not be planted in a manner that will interfere with or cause damage to underground utility lines, public roads, or other public facilities. Species of trees whose roots are known to cause damage to public roadways, sewers, or other utilities shall not be planted closer than

fifteen (15) feet to any such roadways, sewers, or utilities. Trees may be required to be set back from overhead utility lines as indicated in the following chart:

<b>Utility Setback Requirements for Plantings</b>	
<b>Potential Tree Height</b>	<b>Minimum Distance from Center of Trunk to Nearest Utility Line</b>
Up to 15 feet	10 feet
15 to 25 feet	20 feet
Over 25 feet	30 feet

- J. **Landscaping of Divider Medians.** Where traffic on driveways, maneuvering lanes, private roads, or similar means of vehicular access are separated by a divider median, the median shall be curbed (6 inch non-mountable curb) and have a minimum width of ten (10) feet. A minimum of one (1) deciduous or evergreen tree shall be planted for each thirty (30) lineal feet or portion thereof of median. Trees may be planted at uniform distances; randomly, or in groupings, but in no instance shall the center-to-center distance between trees exceed sixty (60) feet.
- K. **Irrigation.** Each landscaped area shall have water access available. The site plan shall indicate the proposed method of providing water to landscaped areas. Although not required, installation of an in-ground irrigation or sprinkler system is encouraged, particularly in front yards.
- L. **Sight Distance.** The landscape plan shall be approved by the Planning Commission in consideration of sight distance, size of planting area, location of sidewalks, maintenance of adequate overhead clearance, accessibility to fire hydrants, visibility to approved signs and compatibility with the visual character of the surrounding area. Plantings within fifteen (15) feet of a fire hydrant shall be no taller than six (6) inches.

**SECTION 21.03 SPECIFIC LANDSCAPING REQUIREMENTS FOR ZONING DISTRICTS**

- A. **Requirements for Village Commercial, and Industrial Districts.** All lots or parcels of land located in Village Commercial or Industrial zoning districts shall comply with the following landscaping requirements:
  - 1. **General Site Landscaping.** Exclusive of parking lot requirements, at least six percent (6%) of the total area of the site shall be maintained as landscaped open area. All such open areas shall conform to the General Site Requirements in Section 21.02, sub-section A, except where specific landscape elements are required.

2. **Landscaping Adjacent to Road or Road Right-of-Way.** All commercial, office, and industrial developments shall comply with the requirements for landscaping adjacent to the road or road right-of-way in Section 21.02, sub-section B.
3. **Berm Requirements.** A berm may be used to screen off-street parking from view of the road, in which case the berm shall be a maximum of three (3) feet in height, and shall be planted in accordance with Section 21.02, sub-section B. The berm shall be located entirely on private property, adjacent to the road right-of-way. Parking lot landscaping may be reduced if a berm is constructed to screen off-street parking, in accordance with Section 21.02, sub-section C.
4. **Screening.** Landscaped screening or wall shall be required wherever a non-residential use in a commercial, office, or industrial district abuts land zoned for residential purposes. Landscaped screening shall comply with the requirements in Section 21.02, subsection E.
5. **Parking Lot Landscaping.** Off-street parking areas containing greater than twenty-five (25) spaces shall comply with the requirements for parking lot landscaping in Section 21.02, sub-section F.

**B. Requirements for VC, Village Commercial District.** The purpose of this Section is to promote development and redevelopment in the Village Commercial District in a manner that creates a safe and attractive environment for specified uses as well as cultivate an attractive gateway to the City.

1. **Pedestrian-Related Design Features.**

- a. Direct pedestrian access shall be provided from the principal entrance of the building to the sidewalk on Main Street or side street, if any. Pedestrian access shall be provided from rear parking facilities to the ground floor uses, either through rear or side building entrances, pedestrian ways along the perimeter of buildings, or by pedestrian throughways which connect the rear parking lots to the sidewalks along Main Street. Pedestrian throughways may be exterior and located between buildings or may be incorporated in the interior design of a structure. Pedestrian throughway shall be a minimum of six (6) feet wide (where practicable), well lighted and visually accessible from either the interior of the building or street and parking areas. The intention is to provide a safe and aesthetically pleasing environment.
- b. Parking, vehicular service areas, and all pedestrian areas shall be well lighted to provide both a secure and aesthetically pleasing environment. Lighting shall be directed away from adjacent residential properties and roadways.

- c. Combined ground floor and second floor building frontage on all front yards shall contain a minimum of fifteen percent (15%) transparent or translucent materials per gross area of frontage.

2. **Optional Crime Prevention Through Environmental Design (CPTED) Review Requirements.**

- a. The Planning Commission may require a CPTED review for rezoning petitions, special land use petitions, and site development plans for all sites located in the Village Commercial District. The CPTED development plan review may be completed and signed by one Law Enforcement Officer and one designated CPTED trained Planning Commission Member or Code Officer may be assigned to the petition prior to the petition being scheduled before the Planning Commission. The development plan presented to the Planning Commission and City Council by the petitioner shall respond to all concerns noted by the CPTED reviewers.

- b. It is the intent of the guidelines listed below to assist in the creation and maintenance of a built environment that decreases the opportunity for crime and increases the perception of safety. The CPTED review performed by the individuals listed above shall encompass but not be limited to the following principles:

- i. **Provision of *natural surveillance*.**

- 1) The placement and design of physical features to maximize visibility. This will include building orientation, windows, entrances and exits, parking lots, walkways, guard gates, landscape trees and shrubs, fences or walls, signage and any other physical obstructions.
- 2) The placement of persons and/or activities to maximize surveillance possibilities.
- 3) Lighting that provides the nighttime illumination of parking lots, walkways, entrances and exits.

- ii. **Provision for *natural access control*.**

- 1) The use of sidewalks, pavement, lighting and landscaping to clearly guide the public to and from entrances and exits.
- 2) The use of fences, walls or landscaping to prevent and/or discourage public access to or form dark and/or unmonitored areas.

- iii. **Provision of territorial reinforcement.** The use of pavement treatments, landscaping, art, signage, screening and fences to define and outline ownership of property.
- iv. **Maintenance.** The use of low-maintenance landscaping and lighting treatment to facilitate the CPTED principles of natural surveillance, natural access control, and territorial reinforcement.

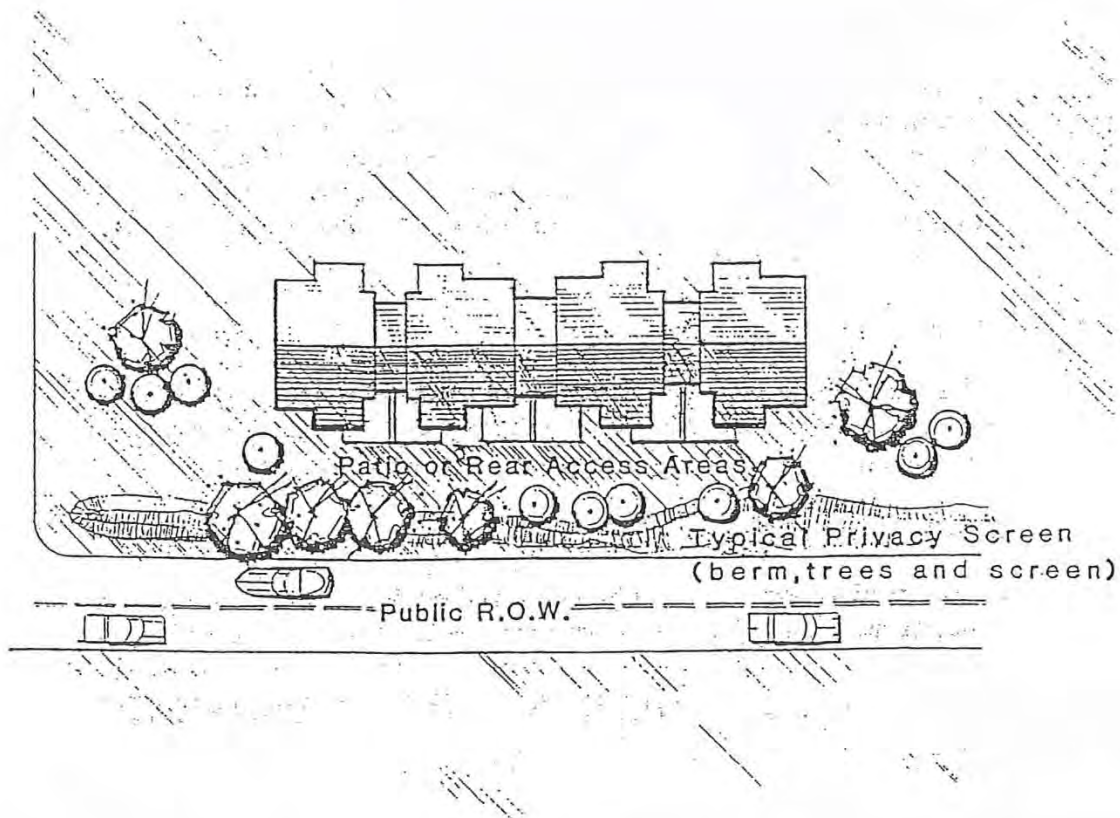
<b>LANDSCAPING, BUFFERING AND SEPARATION STANDARDS TABLE</b>				
<b>Location</b>	<b>Land Use Type</b>	<b>Treatment</b>	<b>Minimum/Maximum/Other</b>	<b>Vegetative Standard</b>
Adjacent to public ROW (front yards)	All, except as listed below	Trees	Not applicable	One tree per 30 linear feet of property line
	Open air facility (in conjunction with restaurant)	Fence, hedge, planter or other vegetative barrier	Height: min. 2-1/2', max. 5'. If using solid barrier, max. height is 2-1/2'. All other separation treatment shall be no more than 60% opaque to a max. height of 5'.	Not applicable
	Outdoor sale and display of goods	Fence, hedge, planter or other vegetative barrier	Height: min. 2-1/2', max. 5'. If using solid barrier, max. height is 2-1/2'. All other separation treatment shall be no more than 60% opaque to a max. height of 5'.	Not applicable
	Off street parking/ vehicular use (not entirely screened by intervening building or structure, excluding alleys)	Decorative wall, planter wall, decorative fence or landscaped buffer	Height: min. 2-1/2', max. 5'. If using solid barrier, max. height is 2-1/2'. All other separation treatment shall be no more than 60% opaque to a max. height of 5'. Three options: (1) Wall or fence from ground level to 2-1/2' above grade shall be 100% opaque; (2) Fence with 3' wide landscaped buffer (in front of or behind the wall); (3) 10' wide landscaped buffer	(1) Not applicable  (2) Shrubs or ground cover;  (3) Shrubs or ground cover, turf does not qualify

C. **Requirements for Multiple-Family District.** All lots or parcels of land located in the Multiple-Family zoning district shall comply with the following landscaping requirements:

- 1. **General Site Landscaping.** A minimum of two (2) (rounded upward) deciduous or evergreen trees, plus four (4) shrubs shall be planted per dwelling unit. Unless otherwise specified, required landscaping elsewhere in the multiple-family development shall not be counted in meeting these requirements for trees.

2. **Landscaping Adjacent to Road or Road Right-of-Way.** All multiple-family developments shall comply with the requirements for landscaping adjacent to the road or road right-of-way in Section 21.02, sub-section B.
3. **Berm Requirements.** A berm may be used to screen off-street parking from-view of the roadway or other public property, in which case the berm shall be a maximum of three (3) feet in height, and shall be planted in accordance with Section 21.02, sub-section B. The berm shall be located totally on private property, adjacent to the road right-of-way. Parking lot landscaping may be reduced if a berm is constructed to screen off-street parking, in accordance with Section 21.02, sub-section F.
4. **Screening.** Landscaped screening or a wall shall be required on all sides of a multiple-family development, except on sides facing a road. Landscaped screening shall comply with the requirements in Section 21.02, sub-section D. A wall may be used instead of landscaping adjacent to non-residential districts, subject to the requirements in Section 21.02, sub-section E.
5. **Parking Lot Landscaping.** Off-street parking areas containing greater than fifteen (15) spaces shall comply with the requirements for parking lot landscaping in Section 21.02, sub-section F.
6. **Privacy Screen.** Where multiple-family dwellings are designed so that open common areas or individual patio areas abut a public street, a landscaped privacy screen shall be provided (see illustration). The screen may consist of a combination of trees, shrubs, and landscaped berms, subject to site plan review and approval by the Planning Commission.





## PRIVACY SCREEN

**D. Requirements for Non-Residential Uses in Residential Districts.** All non-residential uses developed in residential zoning districts shall comply with the following landscaping requirements:

1. **General Site Landscaping.** At least ten percent (10%) of the site shall be maintained as landscaped open area. All such open areas shall conform to the General Site Requirements in Section 21.02, sub-section A, except where specific landscape elements are required.
2. **Landscaping Adjacent to Road or Road Right-of-Way.** All non-residential developments located in residential districts shall comply with the requirements for landscaping adjacent to the road or road right-of-way in Section 21.02, sub-section B.

3. **Berm Requirements.** A berm may be used to screen off-street parking from view of the road, in which case the berm shall be a maximum of three (3) feet in height, and shall be planted in accordance with Section 21.02, sub-section B. The berm shall be located entirely on private property, adjacent to the road right-of-way. Parking lot landscaping may be reduced if a berm is constructed to screen off-street parking, in accordance with Section 21.02, sub-section F.
4. **Screening.** Landscaped screening or a wall shall be required wherever a non-residential use abuts land zoned for residential purposes. Obscuring walls, fences, and landscaped screening shall comply with the requirements in Section 21.02, sub-section E.
5. **Parking Lot Landscaping.** Off-street parking areas containing greater than fifteen (15) spaces shall comply with the requirements for parking lot landscaping in Section 21.02, sub-section F.

#### **SECTION 21.04 STANDARDS FOR LANDSCAPE MATERIALS**

Unless otherwise specified, all landscape materials shall comply with the following standards:

- A. **Plant Quality.** Plant materials used in compliance with the provisions of this Ordinance shall be nursery grown, free of pests and diseases, hardy in Oakland County, in conformance with the standards of the American Association of Nurserymen, and shall have passed inspections required under state regulations.
- B. **Non-Living Plant Material.** Plastic and any other non-living plant materials shall not be acceptable to meet the landscaping requirements of this Ordinance. Upon approval of the Planning Commission through site plan review, water bodies, boulder groupings, landscape furniture, and man-made landscape ornaments, singly or in combination may account for a maximum of thirty percent (30%) of the ground area to be landscaped.
- C. **Plant Material Specifications.** The following specifications shall apply to all plant material proposed in accordance with the landscaping requirements of this Ordinance:
  1. **Deciduous Shade Trees.** Deciduous shade trees shall be a minimum of two and one-half (2.5) inches in caliper measured twelve (12) inches above grade with the first branch a minimum of four (4) feet above grade when planted.
  2. **Deciduous Ornamental Trees.** Deciduous ornamental trees shall be a minimum of one and one-half (1 1/2) inches in caliper measured six (6) inches above grade with a minimum height of four (4) feet above grade when planted.
  3. **Evergreen Trees.** Evergreen trees shall be a minimum of five (5) feet in height when planted. Furthermore, evergreen trees shall have a minimum spread of two

and one-half (2.5) feet, and the root ball shall be covered in burlap and shall be at least ten (10) times the caliper measured six (6) inches above grade.

4. **Shrubs.** Shrubs shall be a minimum of two (2) feet in height when planted. Low growing shrubs shall have a minimum spread of twenty-four (24) inches when planted.
5. **Hedges.** Hedges shall be planted and maintained so as to form a continuous, unbroken, visual screen within two (2) years after planting, barring unusual growing conditions, such as drought or disease. Hedges shall be a minimum of two (2) feet in height when planted.
6. **Vines.** Vines shall be a minimum of thirty (30) inches in length after one growing season.
7. **Ground Cover.** Ground Cover used in lieu of turf grasses in whole or in part shall be planted in such a manner as to present a finished appearance and reasonably complete coverage after one (1) complete growing season.
8. **Grass.** Grass area shall be planted using species normally grown as permanent lawns in Oakland County. Grass, sod, and seed shall be clean and free of weeds, pests, and diseases. Grass may be sodded, plugged, sprigged, hydro-seeded, or seeded. When grass is to be established by a method other than complete sodding or seeding, nurse grass seed shall be sown for immediate effect and protection until complete coverage is otherwise achieved. Straw or other mulch shall be used to protect newly seeded areas.
9. **Mulch.** Mulch used around trees, shrubs, and vines shall be a minimum of three (3) inches deep, and installed in a manner as to present a finished appearance.
10. **Mixing of Species.** The overall landscape plan shall not contain more than 33% of anyone plant species. The use of trees native to the area and Southeast Michigan, and mixture of trees from the same species associates, is encouraged. Botanical genera containing trees native to southeast Michigan are identified with an asterisk (\*) in the table of recommended Plant Materials.

RECOMMENDED PLANT MATERIALS	
COMMON NAME	GENUS
<b>Deciduous Canopy Trees</b>	
1. Oaks*	Quercus
2. Hard Maples (Except Japanese)*	Acer
3. Hackberry*	Celtis
4. Planetree (Sycamore)*	Platanus
5. Birch*	Betula
6. Beech*	Fagus
7. Ginkgo (male)	Ginkgo
8. Honeylocust (Thornless Cultivars only)*	Gledetsia
9. Sweetgum	Liquidambar
10. Hophornbeam (Ironwood)*	Ostrya
11. Linden	Tilia
12. Ashes*	Fraxinus
13. Hickory*	Carya
14. Hornbeam (Blue Beech)*	Carpinus
Please note: Although the use of ashes is suggested, due to recent disease and pest problems associated with ashes in the area, it is recommended that more disease resistant ash cultivars be used and that no one cultivar be planted as the dominant tree type.	
<b>Deciduous Ornamental Trees</b>	
1. Amelanchier*	Amelanchier
2. Redbud*	Cercis
3. Dogwood (Tree Form)*	Cornus
4. Hawthorn*	Crataegus
5. Flowering Crabapple (Disease Resistant Cultivars)	Malus
6. Flowering Plum (Tree Form)	Prunus
7. Flowering Pear	Pyrus
8. Magnolia	Magnolia
9. Hornbeam*	Carpinus
10. Rose of Sharon	Hibiscus

RECOMMENDED PLANT MATERIALS	
COMMON NAME	GENUS
<b>Evergreen Trees</b>	
1. Fir	Abies
2. Hemlock	Tsuga
3. Spruce	Picea
4. Pine*	Pinus
5. Douglas Fir	Pseudotsuga
Please note: Dwarf, Globe, Pendulous Species/Cultivars are not permitted.	
<b>Narrow Evergreens</b>	
1. Juniper*	Juniperus
2. Arborvitae	Thuja
Please note: Dwarf, Globe, Spreading Species/Cultivars are not permitted	
<b>Large Shrubs</b>	
1. Deciduous	
a. Dogwood (Shrub form)*	Cornus
b. Cotoneaster	Cotoneaster
c. Forsythia	Forsythia
d. Mock-Orange	Philadelphus
e. Sumac*	Rhus
f. Lilac	Syringa
g. Viburnum*	Viburnum
h. Whthhazel*	Hamamelis
i. Euonymus	Euonymus
j. Privet	Ligustrum
k. Ninebark*	Physocarpus
2. Evergreens	
a. Juniper (Hetz, Pfitzer, Savin)	Juniperus
b. Yew (Pyramidal, Japanese)	Taxus

RECOMMENDED PLANT MATERIALS		
COMMON NAME		GENUS
<b>Small Shrubs</b>		
1.	Deciduous	
a.	Barberry	Berberis
b.	Boxwood	Buxus
c.	Quince	Chaenomeles
d.	Cotoneaster	Cotoneaster
e.	Euonymus*	Euonymus
f.	Forsythia	Forsythia
g.	Hydrangea	Hydrangea
h.	Holly*	Ilex
i.	Privet	Ligustrum
j.	Potentilla*	Potentilla
k.	Currant*	Ribes
l.	Lilac	Syringa
m.	Viburnum*	Viburnum
n.	Weigela	Weigela
2.	Evergreens	
a.	Fir	Abies
b.	False Cypress	Chamaecyparis
c.	Juniper (Low Spreading)*	Juniperus
d.	Spruce	Pices
e.	Pine	Pinus
f.	Yew (Globe, Spreading, Upright)*	Taxus
g.	Arborvitae (Globe, Dwarf)	Thuja

D. **Prohibited Plant Material.** Use of the following plant materials (or their clones or cultivars) is prohibited because of susceptibility to storm damage, drainage conflicts, disease, and other undesirable characteristics.

1. Prohibited plan Materials\*
  - a. Box Elder
  - b. Soft Maples (Red/Silver)
  - c. Elms (American, Siberian, Slippery, Red, and Chinese)
  - d. Poplars
  - e. Willows
  - f. Horse Chestnut (nut bearing)
  - g. Tree of Heaven
  - h. Catalpa
  - i. Ginkgo (female)
  - j. Cottonwood
  - k. Black Locust

- l. Mulberry
- m. Honey Locust (with thorns)

*\*The Planning Commission, however, may allow trees from this list when associated with an appropriate ecosystem, such as a wetland area.*

**SECTION 21.05 INSTALLATION AND MAINTENANCE**

The following standards shall be observed where installation and maintenance of landscape materials are required:

- A. **Installation.** Landscaping shall be installed in a sound, workmanlike manner to ensure the continued growth of healthy plant material. Trees, shrubs, hedges, and vines shall be generously mulched at the time of planting.
  - 1. The required landscaping shall be planted with permanent living plant materials within six (6) months from the date of occupancy and shall be continuously maintained in a sound, healthy, and vigorous growing condition.
  - 2. The selection, spacing, and size of plant material shall be such as to create, within a five-year period from the date of planting, a horizontal obscuring effect for the entire length of the required greenbelt area, and a vertical obscuring effect of such height as is determined adequate by the Planning Commission for proper screening between land uses.
  - 3. If the development is completed at such time that the requirements of A.1. above cannot be complied with, the owner shall provide a performance guarantee to ensure installation of required landscaping in the next planting season, in accordance with Section 21.02.

**SUMMARY OF PLANT MATERIAL SPECIFICATIONS <sup>[1]</sup>**

	<b>Minimum Caliper</b>	<b>Minimum Height</b>	<b>Minimum Spread</b>	<b>Minimum Length</b>
Deciduous Trees	2-1/2 in. <sup>[2]</sup>	4 ft. first branch <sup>[5]</sup>		
Ornamental Trees	1-1/2 in. <sup>[3]</sup>	4 ft. first branch		
Evergreen Trees		6 ft.	2-1/2 ft.	
Shrubs		2 ft.	2 ft.	
Hedges		4 ft. <sup>[6]</sup>		
Vines				30 inches <sup>[4]</sup>

**Footnotes:**

- <sup>[1]</sup> See Section 21.03 for detailed requirements.
- <sup>[2]</sup> Measured 4'-0" above grade.
- <sup>[3]</sup> Measured 4'-0" inches above grade. Clumped trees (i.e. Birch) shall have a minimum height of six (6) feet above grade.
- <sup>[4]</sup> After one season.

[5] Trees planted along pedestrian routes (i.e. sidewalks, plazas, etc.) shall not have branches lower than eight (8) feet. Trees planted within streetlines and sidewalks and planted along bikeways shall maintain a vertical clearance to obstructions of a minimum of 12'-6".

[6] Hedges shall be planted and maintained so as to form a continuous, unbroken, visual screen within two (2) years after planting, barring unusual growing conditions, such as drought or disease.

[7] Ground cover used in lieu of turf grasses in whole or in part shall be planted in such a manner as to present a finished appearance and reasonably complete coverage after one (1) complete growing season.

[8] Grass area shall be planted using species normally grown as permanent lawns in Oakland County. Grass, sod, and seed shall be clean and free of weeds, pests, and diseases. Grass may be sodded, plugged, sprigged or seeded. When grass is to be established by a method other than complete sodding or seeding, nurse grass seed shall be sown for immediate effect and protection until complete coverage is otherwise achieved. Straw or other mulch shall be used to protect newly seeded areas.

[9] Mulch used around trees, shrubs, and vines shall be a minimum of four (4) inches deep, and installed in a manner as to present a finished appearance.

**B. Spacing.** Planting in formal groupings to create a naturalistic appearance is desirable whenever possible, plant materials shall not be placed closer than four (4) feet from the fence line or property line. Plant materials used together in informal groupings shall meet the on-center spacing requirements:

Plant Material Types	Evergreen	Narrow Evergreen Trees	Large Deciduous Trees	Small Deciduous Trees	Large Shrubs	Small Shrubs
Evergreen Trees	Min. 10' Max. 20'	Min. 12'	Min. 20'	Min. 12'	Min. 6'	Min. 5'
Narrow Evergreen Trees	Min. 12'	Min. 5' Max. 10'	Min. 15'	Min. 10'	Min. 5'	Min. 4'
Large Deciduous Shrubs	Min. 20'	Min. 15'	Min. 20' Max. 30'	Min. 15'	Min. 5'	Min. 3'
Small Deciduous Shrubs	Min. 12'	Min. 10'	Min. 15'	Min. 8' Max. 15'	Min. 6'	Min. 3'
Large Shrubs	Min. 6'	Min. 5'	Min. 5'	Min. 6'	Min. 4' Max. 6'	Min. 5'
Small Shrubs	Min. 5'	Min. 4'	Min. 3'	Min. 3'	Min. 5'	Min. 3' Max. 4'

**C. Mixing of Species.** The overall landscape plan shall not contain more than thirty-three percent (33%) of anyone plant species. The use of trees native to the area and Southeast Michigan, and mixture of trees from the same species associates, is encouraged. Botanical genera containing trees native to southeast Michigan are identified with an asterisk (\*) in the table of Recommended Plant Materials.



- D. **Protection from Vehicles.** All landscaped areas shall be protected from vehicles through use of curbs. All landscape areas shall be elevated above the pavement to a height adequate to protect the plants from snow removal, salt, and other hazards.
- E. **Off-Season Planting Requirements.** If development is completed during the off-season when plants cannot be installed, the owner shall provide a performance guarantee to the City to ensure installation of required landscaping in the next planting season, in accordance with Section 15.17.
- F. **Maintenance.** Landscaping required by this Ordinance or as approved by Planning Commission through site plan review shall be maintained in a healthy, neat, and orderly appearance, free from refuse and debris. All unhealthy and dead plant material shall be replaced immediately upon notice from the Code Officer, unless the season is not appropriate for planting, in which case such plant material shall be replaced at the beginning of the next planting season.

All landscaped areas shall be provided with a readily available and acceptable supply of water, with at least one spigot located within three hundred (300) feet of all plant material to be established and maintained. Trees, shrubs, and other plantings and lawn areas shall be watered regularly throughout the growing season.

All constructed or manufactured landscape elements, such as but not limited to benches, retaining walls, edging, and so forth, shall be maintained in good condition and neat appearance. Rotted, deteriorated, or damaged landscape elements shall be repaired, replaced, or removed upon notice from the Code Officer.

## **SECTION 21.06 TREATMENT OF EXISTING PLANT MATERIAL**

The following regulations shall apply to existing plant material:

- A. **Consideration of Existing Elements in the Landscape Design.**
  - 1. In instances where healthy plant material exists on a site prior to its development, the Planning Commission may permit substitution of existing plant material in lieu of part or all of the requirements in this Section, provided that such substitution is in keeping with the spirit and intent of this Article and the Ordinance in general.
  - 2. Existing hedges, berms, walls, or other landscape elements may be used to satisfy the requirements set forth previously, provided that such existing elements conform with the requirements of this section.

**B. Preservation of Existing Plant Material.**

1. Site plans shall show all existing trees that are located in the portions of the site that will be built upon or otherwise altered, and are five (5) inches or greater in caliper, measured forty-eight (48) inches above grade.
2. Such trees shall be clearly labeled "*To Be Removed*" or "*To Be Saved*" on the site plan. For trees labeled "*To Be Saved*" on the site plan, protective measures must be implemented during construction, such as the placement of fencing or stakes at the dripline around each tree. No vehicle or other construction equipment shall be parked or stored within the dripline of any tree or other plant material intended to be saved nor shall the grade of the soil within the dripline be changed as a result of the construction.
3. In the event that existing healthy plant materials that are intended to meet the requirements of the Ordinance are removed, damaged, or destroyed during construction, the plant material shall be replaced with the same species as the damaged or removed tree, in accordance with the following schedule:

Caliper Measured 48 Inches Above Grade		
Damaged Tree	Replacement Tree	Replacement Ratio
Less than 6 inches	2-1/2 to 3 inches	1 for 1
More than 6 inches	2-1/2 to 3 inches	1 replacement tree for each 6 inches in caliper or fraction thereof of damaged tree.

\* Caliper measured 48 inches above grade

**SECTION 21.07 MODIFICATIONS TO LANDSCAPE REQUIREMENTS**

In consideration of the overall design and impact of a specific landscape plan, and in consideration of the amount of existing plant material to be retained on the site, the Planning Commission may modify the requirements of this Article, provided that any adjustment maintains the intent of this Article and the Ordinance in general. In granting a modification, the Planning Commission shall make a finding of the following:

- A. The public benefit intended by the landscape regulations will be better achieved with a plan that varies from the strict requirements of the Ordinance; and
- B. Topographic features or other unique features of the site create conditions such that strict application of the landscape regulations would result in a less effective screen than an alternative landscape design; or
- C. Parking, vehicular circulation, or land use are such that required landscaping would not enhance the site or result in the desired screening effect; and

- D. Need for security; and
- E. Abutting district or existing use; and
- F. Extent the existing natural vegetation provides the desired screening; and
- G. Building heights and views in relation to existing topography and vegetation as well as from adjacent uses.

**SECTION 21.08 TRASH ENCLOSURE SCREENING**

All trash enclosures shall be located to have easy access for removal and not to interfere with traffic patterns of the parking lot and adjoining streets. All trash enclosures shall be enclosed and screened by a combination of the following: fence or wall and landscape material as approved by the Planning Commission. A solid screen of a minimum height equal to the height of the trash enclosure shall be erected around three (3) sides of the trash enclosure excluding the side for access. Access to the trash enclosure shall be screened by a solid gate and shall remain closed and secured at all times excluding the loading and unloading of material within said enclosure. No trash enclosure shall be located in the front yard or right-of-way of any parcel nor within three (3) feet of an adjacent residential property line.

## ARTICLE XXII

### SIGNS

#### **SECTION 22.00 APPLICABILITY**

This Article shall apply to all persons, firms, partnerships, associations, and corporations owning, occupying, or having control or management of any premises located within the City.

#### **SECTION 22.01 PURPOSE AND INTENT**

- A. It is hereby determined that regulation of the location, size, placement and certain features of signs is necessary to enable the public to locate goods, services and facilities without difficulty and confusion, to promote traffic safety, safeguard public health and welfare and prevent wasteful use of natural resources in competition among businesses for attention.
- B. In addition, it is the intent of this Article to assure the continued attractiveness of the total community environment through the adoption of discretionary controls designed to preserve scenic, aesthetic and economic values within the City.
- C. It is further determined that signs lawfully erected and maintained under the provisions of this Section are consistent with customary usage.
- D. The standards contained herein are intended to be content neutral while achieving the following objectives:
  - 1. Recognize the proliferation of signs is unduly distracting to motorists and non-motorists travelers, reduces the effectiveness of signs directing and warning the public, causes confusion, reduces desired uniform traffic flow, and creates the potential for vehicular crashes.
  - 2. Prevent signs that are potentially dangerous to the public because of structural deficiencies or disrepair.
  - 3. Reduce visual pollution and physical obstructions caused by a proliferation of signs which could diminish the City's image, property values, and quality of life.
  - 4. Recognize that the principal intent of commercial signs, to meet the purpose of these standards and serve the public interest, should be for identification of an establishment on the premises, and not for advertising special events, brand names, or off-premise activities; alternative channels of advertising communication and media are available for advertising that does not create visual blight and compromise safety of the motoring public.

5. Enable the public to locate goods, services and facilities without excessive difficulty and confusion by restricting the number and placement of signs.
6. Prevent placement of signs that will conceal or obscure signs of adjacent uses.
7. Protect the public right to receive messages, especially non-commercial messages such as religious, political, economic, social, philosophical and other types of information projected by the First Amendment of the U.S. Constitution.
8. Achieve a substantial government interest for public safety, aesthetics, and protection of property values.
9. Prevent off-premise signs from conflicting with land uses.
10. Maintain and improve the image of the City by encouraging signs that are compatible with and complementary to related buildings, uses, and adjacent street through the establishment of specific standards for various commercial areas in the City.
11. Restrict the use of portable commercial signs to use in grand openings and re-openings only, in recognition of their collective significant negative impact on traffic safety and aesthetics.

## **SECTION 22.02 SCOPE OF REQUIREMENTS**

It shall be unlawful for any person, firm, or corporation to erect, construct, or alter any sign in the City except in conformance with the provisions of this Article, subject to issuance of a permit, except as otherwise provided herein.

## **SECTION 22.03 DEFINITIONS**

For the purpose of this Article, the following definitions shall apply (see illustrations):

- A. **Architectural Features.** Components of construction, either permanent or temporary, which are an integrated part of a structure or attached to a structure and constitute a portion of the exterior design, including, but not limited to: arches, transoms, windows, moldings, columns, capitals, dentils, lintels, parapets, pilasters, sills, cornices, cupolas, awnings and canopies.
- B. **Business.** Any legal use of a building, other than for religion, day care center, school, home occupation or residence, by a person, firm or corporation. Although contained in the same building as another business and owned by the same person, an activity may be treated as a separate business only if all of the following exists:

1. The businesses are physically separated from each other in a manner that complies with BOCA requirements for the fire rated separation between mixed uses;
  2. Each business uses different personnel; and
  3. Each business provides distinctly different products or services.
- C. **Building Frontage.** The length of the portion of a building occupied by a single business facing a street abutting the premises on which the business is located.
- D. **Maximum Heights.** Shall be measured from grade or sidewalk to the highest edge of the sign surface or its projecting structure.
- E. **Minimum Height.** Shall be measured from grade or sidewalk to the lowest edge of the sign surface or its projecting structure.
- F. **Owner.** A person, firm, partnership, association, or corporation and/or its legal successors.
- G. **Permanently Anchored.** Shall mean that such sign structures are fixed or fastened in place so as not to be subject to locational change.
- H. **Premises.** A lot, building, or complex in the same ownership or control that is divided by a public street.
- I. **Sign.** A name, message, identification, image, mural, description, display, lights or lighting effects, balloon, banner, or illustration that is affixed to, or painted, or otherwise located or set upon or in a building, bench, structure, or piece of land and which directs attention to an object, product, place, activity, person, institution, organization or business and that is visible from any public street, sidewalk, alley, park or public property. The definition includes interior and exterior signs but not signs primarily directed at persons within the buildings of the sign owners. The definition does not include goods displayed in a business window. The definition does not include religious symbols or paintings that do not display lettering and do not advertise a business, product or service.
1. **Accessible Sign:** A sign that designates a site, building, facility, parking space, or portion thereof as barrier-free, complies with Uniform Federal Accessibility Standards (UFAS), and that can be approached, entered, and used by individuals with disabilities. Signs shall be demarcated with the International Symbol of Accessibility (Glyph).
  2. **Accessory Sign:** A sign that pertains to the principal or accessory use of the premises upon which such sign is located.

3. **Animated Sign:** A sign which uses lights, moving parts, or other means to depict action, create an image of a living creature or person, or create a special effect or scene.
4. **Awning Sign or Canopy Sign:** A sign that is painted on, printed on, cut out from, and/or attached flat against the surface of an awning or canopy.
5. **Barrier-Free Parking Sign:** An above-grade sign that identifies a barrier-free parking space for individuals with disabilities and accessible passenger loading zones located closest to the nearest accessible entrance on an accessible route. Barrier-free parking signs shall be demarcated with the International Symbol of Accessibility (Glyph).
6. **Banner Sign:** A sign on paper, cloth, fabric or other flexible or combustible material of any kind, either with or without frames.
7. **Billboard Sign:** A non-accessory free-standing sign upon which a display can be posted, painted, or otherwise affixed in a manner that is readily changed.
8. **Bulletin Board:** A sign with temporary or replaceable letters or characters, used to announce dates of functions or activities.
9. **Changeable Message Sign (Manual):** A sign on which the message is changed manually (for example, by physically replacing the letters).
10. **Changeable Message Signs (Automatic):** A sign or part of a sign which, by means of electronically illuminated characters, provides a varying message to the public.
11. **Community Special Event Sign:** Signs and banners, including decorations and displays celebrating a traditionally-accepted patriotic or religious holiday, or special municipal or school activities.
12. **Construction Sign:** A temporary sign advertising a project under development, erected for the period of construction, identifying its developers, contractors, engineers, brokers and architects.
13. **Directional Sign:** A sign whose primary purpose of which is to expedite the flow of vehicular and/or pedestrian traffic to, from and within a site.
14. **Festoon:** A string of ribbons, tinsel, small flags, pinwheels or lights, typically strung overhead in loops.
15. **Flag:** A banner of distinctive design used as a symbol of a nation, state or other governmental entity.

16. Flashing Sign: A sign which contains an intermittent or sequential flashing light source.
17. Freestanding Sign: A sign which is erected upon or supported by the ground, including "pole signs" and "ground signs."
18. Gasoline Price Sign: A sign which is used to advertise the price of gasoline. In the event that the brand identification sign is attached to or is a part of the sign advertising price, that portion of the sign used for advertising price shall be considered the gasoline price sign.
19. Grade: The average elevation of an area within a radius of the sign base equal to two times the height of the sign.
20. Ground Sign: A free-standing sign supported by one (1) or more uprights, poles, pylons, or braces placed in, or upon, the ground and not attached to any building or other structure. A ground sign may also consist of a base-mounted cylindrical structure upon which a message is painted or posted.
21. Group Identification Sign: A sign or entranceway structure, listing the names and addresses only of the establishments occupying a development, subdivision or condominium. The erection of such identification signs is intended to assist the public in locating establishments within its immediate area and shall be placed upon property within the development, subdivision or condominium.
22. Illegal Sign: A sign which does not meet the requirements of this ordinance and which has not received legal nonconforming status.
23. Illuminated Sign: Any sign designed to produce or reflect light either directly from a source of light, incorporated in or connected to the sign, or indirectly from an artificial source so shielded that no direct illumination from it is visible elsewhere than on the sign and in the immediate proximity thereof.
24. Incidental Sign: A small sign, emblem, or decal informing the public of goods, facilities, or services available on the premises. Examples of incidental signs include credit card signs, signs indicating the hours of business, no smoking signs, signs used to designate bathrooms, and signs providing information on credit cards and business affiliations.
25. Institutional Sign: A sign containing a surface area upon which is displayed the name of a religious institution, school, library, community center, or similar institutions, and the announcement of its services or activities.
26. Interior Sign: A sign visible from any public street, sidewalk, alley, park or public property and located within a building.



27. Marquee Sign: A sign attached to or hung from a marquee, canopy or other covered structure projecting from and supported by the building.
28. Mansard: A sloped roof or roof-like façade. Signs mounted on the face of a mansard roof shall be considered wall signs.
29. Marquee: A permanent roof-like structure or canopy supported by and extending from the face of the building.
30. Moving Sign: A sign that has motion either constantly or at intervals or that gives the impression of movement through intermittent, flashing, scintillating, or varying intensities of illumination.
31. Mural: A design or representation which is painted or drawn on the exterior surface of a structure and which does not advertise a business, product, service, or activity.
32. Nameplate: A nonelectric on-premise identification sign giving only the name, address, and/or occupation of an occupant or group of occupants.
33. Neon Sign: See "Outline Tubing Sign."
34. Nonconforming Sign:
  - a. A sign which is prohibited under the terms of this Ordinance, but was erected lawfully and was in use on the date of enactment of this Ordinance, or amendment thereto.
  - b. A sign which does not conform to the requirements of this Ordinance, but for which a variance has been granted.
35. Non-Accessory Sign: A sign relating to a business, activity, use, or service not performed on the premises or to a product not fabricated, produced, handled, or sold on the same premises upon which the sign is displayed.
36. Obsolete Sign: A sign that advertises a product that is no longer made or that advertises a business that has closed.
37. Occupational Sign: A sign denoting only the name and profession of an occupant in a commercial building or public institutional building.
38. On-Premises Advertising Sign: A sign that advertises only goods, services, facilities, events, or attractions available on the premises where located, or identifies the owner or occupant or directs traffic on the premises. All other signs are off-premise signs.

39. Outline Tubing Sign: A sign arranged of exposed gaseous tubes that outline and call attention to certain features of an advertising device such as individual letters, figures, shapes, or words, commonly referred to as a neon sign.
40. Parapet: The extension of a false front or wall above a roof line. Signs mounted on the face of a parapet shall be considered wall signs.
41. Parasite Signs: A sign intended to draw attention to anyone (1) or more of various services, items for sale, contests, etc., and is attached as an appendage to an accessory sign, sign support or any part of a principal building, accessory building or other structure located on any premises.
42. Pole Sign: A type of freestanding sign that is elevated above the ground on poles or braces.
43. Political Sign: A sign relating to the election of a person to public office or to a political party or the expression of a political opinion, or to an issue or matter to be voted upon.
44. Portable Sign: A sign or sign board that is free-standing and not permanently anchored or secured to either a building, structure or the ground; such as, but not limited to so-called "A" frame, "T" shaped or inverted "T" shaped stands, or any sign attached to a trailer or other vehicle but used with the express intent of advertising.
45. Poster Panel: A type of temporary sign that is used to draw attention to matters that are temporary in nature, such as price changes or sales. "A" frame or sandwich signs are types of poster panel signs.
46. Projecting Sign: A sign erected and attached at one end to a building, pole or other structure, or any part thereof, which extends beyond the attachment surface by more than twelve (12) inches.
47. Public Sign: A sign erected in the public interest by or upon orders from a local, state, or federal public official. Examples of public signs include: legal notices, safety signs, traffic signs, memorial plaques, signs of historical interest, and similar signs.
48. Real Estate Sign: A sign advertising only that the premises upon which the sign is located is for sale, rent or lease and other information essential to the proposed real estate transaction.
49. Real Estate Development Sign: A sign that is designed to promote the sale or rental of lots, homes, or building space in a real estate development (such as a subdivision or shopping center) which is under construction on the parcel on which the sign is located.

50. Residential Entranceway Sign: A sign which marks the entrance to a subdivision, apartment complex, condominium development, or other residential development.
51. Roof Sign: A sign erected, constructed and maintained above the roof, roof line or parapet of a building or any portion thereof.
52. Roofline: The roof line means the vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line for mansard roofs; and the average height between eaves and ridge boards for gable, hip, and gambrel roofs.
53. Rotating Sign: See "Moving Sign."
54. Stadium Sign: Any sign, including athletic scoreboards and press box signs, located within or attached to the stadium of a public or private school.
55. Temporary Signs: An information sign, banner, pennant, commercial flag, or balloon with or without a structural frame intended for a limited period of display, such as for sales events, or special decorative displays for holidays or public demonstrations, not including accessory signs as defined under item (b) above, or signs pertaining to sale, rent, or lease of property.
56. Time/Date/Temperature Sign: A sign that displays only the current time and/or date and/or temperature that may include the name, and/or insignia of a business on the premises.
57. Vehicle Signs: Signs painted or mounted on the side of a vehicle, including signs on the face of a truck trailer.
58. Wall Sign: A sign attached to, painted on, inscribed, or otherwise set upon the exterior wall or surface of any building, no portion of which projects more than twelve (12) inches from the wall, and that may not project above the roof line or parapet line.
59. Window Sign: A sign located in or on a window which is intended to be viewed from the outside. Permanent window signs which are not affixed directly to a window or are positioned next to a window so that they are visible from the outside shall be considered wall signs.

J. Stadium Signs. Athletic scoreboards are exempt if the following conditions are met:

1. The total square footage for all athletic scoreboards within an individual athletic facility, such as a football or soccer stadium or a baseball or softball field, shall not exceed two hundred (200) square feet.

2. There is not commercial advertising.
  3. An electronic changeable message sign shall not be included.
  4. No smoke, fireworks or other special effects that have an off-site impact shall be produced.
- K. Temporary Sign. Temporary signs, banners, flags when in the nature of special decorative displays used for public demonstrations or promotions of civic welfare or charitable purposes on which there is no commercial advertising, provided the City is held harmless and blameless for any damage or injury resulting therefrom. These signs shall not exceed six (6) square feet in area, and shall be displayed for a period not to exceed thirty (30) consecutive days in any six (6) month period unless approved, for other periods by the Planning Board.
- L. Sign Erector. Any person engaged in the business of erecting, constructing, altering, or removing signs on a contractual or hourly basis.
- M. Sign Area. The entire surface area within a circle, triangle, rectangle or other geometric shape enclosing the extreme limits of writing, representation, emblem, or any figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign is placed.

## **SECTION 22.04 ENFORCEMENT**

- A. Plans, Specifications, and Permits.
1. Permits. It shall be unlawful for any person to erect, alter, relocate, or structurally change a sign or other advertising structure, unless specifically exempted by the Article, without first obtaining a permit in accordance with the provisions set forth herein. A permit shall require payment of a fee, which shall be established by the City Council. Permits for sign construction shall expire six (6) months from the date they are issued.
  2. Applications. Application for a sign permit shall be made upon forms provided by the Code Officer. The following information shall be required:
    - a. Name, address, and telephone number of the applicant.
    - b. Location of the building, structure, or lot on which the sign is to be attached or erected.
    - c. Position of the sign in relation to building façade, nearby buildings, structures, and property lines.

- d. Plans showing the dimensions, materials, colors, lettering as it will appear on the completed sign, method of construction, and attachment to the building or in the ground.
  - e. Copies of stress sheets and calculations, if deemed necessary, showing the structure as designed for dead load and wind pressure.
  - f. Name and address of the person, firm, or corporation owning, erecting, and maintaining the sign.
  - g. Information concerning required electrical connections and electrical permits.
  - h. Insurance policy or bond, as required in this Article.
  - i. Written consent of the owner or lessee of the premises upon which the sign is to be erected.
  - j. Other information required by the Code Officer to make the determination that the sign is in compliance with all applicable laws and regulations.
3. Review of Application.
- a. Planning Commission Review. Sign permit applications submitted in conjunction with the proposed construction of a new building or addition to an existing building shall be reviewed by the Planning Commission as a part of the required site plan review. Proposed signs must be shown on the site plan.
  - b. Code Officer Review. The Code Officer shall review the sign permit application for any sign proposed on a site or existing building where no other new construction is proposed.
  - c. Issuance of a Permit. Following review and approval of a sign application by the Planning Commission or Code Officer as appropriate, the Code Officer shall have the authority to issue a sign permit.
4. Exceptions. A sign shall not be enlarged or relocated except in conformity with the provisions set forth herein for new signs, nor until a proper permit has been secured. However, a new permit shall not be required for ordinary servicing or repainting of an existing sign message, cleaning of a sign, or changing of the message on the sign where the sign is designed for such changes (such as lettering on a marquee or numbers on a gasoline price sign). Furthermore, a permit shall not be required for certain exempt signs listed in Section 22.05, sub-section A.

B. Inspection and Maintenance.

1. Inspection of New Signs.

- a. All signs for which a permit has been issued shall be inspected by the Code Officer when erected. Approval shall be granted only if the sign has been constructed in compliance with the approved plans and applicable Zoning Ordinance and Building Code standards.
- b. In cases where fastenings or anchorages are to be eventually bricked in or otherwise enclosed, the sign erector shall advise the Code Officer when such fastenings are to be installed so that inspection may be completed before enclosure.

2. Inspection of Existing Signs. The Code Officer shall have the authority to routinely enter onto property to inspect existing signs. In conducting such inspections, the Code Officer shall determine whether the sign is adequately supported, painted to prevent corrosion, and so secured to the building or other support as to safely bear the weight of the sign and pressure created by the wind.

3. Correction of Defects If the Code Officer finds that any sign is unsafe, insecure, improperly constructed, or poorly maintained, the sign erector, owner of the sign, or owner of the land shall make the sign safe and secure by completing any necessary re-construction or repairs, or entirely remove the sign in accordance with the timetable established by the Code Officer.

C. Removal of Obsolete Signs.

1. Any sign that no longer identifies a business that is in operation, or that identifies an activity or event that has already occurred, shall be considered abandoned and shall be removed by the owner, agent, or person having use of the building or structure. Upon vacating a commercial or industrial establishment, the proprietor shall be responsible for removal of all signs used in conjunction with the business.
2. However, where a conforming sign structure and frame are typically reused by a current occupant in a leased or rented building, the building owner shall not be required to remove the sign structure and frame in the interim periods when the building is not occupied, provided that the sign structure and frame are maintained in good condition.

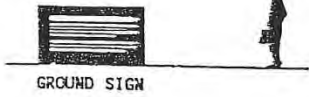
D. Nonconforming Signs.

1. It is the intent of this sub-section to encourage eventual elimination of signs that, as a result of the adoption of this section, become non-conforming. It is considered as much a subject of health, safety, and welfare as the prohibition of new signs in violation of this ordinance; It is the intent, therefore, to administer

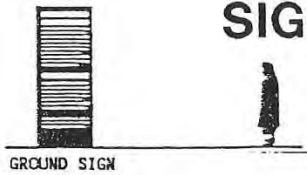
this section to realize the removal of illegal non-conforming signs and to avoid any unreasonable invasion of established private property rights.

2. No nonconforming sign shall be altered or reconstructed, unless the alteration or reconstruction is in compliance with Section 14.02 of this Ordinance, except that nonconforming signs shall comply with the following regulations:
  3. Repairs and Maintenance. Normal maintenance shall be permitted, provided that any nonconforming sign that is destroyed by any means to an extent greater than fifty percent (50%) of the sign's pre-catastrophe fair market value, exclusive of the foundation, shall not be reconstructed. Normal maintenance shall include painting of chipped or faded signs; replacement of faded or damaged surface panels; or repair or replacement of electrical wiring or electrical devices. A nonconforming sign shall not be structurally altered to prolong the life of the sign.
  4. Nonconforming Changeable Message Signs. The message on a nonconforming changeable message sign or nonconforming bulletin board sign may be changed provided that the change does not create any greater nonconformity.
  5. Substitution. No nonconforming sign shall be replaced with another nonconforming sign.
  6. Modifications to the Principal Building. Whenever the principal building on a site on which a nonconforming sign is located is modified to the extent that site plan review and approval is required, the nonconforming sign shall be removed.
- E. Appeal to the Zoning Board of Appeals. Any party who has been refused a sign permit for a proposed sign may file an appeal with the Zoning Board of Appeals, in accordance with Article 16.00 of this Ordinance. In determining whether a variance is appropriate, the Zoning Board of Appeals shall study the sign proposal, giving consideration to any extraordinary Circumstances, such as those listed below, that would cause practical difficulty in complying with the sign standards. The presence of any of the circumstances listed may be sufficient to justify granting a variance; however, the Zoning Board of Appeals may decline to grant a variance even if certain of the circumstances is present.

# SIGN ILLUSTRATIONS



GROUND SIGN



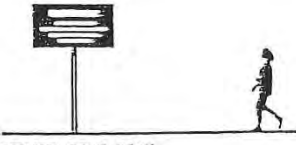
GROUND SIGN



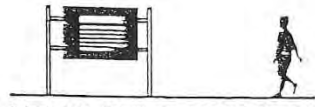
BASE-MOUNTED GROUND SIGN



DOUBLE INSIDE-POST GROUND SIGN

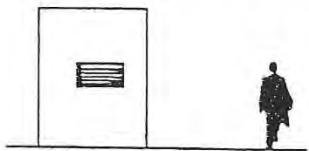


CENTER-POLE SIGN

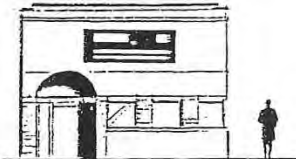


POST AND PANEL FREESTANDING SIGN

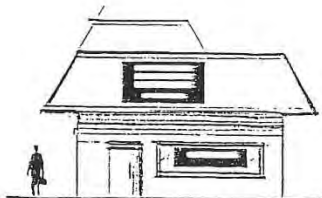
## VARIOUS TYPES OF WALL SIGNS



WALL SIGN

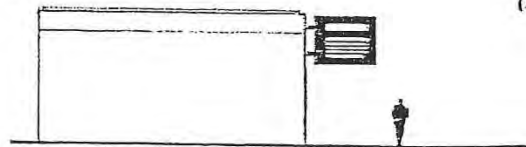


WALL SIGN

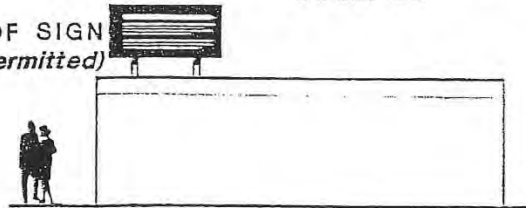


SIGN ON MANSARD ROOF & WINDOW SIGN

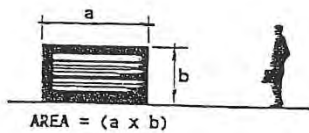
## PROJECTING SIGN



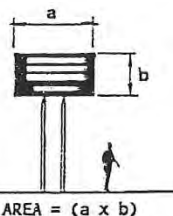
## ROOF SIGN (Not Permitted)



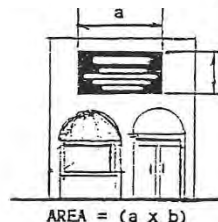
## SIGN MEASUREMENT



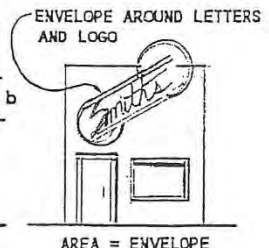
AREA = (a x b)



AREA = (a x b)

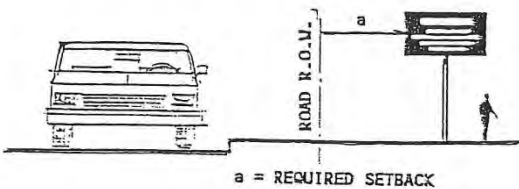


AREA = (a x b)

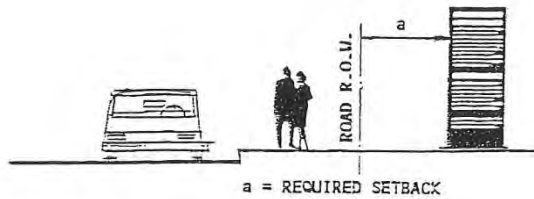


AREA = ENVELOPE

## SIGN SETBACKS



a = REQUIRED SETBACK



a = REQUIRED SETBACK



1. Permitted signage could not be easily seen by passing motorists due to the configuration of existing buildings, trees, or other obstructions.
2. Permitted signage could not be seen by passing motorists in sufficient time to permit safe deceleration and exit. In determining whether such circumstances exist, the Zoning Board of Appeals shall consider the width of the road, the number of moving lanes, the volume of traffic, and speed limits.
3. Existing signs on nearby parcels would substantially reduce the visibility or advertising impact of a conforming sign on the subject parcel.
4. Construction of a conforming sign would require removal or severe alteration to natural features on the parcel, such as but not limited to: removal of trees, alteration of the natural topography, filling of wetlands, or obstruction of a natural drainage course.
5. Construction of a conforming sign would obstruct the vision of motorists or otherwise endanger the health or safety of passers-by.
6. Variance from certain sign regulations would be offset by increased building setback, increased landscaping, or other such enhancements, so that the net effect is an improvement in appearance of the parcel, compared to the result that would be otherwise achieved with construction of a conforming sign.
7. A sign which exceeds the permitted height or area standards of the Ordinance would be more appropriate in scale because of the large size or frontage of the parcel or building.

## **SECTION 22.05 GENERAL PROVISIONS**

- A. Permit Exempt Signs. A sign permit shall not be required for the following signs, which shall be permitted subject to applicable provisions herein:
1. Accessible Signs: Signs that designate a site, building, facility, or portion thereof as barrier-free and that complies with the Uniform Federal Accessibility Standards and Michigan Barrier-Free manual.
  2. Address numbers with a numeral height no greater than six (6) inches for residences and eighteen (18) inches for businesses.
  3. Nameplates identifying the occupants of the building, not to exceed one (1) square foot.
  4. Memorial signs or tablets.

5. Signs on a bus, truck, trailer, or other vehicle while operated and used for transport in the normal course of a business, provided that the primary use of the vehicle displaying the sign shall not be for the purpose of advertising a business on the premises where the vehicle is parked.
6. Public signs, including the authorized signs of a government body or public utility, including traffic signs, legal notices, railroad crossing signs, warnings of a hazard, and similar signs.
7. Flags bearing the official design of a nation, state, municipality, educational institution, or noncommercial organization.
8. Incidental signs, provided that total of all such signs shall not exceed two (2) square feet.
9. Private traffic control signs which conform to the requirements of the Michigan Manual of Uniform Traffic Control Devices.
10. One (1) private parking lot and driveway identification sign, not to exceed three (3) square feet per sign and six (6) feet in height.
11. Permanent signs on vending machines, gas pumps, or ice containers indicating only the contents of such devices, provided that the sign area of each device shall not exceed six (6) square feet.
12. Portable real estate "open house" signs with an area no greater than six (6) square feet in area advertising the sale, rental, or lease of that particular property.
13. "Help wanted" signs soliciting employees for the place of business where posted, provided that the maximum area for all such signs shall be six (6) square feet.
14. Any sign which is located completely within an enclosed building, and which is not visible from outside the building.
15. Plaques or signs designating a building as a historic structure. One plaque or stone carved sign not exceeding one (1) square foot in area identifying a building by name which may also include the name of the building and the date of its construction.
16. "No Trespassing," "No Hunting," and "No Dumping" signs.
17. Signs used to direct vehicular or pedestrian traffic to parking areas, loading areas, or to certain buildings or locations on the site; subject to the following conditions:
  - a. Directional signs shall not contain logos or other forms of advertising.

- b. Directional signs shall not exceed four (4) square feet in area, or four (4) feet in height.
  - c. Directional signs may be located in the front setback area, provided they are setback at least fifteen (15) feet from the existing or planned right-of-way line.
- 18. A temporary sign identifying the name of the building, the architect, engineer, or contractors; the anticipated completion date of construction, alterations or repairs, not exceeding twelve (12) square feet in surface area, and not to be displayed longer than 30 days.
  - 19. One bulletin board not exceeding eight (8) square feet in area for use by charitable or religious organizations located on the premises and operated by such organizations.
  - 20. Signs identifying on-premises security devices and those persons responsible for their operation, provided the total area of all such signs on the premises does not exceed one (1) square foot.
  - 21. Political campaign signs announcing the candidacy of persons running for public office, or relating to issues to be voted on in an election or providing other election related information are permitted only on private property and can only be put up sixty (60) days before the election and remain fourteen (14) days after the election. Political signs shall be no larger than two (2) feet by three (3) feet.
  - 22. The replication, repair, restoration or relocation of signs attached to a historic structure, or on the premises of a historic structure is permitted even if such replication, repair, restoration or relocation does not comply with other provisions of this Ordinance, provided, the design is approved by the Historic District Commission.

B. Prohibited Signs. The following signs are prohibited in all districts:

- 1. Any sign not expressly permitted.
- 2. Signs which incorporate flashing, revolving, rotating, or moving lights; however, time and temperature or stock market signs shall be permitted.
- 3. Banners, pennants, festoons, spinners, and streamers, permanent flags, unless specifically permitted elsewhere in this Article.
- 4. String lights used for commercial purposes, other than holiday decorations.
- 5. Moving signs, including any sign which has any visible moving parts, visible revolving parts, visible mechanical movement, or other visible movement

achieved by electrical, electronic, or mechanical means, including intermittent electric pulsations or movement caused by normal wind current.

6. Any sign or sign structure which: a) Is structurally unsafe; b) Constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, or abandonment; c) Is capable of causing electric shock to person who come in contact with it; or d) Is not kept in good repair, such that it has broken parts, missing letters, or non-operational lights.
  7. Any sign erected on a tree or utility pole, except signs of a government or utility.
  8. Obsolete signs, as specified in Section 22.05, sub-section C.
  9. Portable signs, except where expressly permitted in this Ordinance.
  10. Signs affixed to a parked vehicle or truck trailer which is being used principally for advertising purposes, rather than for transportation purposes.
  11. Any sign which obstructs free access to or egress from a required door, window, fire escape, or other required exit.
  12. Any sign which makes use of the words "Stop", "Look", or "Danger", or any other words, phrases, symbols, or characters, in such a manner as to interfere with, mislead, or confuse traffic.
  13. Any sign containing obscene, indecent, or immoral matter.
  14. Any sign unlawfully installed, erected, or maintained.
  15. Roof signs or signs mounted on Marquees.
  16. Off-Premise Advertising Signs.
  17. Sandwich signs.
  18. Signs on street furniture, such as benches and trash receptacles.
  19. Real estate signs no longer valid due to the sale, rental, or lease of the property.
- C. Temporary Signs. Temporary signs shall be permitted as specified in the following table.

## TEMPORARY SIGN STANDARDS

(Section 22.05, sub-section C)

Type of Sign	District Permitted	Type of Sign Permitted	Maximum Size	Maximum Height	Maximum Number	Permit Required	Required Setback	Permitted Duration
Construction Sign	All	Ground or Wall	64 sq. ft.	15 ft.	1	Yes	[a]	From: issuance of bldg. permit To: issuance of C. of O.
Real Estate – sale or lease of individual home or residential lot	Residential	Portable Ground	6 sq. ft.	6 ft.	1[b]	No	[a]	Remove within 30 days of sale or lease
Real Estate – sale or lease of individual business or vacant lot	Commercial, Industrial	Portable Ground or wall	16 sq. ft.	10 ft.	1[b]	No	[a]	Remove within 30 days of sale or lease
Real Estate – sale or lease of unplatted vacant land	All	Portable Ground	64 sq. ft.	10 ft.	1[b]	Yes	[a]	Remove within 30 days of sale or lease
Real Estate Development Sign	All	Portable Ground	64 sq. ft.	10 ft.	[c]	Yes	[a]	Remove within 30 days after all units or lots sold or leased
Grand Opening Sign	Commercial	Ground or Wall	16 sq. ft.	10 ft.	1	No	[a]	60 days
Garage Sale Sign	Residential	Ground or Wall	2 sq. ft.	5 ft.	2	No	[d]	4 consecutive days
Community Special Event Sign	All	[e]	[e]	[e]	[e]	Yes	[a]	Duration of the event

**TEMPORARY SIGN STANDARDS**  
(Section 22.05, sub-section C (Continued))

Political Sign	All	Ground or Wall	16 sq. ft.	10 ft.	2	Yes	[d]	From: 60 days prior to election To: 14 days after election
Temporary Window Sign	Commercial	Paper or Fabric	[f]	[f]	[f]	No	--	Maximum display period: 30 days [g]
Civic/Educational	All	Window	[h]	[h]	[h]	No	[a]	[h]

**Footnotes**

- [a] The temporary sign shall comply with the setback requirements for the district in which it is located.
- [b] On a corner parcel two (2) signs, one (1) facing each street, shall be permitted.
- [c] One sign shall be permitted for each frontage on a secondary or major thoroughfare.
- [d] The temporary sign may be located in the required setback area, but shall not be located within the road right-of-way.
- [e] Community special event signs may include ground or wall signs, banners, pennants, or similar displays; the number, size and height of such signs shall be subject to Planning Commission approval.
- [f] The total of all window signs, temporary and permanent, shall not exceed one-third (1/3) of the total window area. The area of permanent window signs shall also be counted in determining compliance with standards for total area of wall signs.
- [g] Temporary window signs that are faded, yellowed, ripped or otherwise damaged shall be removed immediately.
- [h] Temporary window signs of a civic, philanthropic, or education nature shall be permitted for a period not to exceed thirty (30) days and all signs combined shall not exceed fifty (50) percent of the total window, with temporary signs limited to twenty-five (25) percent of the total window.

D. Downtown Sign District.

1. There is hereby created a district, to be hereafter referred to as Downtown Sign District, which shall encompass the following area:

Both sides of Main Street (M-15) from Waldon Road north to the southern boundary of lots# 32 & # 33.

2. Signs erected within the Downtown District shall comply with the following:
  - a. No sign shall be erected within said district without first securing a permit therefor from the Code Officer.
  - b. Upon request for a permit to erect a sign within said district the applicant shall provide a drawing indicating the building to which the sign is intended to be attached or the location of said sign if intended to be unattached to a building; in relation to the street right-of-way or curb line; the dimensions of said sign and the manner in which sign is to be displayed.
  - c. Signs shall be prohibited from extending, in any manner, into or over public rights-of-way traveled or intended for use by motorized vehicles.
  - d. No sign shall be erected within a distance of ten (10) feet measured horizontally from any fire hydrant, traffic light, or street lighting poles, nor shall any sign be erected in any location where, by reason of traffic conditions, fire, or explosion hazards, it would imperil public safety or interfere with the function of the fire department.
  - e. Prohibited signs are signs which:
    - i. Contain or are an imitation of an official traffic sign or signal or contain words such as "stop", "go slow", "caution", "danger", "detour", "warning," or similar words or any other words, phrases, symbols, or characters, in such a manner as may interfere with, mislead, or confuse traffic.
    - ii. Are of size, location, movement, content, coloring, or manner of illumination, including but not limited to flashing lights, which may be confused with or construed as a traffic control device or which hide from view any street sign or signal.
    - iii. Advertise an activity, business product, or service once conducted or available on the premises upon which the sign is located, but which is no longer conducted or available on such premises. The owner of such premises shall have sign removed within thirty days

after termination of the activity, business, product, or service which the sign advertises.

- f. The erection of poles in the public right-of-way is prohibited; provided however, that such prohibition shall not apply to public utilities who require the erection of poles to provide services rendered by them and/or the erection of poles for installation of traffic control signs or devices.
  - g. No sign shall be erected which shall be less than eight (8) feet from ground level measured vertically from the bottom of said sign to ground level.
  - h. The total surface area of all wall signs shall not exceed one and one-half (1 1/2) square feet per lineal foot of building frontage, not exceed one-hundred (100) square feet.
  - i. The total area of freestanding signs shall not exceed one-half (1/2) of a square foot per lineal foot of lot frontage, not to exceed twenty-five (25) square feet for a single face sign, fifty (50) square feet for a double face sign, or a total of fifty (50) square feet of surface for any other sign configuration.
  - j. If a façade is shared by more than one premise, the total sign area available to the façade under the terms of this Ordinance shall be allocated so that the sign area available to each premise bears the same proportion that the façade area shared by each premise bears to the total façade area shared by all premises.
3. Projecting Signs: Individual projecting signs to be mounted perpendicular to building façade may be permitted subject to the following:
- a. The signboard shall not exceed eight (8) square feet.
  - b. No signs to be mounted above the first floor of the building.
  - c. The distance from the ground to the lower edge of the signboard shall be eight (8) feet minimum.
  - d. The distance from the building wall to the signboard shall not exceed six (6) inches.
  - e. The width of the signboard shall not exceed three (3) feet.
  - f. The height of the lettering, numbers or graphics shall not exceed eight (8) inches.



- g. Limited to one (1) sign per business.
  - h. Projecting signs are not permitted in conjunction with wall-mounted, free-standing or applied letter signs.
4. Wall-Mounted Signs: Wall-mounted signs may be permitted subject to the following:
- a. The sign shall be affixed to the front façade of the building, and shall project outward from the wall to which it is attached no more than six (6) inches.
  - b. The area of the signboard shall not exceed five percent (5%) of the ground floor building façade area, or twenty-four (24) square feet, whichever is less.
  - c. The maximum permitted height is fifteen (15) feet above the front sidewalk elevation, and shall not extend above the base of the second floor window sill, parapet, eave, or building façade.
  - d. The height of the lettering, numbers, or graphics shall not exceed eight (8) inches.
  - e. The sign shall be granted to commercial uses occupying buildings facing on public streets only and shall not be allocable to other uses.
  - f. Limited to one (1) sign per business.
  - g. Applied letters may substitute for wall-mounted signs, if constructed of painted wood, painted cast metal, bronze, brass or black anodized aluminum. Applied plastic letters shall not be permitted. The height of applied letters shall not exceed eight (8) inches.
5. Painted Window or Door Signs: Painted window or door signs, provided the following standards are met:
- a. The sign shall not exceed ten percent (10%) of the window or door area, or four (4) square feet, whichever is less.
  - b. The sign shall be silkscreened or hand painted.
  - c. The height of the lettering, numbers or graphics shall not exceed four (4) inches.
  - d. Limited to one (1) sign per business, painted on either the widow or the door, but not on both.

- e. May be in addition to only one of the following: a wall-mounted sign, a free-standing sign, an applied letter sign, a projecting sign or a valance awning sign.
6. Awning Signs: Awnings or canopies used to advertise a business shall be made of cloth or material resembling cloth. Awning signs may be permitted for ground floor, uses only, provided the following standards are met:
- a. If acting as the main business sign, it shall not exceed ten (10) square feet in area, and the height of the lettering, numbers, or graphics shall not exceed eight (8) inches.
  - b. If acting as an auxiliary business sign, it shall be located on the valance only, shall not exceed four (4) square feet in area, and the height of the lettering, numbers, or graphics shall not exceed four (4) inches.
  - c. Limited to two (2) such signs per business, on either awning or valance, but not on both.
  - d. If acting as the main business sign, it shall not be in addition to a wall-mounted sign.
7. Free-standing Signs: One (1) free-standing sign may be provided, subject to the following conditions:
- a. The building where the business to which the sign refers to shall be set back a minimum of five (5) feet from the street line.
  - b. The area of the signboard shall not exceed three (3) square feet.
  - c. The height of the lettering, numbers, or graphics shall not exceed four (4) inches.
  - d. The height of the top of the signboard, or of any posts, brackets, or other supporting elements shall not exceed six (6) feet from the ground.
  - e. The signboard shall be constructed of wood, with wood or cast iron brackets, and shall be architecturally compatible with the style, composition, materials, colors, and details of the building.
  - f. The sign shall be located within four (4) feet of the main entrance to the business and its location shall not interfere with pedestrian or vehicular circulation.

- g. Limited to one (1) sign per building and shall not be in addition to wall-mounted, applied letters or projecting signs.
- 8. Businesses located in corner buildings are permitted one sign for each street frontage.
- 9. Businesses with service entrances may identify these with one (1) sign not exceeding two (2) square feet.
- 10. One (1) directional sign, facing a rear parking lot, may be erected. This sign may be either wall-mounted on the rear facade, projecting or free standing, but shall be limited to three (3) square feet in area.
- 11. Restaurants and Cafes: In addition to other signage, restaurants and cafes shall be permitted the following, limited to one (1) sign per business:
  - a. A wall-mounted display featuring the actual menu as used at the dining table, to be contained within a shallow wood or metal case, and clearly visible through a glass front. The display case shall be attached to the building wall, next to the main entrance, at a height of approximately five (5) feet, shall not exceed a total area of two (2) square feet, and may be lighted.
  - b. A sandwich board sign, as follows:
    - i. The area of the signboard, single-sided, shall not exceed five (5) square feet.
    - ii. The signboard shall be constructed of wood, chalkboard or finished metal.
    - iii. Letters may be painted or handwritten.
    - iv. The sign shall be located within four (4) feet of the main entrance to the business and its location shall not interfere with pedestrian or vehicular circulation.
    - v. The information displayed shall be limited to daily specials and hours of operation.
    - vi. The sign shall be removed at the end of the business day.
- 12. Each business shall identify the number of its address within the signboard. One (1) sign facing each street or parking lot may be permitted.

13. Design Standards:

- a. Signs affixed to the exterior of a building shall be architecturally compatible with the style, composition, materials, colors and details of the building, as well as with other signs used on the building or its vicinity.
- b. Signs shall fit within the existing facade features, shall be confined to signable areas, and shall not interfere with door and window openings, conceal architectural details or obscure the composition of the facade where they are located. Signs shall be placed on a facade only in a manner historically appropriate to the style of the building.
- c. Whenever possible, signs located on buildings within the same blockface shall be placed at the same height, in order to create a unified sign band.
- d. Wood and painted metal are the preferred materials for signs. Flat signs should be framed with raised edges. Signs using wood shall use only high-quality exterior grade wood with suitable grade finishes.
- e. Sign colors should be compatible with the colors of the building façade. A dull or matte finish is recommended, for it reduces glare and enhances legibility.
- f. Signs shall be spot-lighted with a diffused light source. Spot-lighting shall require complete shielding of all light sources; light shall be contained within the sign frame and shall not significantly spill over to other portions of the interior of display cases. Neon signs placed inside the display case shall insure low intensity colors.
- g. Signs shall be mounted so that the method of installation is concealed. Signs applied to masonry surfaces should be mechanically fastened to mortar joints only, and not directly into brick or stone. Drilling to provide electrical service should also follow the same rule.

E. Church Signs. Church signs shall be permitted subject to the same standards as other signs in the district in which the church is located. However, churches in residential districts may erect signs for the purposes of identification of the church or church affiliated school, parsonage, or other facility; advertising the time or subject of church services; or, presenting other related information. Such signs shall be subject to the following standards:

1. Number. There shall be no more than one (1) sign per parcel, except on a corner parcel, two (2) signs, one (1) facing each street shall be permitted. One (1) additional sign shall be permitted for each school, parsonage, or other related facility.

2. Size. The maximum size of each such sign shall be twenty (20) square feet.
3. Location. Signs shall comply with the setback requirements for the district in which they are located.
4. Height. The maximum height of church signs shall be eight (8) feet.

## **SECTION 22.06 SIGN DESIGN STANDARDS**

### A. Construction Standards.

1. General Requirements. All signs shall be designed and constructed in a safe and stable manner in accordance with the City's adopted building code and electrical code. All electrical wiring associated with a freestanding sign shall be installed underground.
2. Building Code. All signs shall be designed to comply with minimum wind pressure and other requirements set forth in the adopted Building Code.
3. Framework. All signs shall be designed so that the supporting framework, other than the supporting poles on a freestanding sign, is contained within or behind the face of the sign or within the building to which it is attached so as to be totally screened from view.

### B. Illumination.

1. General Requirements. Signs shall be illuminated only by steady, stationary, shielded light sources directed solely at the sign.
2. Non-Glare, Shielded Lighting. Use of glaring undiffused lights or bulbs shall be prohibited. Flood light illumination using goose neck or similar fixtures must be designed to confine the illumination to the sign area and its immediate proximity. Lights shall be shaded so as not to project onto adjoining properties or thoroughfares.
3. Traffic Hazards. Sign illumination that could distract motorists or otherwise create a traffic hazard shall be prohibited.
4. Bare Bulb Illumination. Illumination by bare bulbs or flames is prohibited.
5. Interior Illuminated Lights. Illuminated wall signs using an interior light source are prohibited. Signs using visible bulbs, neon, fluorescent, or similar lights are prohibited.

6. Adjacent to Residences. Illuminated signs shall not be displayed on façades facing residential property.

C. Location.

1. Within a Public Right-of-Way. No sign shall be located within, project into, or overhang a public right-of-way, except as otherwise permitted herein.
2. Compliance with Setback Requirements. All signs shall comply with the setback requirements for the district in which they are located, except as otherwise permitted herein.
3. Sight Lines for Motorists. Signs shall comply with the requirements for unobstructed motorist visibility in Section 14.10.

D. Measurement.

1. Sign Area. Sign area shall be computed as follows:
  - a. General Requirements. Where a sign consists of a generally flat surface or sign face on which lettering and other information is affixed, the sign area shall be computed by measuring the entire face of the sign.
  - b. Individual Letters. Where a sign consists of individual letters and logo affixed directly to a building, the area of the sign shall be computed by measuring the area of the envelope required to enclose the lettering and logo.
  - c. Freestanding Sign. The area of a double-faced freestanding sign shall be computed using only one (1) face of the sign provided that: 1) the outline and dimensions of both faces are identical; and 2) the faces are back-to-back so that only one face is visible at any given time.
  - d. Ground Sign. The area of a ground sign shall be computed by measuring the entire vertical surface of a face upon which the letters and logo are attached. In the case of a multi-faced ground sign, the area of the sign shall be computed using only one face of the sign.
  - e. Cylindrical Sign. The area of a cylindrical ground sign shall be computed by multiplying the diameter of the cylinder by its height.
2. Setback and Distance Measurements. The following guidelines shall be used to determine compliance with setback and distance measurements:
  - a. The distance between two signs shall be measured along a straight horizontal line that represents the shortest distance between the two signs.

- b. The distance between a sign and a parking lot or building shall be measured along a straight horizontal line that represents the shortest distance between the outer edge of the parking lot or building.
- c. The distance between a sign and a building or property line shall be measured along a straight horizontal line that represents the shortest distance between the sign and the building.

**SECTION 22.07 RESIDENTIAL DISTRICT SIGNS**

The following signs shall be permitted in all districts zoned for residential use, (see Generalized Schedule of Sign Standards):

- A. Nameplate and Street Address. A nameplate sign and street address shall be permitted subject to the requirements of Section 22.06, sub-section A.
- B. Real Estate Signs. Real estate signs shall be permitted in accordance with Section 22.06, sub-section C.
- C. Garage Sale Signs. Garage sale signs shall be permitted in accordance with Section 22.06, sub-section C.
- D. Church Signs. Church signs shall be permitted in accordance with Section 22.07, sub-section E.
- E. Residential Entranceway Signs. Residential subdivision entranceway signs, located on walls, columns, or gates that mark the entrance to a single-family subdivision or multiple-family development shall be permitted in the required setback area, provided that:
  - 1. Permanent residential entranceway signs shall be permitted in accordance with Section 21.02, sub-section E., and the following requirements:
    - a. The sign shall cover no more than fifty percent (50%) of the entranceway structure.
    - b. There shall be no more than one (1) such sign located at each entrance to a subdivision or development.
  - 2. Signs shall comply with the requirements for unobstructed motorist visibility in Section 14.10, Corner Clearance, and Section 22.06 B. Illumination.
  - 3. Approval of the Building Official and issuance of a building permit shall be required prior to construction.

- F. Signs for Nonconforming Uses. Each nonconforming nonresidential use in a residential district shall be permitted one wall-mounted sign, subject to the following requirements:
1. The maximum size for such a sign shall be two (2) square feet.
  2. No such sign shall be intentionally lighted.

## **SECTION 22.08 NONRESIDENTIAL DISTRICT SIGNS**

The following signs shall be permitted in districts zoned for nonresidential use, including districts zoned VC and I-1 (see Generalized Schedule of Sign Standards):

- A. Signs for Residential District Uses in a Nonresidential District. Signs for nonconforming residential district uses in a nonresidential district shall be governed by the sign regulations for residential district uses set forth in Section 22.07.
- B. Signs for Nonconforming Nonresidential Uses. Signs for nonconforming nonresidential uses in an office, commercial or industrial district (for example, a nonconforming commercial use in an industrial district) shall be governed by the sign regulations which are appropriate for the type of use, as specified in this Section.
- C. Wall Signs. Wall signs shall be permitted in the Village Commercial and Industrial districts subject to the following regulations:
1. Number. One (1) wall sign shall be permitted per street or highway frontage on each parcel. In the case of a multi-tenant building or shopping center, one (1) wall sign shall be permitted for each tenant having an individual means of public access. Tenants who occupy a corner space in a multi-tenant structure shall be permitted to have one (1) sign on each side of the building. Where several tenants use a common entrance in a multi-tenant structure, only one (1) wall sign shall be permitted, but the total sign area should be allocated on an equal basis to all tenants.
  2. Size. The total area of a wall sign shall not exceed one and one-half (1½) square feet per lineal foot of building frontage not to exceed one (100) square feet. In the case of a multi-tenant building, these size requirements shall apply to each business individually.
  3. Location. One wall sign may be located on each side of a building that faces a street or highway. Wall signs shall not block windows or door openings and shall not extend past the horizontal width of a building façade.
  4. Vertical Dimensions. The maximum vertical dimension of any wall sign shall not exceed one-third (1/3) of the building height.



5. Horizontal Dimensions. The maximum horizontal dimension of any wall-mounted sign shall not exceed three-fourths (3/4) of the width of the building.
6. Height. The top of a wall sign shall not be higher than whichever is lowest:
  - a. The maximum height specified for the district in which the sign is located.
  - b. The top of the sills at the first level on windows above the first story.
  - c. The height of the building facing the street on which the sign is located.
7. Width. The face of all wall signs run parallel with the face of its building façade and the perpendicular distance between the sign face and building façade shall not exceed twelve (12) inches.

D. Freestanding Signs. Freestanding signs shall be permitted in Village Commercial and industrial districts, subject to the following regulations:

1. Number. One (1) freestanding sign shall be permitted per street or highway frontage on each parcel. Where the premise is adjacent to two streets having frontage of fifty (50) feet on each street, two freestanding signs shall be provided they are located at least fifty (50) feet apart. In multi-tenant buildings or shopping centers the sign area may be allocated for use by individual tenants.
2. Size. The total area of the freestanding sign shall not exceed one-half (1/2) of a square foot per lineal foot of lot frontage, not to exceed twenty-five (25) square feet for a single face sign, fifty (50) square feet for a double face sign, or a total of fifty (50) square feet of surface for any other sign configuration.
3. One (1) freestanding sign up to one hundred (100) square feet in size may be permitted for a Planned Development, subject to review in accordance with Article VIII.
4. Setback from the Right-of-Way. Freestanding signs may be located in the required front yard, provided that no portion of any such sign shall be located closer than fifteen (15) feet to the existing or planned right-of-way line. No freestanding sign shall be placed between a sidewalk and the street. If a parcel is served by a private road or service road, no portion of a freestanding sign shall be closer than five (5) feet to the edge of the road.
5. Setback from Residential Districts. Freestanding signs shall be located no closer to any residential district than indicated in the following table:

<u>Zoning District in Which Sign Is Located</u>	<u>Required Setback from Residential District</u>
VC	50 ft.
I-I	100 ft.

6. Height. The height of a freestanding sign in any nonresidential district shall not exceed five (5) feet. However, freestanding signs up to fifteen (15) feet in height may be permitted by the City Council, subject to Special Land Use review, Article XVIII.
- E. Awnings and Canopies. Signs on awnings and canopies in the office, commercial, and industrial districts shall be permitted, subject to the following standards:
1. Coverage. The total area of the lettering and logo shall not exceed twenty-five percent (25%) of the total area of the awning or canopy that is visible from the street.
  2. Compliance with Size Requirements for Wall Signs. The area of signs on awnings or canopies shall be counted in determining compliance with the standards for total area of wall signs permitted on the parcel.
  3. Projection. Limitations imposed by this Ordinance concerning projection of signs from the face of a wall or building shall not apply to awning and canopy signs, provided that such signs shall comply with the setback requirements for the district in which they are located.
- F. Gasoline Price Signs. Gasoline price signs shall be permitted subject to the following standards:
1. Number. One (1) gasoline price sign shall be permitted for each gas station.
  2. Size. Gasoline price signs shall not exceed twenty (20) square feet in area.
  3. Setback. Gasoline price signs shall comply with the setback and height requirements specified for freestanding signs in the district in which the signs are located.
- G. Temporary Signs. Temporary signs shall be permitted subject to the requirements of Section 22.06, sub-section C.
- H. Window Signs. Temporary and permanent window signs shall be permitted on the inside in commercial and office districts provided that the total combined area of such signs (including incidental signs) shall not exceed one-quarter ( $\frac{1}{4}$ ) of the total window area. The area of permanent window signs shall be counted in determining compliance with standards for total area of wall signs on the parcel. Temporary window signs shall comply with the requirements in Section 22.06, sub-section C.
- I. Time/Temperature/Stock Market Signs. Time, temperature, and stock market signs shall be permitted in commercial and office districts; subject to the following conditions:

1. Frequency of Message Change. The message change shall not be more frequent than once every ten (10) seconds.
2. Size. The area of these types of signs shall be included within the maximum sign area permitted on the site.
3. Number. One (1) such sign shall be permitted per street frontage.

J. Mansard Signs.

1. Size. The surface area of a mansard sign shall not exceed the lesser of twenty percent (20%) of the mansard surface area, or ten percent (10%) of the total face area.

<b>GENERALIZED SCHEDULE OF SIGN STANDARDS FOR RESIDENTIAL USES*</b>		
<b>Type of Sign</b>	<b>Number</b>	<b>Area</b>
Nameplate	1	2 sq. ft.
Street Address	2	(4 in. min.) 6 in. height
Church	1[a]	20 sq. ft.
Real Estate Signs	1	6 sq. ft.
Garage Sale Signs	2	2 sq. ft.
Residential Entranceway Signs	1[b]	24 sq. ft.
Wall Signs for Nonconforming Uses	1	2 sq. ft.
<p>*Specific sections in Article 22.00 should be consulted for details.</p> <p>[a] One (1) additional sign shall be permitted for each school, parsonage, or other related facility.</p> <p>[b] One (1) sign is permitted at each entrance to a subdivision or residential development.</p>		

**GENERALIZED SCHEDULE OF SIGN STANDARDS  
FOR NONRESIDENTIAL USES\***

Types of Signs	Office Uses in the VC District		Commercial Uses in the VC District		Commercial or Industrial Uses in the I-1 District	
	Number	Maximum Area	Number	Maximum Area	Number	Maximum Area
Wall or Building	1[a]	1 ½ sq. ft. per foot of bldg. Front, up to 125 sq. ft.	1[a]	1 ½ sq. ft. per foot of bldg. Front, up to 125 sq. ft.	1[a]	1 ½ sq. ft. per foot of bldg. Front, up to 125 sq. ft.
Freestanding	1[b]	½ sq. ft. per foot of street frontage up to 75 sq. ft.	1[b]	½ sq. ft. per foot of street frontage up to 100 sq. ft.	1[b]	½ sq. ft. per foot of street frontage up to 125 sq. ft.
Window Signs	N.A.	¼ of window area [d]	N.A.	¼ of window area [d]	N.A.	¼ of window area: not permitted in industrial districts [d]
Awning or canopy signs	1	25% of awning area [d]	1	25% of awning area [d]	1	25% of awning area [d]
Gasoline price signs	1	20 sq. ft.	1	20 sq. ft.	1	20 sq. ft.
Time/Temp.	1	Based on maximum	1	Based on maximum	1	Based on maximum
Stock Sign Area		Permitted Sign		Permitted Sign		Permitted Sign
Market Sign		Area on site		Area on site		On site, not permitted
Real Estate	1	16 sq. ft. [f]	1	16 sq. ft. [f]	1	16 sq. ft. [f]

\*Specific sections in Article 22.00 should be consulted for details  
N.A. = Not Applicable  
N.P. = Not Permitted

**Footnotes**

- [a] In the case of a multi-tenant building, one (1) wall sign shall be permitted for each tenant having an individual means of public access. Tenants who occupy a corner space in a multi-tenant structure shall be permitted to have one (1) sign on each side of the building. Where several tenants use a common entrance in a multi-tenant building, only one (1) wall sign shall be permitted, but the total sign area should be allocated on an equal basis to all tenants.
- [b] Only one (1) freestanding sign shall be permitted for multi-tenant buildings or shopping centers, but the sign area may be allocated for use by individual tenants.
- [c] The City Council may permit a freestanding sign up to 200 square feet in area for a Planned Development.

- [d] The area of permanent window signs and awnings and canopy signs shall be counted in determining compliance with the standards for total area of wall signs.
- [e] Marquee signs shall be permitted for theaters located in commercial districts.
- [f] Real estate signs offering unplatted vacant land for sale or lease may be up to sixty-four square feet in area.

## ARTICLE XXIII

### FLOOD HAZARD AREAS

#### SECTION 23.00 INTENT

- A. It is the purpose of this Article to significantly reduce hazards to person and damage to property as a result of flood conditions in the City of the Village of Clarkston, and to comply with the provisions and requirements of the National Flood Insurance Program, as constituted in accord with the National Flood Insurance Act of 1968, and subsequent enactments and rules and regulations promulgated in furtherance of this program by the United States Federal Emergency Management Agency as published in the Federal Register, Vol. 41, No. 207, Tuesday, October 26, 1976, as may be amended from time to time.
- B. It is the purpose of this Article to promote the public health, safety, and general welfare and to minimize private and public losses due to flood conditions in specific areas by provisions designed to:
1. Protect human life, health, and property from the dangerous and damaging effects of flood conditions;
  2. Minimize public expenditures for flood control projects, rescue and relief efforts in the aftermath of flooding, repair of flood-damaged public facilities and utilities, and the redevelopment of flood damaged homes, neighborhoods, commercial, and industrial areas;
  3. Prevent private and public economic loss and social disruption as a result of flood conditions;
  4. Maintain stable development patterns not subject to the blighting influence of flood damage;
  5. Insure that the public has access to information indicating the location of land areas subject to periodic flooding;
  6. Preserve the ability of floodplains to carry and discharge a base flood;
  7. Enable citizens and the City of the Village of Clarkston to remain eligible for federal financial assistance, such as the Veterans and Farmers Home Administration loans and federally subsidized flood insurance; and
  8. Make maximum use of floodplains for open space, recreation, and wildlife propagation.

- C. In order to accomplish its purposes, this Article uses the following methods:
1. Restrict or prohibit land uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
  2. Require that land uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
  3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
  4. Control filling, grading, dredging, and other development which may increase flood damage; and
  5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

#### **SECTION 23.01 SUPPLEMENTARY DEFINITIONS**

- A. "AREA OF SHALLOW FLOODING" means a designated AO zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and indeterminate, and where velocity flow may be evident.
- B. "AREA OF SPECIAL FLOOD HAZARD" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.
- C. "BASE FLOOD" means the flood having a one percent chance of being equaled or exceeded in any given year.
- D. "DEVELOPMENT" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
- E. "FLOOD" or "FLOODING" means a general and temporary condition of partial or complete inundation of normally dry land areas from:
1. The overflow in inland or tidal waters;
  2. The unusual and rapid accumulation or runoff of surface waters from any source.
- F. "FLOOD HAZARD BOUNDARY MAP" (FHBM) means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazards have been designated as Zone A.

- G. "FLOOD INSURANCE RATE MAP" (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
- H. "FLOOD INSURANCE STUDY" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Hazard Boundary-Floodway Map and the water surface elevation of the base flood.
- I. "FLOOD HAZARD AREA" means land which on the basis of available floodplain information is subject to a one percent or greater chance of flooding in any given area.
- J. "FLOODWAY" means the channel of a river or other watercourse and the adjacent land areas designated in the Flood Insurance Study which must be reserved in order to discharge the base flood.
- K. "HARMFUL INCREASE" means an unnaturally high stage on a river, stream or lake which causes, or may cause damage to property, threat to life, personal injury, or damage to land or water resources.
- L. "MOBILE HOME" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.
- M. "NEW CONSTRUCTION" means structures for which the "start of construction" commenced on or after the effective date of this Ordinance.
- N. "STRUCTURE" means a walled and roofed building that is principally above ground, gas or liquid storage facility, as well as a mobile home.
- O. "SUBSTANTIAL IMPROVEMENT" means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either, (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.



**SECTION 23.02 DELINEATION OF THE FLOOD HAZARD OVERLAY ZONE**

- A. The flood hazard area zone shall overlay existing zoning districts delineated on the official City of the Village of Clarkston Zoning Map. The boundaries of the flood hazard area zone shall coincide with the boundaries of the areas indicated as within the limits of the 100-year flood in the report entitled "The Flood Insurance Study (The City of the Village of Clarkston) Unit," dated September 29, 2006, with accompanying Flood Insurance Rate Maps and Flood Boundary and Floodway Maps. Within the flood hazard area zone a regulatory floodway shall be designated. The boundaries of the regulatory floodway shall coincide with the floodway boundaries indicated on the Flood Boundary and the Floodway Map. The Study and accompanying maps are adopted by reference, appended, and declared to be a part of this Ordinance. The term flood hazard area as used in this Ordinance shall mean the flood hazard area zone and the term floodway shall mean the designated regulatory floodway.
- B. Where there are disputes as to the location of a flood hazard area zone boundary, the Zoning Board of Appeals shall resolve the dispute in accord with Article XVI.
- C. In addition to other requirements of this Ordinance applicable to development in the underlying zoning district, compliance with the requirements of this Article shall be necessary for all development occurring within the flood hazard area zone. Conflicts between the requirements of this Article and other requirements of this Ordinance or any other ordinance shall be resolved in favor of this Article, except where the conflicting requirement is more stringent and would further the objectives of this Article. In such cases the more stringent requirement shall be applied.

**SECTION 23.03 DEVELOPMENT PERMIT**

- A. Development, including the erection of structures and placement of mobile homes, within a flood hazard area shall not occur except upon issuance of a zoning compliance permit in accord with the requirements of Article XV and the following standards:
  - 1. The requirements of this Article shall be met;
  - 2. The requirements of the underlying zoning districts and applicable general provisions of this Ordinance shall be met;
  - 3. All necessary development permits shall have been issued by appropriate local, state and federal authorities, including a floodplain permit, approval, or letter of no authority from the Michigan Department of Environmental Quality (DEQ) under authority of Act 245, Public Acts of 1921, as amended by Act 167, Public Acts of 1968, as amended by Act 451, Public Acts of 1994. Where a development permit cannot be issued prior to the issuance of a zoning compliance permit, a letter from the issuing agency indicating intent to issue contingent only upon proof of zoning compliance shall be acceptable.

## **SECTION 23.04 GENERAL STANDARDS FOR FLOOD HAZARD REDUCTION**

- A. All new construction and substantial improvements within a flood hazard area, including the placement of prefabricated buildings and mobile homes, shall:
  - 1. Be designated and anchored to prevent flotation, collapse, or lateral movement of the structure;
  - 2. Be constructed with materials and utility equipment resistant to flood damage; and
  - 3. Be constructed by methods and practices that minimize flood damage.
- B. All new and replacement water supply systems shall minimize or eliminate infiltration of flood waters into the systems.
- C. All new sanitary sewage systems shall minimize infiltration of flood waters into the systems and discharges from systems into flood waters. On-site waste disposal systems shall be located to avoid impairment to the system or contamination from the system during flooding.
- D. All public utilities and facilities shall be designated, constructed and located to minimize or eliminate flood damage.
- E. Adequate drainage shall be provided to reduce exposure to flood hazards.
- F. The Code Officer or his representative shall review development proposals to determine, compliance with the standards in this section, and shall deliver his or her report and the certification required herein to the Planning Commission when site plan approval is required.
- G. Land shall not be divided in a manner creating parcels or lots which cannot be used in conformance with the requirements of this Article.
- H. The flood carrying capacity of any altered or relocated watercourse not subject to state or federal regulations designed to insure flood carrying capacity shall be maintained.
- I. Available flood hazard data from Federal, State or other sources shall be reasonably utilized in meeting the standards of this section. Data furnished by the Federal Emergency Management Agency shall take precedence over data from other sources.

## **SECTION 23.05 SPECIFIC BASE FLOOD ELEVATION STANDARDS**

- A. On the basis of the most recent available base flood elevation data the following standards shall apply in the flood hazard area zone:

1. All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the base flood level.
  2. All new construction and substantial improvements of non-residential structures shall have either:
    - a. The lowest floor, including basement, elevated to at least one (1) foot or above the base flood level; or
    - b. Be constructed such that below one (1) foot base flood level, together with attendant utility and sanitary facilities, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subparagraph are satisfied, and that the flood proofing methods employed are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood in the location of the structure. Such certification shall be submitted as provided in Section 23.04 and shall indicate the elevation to which the structure is flood proofed.
- B. The most recent base flood elevation data received from the Federal Emergency Management Agency shall take precedence over data from other sources.

### **SECTION 23.06 MOBILE HOME STANDARDS**

- A. All mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties in accord with the following specifications:
1. Over-the-top ties shall be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, except that on mobile homes less than fifty (50) feet in length one tie per side shall be required.
  2. Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points, except that on mobile homes less than 50 feet in length four ties per side shall be required.
  3. All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.
  4. All additions to a mobile home shall be similarly anchored.

- B. An evacuation plan indicating alternate vehicular access and escape routes shall be filed with Oakland County Emergency Medical Service and Emergency Management Division for mobile home parks and mobile home subdivisions.
- C. Mobile homes within zones A1-30 on the Flood Insurance Rate Map shall be located in accord with the following standards:
  - 1. All mobile homes shall be placed on stands or lots which are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level.
  - 2. Adequate surface drainage away from all structures and access for a mobile home hauler shall be provided.
  - 3. In the instance of elevation on pilings, lots shall be large enough to permit steps, piling foundations shall be placed in stable soil no more than ten (10) feet apart; and reinforcement shall be provided for piers more than six (6) feet above ground level.
  - 4. In mobile home parks and mobile home subdivisions which exist at the time this subsection is adopted, where repair, reconstruction or improvement of streets, utilities, and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities, and pads before the repair, the standards in subparagraphs A, B, and C of this subsection shall be complied with.

**SECTION 23.07 STANDARDS FOR AREAS OF SHALLOW FLOODING**

- A. The following standards shall apply in areas of shallow flooding denoted as AO zones on the FIRM:
  - 1. All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated above the crown of the nearest street to or above the depth number specified on the FIRM.
  - 2. All new construction and substantial improvements of non-residential structures shall either:
    - a. Have the lowest floor, including basement, elevated above the crown of the nearest street to or above the depth number specified on the FIRM; or
    - b. Be floodproofed together with attendant utility and sanitary facilities to the level specified in Section 23.05A.2.

## **SECTION 23.08 FLOODWAY PROTECTION STANDARDS**

- A. New construction, substantial improvements and all other development, including fill, shall be prohibited within zones numbered A-30 on the FIRM, except where it is demonstrated to the Code Officer that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not harmfully increase the water surface elevation of a base flood. In determining whether a harmful increase will occur, compliance with Public Act 245 of 1929, as amended by Act 167 of 1968, as amended by Act 451 of 1994 shall be required, provided that the allowable increase shall not exceed one foot. The provisions of this section shall not apply within the regulatory floodway. The provisions of subsection 23.08.B shall be applied to land situated within the regulatory floodway.
- B. All development occurring within the regulatory floodway shall comply with the following standards:
1. Encroachments, including fill, new construction, substantial improvements and other development shall be prohibited. Exception of this prohibition shall only be made upon certification by a registered professional engineer or the Department of Natural Resources that the development proposed will not result in any increases in flood levels during a base flood discharge, and compliance with Act 245 of 1929, as amended by Act 167 of 1968, as amended by Act 451 of 1994.
  2. The placement of mobile homes shall be prohibited except in mobile home parks and subdivisions which exist at the time this Article is adopted.
  3. Development which is permitted in the regulatory floodway shall meet the requirements of Sections 23.03 to 23.06.
- C. The uses of land permitted in an underlying zoning district shall not be construed as being permitted within the regulatory floodway, except upon compliance with the provisions of this section.

## **SECTION 23.09 DISCLAIMER OF LIABILITY**

- A. The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based upon engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. Approval of the use of land under this Article shall not be considered a guarantee or warranty of safety from flood damage. This Ordinance does not imply that areas outside the flood hazard area will be free from flood damage. This Ordinance does not create liability on the part of the City of the Village of Clarkston or any officer or employees thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

## **SECTION 23.10 FLOODPLAIN MANAGEMENT ADMINISTRATIVE DUTIES**

- A. With regard to the National Flood Insurance Program, and the regulation of the development within the flood hazard area zone as prescribed in Article XXIII the duties of the Code Officer, shall include, but are not limited to:
1. Notification to adjacent communities and the Department of Environmental Quality of the proposed alteration or relocation of any watercourse, and the submission of such notifications to the Federal Emergency Management Agency;
  2. Verification and recording of the actual elevation in relation to mean sea level of the lowest floor, including basement, of all new or substantially improved structures constructed within the flood hazard area, and in the case of floodproofed structures, the elevation to which the structure was flood proofed;
  3. Recording of all certificates of floodproofing, and written notification to all applicants to whom variances are granted in a flood hazard area zone indicating the terms of the variance, the increased danger to life and property, and that the cost of flood insurance will increase commensurate with the increased flood risk, and may reach amounts as high as \$25.00 for \$100.00 of insurance coverage. A record of all variance notifications and variance actions shall be maintained together with the justification for each variance.
- B. All records and maps pertaining to the National Flood Insurance Program shall be maintained in the office of the Code Officer and shall be open for public inspection.
- C. It shall be the responsibility of the Code Officer to obtain and utilize the best available flood hazard data for purposes of administering this Ordinance in the absence of data from the Federal Emergency Management Agency.

## **SECTION 23.11 FLOOD HAZARD AREA APPLICATION INFORMATION**

- A. In addition to the information required with an application for a zoning compliance permit, special use permit or any other type of development permission required under this Ordinance the following information shall be submitted as a part of an application for permission to commence any type of development within a flood hazard area zone:
1. The elevation in relation to mean sea level of the floor, including basement, of all structures;
  2. Where floodproofing will be employed, the elevation in relation to mean sea level to which a structure will be floodproofed;

3. Where floodproofing will be employed, a certificate from a registered professional engineer or architect that the floodproofing criteria of this Ordinance will be met;
4. Where it can be determined that development is proposed within zones A1-30 on the FIRM or the regulatory floodway, a certification as required by this Ordinance;
5. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development;
6. Proof of development permission from appropriate local, state and federal agencies as required by Section 23.03 A.3., including a floodplain permit approval, or letter of no authority form the Michigan Department of Environmental Quality under the authority of Act 245 of 1929, as amended by Act 167 of 1968, as amended by Act 451 of 1994;
7. Base flood elevation data where the proposed development is subject to Public Act 288 of 1967 [MCL 560.101 et seq., MSA 26.430 (101) et seq.] or greater than five (5) acres in size; and
8. Additional information which may be reasonably necessary to determine compliance with the provisions of this Ordinance.

### **SECTION 23.12 FLOOD HAZARD AREA ZONE VARIANCES**

- A. Variances from the provisions of Article XXIII Flood Hazard Areas shall only be granted by the Zoning Board of Appeals upon a determination of compliance with the general standards for variances contained in this Ordinance and each of the following specific standards.
  1. A variance shall not be granted within a regulatory floodway where the result would be any increase in flood levels during a base flood discharge, except upon certification by a registered professional engineer or the Department of Environmental Quality that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not harmfully increase the water surface elevation of a base flood. In determining whether a harmful increase will occur, compliance with Public Act 245 of 1929, as amended by Act 167 of 1968, as amended by Act 451 of 1994, shall be required, provided that the allowable increase, including the increase used as the design standard for delineating the floodway, shall not exceed one (1) foot.
  2. A variance shall be granted only upon:
    - a. A showing of good and sufficient cause;

- b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - c. A determination that the granting of the variance will not result in flood heights in excess of those permitted by this Ordinance, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.
- 3. The variance granted shall be the minimum necessary considering the flood hazard, to afford relief to the applicant.
- B. The City of the Village Clarkston Zoning Board of Appeals may attach conditions to the granting of a variance to insure compliance with the standards contained in this Ordinance.
- C. Variances may be granted for the reconstruction, rehabilitation, or restoration of structures, rehabilitation or restoration of structures listed on the National Register of Historic Places or the Michigan Historic Markers listing of historic sites, or any other state register of historic places without regard to the requirements of this section governing variances in flood hazard areas.

### **SECTION 23.13 MAPPING DISPUTES**

- A. Where disputes arise as to the location of the flood hazard area boundary or the limits of the floodway, the Zoning Board of Appeals shall resolve the dispute and establish the boundary location. In all cases, the decision of the Zoning Board of Appeals shall be based upon the most current floodplain studies issued by the Federal Emergency Management Agency. Where Federal Emergency Management Agency information is not available, the best available floodplain information shall be utilized.
- B. Where a dispute involves an allegation that the boundary is incorrect as mapped and the Federal Emergency Management Agency floodplain studies are being questioned, the Zoning Board of Appeals shall modify the boundary of the flood hazard area or the floodway only upon receipt of an official letter of map amendment issued by the Federal Emergency Management Agency.
- C. All parties to a map dispute may submit technical evidence to the Zoning Board of Appeals.