Chapter 51 ZONING

ARTICLE 1.00. TITLE

Sec. 51-1.01. Short title.

This chapter shall be known and may be cited as "The City Zoning Ordinance." Within the following text it may be referred to as "this chapter."

(Code 1994, § 1.01)

ARTICLE 2.00. DEFINITIONS

Sec. 51-2.01. Construction of language.

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

(1) The particular shall control the general.

(2) In the case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control.

(3) The term "shall" is always mandatory and not discretionary. The term "may" is permissive and discretionary.

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

(5) A "building" or structure includes any part thereof.

(6) The term "used for" includes the terms "arranged for," "designed for," "intended for," "maintained for," or "occupied for."

(7) The term "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

(8) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either . . . or," the conjunction shall be interpreted as follows:

a. The term "and" indicates that all the connected items, conditions, provisions, or events shall apply.

b. The term "or" indicates that the connected items, conditions, or provisions, or events may apply singly or in any combination.

c. The term "either . . . or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

(9) Terms not defined in this article or in any other part of this chapter shall have the meaning customarily assigned to them.

(10) Where certain uses are required to be separated from another use by a specific distance, the required distance shall be measured as the shortest distance between the principal building unit that is occupied by the regulated use to the nearest property line of the protected use, unless some other method of measurement is expressly provided by the ordinance regulating the specific uses.

(Code 1994, § 2.01; Ord. No. C-313-14, § 1, 2-4-2014)

Sec. 51-2.02. Definitions.

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

Accessory building or structure means a building or structure, or portion thereof, supplementary or subordinate to a principal building or structure on the same lot, that is occupied by or devoted exclusively to an accessory use.

Accessory use means a use which is clearly incidental to, customarily found in connection with, and (except in the case of accessory off-street parking spaces) located on the same zoning lot as the principal use to which it is related.

Adult regulated uses.

Adult book store means an establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals and/or photographs, drawings, slides, films, video tapes, recording tapes, and novelty items which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined below), or an establishment with a segment or section devoted to the sale or display of such material. Such establishment or the segment or section devoted to the sale or display of such material in 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.

Adult mini motion picture theatre or *live stage performing theatre* means the use of property commercially for displaying materials a significant portion of which include matter depicting, describing or presenting specified sexual activities for observation by patrons.

Adult motion picture theatre or *live stage performing theatre* means an enclosed building with a capacity of 50 or more persons used commercially for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined below), for observation by patrons therein. 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.

Amusement gallery/arcade means any business which provided on its premises four or more machines which upon the insertion of a coin or slug may be operated for use as a game, contest, or amusement of any description, not including musical devices.

Cabaret means an establishment which features any of the following means topless dancers and/or bottomless dancers, go-go dancers, strippers, male and/or female impersonators or similar entertainers or topless and/or bottomless waitresses or employees.

Halfway house means a facility established by the state department of corrections in connection with a jail, prison, or other correctional institution or facility as a residence for three or more persons committed to the jail, prison, or correctional institution prior to full release from supervision including any period of parole.

Massage parlor means any building, room, place or establishment other than a regularly licensed hospital or dispensary where nonmedical and nonsurgical manipulative exercises are practiced on the human body for other than cosmetic or beautifying purposes with or without the use of mechanical or bathing devices by anyone not a physician or surgeon or similarly licensed by the state.

Modeling studio means an establishment which furnishes facilities to the public for the taking of photographs of males and/or females with specified anatomical areas, as defined below, exposed or makes such models available for any other purposes.

Significant portion, as used in the definitions of adult regulated uses, means and includes either or both of the following:

a. Any one or more portions of the display having a duration in excess of five minutes; and/or

b. The aggregate of portions of the display having a duration equal to ten percent or more of the single display as a whole.

Specified anatomical areas means:

a. Less than completely and opaquely covered:

   1. Human genitals, pubic region;

   2. Buttock;

   3. Female breast below a point immediately above the top of areola; and

b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities means the explicit display of one or more of the following:

a. Human genitals in a state of sexual stimulation or arousal.

b. Acts of human masturbation, sexual intercourse or sodomy.

c. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Alley means a public or legally established private thoroughfare, other than a street, affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.

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

Anchor or *anchoring* means to temporarily secure occupied watercraft or vessels by rope, chain or other collapsible attachment to any weighted object less than eighteen inches in height temporarily placed on the surface of bottomland to facilitate active use of occupied watercraft or vessels.

Apartments means the dwelling units in a multiple-family dwelling as defined herein:

(1) Efficiency apartment means a dwelling unit of or less than 350 square feet of floor area consisting of not more than one room in addition to kitchen and necessary sanitary facilities.

(2) One bedroom unit means a dwelling unit containing a minimum floor area of at least 600 square feet consisting of not more than three rooms, including one bedroom in addition to kitchen and necessary sanitary facilities.

(3) Two bedroom unit means a dwelling unit containing a minimum floor area of at least 800 square feet, consisting of not more than four rooms, including two bedrooms, in addition to kitchen and necessary sanitary facilities.

(4) Three or more bedroom units means a dwelling unit wherein for each room in addition or the four rooms permitted in a two bedroom unit, there shall be provided an additional area of 200 square feet to the minimum floor area of 800 square feet in addition to the kitchen and necessary sanitary facilities.

Automobile means, unless specifically indicated otherwise, any vehicle including by way of example cars, trucks, vans, motorcycles, recreational vehicles and the like. see definition of motor vehicle.

Automobile repair means major or minor repair of automobiles defined as follows:

(1) Minor repair means engine tune-ups and servicing of brakes, air-conditioning, exhaust systems; lubrication, wheel alignment or balancing; or similar servicing or repairs that do not normally require any significant disassembly or storing the automobiles on the premises overnight.

(2) Major repair means engine and transmission rebuilding and general repairs, rebuilding or reconditioning; collision service such as body, frame or fender straightening or repair; steam cleaning, undercoating and rust proofing; and similar servicing, rebuilding or repairs that normally do require significant disassembly or storing the automobiles on the premises overnight.

Automobile repair garage means a building or premises where automobile repair may be carried out in a completely enclosed building.

Automobile service station means a facility or premises primarily for retail sale of fuels or oils for automobiles, or boats and which may include as a secondary activity retail sale of lubricants, tires, batteries, and similar accessories.

Basement means 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. (See basement and story illustration.)

Bedroom means a room designed or used in whole or in part for sleeping purposes.

Bed and breakfast establishment means a single-family dwelling owned and occupied by a person renting out not more than three rooms for compensation to persons who do not stay for more than seven consecutive days. Breakfast is required to be served to guests at no extra cost.

Block means a block shall be that property abutting on one side of a street and lying between the two nearest intersecting streets or alleys and extending back to another street or alley or to the city boundary.

Boardinghouse means a building, other than a hotel, where for compensation and/or prearrangement for periods exceeding ten days, lodging and meals are provided for three or more persons or together with one dwelling unit for occupancy by management. (The terms "boardinghouse," "roominghouse" and "lodginghouse" are used synonymously in this chapter.)

Board means the zoning board of appeals.

Body piercing means the perforation of human tissue other than an ear for a nonmedical purpose.

Bottomland means the land area of an inland lake or stream that lies below the ordinary high-water mark and that may or may not be covered by water.

Branding means a permanent mark made on human tissue by burning with a hot iron or other instrument.

Buildable area means the space remaining on a lot after compliance with the minimum required setbacks of this chapter.

Building means any structure or any portion thereof including a mobile home or mobile structure, or a pre-manufactured or pre-cut structure above or below ground, temporary or permanent, having one or more floors or any structure, temporary or permanent, with a roof and designed or intended primarily for the shelter, support, or enclosure of persons, animals and property of any kind. A building shall include tents, awnings or vehicles used for the purposes of a building.

Building, accessory, means a subordinate, detached building, the use of which is customarily incidental to the permitted principal use of the principal buildings on the same lot.

Building height means the vertical distance from the grade plane (based upon existing grade) to the highest point of the flat roof or mansard roof and to the average height between eaves and ridge for a gable, hip and gambrel roof; and 75 percent of the height of an A frame.

Building inspector means the person designated within the building and community development department to enforce certain provisions of this chapter. The building inspector, as referred to in this chapter, may also be the director of the building and community development department, or the code official charged with the administration and enforcement of the city's building code.

Building, main or principal, means a building or, where the context so indicates, a group of buildings in which is conducted the main or principal use of the lot on which building or group of buildings is located.

Bureau means the municipal/ordinance violations bureau established by city Code of Ordinances, chapter 1.

Car wash means a permanent commercial facility where motor vehicles are washed by hand, by mechanical devices, or by both, excluding temporary car washes organized for civic or charitable purposes.

Certificate of use and occupancy means the certificate issued by the code official which permits the use of a building in accordance with the approved plans and specifications and which certifies compliance with the provisions of law for the use and occupancy of the building in its several parts together with any special stipulations or conditions of the building permit.

City means the City of Walled Lake, Michigan.

Clinic means a place for the care, diagnosis and treatment of sick or injured persons, and those in need of medical or minor surgical attention. 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 in-patient care or major surgery.

Club means a nonprofit organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics or similar activities.

Co-op (cooperative) means a multiple dwelling owned by a corporation which leases its units to stockholders on a proprietary lease arrangement.

Coin-operated amusement device means an instrument, machine or contrivance which may be operated or set in motion upon the insertion of a coin, token or similar object, or activated and/or paid for by any other means, and which provides games, entertainment or amusement.

Commission means the planning commission of the city.

Condominium means a plan or project as established and approved in conformance with the Michigan Condominium Act, Act 59 of the Public Acts of 1978, as amended.

Convalescent or nursing home means a structure with sleeping rooms, where persons are housed or lodged and are furnished with meals and nursing care, and where limited medical care may be available.

Council means the city council, the duly elected legislative body of the city.

Court means 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.

Day care center, childcare center. See *Nursery school.*

Deck means a platform, commonly constructed of wood, which is typically attached to a house, and which is typically used for outdoor leisure activities.

District means and is synonymous with the term "zone" or "zoning district," a portion of the city within which, on a uniform basis, certain uses of land and buildings are permitted and within which certain regulations and requirements apply under the provisions of this chapter.

Dock includes any permanent, temporary or seasonal structure located wholly or partially in, or extending over, the water, with a horizontal surface or platform at, above or below the surface of the water. Docks located on a single-family residential waterfront lot only, shall constitute an accessory use and structure if used in a manner customarily incidental to a permitted principal use of a single-family residential waterfront lot.

Drive-in establishment means a business establishment or portion thereof, so developed that its retail or service character includes a driveway approach or parking spaces for motor vehicles so as to serve motor vehicles or serve patrons while in the motor vehicle (e.g., car wash, gasoline service stations, restaurants, cleaners, retail stores, banks, theaters, etc.).

Drive-through restaurant means an establishment that serves patrons in a vehicle via a driveway approach. Such establishment may also serve patrons within a building.

Dumpster means a container used for the temporary storage of rubbish, pending collection, having a capacity of at least one cubic yard.

Dwelling means any building containing sleeping, kitchen, and bathroom facilities designed for and lawfully occupied by one family for living, cooking and sleeping purposes. In no case shall an accessory use or structure, travel trailer, motor home, automobile, tent or other portable building not defined as a recreational vehicle be considered a lawful dwelling unless specifically approved and permitted as such as provided by applicable codes and ordinances. In the case of a permitted mixed use or occupancy where a building is lawfully occupied in part as a dwelling unit, the entirety of the part used, occupied or maintained as a residence or for any residential use or purpose shall be deemed a dwelling unit for the purposes of this chapter.

(1) *Dwelling, accessory apartment:* A dwelling unit that is accessory to and typically contained within a conventional single-family dwelling, and which is occupied by persons related to the occupant of the principal residence by blood, marriage or legal adoption, or domestic servants or gratuitous guests. An accessory apartment commonly has its own sleeping, kitchen and bath facilities or areas and usually a separate entrance. May also be referred to as an in-law apartment or granny flat.

(2) *Dwelling, manufactured:* A building or portion of a building designed and constructed for long-term use as a dwelling which is secured permanently to a foundation on land also owned by the same owner of the manufactured dwelling and not located in a mobile home park. The manufactured dwelling shall also be characterized by one or all of the following:

   a. The structure is produced and substantially assembled in a factory off the premises upon which it is intended to be located.

   b. The structure is designed to be transported once to a property in a nearly complete form, where it is permanently connected to utilities.

   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.

(3) *Dwelling, mobile home:* A structure, transportable in one 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 as defined and regulated in the Mobile Home Commission Act, PA 96 of 1987, as amended. Recreational vehicles as described and regulated in this section shall not be considered mobile home dwellings for the purpose of this chapter.

(4) *Dwelling, multiple-family:* A building or portion thereof designed for and containing three or more dwelling units. Examples of multiple-family dwellings units include those commonly known as apartments, which are defined as follows:

a. *Apartment:* An attached dwelling unit with party walls, contained in a building with other dwelling units which are commonly reached off of a common stair, landing or walkway. Apartments are typically rented by the occupants. Apartment buildings often may have a central heating system and other central utility connections. Apartments typically do not have their own yard space. Apartments are also commonly known as garden apartments or flats.

b. *Efficiency unit* or *studio apartment:* A type of multiple-family or apartment unit consisting of one principal room, plus bathroom and kitchen facilities, hallways, closets, and/or a dining alcove located directly off the principal room.

(5) *Dwelling, one-family or single-family:* An independent, detached principal building designed for and used or held ready for use by one family only. The entirety of a principal building used or occupied in whole or in part as a dwelling and located in a single-family zoning district shall constitute a single, indivisible dwelling unit.

(6) *Dwelling, single-family attached* or *townhouse:* A single-family dwelling connected to other single-family dwellings with party walls that internally separate the dwellings from one another, designed as part of a series of three or more dwellings, each with their own front and rear door which opens to the outdoors, its own basement, no internal access between the dwelling units and typically, with its own utility connections and front and rear yards. Townhouses are sometimes known as row houses.

(7) *Dwelling, site built:* 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 panelized wall, roof and floor section when such sections require substantial assembly and finishing on the premises which are intended to serve as its final location.

(8) *Dwelling, two-family or duplex:* An independent, detached building containing two internally separated dwelling units with no internal access between the dwelling units. Also known as a duplex dwelling.

(9) *Dwelling unit:* One or more rooms, including all connected living, storage, bathroom and kitchen facilities and enclosed areas within the same building, designed as a self-contained unit for occupancy by one family for living, cooking and sleeping purposes. The entirety of a principal building used or occupied in whole or in part as a dwelling and located in a single-family zoning district shall constitute a single, indivisible dwelling unit any alterations or modifications to the contrary notwithstanding.

Erected means built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction. Excavation, fill, drainage, painting, plastering, sewers and the like shall be considered a part of erection.

Essential services means those services as outlined below, which are designed and constructed to directly serve local users within the geographic boundaries of the city. Such essential services include the erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface, or overhead gas, electrical, steam, fuel or water transmission or distribution systems, collection, communications, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants, and similar equipment and accessories in connection therewith, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the public

health, safety and general welfare, but not including storage yards or sales offices or commercial buildings or activities.

Family means:

(1) An individual or group of two or more persons related by blood, marriage or adoption, together with foster children or servants of the principal occupants, with not more than one additional unrelated person, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit; or

(2) A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuous, non-transient, domestic character and who are cooking and living as a single, nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms of other similar determinable period.

Family day care home means a private home in which one but less than seven minor children are received for care and supervision for periods of less than 24 hours a day, attended by other than a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year.

Fence means an unroofed manmade structure exceeding 12 inches in height that is designed as a barrier. It may be made of wood, metal or other material. It may be ornamental or intended for or capable of enclosing a piece of land, preventing ingress and egress, dividing, bounding or simply marking a line.

Filling means the depositing or dumping of any matter onto or into the ground, except common household gardening and ground care.

Floor area means area measured to the exterior face of exterior walls and to the center line of interior partitions.

Floor area, usable nonresidential, means (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 substantially devoted to the storage or processing of merchandise, or for utilities shall be excluded from the computation of floor area, usable nonresidential. Measurement of usable nonresidential floor area shall be measured using one of the following methods:

(1) The sum of the gross horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls; or

(2) 80 percent of the total floor area.

For the purposes of computing parking for those uses not enclosed within a building, the area used for the sale of merchandise, display of merchandise, and/or area used to serve patrons or client shall be measured to determine necessary parking spaces.

Floor area, usable residential, means the sum of the horizontal area of the first story measured to the exterior walls; plus similarly measured, that area of all other stories having more than 84 inches of head room which may be made useable for human habitation; but excluding the floor area of basements, unfinished attics, attached or un-attached garages, breezeways, enclosed and unenclosed porches, and accessory buildings. (See "Floor area terminology" illustration)

Floor, ground, means that portion of a building which is partly below grade but so located that the vertical distance from the average grade to the ceiling is greater than the vertical distance from the average grade to the floor. A ground floor shall be counted as a story.

Foster care family home means a private residence with the approved capacity to receive not more than six adults who shall be provided foster care for five or more days per week and for two or more consecutive weeks.

The adult foster care home licensee shall be a member of the household and an occupant of the residence. Halfway houses sponsored by the state department of correcting are not considered licensed foster care facilities. (Section 3, subsection 5, Act 218, Public Acts of 1979.)

Large group home means an adult foster care facility with the approved capacity to receive at least 13 but not more than 20 adults who shall be provided foster care. Beginning four years after the effective date of Act 218, Public Acts of 1979 (approved January 16, 1980), an adult foster care large group home which is licensed by the department of health to provide foster care in each respective category may receive only those adults in the category whose primary need for services is based upon not more than one of the following categories:

a. Aged condition;

b. Mental illness, developmental disability, or physical handicap, or a combination of mental illness, developmental disability, or physical handicap.

Small group home means an adult foster care facility with the approved capacity of not more than 12 adults who shall be provided foster care.

Garage, community, means an accessory building for the storage of noncommercial vehicles, with no public shop or service facilities in connection therewith.

Garage, private, means an accessory building having not more than 720 square feet in area to be used for the storage of noncommercial vehicles, provided that not more than one commercial vehicle of less than three-quarter tons capacity may be stored in said private garage and there shall be no services or commodities offered to the public in connection therewith. (See *Building, accessory.*)

Garage, public parking, means a structure available to the public for the parking and storage of motor vehicles, including such accessory uses as the sale at retail of gasoline (stored only in underground tanks) or motor oil and the washing, polishing and lubrication of motor vehicles, all within the structure.

Garage, repair. See *Automobile repair garage.*

Gasoline service station. See *Automobile service station.*

Grade means a reference plane representing the ground level adjoining a building or structure.

Grade, existing, means the elevation or surface of the ground or pavement as it exists prior to disturbance. This includes both the natural grade, where no manmade disturbances have impacted a building site, as well as the existing grade as established by existing buildings, structures and/or pavement.

Grade, finished, means the final elevation of the ground surface after development.

Grade plane means a reference plane representing the average of the existing grades or ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six feet from the building, between the building and a point six feet from the building.

Greenbelt means a strip of land of specified width and location reserved for the planting of shrubs and/or trees to serve as an obscuring screen or buffer strip, and as further defined in this chapter.

Group day care home means a private home in which more than six but not more than 12 minor children are given care and supervision for periods of less than 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. Group day care home includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year.

Hazardous uses means all uses which involve the storage, sale, manufacture, or processing of materials which are dangerous and combustible and are likely to burn immediately, and from which either poisonous fumes

or explosions are to be anticipated in the event of fire. These uses include all high hazard uses listed in the city's adopted building code.

Home occupation means an occupation conducted within a dwelling unit and carried on by the inhabitants thereof, not involving employees other than members of the immediate family residing on the premises, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, does not change the character thereof, and which does not endanger the health, safety, and welfare of any other persons residing in that area by reason of noise, noxious odors, unsanitary or unsightly conditions, fire hazards and the like, involved in or resulting from such occupation, profession or hobby. Any such home occupation shall also comply with the following minimum requirements:

(1) That such occupation is incidental to the residential use to the extent that not more than 20 percent of the useable floor area of the principal building shall be occupied.

(2) That no article or service is sold or offered for sale on the premises except such as is produced by such occupation.

(3) No home occupation shall be conducted in any accessory building.

(4) Such occupation shall not require internal or external alterations or construction features, equipment, machinery, outdoor storage, or signs not customarily in residential areas.

(5) No home occupations shall generate other than normal residential traffic either in amount or type.

(6) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

(7) 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 the average for the residence itself, measured over the previous 12-month period.

(8) That there be no sign of any nature advertising said occupation.

(9) Parking needs generated by a home occupation shall be provided for in an off-street parking area, located other than in a required front yard.

Hospital means an institution providing health services, primarily for in-patients, plus medical and surgical care for the sick or injured, including such related facilities as laboratories, out-patient departments, central service facilities and staff offices.

Hotel or *motel* or *motor lodge* means a series of dwelling units located in one or more buildings and designed primarily for overnight lodging by transients. Each unit typically has a bedroom, bathroom, closet space, and a separate entrance. Hotels typically offer a greater variety services than motels, such as restaurants, meeting rooms, valet services, recreation facilities, and so forth. Motels which provide dwelling units with kitchen facilities which are commonly occupied for extended periods of time, rather than being used primarily for overnight lodging by transients, shall be considered "multiple-family dwellings."

Junk means, in addition to including garbage and rubbish, unlicensed 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 which renders them incapable of performing the function for which they were intended.

Junk yard means an open area of more than 200 square feet, including an automobile wrecking yard, used for the purchase, sale, exchange, disassembly, storage processing, baling or packaging of junk, including, but not

limited to, scrap metals, unusable machinery or motor vehicles, tires, bottles, and paper, and not including uses established entirely within enclosed buildings.

Kennel means any lot or premises on which more than two dogs or cats, six months or older, are permanently or temporarily kept, or are boarded or kept for the purpose of breeding or selling.

Laboratory means an establishment devoted to scientific, industrial or business research and experimental studies including testing and analyzing, but not including quantity manufacturing except the making of prototypes, models and test models.

Landscaping means the treatment of the ground surface with live materials, such as, but not limited to, grass, sod, ground cover, trees, shrubs, vines and other growing horticultural material. In addition, the combination or design may include other decorative surfacing such as wood chips, crushed stone, boulders, or mulch materials not to exceed 20 percent of the total for any landscape area. Structural features such as fountains, pools, statues, and benches shall also be considered a part of landscaping but such objects alone shall not meet the requirements of landscaping. In addition, artificial plant materials shall not be counted as required landscape areas.

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

Lodginghouse. See *Boardinghouse.*

Lot (or zoning lot or parcel) means for the purposes of enforcing this chapter, a lot is defined as a piece of land under single ownership and control that is at least sufficient in size to meet the minimum requirements for use, coverage, area, setbacks, and open space as required herein. A lot shall have frontage on a dedicated roadway or, if permitted by the regulations set forth herein, on a private road. A lot may consist of:

(1) A single lot of record;

(2) A portion of a lot of record;

(3) A combination of complete lots of record, or portion thereof; or

(4) A piece of land described by metes and bounds.

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

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

Lot coverage means that part or percent of the lot occupied by all buildings.

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

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

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

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

Front lot line means in the case of an interior lot, that line separating the lot from the street. In the case of a through lot, the line separating the lot from that street which is designated in an application for a

building permit, or in any manner as the front street. In the case of a corner lot, the lines, separating the lot both from that street which is designated as the front street in an application for building permit and from the side street are front lot lines. In the case of a lot which extends between a street and a canal or lake, the line separating the lot from the street shall be designated as the front lot line, and the line separating the lot from the water shall be designated as the "water line."

Rear lot line means that line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten feet long lying farthest from the front lot line, and wholly within the lot.

Side lot line means any lot line other than the front lot line or rear lot line. A side lot line separating a lot from another lot or lots is an interior side lot line. A lot line separating a lot from a side street is a front lot line.

Water line means in the case of a lot abutting a lake or canal, the water line shall be the same as the ordinary high-water mark, as defined in the city's wetland ordinance.

Lot of record means a parcel of land, the dimensions of which are shown on a recorded plat on file with the county register of deeds, or any parcel recorded with the county register of deeds, which has been separated, which exists as described, at the time of the effective date of this chapter. A lot of record must front a public street which is dedicated for access as a public street.

Lot, waterfront, means a lot adjoining a lake.

Lot width means the length of a straight line measured between the two points where the building line or setback line intersects the side lot lines.

Major thoroughfare means an arterial street which is designated as a major thoroughfare on the zoning map for the city.

Manufactured building means a building with the following features or characteristics:

(1) Mass produced in a factory;

(2) Designed and constructed for transportation to a site for installation and use when connected to required utilities;

(3) Either an independent, individual building or a module for combination with other elements to form a building on the site.

Marijuana or *marihuana* means that term as defined in section 7106 of the public health code, Public Act No. 368 of 1978, MCL 333.7106.

Marijuanaor marihuana facility means a marijuana or marihuana facility as defined and provided by the Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq. as amended (Act) and includes the following:

(1) *Grower facilities.* The term "grower" means a facility licensed under the Act and article XI of chapter 18 of the city Code of Ordinances that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marijuana for sale to a processor or provisioning center.

(2) *Provisioning centers.* The term "provisioning center" means a facility licensed under the Act and article XI of chapter 18 of the city Code of Ordinances that is a commercial entity located in this state that purchases marijuana from a grower or processor and sells, supplies, or provides marijuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marijuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to only assist a qualifying patient connected to the caregiver through the state's medical

marijuana registration process in accordance with the Michigan Medical Marijuana Act is not a provisioning center.

(3) *Processor facilities.* The term "processor" means a facility licensed under the Act and article XI of chapter 18 of the city Code of Ordinances that is a commercial entity located in this state that purchases marijuana from a grower and that extracts resin from the marijuana or creates a marijuana-infused product for sale and transfer in packaged form to a provisioning center.

(4) *Secure transporters.* The term "secure transporter" means a facility licensed under the Act and article XI of chapter 18 of the city Code of Ordinances that is a commercial entity located in this state that stores marijuana and transports marijuana between marijuana facilities for a fee.

(5) *Safety compliance facilities.* The term "safety compliance facility" means a facility licensed under the Act and article XI of chapter 18 of the city Code of Ordinances that is a commercial entity that receives marijuana from a marijuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marijuana to the marijuana facility.

Marijuana facility operating license means a license authorizing the operation of a marijuana facility as follows:

(1) State operating license or, unless the context requires a different meaning, the term "state license" means a license that is issued under the Act that allows the licensee to operate as one of the following, specified in the license:

a. A grower.

b. A processor.

c. A secure transporter.

d. A provisioning center.

e. A safety compliance facility.

The term "state licensee" means a person holding a valid state operating license.

(2) City operating license or, unless the context requires a different meaning, the term "city license" means a license that is issued under this article that allows the licensee to operate as one of the following, specified in the license:

a. A grower.

b. A processor.

c. A secure transporter.

d. A provisioning center.

e. A safety compliance facility.

The term "city licensee" means a person holding a valid city operating license.

Marginal access road means a service roadway parallel to a feeder road; which provides access to abutting properties and protection from through traffic.

Marquee means a roof-like structure of a permanent nature projecting from the wall of a building.

Master plan means the comprehensive plan, including graphic and written proposals indicating the general location for streets, parks, schools, public buildings and all physical development of the municipality, and includes

any unit or part of such plan, and any amendment to such plan or parts thereof. Such plan or part thereof may or may not be adopted by the planning commission and/or city council.

Mezzanine means an intermediate or fractional story between the floor and ceiling of a main story occupying not more than one-third of the floor area of such main story.

Mobile home park means a parcel or tract of land under the control of a person upon which three 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 there for, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home and which is not intended for use as temporary trailer park.

Moor or *mooring* means attaching or securing an unoccupied watercraft or vessel to any dock or mooring structure, or other structure or equipment that is either attached to or placed upon bottomland or within waters of the city but shall not include anchoring.

Mooring structure means any freestanding post, pole, piling, board, limb or other structure driven, placed, attached, dug or buried into or upon bottomland to secure or moor any watercraft or vessel, but shall not include a dock or anchor. Mooring Structures located on a single-family residential waterfront lot only, shall constitute an accessory use and structure if used in a manner customarily incidental to a permitted principal use of a single-family residential waterfront lot.

Motel. See *Hotel.*

Motor vehicle means the same as that term is defined in the Michigan Vehicle Code, Act 300 of 1949, as amended, and every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from over-head trolley wires, but not operated upon rails.

Municipal civil infraction means a violation of a provision of this zoning ordinance for which the remedy and/or penalty is prescribed to be a civil fine or other sanction other than a criminal penalty. A municipal civil infraction is not a lesser-included offense of a criminal offense or of an ordinance violation that is not a civil infraction.

Municipal civil infraction citation means a written complaint or notice prepared by an authorized official directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by that person.

Municipal civil infraction determination means a determination that a defendant is responsible for a municipal civil infraction by one of the following:

(1) An admission of responsibility of the municipal civil infraction.

(2) An admission of responsibility for the municipal civil infraction, with explanation.

(3) A preponderance of the evidence at an informal hearing or formal hearing.

(4) A default judgment for failing to appear at a scheduled appearance.

Municipal civil infraction notice means a written notice prepared by an authorized official, directing a person to appear at the municipal ordinance violations bureau for the purpose of paying a civil fine and/or costs for a violation which is prescribed to be a municipal civil infraction.

Nonconforming building (nonconforming structure) means a building or structure (or portion thereof) lawfully existing at the time of adoption of this chapter or a subsequent amendment thereto, that does not conform to the provisions of this chapter relative to height, bulk, area, placement or yards for the zoning district in which it is located.

Nonconforming use means a use of a building or structure or of a parcel or tract of land, lawfully existing at the time of adoption of this chapter or a subsequent amendment thereto, that does not conform to the regulations of this chapter for the zoning district in which it is situated.

Nonconforming use and building means a use and a building lawfully existing at the time of adoption of this chapter or a subsequent amendment there to which do not conform to the use and height, bulk, placement or yard provisions for the zoning district in which situated.

Nuisances in residential districts means accessory uses, such as animal enclosures, dog runs, central air-conditioning units, heat pumps and other mechanical equipment that typically produce noise, odors, or other nuisances, shall be located to the rear of the principal dwelling except that upon a showing of practical difficulty, mechanical units may be located in a side yard provided the mechanical unit is screened on the front and side by natural vegetative screening or enclosed by a wood or masonry fence not exceeding the height of the mechanical unit.

Nuisance per se means any violation of this zoning ordinance, including any uses of land, and dwellings, buildings, or structures, including tents, trailer coaches and mobile homes, used, erected, altered, raised, or converted in violation of this zoning ordinance.

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

Nursery school or *day care center* means a public or private school, kindergarten or childcare facility wherein day care or day care and education is provided for children under the age of 14. Family day care homes shall not be considered nursery schools.

Occupancy, change of, means a discontinuance of an existing use and the substitution therefore of a use of a different kind or class, or the expansion of a use.

Occupied means used in any way at the time in question.

Off-street parking lot means a facility other than for single- or two-family dwellings providing parking 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 vehicles.

Off-street loading space means a facility or space which permits the standing, loading or unloading of trucks and other vehicles other than on or directly from a public right-of-way.

Open-front store means 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 service stations or used car lots.

Ordinary high water mark means ordinary high-water mark as defined in the Inland Lakes and Streams Act, MCL 324.80101 et seq. as amended.

Outdoor display area means a designated outdoor area on the site used for the outdoor display of goods offered for sale in the principal business.

Outdoor seating means the provision of tables and chairs in an area designated for outdoor seating adjacent to the principal building on the site to allow for the consumption of food and beverage products served at the principal location.

Parking space means a permanently paved area of land adequate to carry out the off-street parking regulations of this chapter, and an area for each motor vehicle of not less than nine feet wide by 20 feet long exclusive of drives, aisles and entrances giving access thereto, and fully accessible for the parking of permitted vehicles, except for a handicapped parking space which shall be not less than 12 feet wide by 20 feet long.

Pet means a domesticated dog, cat, canary, parakeet, parrot, duck, gerbil, hamster, guinea pig, turtle, fish, or rabbit kept as a pet.

Planning commission means the city planning commission of the city created by ordinance in accordance with Act 285, Public Acts of 1931, as amended, being the agency designated to prepare a zoning ordinance and to recommend amendments to same ordinance, in accordance with authority of Act 207, Public Acts of 1921, as amended, throughout this chapter shall be known as the planning commission, or the commission.

Point of observation means the determination of the percentage of openness to the free passage of air and light in fences, privacy screens and walls shall be made from a specific point of observation. The point of observation shall be a point ten feet away from the structure; perpendicular to the vertical surface plane of the structure and as viewed from a height above grade which is equal to 50 percent of the structure's height.

Property lines means the lines bounding a lot, the lot lines.

Public utility means any person, firm or corporation, municipal department or board, duly authorized to furnish and furnishing under federal, state or municipal regulations to the public: gas, steam, electricity, sewage disposal, water, transportation and communications such as telephone, cable television, and mobile phone towers.

Quick oil changeor lubrication center means a commercial use intended to provide oil-change and lubrication services for automobiles while the customer waits, including no automobile repair except the lubrication services and no overnight storage of automobiles, but including the sale of oil, lubrication and related products to service customers.

Recovery home means a dwelling shared as their principal residence by up to 12 handicapped persons (as defined by the Federal Fair Housing Act, as amended) who are in need of a supportive living arrangement to help them recuperate from the effects of drug or alcohol addiction, who reside together as a single housekeeping unit, in which staff persons shall provide supervision, counseling, treatment, or therapy for the residents therein.

Recreation land means any public or privately-owned lot or land that is utilized for recreation activities such as, but not limited to, camping, swimming, picnicking, hiking, nature trails, boating, and fishing.

Recreational equipment means travel trailers, pick-up campers or coaches, motorized dwellings, tent-trailers, boats and boat trailers, snowmobiles, horse trailers, dune buggies and other similar equipment.

Registered primary caregiver means a primary caregiver who has been issued a current registry identification card under the Michigan Medical Marijuana Act, MCL 333.26421 et seq. as amended.

Registered qualifying patient means a qualifying patient who has been issued a current registry identification card under the Michigan medical marijuana act or a visiting qualifying patient as that term is defined in section 3 of the Michigan Medical Marijuana Act, MCL 333.26423.

Registry identification card means that term as defined in section 3 of the Michigan Medical Marijuana Act, MCL 333.26423.

Repeat offense means a determination of responsibility for second or any subsequent zoning ordinance violation of the same zoning ordinance provision committed by the same person within any three-year period, unless some other period is specifically provided with regard to a specific zoning ordinance provision.

Responsible or responsibility for a violation means a determination entered by a court or magistrate that a person is in violation of a provision of this zoning ordinance prescribed to be a municipal civil infraction.

Restaurant.

Dining room means a structure which is maintained, operated and advertised or held out to the public as a place where food and beverage are served, and consumed, primarily within the structure. Such food and beverage are served primarily in non-disposable (reusable by the restaurant) containers.

Drive-in restaurant means any establishment where food, frozen dessert, and/or beverages are served to customers while seated in their motor vehicles upon the premises. It shall also include any establishment where the customers may serve themselves and are permitted to consume food and beverages in a motor vehicle parked on the premises or at other facilities which are provided for the use of the patron for the purpose of consumption and which are located outside of the building or structures.

Fast food restaurant means a structure which is maintained, operated, and advertised or held out to the public as a place where food, beverage, and/or desserts are served to customers from a serving counter in disposable (not reusable by restaurant) containers and wrappers. Such food, beverage, and/or desserts may be consumed: inside the building; outside, at facilities provided; or "carried out" for consumption off the premises.

Carryout restaurant means a structure which is maintained, operated and/or advertised or held out to the public as a place where food, beverage, and/or desserts are served in disposable containers or wrappers from a serving counter for consumption primarily off the premises.

Bar/lounge means a structure or part of a structure designed, maintained, and operated primarily for the dispensing of alcoholic beverages. The selling of food and/or snacks may also be permitted. If the bar/lounge area is part of a larger dining facility, it shall be defined as that part of the structure so designated and/or operated.

Riparian zone means the bottomland immediately adjacent to a waterfront lot defined by the extension of riparian side lot lines to the center of the adjoining waters of the city and shall be included in the zoning lot for a waterfront lot.

Roadside stand means a temporary or existing permanent structure containing not more than 200 square feet of enclosed floor area and operated for the purpose of selling agricultural, dairy, or poultry products.

Roominghouse. See *boardinghouse.*

Rooming unit means a room or group of rooms, forming a single habitable unit used for living and sleeping, but not containing kitchen or eating facilities.

Satellite dish antenna means an accessory use which incorporates a solid, open mesh, or bar configured surface, which is typically in the shape of a shallow dish or cone, and which is in excess of 36 inches but not greater than ten feet in diameter at its widest dimension. Such devices are designed to receive radio or electromagnetic signals from orbitally based satellites. Because of their weight, mass, and restriction to the free passage of light and air, such uses require specific regulatory guidelines.

Seasonal mooring or *seasonally moored* means mooring watercraft upon waters of the city or upon any riparian zone or lot within the city for three or more consecutive days.

Setback line, required, means a line marking the setback distance from the street or lot lines, which establishes minimum required front, side or rear open space of area.

Sign. See section 51-20.03.

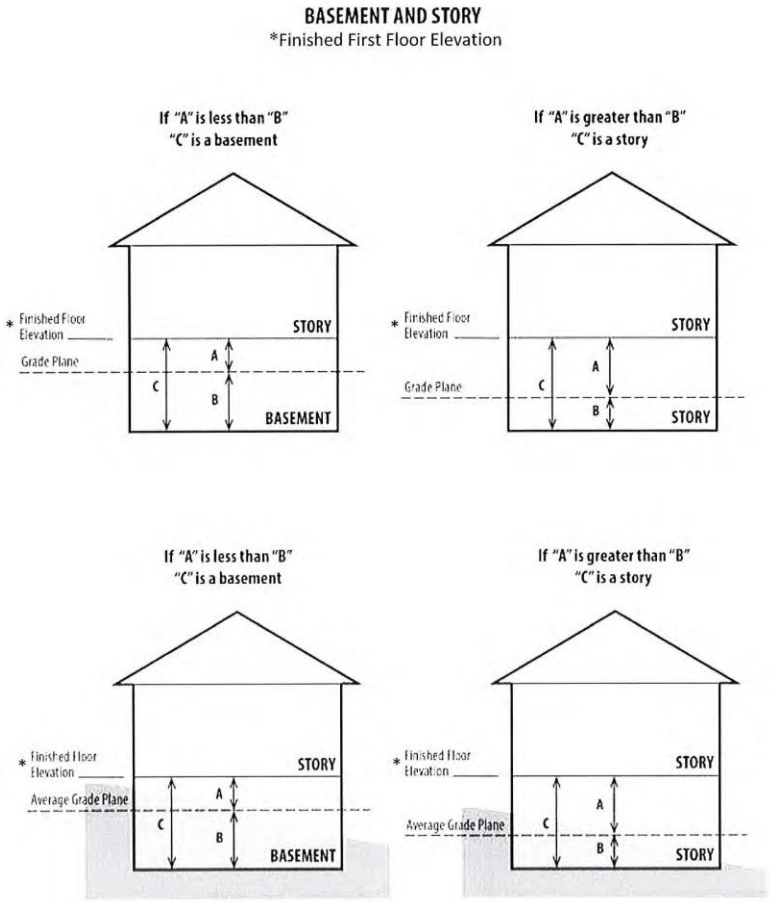
Site plan means a plan showing all salient features of a proposed development, as required under section 51-21.28, so that it may be evaluated in order to determine whether it meets the provisions of this chapter.

Special landuse means a use permitted subject to special approval by the planning commission as set forth in section 51-21.29 and other applicable sections of this chapter.

Stable, private, means a stable for the keeping of horses for the noncommercial use of the residents of the principal premises.

Stable, public, means a stable other than a private stable.

Story means that portion of a building included between the upper surface of any floor, and the upper surface of any floor above; or any portion of a building between the topmost floor and the roof having a usable floor area of at least 50 percent of the usable floor area of the floor immediately below it. A top floor area under a sloping roof with less than 50 percent of the usable floor area is a half story. The first story shall be considered the lowest story of a building as determined by the illustration below:



Street means a public or private right-of-way accepted and certified for maintenance by a public agency, which affords the primary means of access to abutting property.

Structure means any constructed or erected material, the use of which requires location on the ground or attachment to something having location on the ground, including, but not limited to, buildings, towers, sheds, decks, fences, privacy screens, walls, antennae, and signs, but excepting walks, drives, pavements, and similar access or circulation facilities.

Street line (right-of-way line) means the dividing line between the street and a lot.

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

Tattoo parlor means an establishment which provides external body modification through the application of a tattoo, body-piercing, or branding.

Temporary use, temporary building means a use or building permitted to exist during limited periods of construction of a main building or use, or for temporary special events, sales or activities, as permitted by the planning commission.

Tourist home means a dwelling in which overnight accommodations are provided or offered for transient guests for compensation, without provision for meals.

Toxic/hazardous waste means waste or a combination of waste and other discarded material including solid, liquid, semisolid, or contained gaseous material which because of its quality; concentration; or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or increase in serious irreversible illness or serious incapacitating, but reversible illness, or pose a substantial present or potential hazard to human health or the environment if improperly treated, stored, transported, disposed of, or otherwise managed.

Trailer coach. See *Recreation equipment.*

Truck storage means an area used for the temporary storage of private trucks or trucks for hire.

Truck terminal means a structure to which goods, except raw or unprocessed agricultural products, natural minerals, or other resources, are delivered for immediate distribution or to be amalgamated for delivery in larger units to other points, or for distribution or amalgamation involving transfer to other modes of transportation.

Use, accessory, means a use which is clearly incidental to, customarily found in connection with and, unless otherwise specified, located on the same lot as the principle use to which it is related.

Use, change of, means a change from, conversion to, or replacement of the principal use of land and/or building. The addition of another principal use to a lot or building shall also constitute a change of use. A change in the specific primary function of a lot or building shall constitute a change of use.

Use, principal, means a main use to which the premises are devoted and the main purpose for which the premises exist.

Variance means a modification of the literal provisions of this chapter granted by the zoning board of appeals in situations or under circumstances where permitted by law.

Veterinary clinic means a place where animals or pets are given medical or surgical treatment with use as a kennel limited to short-time boarding which is incidental to the medical use.

Violation means shall mean any act which is prohibited or made or declared to be unlawful, or an offense under this zoning ordinance, including affirmative acts as well as omissions and/or failure to act where the act is required by this zoning ordinance.

Wall means any unroofed manmade structure which has a foundation and also has an exterior vertical surface of brick or stone, and no more than 25 percent of the vertical surface of which is open to the free passage of air and light.

Waters of the city means any navigable lake, stream, river or other waters of the state located within the city.

Waterfront yard means an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the water line and the required waterfront setback line, unoccupied from the ground up except as hereinafter specified.

Wireless communication means use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. Structures used in wireless communication may include, but are not limited to, radio and television towers, telephone devices and exchanges, microwave relay towers, telephone transmission equipment buildings and commercial mobile radio service facilities. Not included within this definition are citizen band radio facilities, short-wave facilities, ham and amateur radio facilities, television reception antennas, satellite dishes and

governmental facilities that are subject to state and federal law or regulations that preempt municipal regulatory authority. Wireless communication shall not be included under the definition of "essential services."

Abandoned or *unused* means an antenna, equipment, facility or system that has not been used for a period of 90 consecutive days, or 90 days after new technology is available which permits the operation of the system without the necessity of a wireless communication structure. Removal of antennas or other equipment from the structure or cessation of reception or transmission of radio signals shall be considered non-use.

Collocate/co-location means to place or install wireless communications equipment on an existing wireless communications support structure, on the facade or rooftop of an existing building, on an existing electrical transmission tower, or in an existing equipment compound, including the modification, replacement and removal of existing wireless communications equipment.

Coverage area map means a map that identifies the location, height, ownership and capacity details of all existing and known proposed wireless communication antennas and facilities within Walled Lake and all areas within one-half mile of Walled Lake's boundaries. Capacity details shall include the number of antennas and/or antenna arrays the support structure can accommodate along with details related to any existing co-locations, and any modifications that would be needed to the proposed equipment or service area to allow the provider to co-locate on an existing support structure.

Disturb means a physical act that will disrupt the environmental conditions of a wetland, woodland, or environmental feature as it exists prior to the physical act.

Eligible facility means an existing facility that is eligible for a permitted co-location.

Equipment compound means an area near, adjacent to, or within the base of a wireless communications support structure and within which wireless communications equipment is located, including the building or enclosure housing the equipment.

Existing means facilities that were constructed prior to the request for co-location, and in compliance with a previous zoning approval and building permit.

Safe fall zone means a radius of land around a support structure that shall be kept clear of occupied buildings.

Site means either:

a. The area within the current boundaries of a lease area, including any access or utility easements; or

b. The current area approved on the site plan for the wireless communications facilities, including any access or utility easements.

Tolled means that the time period for a review or approval shall be suspended.

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

Wireless communication facility means the wireless communications equipment, wireless communications support structure, and/or an equipment compound.

Wireless communication master plan means a map of the city that shows one provider's existing and planned cell sites within the city's boundaries, any existing and/or planned cell sites that would serve the city but are not located within the city, and identification of the geographical area each cell site would serve at the provider's full development. The master plan also includes a written description of the type of consumer

services and products that will be offered and of each type of technology along with its radio frequencies that the provider anticipates using over the next five years.

Wireless communication support structure means a structure that is designed/used to support, or is capable of supporting wireless communications equipment, including, but not limited to,: a monopole, self-supporting lattice tower, guyed tower, water tower, utility pole, or other structure or building.

Yard means the open spaces on the same lot with a main building, unoccupied and unobstructed from the ground upward except as otherwise provided in this chapter, and as defined herein: (See yard lot illustration)

Front yard means 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 front setback line.

Front yard, double, means an open space on corner lots (as defined in this chapter) extending the full width of the lot on both sides facing the intersecting streets. Unless specifically noted otherwise in this chapter, both open spaces facing each street shall be considered front yards for the purposes of determining required setbacks.

Side yard means an open space extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line to the side setback line.

Rear (back) yard means an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line or established zoning district line and nearest line of the principal building. On corner lots there shall be only one rear yard, which shall be opposite from the front street as designated on the plat, site plan review application, or request for a building permit.

(Code 1994, § 2.02; Ord. No. C-261-06, § 3, 3-7-2006; Ord. No. C-267-07, § 3, 1-3-2007; Ord. No. C-276-09, § 1, 4-7-2009; Ord. No. C-287-10, § 3, 1-18-2011; Ord. No. C-321-15, § 2, 6-2-2015; Ord. No. C-333-17, § 2, 7-18-2017; Ord. No. C-334-17, § 2, 1-16-2018; Ord. No. C-338-18, § 2, 6-19-2018; Ord. No. C-354-20 , §§ 2, 3, 1-19-2021)

ARTICLE 3.00. ZONING DISTRICTS AND MAP; CONFORMITY TO ORDINANCE REGULATIONS

Sec. 51-3.01. Zoning districts established.

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

R1-A	Single-Family Residential District
R1-B	Single-Family Residential District
RD-1	Two-Family Residential District
RM-1	Multiple-Family Residential District
RM-2	Multiple-Family Residential District
RM-3	Multiple-Family Residential District
MH	Mobile Home District
O-1	General Office District
C-1	Neighborhood Commercial District
C-2	General Commercial District
C-3	Central Business District
P-1	Vehicular Parking District
CS	Community Service District
I-1	Light industrial district

In addition, sections of the above zoning districts may be located in water areas.

(Code 1994, § 3.01)

Sec. 51-3.02. Zoning district boundaries.

(a) The boundaries of the zoning districts enumerated in section 51-3.01 are hereby established as shown on the zoning district map, Walled Lake, Michigan (hereinafter, the zoning map). The zoning map with all notations, references, and other information shown thereon shall be, and is hereby declared to be a part of this chapter as if fully described herein.

(b) In accordance with the provisions of this chapter and Act 110, of the Public Acts of the State of Michigan, 2006, as amended, changes made in district boundaries or other matter portrayed on the zoning map 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 exact boundaries or other matters affecting the zoning map shall be legibly portrayed on the zoning map.

(c) No changes of any nature shall be made in the zoning map or matters shown thereon except in conformity with the procedures set forth in this chapter. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this chapter punishable as provided for in this chapter.

(d) 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.

(e) Properties fronting Pontiac Trail between Maple Rd. and Walled Lake Dr. are hereby removed from the Setback Measurement Standard requiring a front setback to be measured from a line parallel to and 60 feet from the center line of Pontiac Trail. Front yard setbacks for the removed properties fronting Pontiac Trail shall be measured and determined in accordance with otherwise applicable zoning ordinance standards and requirements.

(f) Upon adoption and publication of the ordinance codified in this section, the official City of Walled Lake Zoning Map, declared to be a part of the zoning ordinance pursuant to this section, shall be amended by legibly portraying the amendment of the setback measurement standard adopted.

(Code 1994, § 3.02; Ord. No. C-325-16, §§ 2, 3, 6-21-2016)

Sec. 51-3.03. Interpretation of zoning district boundaries.

Where, due to the scale, lack of details, or illegibility of the zoning map, there is any uncertainty, contradiction, or conflict as to the intended location of any zoning district boundaries shown thereon, the planning commission shall interpret the exact location of district boundary lines. In arriving at a decision on such matters, or in a review of any such decision by the zoning board of appeals or the courts. The following standards shall be applied:

(1) The boundaries of zoning districts are intended to follow centerlines of alleys, streets, or other rights-of-way, water courses, or lot lines, 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 lines of record such lines shall be construed to be the boundaries.

(3) In unsubdivided property, or where a district boundary divides a lot of record, the location of such boundary, unless shown by dimensions on the zoning map, shall be determined by use of the map scale shown on the zoning map.

(Code 1994, § 3.03)

Sec. 51-3.04. Zoning of vacated areas.

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

(Code 1994, § 3.04)

Sec. 51-3.05. Zoning of annexed areas.

Any area annexed to the city shall immediately upon such annexation, be automatically classified as an R1-A District until a different zoning district for said area has been adopted by the council. The planning commission shall recommend appropriate zoning for such areas within three months after the matter is referred to the planning commission by the council.

(Code 1994, § 3.05)

Sec. 51-3.06. Zoning of water areas.

Any areas of the city which are not classified in a zoning district on a zoning map because they are covered by water shall be classified as an R1-A District until a different zoning district for said areas have been adopted by the council.

(Code 1994, § 3.06)

Sec. 51-3.07. Conformity to ordinance regulations.

(a) No structure or land shall hereafter be used or occupied and no structure or part thereof shall hereafter be erected, constructed, moved, or altered, except in conformity with the regulations, specified in this chapter.

(b) Except as otherwise provided herein regulations governing land and building use, minimum lot size, lot area per dwelling unit, building height, building placement, required yards, and other pertinent factors are hereby established as stated in the detailed provisions for each of the zoning districts and the schedule of regulations. In each zoning district a permitted use of land or buildings is subject to the minimum requirements specified for such use in the zoning district in which such use is located plus applicable requirements found elsewhere in this chapter. A use permitted subject to special conditions shall be a use of land or building requiring some measure of individual consideration, and therefore subject not only to the minimum requirements specified for such use in the zoning district in which such use is located, and applicable requirements found elsewhere in this chapter, but also to any special conditions in this chapter or required in accordance with the procedures of this chapter.

(c) No part of any yard, open space, or on-street or off-street parking or loading space required in connection with any building for the purpose of complying with this chapter shall be included as part of any yard, open space, or off-street parking or loading space similarly required for any other building.

(d) No yard or lot existing at the time of passage of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of the ordinance from which this chapter is derived shall meet at least the minimum requirements established by this chapter.

(e) Essential services shall be permitted as authorized and regulated by law and the ordinances of the city and shall meet the minimum requirements for the district in which such services are located.

(Code 1994, § 3.07)

Sec. 51-3.08. Conflicting regulations.

Whenever any provision of this chapter 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 chapter shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this chapter, then the provisions of such law or ordinance shall govern, except where local regulations are specifically superseded by state or federal laws or regulations. The state or federal agency having jurisdiction over the matter shall have the authority to interpret the applicable laws and regulations and determine the extent to which said laws and regulations supersede this chapter. This authority, however, shall not preclude further interpretation by a court or other third party, independent agency or official having jurisdiction over the matter. Notwithstanding this provision, current state mobile home commission regulations do not provide for review by a third party or other official.

(Code 1994, § 3.08)

Sec. 51-3.09. Permissive zoning concept.

Land uses are permitted specifically in the various zoning districts of this chapter. Where not specifically permitted, uses are thereby specifically prohibited unless the planning commission construes them to be similar to a use expressly permitted. No land contained within any zoning district within the city shall be used for any purpose other than those uses specifically set forth in the following sections, except as otherwise permitted by this chapter.

(Code 1994, § 3.09)

Sec. 51-3.10. Rezoning parcels.

(a) *Rezoning of parcels from C-1 to C-3.*

Section 51-3.02, zoning district boundaries, is hereby amended by rezoning the following parcels from C-1 to C-3 as identified by the following property identification numbers:

1734253017, 1734253021, 1734253019, 1734255010, 1734255008, 1734255007, 1734402002, 1734402001, 1734403003, 1734403004, 1734403001, 1734403002, 1734401007, 1734401008, 1734401012, 1734401011, 1734401010, 1734401009, 1734401004

(b) *Extension of historic downtown district.*

Section 51-3.02, zoning district boundaries, is hereby amended as depicted on the attached appendix by extending the historic downtown district to add the following parcels as identified by the following property identification numbers:

1734253017, 1734253021, 1734253019, 1734255010, 1734255008, 1734255007, 1734402002, 1734402001, 1734403003, 1734403004, 1734403001, 1734403002, 1734401008, 1734401012, 1734401011, 1734401010, 1734401009, 1734255001, 1734255002, 1734255003

(c) *Amendment of zoning map.* Upon adoption and publication of the ordinance from which this section is derived, the official City of Walled Lake Zoning Map, declared to be a part of the zoning ordinance pursuant to article 3.00, section 51-3.02, shall be amended by legibly portraying the amendment of the zoning district boundaries adopted pursuant to subsections (a) and (b) of this section.

(Ord. No. C-326-16, §§ 2—4, 8-16-2016)

ARTICLE 4.00. R1-A AND R1-B SINGLE-FAMILY RESIDENTIAL DISTRICTS

Sec. 51-4.01. Statement of purpose.

The single-family residential districts are established as districts in which the principal use of land is for single-family dwellings but each district has different minimum area and placement requirements to encourage differing development character and densities. For these residential districts, in promoting the general purpose of this section, the specific intent of this section is:

(1) To permit the construction of, and the continued use of the land for, single-family dwellings; and

(2) To prohibit multiple-family, office, business, commercial or industrial use of the land, and to prohibit any other use which would substantially interfere with development or continuation of single-family dwellings in the district.

(Code 1994, § 4.01)

Sec. 51-4.02. Permitted principal uses.

In the R1-A and R1-B districts, no uses shall be permitted except the following:

(1) Single-family detached dwellings.

(2) State-licensed residential facilities which provide resident services for six or fewer persons under 24-hour supervision or care, including, but not necessarily limited to, residential foster care facilities, family day care and adult foster care family homes, subject to the regulations in section 206 of Act No. 110 of the Public Acts of 2006, as amended.

(3) Municipal buildings and uses.

(4) Home occupations, subject to the requirements in section 51-21.33.

(5) Home based day care facilities and family day care facilities that provide care to less than seven children.

(6) Uses and structures accessory to the above when located on the same lot and not involving any business, profession, trade or occupation, subject to the regulations in section 51-21.10.

(7) Shared waterfront lot dock use and mooring. Shared waterfront lot dock use and mooring by no more than two families, subject to meeting the requirements of section.

(Code 1994, § 4.02; Ord. No. C-287-10, § 4, 1-18-2011)

Sec. 51-4.03. Permitted uses after special approval.

The following uses may be permitted by the planning commission subject to the conditions herein imposed for each use, including the review and approval of the site plan by the planning commission, and the imposition of special conditions which, in the opinion of the commission, are necessary to ensure that the land use activity authorized shall be compatible with adjacent uses of land, the natural environment and the capabilities of public services and facilities affected by the land use, and subject further to the provisions and public hearing requirements set forth in section 51-21.29:

(1) Clubs, private, noncommercial service clubs of a social or fraternal nature, or boat clubs, not operated for profit. (See specific minimum requirements set forth in section 51-21.29.)

(2) Municipal owned and operated libraries, parks, swimming pools or beaches, playgrounds, public boat docks and ramps, and other municipal recreation facilities. (See specific minimum requirements set forth in section 51-21.29.)

(3) Waterfront parks, beaches and similar waterfront recreation uses, for private noncommercial use only. (See specific minimum requirements in section 51-21.29.)

(4) Private, noncommercial recreation areas; institutional or community recreation centers; a nonprofit swimming pool club. (See specific minimum requirements set forth in section 51-21.29.)

(5) Nursery schools, day nurseries and childcare centers, day care centers and preschools when operated as a principal use or when operated as an accessory use to an approved church or school.

(6) Public or private golf courses, not including driving ranges or miniature golf courses. (See specific minimum requirements set forth in section 51-21.29.)

(7) Churches and related religious buildings and facilities customarily incidental thereto but not including tents and other temporary structures. (See specific minimum requirements set forth in section 51-21.29.)

(8) Public, parochial and other private elementary, intermediate and/or high schools offering courses in general education. (See specific minimum requirements set forth in section 51-21.29.)

(9) Public or private colleges, universities and other such institutions of higher learning, offering courses in general, technical or religious education, not operated for profit. (See specific minimum requirements set forth in section 51-21.29.)

(10) Utility and public service facilities and uses needed to serve the immediate vicinity, including transformer stations, lift stations and switchboards but excluding outside storage yards.

(11) (Reserved for future use.)

(12) Group day care homes, subject to the requirements in section 51-21.29.

(13) Bed and breakfast establishments, within the R1-B District, subject to the conditions in section 51-21.29.

(14) (Reserved for future use.)

(15) Uses determined to be similar to the above uses by the planning commission.

(16) Uses or structures accessory to the above when located on the same lot and not involving any business, profession, trade, or occupation, subject to the regulations in section 51-21.10.

(Code 1994, § 4.03; Ord. No. C-261-06, §§ 4—7, 3-7-2006; Ord. No. C-287-10, § 5, 1-18-2011)

Sec. 51-4.04. Area, height, bulk and placement requirements.

Area, height, bulk and placement requirements, unless otherwise specified, are as provided in article 17.00 of this chapter, schedule of regulations.

(Code 1994, § 4.04)

Sec. 51-4.05. Site plan review.

Site plan review requirements except for single-family detached dwellings, are as provided in section 51-21.28.

(Code 1994, § 4.05)

ARTICLE 5.00. RD TWO-FAMILY RESIDENTIAL DISTRICT

Sec. 51-5.01. Statement of purpose.

The RD Two-Family Residential District is designed to be a transition from single-family residential uses to higher density multiple-family uses as well as certain office, commercial, or other uses which may adversely affect the residential character of neighborhoods.

(Code 1994, § 5.01)

Sec. 51-5.02. Permitted principal uses.

In the RD Districts, no uses shall be permitted except the following:

(1) Single-family detached dwellings.

(2) Two-family dwellings.

(3) State-licensed residential facilities which provide resident services for six or fewer persons under 24-hour supervision or care, including, but not necessarily limited to, residential foster care facilities, family day care homes and adult foster care family homes, subject to the regulations in section 206 of Michigan Public Act 110 of 2006, as amended.

(4) Municipal buildings and uses.

(5) Home occupations, subject to the minimum requirements in section 51-21.33.

(6) Uses or structures accessory to the above when located on the same lot and not involving any business, profession, trade or occupation, subject to the regulations in section 51-21.10.

(Code 1994, § 5.02)

Sec. 51-5.03. Permitted uses after special approval.

The following uses may be permitted by the planning commission subject to the conditions herein imposed for each use, including the review and approval of the site plan by the planning commission, and the imposition of special conditions which, in the opinion of the commission, are necessary to ensure that the land use activity authorized shall be compatible with adjacent uses of land, the natural environment and the capabilities of public

services and facilities affected by the land use, and subject further to the provisions and public hearing requirements set forth in section 51-21.29:

(1) Clubs, private, noncommercial service clubs of a social or fraternal nature, or boat clubs, not operated for profit. (See specific minimum requirements set forth in section 51-21.29.)

(2) Municipal owned and operated libraries, parks, swimming pools or beaches, playgrounds, public boat docks and ramps, and other municipal recreation facilities. (See specific minimum requirements set forth in section 51-21.29.)

(3) (Reserved for future use.)

(4) Private, noncommercial recreation areas; institutional or community recreation centers; a nonprofit swimming pool club. (See specific minimum requirements set forth in section 51-21.29.)

(5) Nursery schools, day nurseries, childcare centers, day care centers and preschools, when operated in a dwelling or a building with the external appearance of a dwelling, or when operated as an accessory use to a church or school. (See specific minimum requirements set forth in section 51-21.29.)

(6) Public or private golf courses, not including driving ranges or miniature golf courses. (See specific minimum requirements set forth in section 51-21.29.)

(7) Churches and related religious buildings and facilities customarily incidental thereto but not including tents and other temporary structures. (See specific minimum requirements set forth in section 51-21.29.)

(8) Public, parochial and other private elementary, intermediate and/or high schools offering courses in general education. (See specific minimum requirements set forth in section 51-21.29.)

(9) Public or private colleges, universities and other such institutions of higher learning, offering courses in general, technical or religious education, not operated for profit. (See specific minimum requirements set forth in section 51-21.29.)

(10) Utility and public service facilities and uses needed to serve the immediate vicinity, including transformer stations, lift stations and switchboards but excluding outside storage yards.

(11) (Reserved for future use.)

(12) Group day care homes, subject to the requirements in section 51-21.29.

(13) Uses determined to be similar to any of the above uses by the planning commission.

(14) Uses or structures accessory to the above when located on the same lot and not involving any business, profession, trade or occupation, subject to the regulations in section 51-21.10.

(Code 1994, § 5.03)

Sec. 51-5.04. Area, height, bulk and placement requirements.

Area, height, bulk and placement requirements, unless otherwise specified, are as provided in article 17.00 of this chapter, schedule of regulations.

(Code 1994, § 5.04)

Sec. 51-5.05. Site plan review.

Site plan review requirements are as provided in section 51-21.28.

(Code 1994, § 5.05)

ARTICLE 6.00. RM-1 AND RM-2 MULTIPLE-FAMILY RESIDENTIAL DISTRICT

Sec. 51-6.01. Statement of purpose.

The RM-1 and RM-2 Multiple-Family Residential Districts are designed to provide sites for multiple-family dwelling structures, and related uses, to serve the need for an apartment-type unit in the community.

(Code 1994, § 6.01)

Sec. 51-6.02. Permitted principal uses.

In the RM-1 and RM-2 Districts, no uses shall be permitted except the following:

(1) Multiple-family dwellings of a low-rise type, including, but not limited to, apartment houses, row houses, terraces, townhouses and cluster houses.

(2) Two-family dwellings.

(3) State-licensed residential facilities which provide resident services for six or fewer persons under 24-hour supervision or care, including, but not necessarily limited to, residential foster care facilities, family day care homes and adult foster care family homes, subject to the regulations in section 206 of Michigan Public Act 110 of 2006, as amended.

(4) Municipal buildings and uses.

(5) Home occupations subject to the minimum requirements in section 51-21.33.

(6) Uses or structures accessory to the above when located on the same lot and not involving any business, profession, trade or occupation, subject to the regulations in section 51-21.10.

(Code 1994, § 6.02)

Sec. 51-6.03. Permitted uses after special approval.

The following uses may be permitted by the planning commission subject to the conditions herein imposed for each use, including the review and approval of the site plan by the planning commission, and the imposition of special conditions which, in the opinion of the commission, are necessary to ensure that the land use activity authorized shall be compatible with adjacent uses of land, the natural environment and the capabilities of public services and facilities affected by the land use, and subject further to the provisions and public hearing requirements set forth in section 51-21.29:

(1) Single-family detached dwellings.

(2) Clubs, private, noncommercial service clubs of a social or fraternal nature, or boat clubs, not operated for profit. (See specific minimum requirements set forth in section 51-21.29.)

(3) Municipal owned and operated libraries, parks, swimming pools or beaches, playgrounds, public boat docks and ramps, and other municipal recreation facilities. (See specific minimum requirements set forth in section 51-21.29.)

(4) Boat launches, docks, waterfront parks, beaches similar waterfront recreation uses, for private noncommercial use only. (See specific minimum requirements in section 51-21.29.)

(5) Private, noncommercial recreation areas; institutional or community recreation centers; a nonprofit swimming pool club. (See specific minimum requirements set forth in section 51-21.29.)

(6) Nursery schools, day nurseries and childcare centers, day care centers, and preschools, when operated in a dwelling or a building with the external appearance of a dwelling, or when operated as an accessory use to a church or school. (See specific minimum requirements set forth in section 51-21.29.)

(7) Public or private golf courses, not including driving ranges or miniature golf courses. (See specific minimum requirements set forth in section 51-21.29.)

(8) Churches and related religious buildings and facilities customarily incidental thereto, but not including tents and other temporary structures. (See specific minimum requirements set forth in section 51-21.29.)

(9) Public, parochial and other private elementary, intermediate and/or high schools offering courses in general education. (See specific minimum requirements set forth in section 51-21.29.)

(10) Public or private colleges, universities and other such institutions of higher learning, offering courses in general, technical or religious education, not operated for profit. (See specific minimum requirements set forth in section 51-21.29.)

(11) Utility and public service facilities and uses needed to serve the immediate vicinity, including transformer stations, lift stations and switchboards but excluding outside storage yards.

(12) (Reserved for future use.)

(13) Business uses in RM-2 Districts only, when developed as retail or service uses clearly accessory to the main use, within the walls of the main structure and totally obscured from any exterior view. No identifying sign for any such business or service use shall be visible from any exterior view. Such businesses or services shall not exceed 25 percent of the floor area at grade level, or 50 percent of a sub-grade level, and shall be prohibited on all floors above the first floor or grade level.

(14) Nursing and convalescent homes; orphanages. (See specific minimum requirements set forth in section 51-21.29.)

(15) General hospitals, except animal hospitals. (See specific minimum requirements set forth in section 51-21.29.)

(16) Housing for the elderly. (See specific minimum requirements set forth in section 51-21.29.)

(17) Group day care homes, subject to the requirements in section 51-21.29.

(18) (Reserved for future use.)

(19) Uses or structures accessory to the above when located on the same lot and not involving any business, profession, trade or occupation, subject to the regulations in section 51-21.10.

(Code 1994, § 6.03)

Sec. 51-6.04. Area, height, bulk and placement requirements.

Area, height, bulk and placement requirements, unless otherwise specified, are as provided in article 17.00 of this chapter, schedule of regulations.

(Code 1994, § 6.04)

Sec. 51-6.05. Site plan review.

Site plan review requirements are as provided in section 51-21.28.

(Code 1994, § 6.05)

ARTICLE 7.00. RM-3 MULTIPLE-FAMILY RESIDENTIAL DISTRICT

Sec. 51-7.01. Statement of purpose.

The RM-3 Multiple-Family Residential District is designed to provide sites for multiple-family dwellings and related uses, to serve the needs for moderate density housing in locations that are close to commercial facilities and services, provided that such developments are designed to be compatible with surrounding lower density residential areas.

(Code 1994, § 7.01)

Sec. 51-7.02. Permitted principal uses.

No use shall be permitted in the RM-3 District, except for the following:

(1) Two-family and multiple-family dwellings.

(2) Housing for the elderly, subject to the requirements in section 51-21.29.

(3) Rental or management offices and club rooms, swimming pools or other recreational facilities accessory to a multiple-family development.

(4) Municipal buildings and uses.

(5) State-licensed residential facilities which provide resident services for six or fewer persons under 24-hour supervision or care, including, but not necessarily limited to, residential foster care facilities, family day care homes and adult foster care family homes, subject to the regulations in section 206 of Michigan Public Act 110 of 2006, as amended.

(6) Uses or structures accessory to the above when located on the same lot and not involving any business, profession, trade, or occupation, subject to the regulations in section 51-21.10.

(Code 1994, § 7.02)

Sec. 51-7.03. Permitted uses after special approval.

The following uses may be permitted by the planning commission subject to the conditions herein imposed for each use, including review and approval of the site plan by the planning commission, and the imposition of special conditions which, in the opinion of the commission, are necessary to ensure that the land use activity authorized shall be compatible with adjacent uses of land, the natural environment and the capabilities of public services and facilities affected by the land use, and subject further to the provisions and public hearing requirements set forth in section 51-21.29.

(1) One-family detached dwellings.

(2) Private, noncommercial service clubs of a social or fraternal nature, or boat clubs, not operated for profit, subject to the requirements in section 51-21.29.

(3) Municipal owned and operated libraries, parks, swimming pools or beaches, playgrounds, public boat docks and ramps, and other municipal recreation facilities, subject to the requirements in section 51-21.29.

(4) Private, noncommercial recreation areas, institutional or community recreation centers, or nonprofit swimming pool clubs, subject to the requirements in section 51-21.29.

(5) Nursery schools, day nurseries, childcare centers, group day care homes, and preschools, when operated in a dwelling or a building with the external appearance of a dwelling, or when operated as an accessory use to a church or school, subject to the requirements in section 51-21.29.

(6) Public or private golf courses, not including driving ranges or miniature golf courses, subject to the requirements in section 51-21.29.

(7) Churches and related religious buildings and facilities customarily incidental thereto, but not including tents and other temporary structures, subject to the requirements in section 51-21.29.

(8) Public, parochial, and other private elementary, intermediate and/or high schools offering courses in general education, subject to the requirements in section 51-21.29.

(9) Public or private colleges, universities, and other institutions of higher learning, offering courses in general, technical, or religious education, not operated for profit, subject to the requirements in section 51-21.29.

(10) Utility and public service facilities and uses needed to serve the immediate vicinity, including transformer stations, lift stations, and switchboards, but excluding outside storage yards.

(11) Retail and service uses that are clearly accessory to the principal use, provided that such uses are located within a structure that is designed and use principally for residential purposes. All such retail and service facilities shall be designed so that, based on exterior appearance, it is clear that the facilities are oriented to serve residents of the residential complex rather than the general public. Such businesses shall not exceed 50 percent of the floor area of any building at grade level, and shall be prohibited on all floors above the first floor or grade level. These restrictions shall not apply to a snack bar, concession facilities, pro shop, or similar retail facility that is associated with and accessory to a community recreation facility within the RM-3 development (such as a swimming pool), provided that any such retail facility shall be designed to primarily serve the users of the community recreation facility only.

(12) Nursing, convalescent homes, and orphanages, subject to the requirements in section 51-21.29.

(13) General hospitals, except animal hospitals, subject to the requirements in section 51-21.29.

(14) Group day care homes, subject to the requirements in section 51-21.29.

(15) Uses or structures accessory to the above when located on the same lot and not involving any business, profession, trade or occupation, subject to the regulations in section 51-21.10.

(Code 1994, § 7.03)

Sec. 51-7.04. Area, height, bulk and placement requirements.

(a) *Parcel size.* The minimum parcel size for multiple-family uses shall be 35 acres. The minimum parcel size for all other permitted uses shall be 40,000 square feet.

(b) *Frontage.* RM-3 zoned parcels shall have direct access to a major thoroughfare, with at least 60 feet of frontage on the major thoroughfare.

(c) *Maximum height.* Multiple-family buildings shall not exceed 45 feet in height, except that common recreational facilities may exceed the 45-foot limitation by a maximum of 15 feet over no more than 50 percent of the building area. The maximum height for all other buildings shall be 30 feet.

(d) *Distance between buildings.* Minimum spacing between any two buildings shall be as follows:

Building Height	Minimum Spacing from Other Buildings
45 ft. or more	90 ft.
36—45 ft.	60 ft.
30—36 ft.	50 ft.
less than 30 ft.	30 ft.

(e) *Density.* The maximum number of dwelling units per net acre shall be 18. For the purposes of computing density, net acreage shall include all land area under one ownership that is to be used for residential purposes, exclusive of all water areas, all public streets (including future rights-of-way), and all public and private streets within the development.

(f) *Lot coverage.* Maximum coverage for all buildings shall not exceed 35 percent of the lot.

(g) *Setbacks.* Minimum setbacks in the RM-3 District shall be as follows:

(1) Front yard: 50 feet.

(2) Side yard: 20 feet.

(3) Rear yard: 35 feet.

Notwithstanding the above requirements, multiple-family buildings in an RM-3 District shall comply with the following setbacks along any property line which abuts a residential district (other than an RM-3 District):

Building Height	Minimum Setback from Residential District
Less than 30 ft.	45 ft.
30 to 36 ft.	60 ft.
More than 36 ft.	120 ft.

(h) *Access.* A minimum of two access drives shall be provided for each multiple-family development, one of which may be limited access to provide an alternate means of ingress and egress for police, fire, and medical service vehicles in the event of an emergency. Access drives shall be located to minimize impact on nearby single-family areas and on the road system in general. The primary means of access to an RM-3 development shall be designed as a boulevard entrance.

(i) *Housing unit requirements.* All housing units shall have at least one living room and one bedroom.

(j) *Open space.* Multiple-family developments in the RM-3 District shall provide open space in compliance with the following requirements:

(1) *General requirements.* Single-family cluster developments shall provide and maintain at least 15 percent of the site as usable open space.

(2) *Water bodies and wetlands.* Up to 25 percent of the required open space may include the area of any water bodies or wetlands which are covered only periodically with standing water (such as hardwood swamps or wet meadows). Another 25 percent of the required open space may be occupied by lakes or ponds, when landscaped and maintained as an integral part of the larger common area.

(3) *Roads.* Required usable open space shall not include the area of any public or private road or the area of any easement providing access to the site.

(4) *Conveyance of open space.* The required open space shall be set aside by the developer through an irrevocable conveyance, such as deed restrictions or covenants that run with the land, ensuring that the open space will be developed and continually maintained according to the site plan and never changed to another use.

(Code 1994, § 7.04)

Sec. 51-7.05. Site plan review.

Site plan review shall be required for all uses except single-family dwellings, in accordance with section 51-21.28.

(Code 1994, § 7.05)

ARTICLE 8.00. O-1 OFFICE DISTRICT

Sec. 51-8.01. Statement of purpose.

The O-1 Office District is designed to accommodate uses such as offices, banks and personal services which can serve as transitional areas between residential and commercial districts and to provide a transition between major thoroughfares and residential districts.

(Code 1994, § 8.01)

Sec. 51-8.02. Permitted principal uses.

In an office district, no uses shall be permitted except for the following:

(1) Office buildings for any of the following occupations: executive, administrative, professional, accounting, writing, clerical, stenographic, drafting and sales.

(2) Medical office, including clinics.

(3) Banks, credit unions, savings and loan associations, and similar uses, with drive-in facilities as an accessory use only.

(4) Off-street parking lots.

(5) Churches.

(6) Uses determined to be similar to the above uses by the planning commission.

(7) Uses or structures accessory to the above when located on the same lot, subject to the regulations in section 51-21.10.

(Code 1994, § 8.02)

Sec. 51-8.03. Conditions applicable to all permitted uses.

All permitted principal uses shall be subject to the following minimum conditions:

(1) No interior display shall be visible from the exterior of the building and the total area devoted to display, including both the objects displayed and the floor space set aside for persons observing the displayed objects, shall not exceed 25 percent of the usable floor area of either the first or second story, or in the basement.

(2) The outdoor storage of goods or material shall be prohibited.

(3) Warehousing or indoor storage of goods or material, beyond that normally incident to the above-permitted uses, shall be prohibited.

(Code 1994, § 8.03)

Sec. 51-8.04. Permitted uses after special approval.

The following uses may be permitted by the planning commission subject to the conditions herein imposed for each use, including the review and approval of the site plan by the planning commission, and the imposition of special conditions which, in the opinion of the commission, are necessary to ensure that the land use activity authorized shall be compatible with adjacent uses of land, the natural environment and the capabilities of public services and facilities affected by the land use, and subject further to the provisions and public hearing requirements set forth in section 51-21.29:

(1) An accessory use customarily related to a principal use authorized by this section, including by way of example, but not limitation, a pharmacy or apothecary shop, sales of corrective garments or bandages, or optical services.

(2) Mortuary establishments, when adequate assembly area is provided off-street for vehicles to be used in funeral processions; provided, further, that such assembly area shall be provided in addition to any required off-street parking area. A caretaker's residence may be provided within the main building of mortuary establishments.

(3) Municipal buildings and uses; utility and public service facilities and uses needed to serve the immediate vicinity, including transformer stations, lift stations and switchboards but excluding outside storage yards.

(4) Private or public clubs, except those having the nature of a commercial or wholesale sales outlet.

(5) Nursery schools, day nurseries, childcare centers, day care centers, and preschools. (See specific minimum requirements set forth in section 51-21.29.)

(6) Schools, including vocational trade and training schools and technical training schools.

(7) Facilities for human care such as hospitals, sanitariums, rest and convalescent homes. (See specific minimum requirements set forth in section 51-21.29.)

(8) Personal service establishments including barber shops, beauty shops, and health salons.

(9) Family day care home. (See specific minimum requirements set forth in section 51-21.29.)

(10) Group day care home, large group home, small group home. (See specific minimum requirements set forth in section 51-21.29.)

(11) Uses determined to be similar to the above uses by the planning commission.

(12) Uses or structures accessory to the above when located on the same lot, subject to the regulations in section 51-21.10.

(Code 1994, § 8.04)

Sec. 51-8.05. Area, height, bulk and placement requirements.

Area, height, bulk and placement requirements, unless otherwise specified, are as provided in article 17.00 of this chapter, schedule of regulations.

(Code 1994, § 8.05)

Sec. 51-8.06. Site plan review.

Site plan review requirements are as provided in section 51-21.28.

(Code 1994, § 8.06)

ARTICLE 9.00. C-1 NEIGHBORHOOD COMMERCIAL DISTRICT

Sec. 51-9.01. Statement of purpose.

The C-1 Local Commercial District is designed solely for the convenience shopping of persons residing in adjacent residential areas, to permit only such uses as are necessary to satisfy limited basic shopping and/or service needs. In order to protect nearby residential areas and avoid traffic congestion, the more intensive commercial uses generating large volumes of vehicular and pedestrian traffic, or having characteristics that tend to adversely affect residential living qualities or residential property values, are not permitted in the district.

(Code 1994, § 9.01)

Sec. 51-9.02. Permitted principal uses.

In the C-1 District, no uses shall be permitted except the following:

(1) Retail businesses which supply commodities on the premises for persons residing in adjacent residential areas, such as: groceries, meats, dairy products, alcoholic beverages, baked goods and other foods, drugs, dry goods, notions, hardware, books, stationery and school supplies, records, video cassette sales and rental, bicycles, flowers, hobby equipment, paints, periodicals, shoes, sporting goods, sundry small household articles, and tobacco products, provided that the usable floor area for any such business shall not exceed 5,000 square feet.

(2) Establishments which perform services on the premises for persons residing in adjacent residential areas, such as, beauty and barber shops; watch, radio, television, clothing and shoe repair; locksmiths; photo processing outlets; and similar establishments.

(3) Office buildings and uses, provided that goods are not manufactured, exchanged or sold on the premises.

(4) Medical or dental clinics or offices.

(5) Financial institutions, including banks, credit unions, and savings and loan associations.

(6) Laundry and dry cleaning customer outlets.

(7) Carry-out and dining room restaurants.

(8) Nursery schools, day nurseries, childcare centers, and preschools, subject to the requirements in section 51-21.29.

(9) Municipal buildings and uses, including post offices, provided there is no outside storage.

(10) Other uses similar to the above, subject to the following restrictions:

1. All such businesses shall be retail or service establishments dealing directly with consumers.

2. All goods produced and services performed on the premises shall be sold at retail on the premises where produced.

3. All business, servicing, or processing, except off-street parking or loading, shall be conducted within a completely enclosed building.

4. There shall be no outside storage of goods, inventory, or equipment.

(11) Uses or structures accessory to the above, when located on the same lot, subject to the regulations in section 51-21.10.

(Code 1994, § 9.02)

Sec. 51-9.03. Permitted uses after special approval.

The following uses may be permitted by the planning commission subject to the conditions herein imposed for each use, including the review and approval of the site plan by the planning commission, and the imposition of special conditions which, in the opinion of the commission, are necessary to ensure that the land use activity authorized will be compatible with adjacent uses of land, the natural environment, and the capabilities of public services and facilities affected by the land use, and subject further to the provisions and public hearing requirements set forth in section 51-21.29:

(1) Offices, showrooms, or workshop of a plumber, electrician, building contractor, upholsterer, caterer, exterminator, decorator, or similar trade, subject to the following conditions:

a. No more than five persons shall be employed at any time in the fabrication, repair, or other processing of goods.

b. All goods produced and services performed on the premises shall be sold at retail on the premises where produced.

c. Not more than 75 percent of the floor area of the building or part of the building occupied by said establishment shall be used for fabrication, repair, cleaning, or other processing of goods.

d. The ground floor facing upon or visible from any abutting street shall be used only for entrances, offices, or display.

e. There shall be no outside storage of materials or goods of any kind.

(2) Mortuary establishments, when adequate off-street assembly area is provided off-street for vehicles to be used in funeral processions. A caretaker's residence may be provided within the main building of mortuary establishments.

(3) Utility and public service facilities and uses needed to serve the immediate vicinity, including transformer stations, lift stations, and switchboards, but excluding outside storage yards.

(4) Private or public clubs.

(5) Boat launches, docks, waterfront parks, beaches and similar waterfront recreation uses, subject to the minimum requirements in section 51-21.29.

(6) Uses determined to be similar to the above by the planning commission.

(7) Uses or structures accessory to the above when located on the same lot, subject to the regulations in section 51-21.10.

(Code 1994, § 9.03)

Sec. 51-9.04. Area, height, bulk and placement requirements.

Area, height, bulk and placement requirements, unless otherwise specified, are as provided in article 17.00 of this chapter, schedule of regulations.

(Code 1994, § 9.04)

Sec. 51-9.05. Site plan review.

Site plan review requirements are as provided in section 51-21.28.

(Code 1994, § 9.05)

ARTICLE 10.00. C-2 GENERAL COMMERCIAL DISTRICT

Sec. 51-10.01. Statement of purpose.

The C-2 General Commercial District is designed to provide for a variety of commercial uses, including the more intensive uses not permitted in a C-1 District. This district is intended to permit a wide variety of commercial uses designed to cater to the needs of the whole community and surrounding areas. The property in this district is intended to have larger lot areas and be located so that it is served by a major thoroughfare and is generally away from sensitive residential areas.

(Code 1994, § 10.01)

Sec. 51-10.02. Permitted principal uses.

In the C-2 District, no uses shall be permitted except the following.

(1) All principal uses permitted in the O-1 Office District and the C-1 Local Commercial District.

(2) Any generally recognized retail business, including not more than two marijuana provisioning centers and not more than one marijuana safety compliance facility.

(3) Restaurants, taverns, bars/lounges, and other uses serving alcoholic beverages, including catering and banquet halls, where the patrons are served while seated within a building occupied by such establishments, but not drive-in restaurants.

(4) Theaters, assembly halls, concert halls or similar places of assembly when conducted completely within enclosed buildings.

(5) Offices and showrooms of plumbers, electricians, decorators or similar trades, subject to the following conditions:

a. That all services performed on the premises, including all fabrication, repair, cleaning or other processing of goods, shall be sold at retail on the premises where produced.

b. That not more than 25 percent of the floor area of the building or part of the building occupied by said establishment shall be used for fabrication, repair, cleaning, or other processing of goods.

c. That the ground floor premises facing upon, and visible from any abutting street shall be used only for entrances, offices or display.

d. That there shall be no outside storage of materials or goods of any kind.

(6) Business schools and colleges, or private schools operated for profit. Examples of private schools permitted herein include, but are not limited to, the following: dance schools, music and voice schools and art studios.

(7) Warehouse and storage facilities when incident to and physically connected with any principal uses permitted, provided that such facility be within the confines of the building or part thereof occupied by said establishment.

(8) Veterinarian offices and hospitals.

(9) Bus passenger stations.

(10) Mortuary establishments, when adequate assembly area is provided off-street for vehicles to be used in funeral processions, provided further that such assembly area shall be provided in addition to any required off-street parking area. A caretaker's residence may be provided within the main building of mortuary establishment.

(11) Bowling alley, billiard hall, or similar form of indoor commercial recreation.

(12) Self-service laundry and dry cleaning establishments or pick-up stations, but not including central dry cleaning plants serving other outlets.

(13) Newspaper offices and print shops with minor printing facilities.

(14) Utility and public service facilities and uses needed to serve the immediate vicinity, including transformer stations, lift stations and switchboards but excluding outside storage yards.

(15) Uses or structures accessory to the above, subject to the regulations in section 51-21.10.

(Code 1994, § 10.02; Ord. No. C-334-17, § 3, 1-16-2018)

Sec. 51-10.03. Permitted uses after special approval.

The following uses may be permitted by the planning commission subject to the conditions herein imposed for each use, including the review and approval of the site plan by the planning commission, and the imposition of special conditions which, in the opinion of the commission, are necessary to ensure that the land use activity authorized shall be compatible with adjacent uses of land, the natural environment and the capabilities of public services and facilities affected by the land use, and subject further to the provisions and public hearing requirements set forth in section 51-21.29:

(1) Car, truck, recreational vehicle, trailer, or mobile home sales and service including outdoor sales space for sale of new and used vehicles, trailers, or mobile homes. (See specific minimum requirements set forth in section 51-21.29.)

(2) Seasonal or year-round retail sales of plant materials not grown on site and sales of lawn furniture, playground equipment, home garden supplies, and other merchandise in the open, when accessory to a business within a building.

(3) Business in the character of a drive-in restaurant, or open front store. (See specific minimum requirements set forth in section 51-21.29.)

(4) Commercially used outdoor recreational space for children's amusement parks, miniature golf courses. (See specific minimum requirements set forth in section 51-21.29.)

(5) Vehicular engine repair; vehicular body repair, steam cleaning, rustproofing, undercoating, painting and upholstering; tire recapping; auto glass works, and similar uses. (See specific minimum requirements in section 51-21.29.)

(6) Adult regulated uses.

(7) Car washes, subject to the specific minimum requirements set forth in section 51-21.29.

(8) Automobile service stations.

(9) Quick oil changes or lubrication stations.

(10) Drive-through restaurants.

(11) Indoor commercial recreation uses including indoor archery range, indoor tennis courts, indoor skating rink, indoor paintball arenas, or other similar uses. (See specific minimum requirements set forth in section 51-21.29(i)(3).)

(12) Uses determined to be similar to the above uses by the planning commission.

(13) Uses listed in section 51-9.03.

(14) Uses or structures accessory to the above, subject to the regulations in section 51-21.10.

(15) Wireless communication systems subject to the regulations and requirements in section 51-21.48.

(Code 1994, § 10.03; Ord. No. C-267-07, § 2, 1-3-2007)

Sec. 51-10.04. Area, height, bulk and placement requirements.

Area, height, bulk and placement requirements, unless otherwise specified, are as provided in article 17.00 of this chapter, schedule of regulations.

(Code 1994, § 10.04)

Sec. 51-10.05. Site plan review.

Site plan review requirements are as provided in section 51-21.28.

(Code 1994, § 10.05)

ARTICLE 11.00. C-3 CENTRAL BUSINESS DISTRICT

Sec. 51-11.01. Statement of purpose.

The C-3 Central Business District is designed for the convenience shopping of persons residing in and around the city and to permit such uses as are necessary to satisfy those basic shopping and/or service needs. The orientation of uses in the C-3 District is to a compact and closely integrated group of commercial uses that relate to each other and share parking and loading spaces. Pedestrian oriented uses constitute many of the uses included in this district.

(Code 1994, § 11.01)

Sec. 51-11.02. Permitted principal uses.

In a C-3 Central Business District, no uses shall be permitted except the following:

(1) All principal uses permitted in the O-1 Office District and the C-1 Local Commercial District, subject to the same restrictions set forth in sections 51-8.02, 51-8.03 and 51-9.02 for these uses.

(2) All retail business, service establishments, or processing uses as follows:

a. Any generally recognized retail business which supplies commodities on the premises, for persons residing in adjacent residential areas, such as: groceries, meats, dairy products, baked goods, or other foods, drugs, dry goods, any notions, or floral shops and not more than one marijuana provisioning center.

b. Any service establishment of an office, showroom or workshop nature of an electrician, decorator, dressmaker, tailor, baker, barber, beauty shop, printer, upholsterer; or an establishment doing radio or home appliance repair, photographic reproduction, and similar establishments subject to the condition that no more than five persons shall be employed at any time in the fabrication, repair and other processing of goods.

(3) Residential uses above the first floor.

a. Individual units must be a minimum of 950 square feet.

b. At least 50 percent of the required off-street parking shall be provided upon the site. Off-street parking may be provided in an approved location within 300 feet of the residential use. On-street parking places may be counted for the on and off site requirement with the approval of the planning commission. Planning commission may reduce the on-site parking requirement if an acceptable alternative is approved.

(4) Uses determined to be similar to the above uses by the planning commission.

(5) Uses or structures accessory to the above, subject to the regulations in section 51-21.10.

(Code 1994, § 11.02; Ord. No. C-334-17, § 4, 1-16-2018)

Sec. 51-11.03. Required conditions in C-3 Districts.

All permitted principal uses and special approval uses shall be subject to the following conditions:

(1) All business establishments shall be retail or service establishments dealing directly with consumers. All goods provided and services performed on the premises shall be sold at retail on the premises.

(2) All business, servicing, or processing, except for off-street parking, loading, and unloading, shall be conducted within completely enclosed buildings.

(3) Where any mixed use is proposed, pursuant to section 51-11.04(8), any residential use shall constitute no more than 50 percent of the gross floor area of any building.

(4) Off-street parking shall be provided in accordance with article 19.00; however, any new use and/or re-use of an existing building is allowed up to a 50 percent reduction in the amount of parking on-site. The remaining required parking may be provided within 300 feet of the proposed use. On-street parking spaces may be counted to meet the off-street parking requirement with the approval of the planning commission.

(Code 1994, § 11.03)

Sec. 51-11.04. Permitted uses after special approval.

The following uses may be permitted by the planning commission subject to the conditions herein imposed for each use, including the review and approval of the site plan by the planning commission, and the imposition of special conditions which, in the opinion of the commission, are necessary to ensure that the land use activity authorized shall be compatible with adjacent uses of land, the natural environment and the capabilities of public services and facilities affected by the land use, and subject further to the provisions and public hearing requirements set forth in section 51-21.29:

(1) Dry cleaning establishments or pick-up stations, dealing directly with the consumer. Central dry cleaning plants serving other outlets shall be prohibited.

(2) Veterinary hospitals.

(3) Mortuary establishments.

(4) Utility and public service facilities and uses needed to serve the immediate vicinity, including transformer stations, lift stations and switchboards but excluding outside storage yards.

(5) Taverns, bars/lounges, or similar establishments serving alcoholic beverages.

(6) Motels, subject to the following:

a. It can be demonstrated that ingress and egress do not conflict with adjacent business uses.

b. No kitchen or cooking facilities are to be provided, with the exception of units for the use of the manager or caretaker.

c. Each unit shall contain not less than 250 square feet of floor area.

(7) Boat launches, docks, waterfront parks, beaches and similar waterfront recreation uses. (See specific minimum requirements in section 51-21.29.)

(8) Bed and breakfast establishments, subject to the conditions in section 51-21.29

(9) Other uses determined to be similar to the above uses by the planning commission.

(10) Uses or structures accessory to the above, subject to the regulations in section 51-21.10.

(Code 1994, § 11.04)

Sec. 51-11.05. Area, height, bulk and placement requirements.

Area, height, bulk and placement requirements, unless otherwise specified, are as provided in article 17.00 of this chapter, schedule of regulations.

(Code 1994, § 11.05)

Sec. 51-11.06. Site plan review.

Site plan review requirements are as proved in section 51-21.28.

(Code 1994, § 11.06)

ARTICLE 12.00. MH MOBILE HOME PARK DISTRICTS

Sec. 51-12.01. Statement of purpose.

This district is intended to provide for the location and regulation of mobile home parks. The districts should be located in areas where they will be compatible with adjacent land uses. The regulations established by state law and, in particular, the mobile home code, are intended to govern all mobile home parks. when regulations in this article exceed the state law and/or the mobile home code requirements they are intended to ensure that mobile home parks meet the development and site plan standards established in this chapter for other residential development and to promote the health, safety and welfare of the city's residents.

(Code 1994, § 12.01)

Sec. 51-12.02. Permitted principal uses.

In the MH Mobile Home Park District, no uses shall be permitted except the following:

(1) Mobile home parks.

(2) State-licensed residential facilities which provide resident services for six or fewer persons under 24-hour supervision or care, including, but not necessarily limited to, residential foster care facilities, family day care homes and adult foster care family homes, subject to the regulations in section 206 of Michigan Public Act 110 of 2006, as amended.

(3) All permitted principal uses in the RM-1 Multiple-family Residential District.

(4) Uses or structures accessory to the above when located on the same lot and not involving any business, profession, trade or occupation, subject to the regulations in section 51-21.10.

(Code 1994, § 12.02)

Sec. 51-12.03. Reserved.

(Code 1994, § 12.03)

Sec. 51-12.04. Requirements of mobile home park development.

The following requirements shall apply to mobile home parks:

(1) Pursuant to section 11 of Michigan Public Act 96 of 1987, as amended, a preliminary plan shall be submitted to the city for review by the planning commission. The preliminary plan shall include the location, layout, general design, and general description of the project. The preliminary plan shall not include detailed construction plans.

   a. In preparing the preliminary plan and when reviewing the plan, the developer and planning commission shall generally follow the procedures and requirements in section 51-21.28 where applicable, except where said procedures and requirements are superseded by requirements in Public Act 96 of 1987, as amended, or the Mobile Home Commission Rules.

   b. Pursuant to section 11 of Public Act 96 of 1987, as amended, the planning commission shall take action on the preliminary plan within 60 days after the city officially receives the plan.

(2) Reserved.

(3) Mobile home parks shall be subject to all the rules and requirements as established and regulated by the state laws of Michigan including by way of example, Act No. 96 of the Public Acts of 1987 and the Mobile Home Code and, in addition, shall satisfy the following minimum requirements:

a. *Screening.* All mobile home parks shall be screened from existing adjacent single-family residential land use by either a six-foot wall in accordance with the requirements of section 51-21.16 or a densely planted landscaped greenbelt or berm in accordance with the requirements of section 51-21.35(4)b and c. Such screening is encouraged to be constructed around the entire park where not specifically required. The planning commission may waive such screening, notwithstanding the foregoing requirement, in special situations where the planning commission finds that adequate natural screening exists or no useful purpose will be served by the screening.

b. *Roads.* Roads shall satisfy minimum dimensional, design, and construction requirements as set forth in the mobile home commission rules except that the minimum width of a street shall be 24 feet where no parallel parking is permitted.

c. *Access.* The main entrance to the park shall have access to a public thoroughfare or shall be connected to a public thoroughfare by a permanent easement which shall be recorded by the developers. Sole access to the park via an alley is prohibited.

d. *Open space.* All mobile home parks having 50 or more mobile home sites shall have at least one easily accessible open space area containing not less than 25,000 square feet. The total amount of land dedicated for open space shall not be less than two percent of the mobile home park's gross acreage. Such land area shall be generally central and accessible to units intended to be served and shall be well drained, and usable.

e. *Minimum site size and density.* The mobile home park shall be developed with sites averaging 5,500 square feet per mobile home unit. This 5,500 square feet for any one site may be reduced by 20 percent, provided that the individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through the reduction of a site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space, but in no case shall the open space and distance requirements be less than that required under R 125.1946, Rule 946 and R 125.1944, Rules 941—944 of the Michigan Administrative Code. Notwithstanding the foregoing, density shall not exceed 7.2 mobile home units per acre.

f. *Parking.*

1. Shall be provided at the rate of two car spaces for each mobile home site.

2. A minimum of one parking space for every three mobile home sites shall be provided for visitor parking located convenient to the area served.

3. No unlicensed vehicle of any type shall be parked within this district at any time except within a covered building.

4. All group off-street parking facilities shall be adequately lighted during hours of darkness.

g. *Building permit.* No mobile home shall be permitted to be placed in a mobile home park until a permit shall have been granted from the building inspector. All mobile home parks shall be constructed only after a permit to construct shall have been obtained from the state department of commerce, mobile home division.

(Code 1994, § 12.04)

Sec. 51-12.05. Area, density, height and yard requirements.

(a) Minimum lot area for total site: Ten acres.

(b) The following setback standards apply to the mobile home park as a whole and to the individual mobile homes and other buildings located closest to the exterior boundaries of the park:

(1) Front: Ten feet.

(2) Side: Ten feet.

(3) Rear: Ten feet.

Provided that no permanent building, facility or mobile home in the park shall be closer than 50 feet to any public right-of-way.

(4) A mobile home shall be a minimum of:

a. 20 feet from any part of another mobile home;

b. Ten feet from any detached structure or on-site parking of an adjacent mobile home site;

c. 50 feet from a permanent building;

d. Ten feet from a natural or manmade lake, or waterway;

e. Seven feet from pedestrian walkways and sidewalks;

f. 50 feet from any public right-of-way.

(c) Maximum height: 2½ stories or 35 feet.

(d) Minimum floor area per dwelling unit: 600 square feet.

(Code 1994, § 12.05)

Sec. 51-12.06. Site plan review.

(a) Pursuant to section 11 of Michigan Public Act 96 of 1987, as amended, a preliminary plan shall be submitted to the city for review by the planning commission. The preliminary plan shall include the location, layout, general design, and general description of the project. The preliminary plan shall not include detailed construction plans.

(b) In preparing the preliminary plan and when reviewing the plan, the developer and planning commission shall generally follow the procedures and requirements in section 51-21.28 of this chapter where applicable, except where said procedures and requirements are superseded by requirements in Public Act 96 of 1987, as amended, or the mobile home commission rules.

(c) Pursuant to section 11 of Public Act 96 of 1987, as amended, the planning commission shall take action on the preliminary plan within 60 days after the city officially receives the plan.

(Code 1994, § 12.06)

ARTICLE 13.00. CS COMMUNITY SERVICE DISTRICT

Sec. 51-13.01. Statement of purpose.

The intent of the CS Community Service District is to provide a district wherein community services and facilities may be optimally located with respect to providing public service within the city.

(Code 1994, § 13.01)

Sec. 51-13.02. Permitted principal uses.

In the CS District, no uses shall be permitted except the following:

(1) Buildings and uses of the city including: municipal buildings, fire and police stations, libraries, museums, art galleries, civic centers, wells, water towers and similar uses.

(2) Public outdoor recreational uses such as playgrounds, playfields, golf courses, boating areas, fishing sites, camping sites, parkways and parks. No structure shall be erected or maintained upon dedicated park land which is not customarily incidental to the principal use of the land.

(3) Natural open space such as conservation lands, wildlife sanctuaries, forest preserves.

(4) Developed open space such as arboreta, botanical and zoological gardens.

(5) Cemeteries.

(6) Utility and public service facilities and uses needed to serve the immediate vicinity, including transformer stations, lift stations and switchboards but excluding outside storage yards.

(7) Uses determined to be similar to the above by the planning commission.

(8) Uses or structures accessory to the above, subject to the regulations in section 51-21.10.

(Code 1994, § 13.02)

Sec. 51-13.03. Permitted uses after special approval.

The following uses may be permitted by the planning commission subject to the conditions herein imposed for each use, including the review and approval of the site plan by the planning commission, and the imposition of special conditions which, in the opinion of the commission, are necessary to ensure that the land use activity authorized shall be compatible with adjacent uses of land, the natural environment and the capabilities of public services and facilities affected by the land use, and subject further to the provisions and public hearing requirements set forth in section 51-21.29:

(1) Office buildings and uses of the county or state.

(2) Schools and municipal buildings which generate truck traffic or have outside storage.

(3) Non-city public parks, playgrounds, playfields, stadiums.

(4) Outside storage accessory to any use in the CS District, subject to the following conditions:

1. All such outside storage shall be enclosed by an obscuring wall or other similar screening which shall be not less than six feet in height.

2. All such outside storage shall be related exclusively to the principal use of the site.

3. Heavy equipment (such as tractors, backhoes, and snowplows) and vehicles, including buses, shall not be stored on parcels which are adjacent to residentially used or zoned land.

Furthermore, storage of such equipment or vehicles shall be subject to planning commission review if such storage is not permitted on adjacent nonresidential used or zoned land.

(5) Uses determined to be similar to the above by the planning commission.

(6) Uses or structures accessory to the above, subject to the regulations in section 51-21.10.

(7) Wireless communication systems subject to the regulations and requirements in section 51-21.48.

(Code 1994, § 13.03; Ord. No. C-267-07, § 2, 1-3-2007)

Sec. 51-13.04. Area, height, bulk and.

Placement requirements. Area, height, bulk and placement requirements, unless otherwise specified, are as provided in article 17.00 of this chapter, schedule of regulations.

(Code 1994, § 13.04)

Sec. 51-13.05. Site plan review.

Site plan review requirements are as provided in section 51-21.28.

(Code 1994, § 13.05)

ARTICLE 14.00. I-1 LIMITED INDUSTRIAL DISTRICT

Sec. 51-14.01. Statement of purpose.

The I-1 Limited 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 in no manner 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. The processing of raw material for shipment in bulk form, to be used at another location, is not permitted in this district.

(Code 1994, § 14.01)

Sec. 51-14.02. Permitted principal uses.

In the I-1 District, no uses shall be permitted except the following:

(1) Any use charged with the principal function of basic research, design, and pilot or experimental project 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.

(2) Any of the following uses:

a. Wholesaling, warehousing, storage and distribution facilities.

b. The manufacture, compounding, assembling, or treatment of articles or merchandise from previously prepared materials such as, but not limited to,: bone, canvas, cellophane, cloth, cork, elastomers, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, rubber, precious or semi-precious metals or stones, sheet metal (excluding large stampings such as automobile

fenders and bodies), shell textiles, tobacco, wax, wire, wood (excluding saw and planing mills), and yarns.

c. Low-nuisance light manufacturing, fabricating, processing, cleaning, servicing, testing, repair, and assembly facilities not listed elsewhere as permitted or special approval uses, but excluding the following and similar type uses, which are prohibited in all districts in the city as permitted or special approval uses:

1. Abattoirs or slaughterhouses;
2. Arsenals;
3. Batch asphaltic concrete, Portland Cement, or mortar mixing plants;
4. Distillation of tar;
5. Dumping or reduction of garbage, dead animals, offal, or refuse, including recycling centers;
6. Fat rendering;
7. Manufacture or treatment of:
    i. Acid;
    ii. Natural or synthetic rubber, caoutchouc, or gutta percha;
    iii. Creosote;
    iv. Fertilizer;
    v. Sauerkraut;
    vi. Soap;
    vii. Synthetic;
    viii. Tallow, grease, or lard;
8. Ore reduction;
9. Processing or refining of petroleum or coal oil;
10. Salt works;
11. Smelters;
12. Stock yards or slaughter of animals;
13. Tanning, curing, or storage of rawhides or skins.

d. The manufacturer of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only be electricity or gas.

e. Manufacture of musical instruments, toys, novelties, and metal or rubber stamps, or other molded rubber products.

f. Manufacture or assembly of electrical appliances, electronic instruments and devices, radios and phonographs.

g. Manufacturing and repair of electric or neon signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves and the like.

h. 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 and propane tank holders; railroad transfer and storage tracks; railroad rights-of-way; freight terminals.

i. Marijuana facilities as follows:

1. Not more than three marijuana grower facilities;

2. Not more than three marijuana processor facilities;

3. Not more than three marijuana transporter facilities;

4. Not more than one marijuana safety compliance facility.

(3) Central dry cleaning plants or laundries, provided that such plants shall not deal directly with consumers at retail.

(4) Major vehicular repair; vehicular body repair, steam cleaning, rustproofing, undercoating, painting, and upholstery; tire recapping; auto glass work; and similar uses.

(5) Non-accessory signs.

(6) Kennel, commercial.

(7) Uses which are determined to be similar to the above uses by the planning commission.

(8) Uses or structures accessory to the above, subject to the regulations in section 51-21.10.

(9) Registered primary caregiver uses, facilities and activities authorized under the Michigan Medical Marihuana Act, MCL 333.26421, et seq. as amended. Registered primary caregiver uses, facilities and activities shall not be permitted in any other zoning district.

(Code 1994, § 14.02; Ord. No. C-334-17, § 5, 1-16-2018; Ord. No. C-357-20 , § 2, 2-16-2021)

Sec. 51-14.03. Permitted uses after special approval.

The following uses may be permitted by the planning commission subject to the conditions herein imposed for each use, including the review and approval of the site plan by the planning commission, and the imposition of special conditions which, in the opinion of the commission, are necessary to ensure that the land use activity authorized shall be compatible with adjacent uses of land, the natural environment and the capabilities of public services and facilities affected by the land use, and subject further to the provisions and public hearing requirements set forth in section 51-21.29:

(1) 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, upholsterer, cabinet maker, outdoor boat, or house trailer, automobile, or agricultural implement sales.

(2) Lumber and planing mills when completely enclosed and when located in the interior of the district so that no property line shall form the exterior boundary of the I-1 District.

(3) Metal plating, buffering and polishing, subject to appropriate conditions to prevent nuisances.

(4) Radio and television towers and their attendant facilities shall be permitted in I-1 District provided said use shall be located centrally on a parcel having a dimension of not less than 1½ times the height of the tower measured from the base of said tower to all points on each property line.

(5) Automobile service stations, quick oil change or lubrication centers, and similar uses.

(6) Restaurants or other places serving food or beverages, except those having the character of a drive-in, and newsstand, tobacco shops and similar convenience goods stores which the planning commission determines are intended to serve the convenience needs of the person working in the I-1 District.

(7) Storage facilities for building materials, sand, gravel, stone, lumber, open storage or construction contractor's equipment and supplies, provided such is enclosed within a building or within an obscuring wall. In I-1 Districts, the extent and height of such wall shall be determined by the planning commission, provided that such wall shall not be less than six feet in height.

(8) Outside storage accessory to any use in the I-1 District, provided that such shall be enclosed by an obscuring wall or other similar screening method, provided that such wall or screening shall not be less than six feet in height.

(9) Laboratories, experimental testing.

(10) Indoor commercial recreation uses including indoor archery range, indoor tennis courts, indoor skating rink, indoor paintball arenas, or other similar uses. (See specific minimum requirements set forth in section 51-21.29(i)(6).)

(11) Uses which are determined to be similar to the above uses by the planning commission.

(12) Uses or structures accessory to the above, subject to the regulations in section 51-21.10.

(13) Wireless communication systems subject to the regulations and requirements in section 51-21.48.

(Code 1994, § 14.03; Ord. No. C-267-07, § 2, 1-3-2007)

Sec. 51-14.04. Area, height, bulk and placement requirements.

Area, height, bulk and placement requirements, unless otherwise specified, are as provided in article 17.00 of this chapter, schedule of regulations.

(Code 1994, § 14.04)

Sec. 51-14.05. Site plan review.

Site plan review requirements are as provided in section 51-21.28.

(Code 1994, § 14.05)

ARTICLE 15.00. P-1 VEHICULAR PARKING DISTRICT

Sec. 51-15.01. Statement of purpose.

The P-1 Vehicular Parking District is intended to permit the establishment of areas to be used solely for off-street parking of private passenger vehicles as a use incidental to a principal use. This district will generally be provided by petition or request to serve a use district which has not adequately provided for off-street parking.

(Code 1994, § 15.01)

Sec. 51-15.02. Permitted principal uses.

In a P-1 Vehicular Parking District, no use shall be permitted except for off-street vehicular parking in accordance with the regulations in this article.

(Code 1994, § 15.02)

Sec. 51-15.03. Limitation of use.

(a) The parking area shall be accessory to, and for use in connection with one or more businesses or industrial establishments, or in connection with one or more professional or institutional office buildings or institutions.

(b) The parking area shall be used solely for parking of private passenger vehicles, for periods of less than one day.

(c) No commercial repair work or service of any kind, or sale or display thereof, shall be conducted in such parking area.

(d) No signs of any kind, other than signs designating entrances, exists and conditions of use, shall be maintained on such parking area.

(e) No building other than those for shelter of attendants shall be erected upon premises and they shall not exceed 12 feet in height.

(f) Such parking lots shall be contiguous to an RM-1, RM-2, RM-3, B-1, B-2, O-1, I-1 District, and in all cases shall be adjacent successive lots from the above mentioned use districts. There may be a private driveway or public street or public alley between the above stated districts and the P-1 District.

(Code 1994, § 15.03)

Sec. 51-15.04. Entrance and exit.

(a) Adequate entrance and exit for vehicles to premises used as a parking area shall be provided and shall be by means of streets or alleys adjacent to or extending through RM-1, RM-2, RM-3, B-1, B-2, O-1 or I-1 Districts, or by means of private roadways extending through such districts. All such roadways shall be surfaced in a manner at least equivalent with that which is hereinafter provided for the parking area.

(b) Each entrance and exit to and from such parking lot shall be at least 20 feet distant from any adjacent property located in any residential district.

(Code 1994, § 15.04)

Sec. 51-15.05. Minimum distances and setbacks.

(a) *Side yards.* Where the P-1 District is contiguous to side lot lines of premises within a residentially zoned district, the required wall shall be located on the property line.

(b) *Front yards.* Where the P-1 District is contiguous to a residentially zoned district which has a common frontage on the same block with residential structures, or wherein no residential structures have been yet erected, there shall be a setback equal to the required residential setback for said residential district or a minimum of 30 feet, whichever is the greater. The required wall shall be located on this minimum setback line.

(Code 1994, § 15.05)

Sec. 51-15.06. Screening and landscaping.

(a) The parking area shall be provided with a continuous and completely obscuring decorative masonry wall, four feet, six inches in height, measured from the surface of the parking area. This wall shall be provided on all sides where the next zoning district is designated as a residential district. Whenever such wall is required, all land between said wall and boundaries of the P-1 District shall be kept free from refuse and debris and shall be landscaped in accordance with section 51-21.35.

(b) All planting plans shall be submitted to the planning commission for approval as to suitability of planting material and arrangement thereof, in accordance with the provisions of subsection (a) of this section.

(Code 1994, § 15.06)

Sec. 51-15.07. Surface of parking area.

The entire parking area, including parking spaces and maneuvering lanes, required under this section, shall have asphaltic or concrete surfacing in accordance with city Code specifications. Such facilities shall be so drained as to dispose of all surface water accumulated in the parking area. The parking area shall be surfaced within one year of occupancy of the use it is to serve if it is for a new use, and within six months of the effective day of rezoning for P-1 Vehicular Parking District use if the parking area is to serve an existing use or uses.

(Code 1994, § 15.07)

Sec. 51-15.08. Lighting.

(a) Where lighting facilities are provided, they shall be so arranged as to reflect the light away from all residential districts.

(b) All off-street parking areas shall be provided with adequate lighting pursuant to the requirements in section 51-21.47.

(Code 1994, § 15.08)

Sec. 51-15.09. Approval and modification.

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

(b) In all cases where a wall extends to an alley which is a means of ingress and egress to a parking area, it shall be permissible to end the wall not more than ten feet from such alley line in order to permit a wider means of access to the parking area.

(Code 1994, § 15.09)

ARTICLE 16.00. PLANNED UNIT DEVELOPMENT (PUD)

Sec. 51-16.01. Intent.

(a) It is the intent of this article to authorize the use of planned unit development regulations for the purposes of encouraging the use of land in accordance with its character and adaptability; conserving natural resources, natural features and energy; encouraging innovation in land use planning; providing enhanced housing, employment, shopping, traffic circulation and recreational opportunities for the people of this city; ensuring compatibility of design and use between neighboring properties; and, encouraging development that is consistent with the city's master plan.

(b) The provisions of this article are not intended as a device for ignoring the zoning ordinance and specific standards set forth therein, or the planning upon which it has been based. To that end, provisions of this article are intended to result in land development substantially consistent with the zoning standards generally applied to the proposed uses, allowing for modifications and departures from generally applicable standards in accordance with guidelines in this article to ensure appropriate, fair, and consistent decision making.

(Code 1994, § 16.01)

Sec. 51-16.02. Eligibility criteria.

To be eligible for planned unit development approval, the applicant must demonstrate that the following criteria will be met:

(1) *Recognizable benefits.* The planned unit development will result in a recognizable and substantial benefit to the ultimate users of the project and to the community.

(2) *Minimum size.* The minimum size of a planned unit development shall be three acres of contiguous land.

(3) *Use of public services.* The proposed type and density of use shall not result in an unreasonable increase in the use of public services, facilities and utilities, and shall not place an unreasonable burden upon the subject site, surrounding land, property owners and occupants, or the natural environment.

(4) *Compatibility with master plan.* The proposed development shall not have an adverse impact upon the master plan of the city, and shall be consistent with the intent and spirit of the master plan.

(5) *Economic impact.* The proposed development shall not result in an unreasonable negative economic impact upon surrounding properties.

(6) *Usable open space.* The proposed development shall contain at least as much usable open space as would otherwise be required by the existing underlying zoning.

(7) *Unified control.* The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project, or assuring completion of the project by appropriate dedication and contractual provisions, in conformity with this chapter.

The applicant shall provide legal documentation of single ownership or control in the form of agreements, contracts, covenants, and deed restrictions which indicate that the development can be completed as shown on the plans, and further, that all portions of the development that are not to be maintained or operated at public expense will continue to be operated and maintained by the developers or their successors. These legal documents shall bind all development successors in title to any commitments made as a part of the documents. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is given to the building department.

(Code 1994, § 16.02)

Sec. 51-16.03. Project design standards.

Proposed planned unit developments shall comply with the following project design standards:

(1) *Location.* A planned unit development may be approved in any location in the city, subject to review and approval as provided for herein.

(2) *Permitted uses.* Any land use authorized in this chapter may be included in a planned unit development as a principal or accessory use, provided that:

a. The predominant use on the site shall be consistent with the uses specified for the parcel on the city's master plan and future land use map.

b. There shall be a reasonably harmonious relationship between the location of buildings on the site relative to buildings on lands in the surrounding area.

c. Nonresidential uses shall be separated and buffered from residential uses in a manner that is consistent with good site design and planning principles.

d. The mix of uses and the arrangement of those uses within a planned unit development shall not impair the public health, safety, welfare, or quality of life of residents or the community as a whole.

e. Where the existing underlying zoning district is residential, commercial and office uses may be permitted as a part of a planned unit development, provided that such nonresidential uses are clearly subordinate to the principal residential use on the site.

(3) *Residential density.* The overall average density of residential uses within a planned unit development shall be based on the character and adaptability of the site, the future land use map designation, compatibility with surrounding land use, and the size of the site. In consideration of these factors, the overall average density shall not exceed ten units per acre, except that the overall average density may be increased to 15 units per acre on sites that are 12 acres or larger and further, provided that council may, upon recommendation of the planning commission, approve a greater overall average density. For the purposes of computing density, gross acreage shall include the following:

a. All areas to be used for residential purposes, including off-street parking in residential areas;

b. Wetlands, woodlands, and lakes within the portion of the site that is being developed for residential purposes;

c. Parks and open space devoted exclusively for residential use or for natural resource protection. Upon recommendation from the planning commission, the city council may consider land allocated to a commercial recreation use, such as a golf course, in determining the appropriate density of residential development, subject to the conditions cited below.

d. Internal local road rights-of-way. Dedicated rights-of-way for perimeter roads and internal collector and thoroughfare roads shall not be included in the gross acreage for the purposes of computing density. An increase in density may be permitted by the city council, upon recommendation from the planning commission, upon finding that the increase is justified because certain characteristics of the proposed development would result in a substantial benefit to the users and the community as a whole. Among the characteristics which the planning commission and City Council may consider in making this determination are the following:

1. The planned unit development exhibits extraordinary design excellence, examples of which include, but are not limited to, innovative energy efficient design; provision of additional open space above the required amount; added improvements to ensure vehicular and

pedestrian safety; or added landscaping or other site features to ensure a long-term, aesthetically pleasing appearance.

2. The proposed arrangement of uses and residential densities within the planned unit development enhances the compatibility of proposed development with existing or planned land use on adjacent land.

(4) *Yard setbacks.* Planned unit developments shall comply with the following yard setback requirements:

a. Along perimeter adjacent to public road: 40 feet.

b. Along perimeter, but not adjacent to a road: 20 feet.

c. Along an internal collector or local road: 30 feet.

d. Along an internal thoroughfare road: 40 feet.

e. Between parking lot and property line:

1. Adjacent to road: Ten feet.

2. Not fronting on road: Ten feet.

f. Buildings that exceed 30 feet in height shall comply with the setback requirements in section 51-17.02.

g. Required setbacks shall be measured from the existing right-of-way line, except where a setback measurement line is specified on the adopted zoning map, in which case the required setback shall be measured in accordance with said setback measurement standard.

h. Modification to these yard setback requirements may be approved by the city council, upon recommendation from the planning commission, upon making the determination that other setbacks would be more appropriate because of the topography, existing trees and other vegetation, proposed grading and landscaping, or other existing or proposed site features.

(5) *Distances between buildings.* Buildings within a planned unit development shall comply with the following spacing requirements:

a. Detached single-family structures shall be spaced in accordance with the setback requirements in the R-1A District, as specified in section 51-17.01.

b. The city council, upon recommendation from the planning commission, may permit modifications to the spacing requirements for detached single-family structures in a planned unit development, based on good planning and design principles and after taking into account the degree of compatibility between adjoining uses, sensitivity to the characteristics of the site, the need for free access for emergency vehicles, the need for adequate amounts of light and air between buildings, and the need for proper amounts of open space for the exclusive use of residents on the site.

c. Residential buildings containing more than one unit (i.e., apartments, townhouses, attached dwellings) shall conform to the spacing requirements set forth in section 51-17.02(f).

d. Nonresidential buildings shall be located at least 65 feet from any residential buildings.

e. The distance between adjacent freestanding nonresidential structures shall be based on good planning and design principles, taking into account the need for: free access for emergency vehicles, adequate amounts of light and air between buildings, and proper amounts of landscaping.

f. Modification to these building spacing requirements may be approved by the city council, upon recommendation from the planning commission, upon making the determination that other building spacing requirements would be more appropriate because of the particular design and orientation of buildings.

(6) *Building height.* Buildings within the PUD must comply with the height requirement of the underlying zoning district. City council, with the recommendation of planning commission, may modify the height requirements.

(7) *Parking and loading.* Planned unit developments shall comply with the parking and loading requirements specified in article 19.00 of this chapter.

(8) *Landscaping.* Planned unit developments shall comply with the landscaping requirements specified in section 21.35.

(9) *Open space requirements.* Planned unit developments containing a residential component shall provide and maintain usable open space, which shall comply with the following requirements:

a. Ten percent of the gross area of the site that is designated for residential use shall be set aside for such open space.

b. Any pervious land area may be included as required open space, except as follows:

1. Up to 25 percent of the required open space may include the area of any water bodies or wetlands which are covered only periodically with standing water (such as hardwood swamps or wet meadows). Another 25 percent of the required open space may be occupied by lakes or ponds, when landscaped and maintained as an integral part of a larger common area, or designated wetland that is covered by water or muck such that it is not a suitable environment for walking.

2. The city council, upon recommendation from the planning commission, may permit a greater portion of wetland areas to be counted as open space, upon determining that site conditions and constraints make it impractical to dedicate sufficient open upland areas to meet the open space requirements.

3. Required usable open space shall not include the area of any public or private road or the area of any easement providing access to the site.

c. The required open space shall be set aside by the developer through an irrevocable conveyance, such as deed restrictions or covenants that run with the land, assuring that the open space will be developed according to the site plan and never changed to another use. Such conveyance shall:

1. Indicate the proposed use of the required open space.

2. Indicate how the leisure and recreation needs of all segments of the population residing in or using the planned unit development will be accommodated.

3. Provide for the privately-owned open space to be maintained by private property owners with an interest in the open space.

4. Provide maintenance standards and a maintenance schedule.

5. Provide for assessment of the private property owners by the city for the cost of maintenance of the open space in the event that it is inadequately maintained and becomes a public nuisance.

(10) *Frontage and access.* Planned unit developments shall front onto an arterial or collector road (as designated on the future land use map) and the main means of access to the development shall be via the arterial or collector road.

a. Construction of private drives or secondary access drives as a means of providing indirect access to a public road shall be permitted, provided that all internal roads in a planned unit development shall conform to the standards and specifications promulgated by the city for public roads within the city.

b. Individual residential dwelling units in a planned unit development shall not have direct access onto an arterial or collector road. The planned unit development should be designed so that through-traffic, including traffic generated by commercial uses within the planned unit development, is discouraged from travelling on residential streets.

c. Developments which contain more than 30 dwelling units shall have at least two separate points of access. One such access point may be designed for emergency vehicle access only.

(11) *Natural features.* The development shall be designed to promote preservation of natural resources and natural features. If natural animal or plant habitats of significant value exist on the site, the planning commission or city council may require that the planned unit development plan preserve the areas in a natural state and adequately protect them as open space preserves or passive recreation areas. One hundred percent of any preserved natural area may be counted toward meeting the requirements for open space, except that designated wetlands which cannot be developed or utilized due to local, state, or federal regulations shall not be counted as open space except as permitted in subsection (9) of this section.

(12) *Sidewalks.* Sidewalks shall be provided along all roads within the planned unit development in accordance with section 51-21.36.

(13) *Additional considerations.* The planning commission shall take into account the following considerations, which may be relevant to a particular project: perimeter setbacks and berming; thoroughfare, drainage and utility design; underground installation of utilities; insulating the pedestrian circulation system from vehicular thoroughfares and ways; achievement of an integrated development with respect to signage, lighting, landscaping and building materials; and, noise reduction and visual screening mechanisms, particularly in cases where nonresidential uses adjoin off-site residentially-zoned property.

(Code 1994, § 16.03)

Sec. 51-16.04. Procedures and requirements.

The approval of a planned unit development application shall require an amendment to the zoning ordinance to revise the zoning map and designate the subject property as PUD Planned Unit Development. Approval granted under this article, including all aspects of the final plan and conditions imposed on it, shall constitute an inseparable part of the zoning amendment.

(1) *General application requirements.* The application for planned unit development shall be made on the forms and according to the guidelines approved by the planning commission. The application shall be submitted to the department of building and community development and shall be accompanied by the necessary fees and documents as specified in this section and section 51-16.03. The applicant or a designated representative shall be present at all scheduled review meetings or consideration of the plan may be tabled due to lack of representation.

(2) *Preliminary plan review.* Planned unit development projects shall undergo a two-step review and approval process involving preliminary and final review. The procedures for preliminary review are outlined in this subsection. If final site plan approval is being sought for the entire project or any phase of the project, then the preliminary plan shall be subject to the site plan review requirements in section 51-21.28, where applicable. Otherwise, the preliminary plan review requirements in section 51-16.04 shall be complied with.

a. *Information required for preliminary review.* The information required for preliminary site plan review shall be provided according to the requirements of this section. The applicant shall submit 16 copies of the preliminary plan and supporting materials to the department of building and community development at least 15 working days prior to scheduled meeting at which planning commission review is desired.

b. *Professional review.* The plan shall be transmitted to the city planner, city engineer, and city department heads for review, who shall prepare and transmit reports to the planning commission stating their findings and conclusions.

c. *Public hearing.* The planning commission shall hold at least one public hearing on any planned unit development proposal before it is approved.

1. *Scheduling a public hearing.* The planning commission shall schedule at least one public hearing after any designated agencies or consultants have completed their review and submitted their findings concerning the proposed project.

2. *Notice requirements.* Notice of the public hearing shall be published in a newspaper which circulates in the city, and sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet regardless of whether the property or occupant is located in the zoning district. Such notice shall be given not less than 15 days before the date the application will be considered for approval. If the name of the occupant is not known, the term "occupant" may be used in making notification. Such notification shall be made in accordance with the provisions of section 103 of Michigan Public Act 110 of 2006, as amended. Accordingly, the notice shall:

i. Describe the nature of the planned unit development project requested.

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

iii. State when and where the planned unit development project will be considered and the public hearing will be held.

iv. Indicate when and where written comments will be received concerning the request.

d. *Planning commission preliminary review.* Following the public hearing, the planned unit development proposal and plan shall be reviewed by the planning commission in relation to applicable standards and regulations, compliance with the planned unit development regulations, and consistency with the intent and spirit of this article.

1. Preliminary approval by the planning commission. Based on the standards and requirements set forth in this chapter and in this section, the planning commission shall

preliminarily approve, preliminarily approve subject to conditions, or deny the proposed planned unit development project and site plan.

2. Effect of preliminary approval or denial. A preliminary approval shall mean that the planned unit development project and plan meet the requirements of this chapter. Subject to any conditions imposed by the planning commission as part of its motion, preliminary approval ensures the applicant that the planning commission will grant final approval if:

    i. All state and county approvals are obtained;

    ii. No unresolved negative comments are received by any governmental agencies or public utilities; and

    iii. All federal, state and local laws and ordinances are met.

3. An unresolved negative comment shall be one that indicates the existence of a condition which is contrary to the requirements of this chapter or other applicable ordinances or laws, where such requirement has not been waived or dismissed as a result of an approval by the planning commission and city council.

4. A denial shall mean that the proposed project and plan does not meet the requirements of this chapter. Any denial shall specify the reasons for denial and those requirements of this chapter that are not met.

5. If the planning commission determines that revisions are necessary to bring the planned unit development proposal into compliance with applicable standards and regulations, the applicant shall be given the opportunity to submit a revised plan. Following submission of a revised plan, the planned unit development proposal shall be placed on the agenda of the next scheduled meeting of the planning commission for further review and possible action.

e. *State and county approval.*

1. All planned unit development projects shall require the review and approval of the following agencies prior to final plan approval:

    i. The county road commission (if the project abuts a road under county road commission jurisdiction);

    ii. The county drain commission; and

    iii. The state department of natural resources.

    In the event that negative comments are received from any of these agencies, the planning commission shall consider the nature of such comments with respect to zoning ordinance requirements, conditions on the site, response from the applicant, and other factual data related to the issue or concern. Negative comments shall not automatically result in denial of the plan, but every effort shall be made to resolve any issues or concerns cited by these agencies prior to taking action on the plan.

2. In addition to the specific required approvals, all planned unit development project plans shall have been submitted to each of the public utilities serving the site and any other local, county, or state agency designated by the planning commission for informational purposes. The planning commission shall consider any comments made by these agencies prior to final plan approval.

(3) *Planning commission final review and approval.* Final approval shall be considered by the planning commission upon the receipt of all the following:

a. A revised, dated plan incorporating all of the changes, if any, required for preliminary approval;

b. Approved plans showing all required state and county approvals pursuant to subsection (2)e of this section;

c. All comments pursuant to subsection (2)d of this section.

1. *Submission of revised plan.* The applicant shall submit 16 copies of the revised plan to the department of building and community development for final review by the planning commission. The revised plan shall be submitted at least 15 working days prior to a scheduled meeting at which planning commission review is desired.

2. *Final approval by planning commission.* The planning commission shall review the application for planned unit development, together with the public hearing findings and any requested reports and recommendations from the building official, city planner, police chief, fire chief, city engineer, and other reviewing agencies. The planning commission shall then make a recommendation to the city council, based on the requirements and standards of this chapter. The planning commission may recommend approval, approval with conditions, or denial as follows:

i. *Approval.* Upon determination by the planning commission that the final plan for planned unit development is in compliance with the standards and requirements of this chapter and other applicable ordinances and laws, the planning commission shall recommend approval.

ii. *Approval with conditions.* The planning commission may recommend that the city council impose reasonable conditions upon the approval of a planned unit development, to the extent authorized by law, for the purposes of insuring that public services and facilities affected by the proposed development will be capable of accommodating increased public service loads caused by the development, protecting the natural environment and conserving natural resources and energy, ensuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner. Conditions imposed shall be designed to protect the natural resources and the public health, safety and welfare of individuals in the development and those immediately adjacent, and the community as a whole. Conditions imposed shall also be necessary to meet the intent and purpose of this chapter and the standards set forth in section 51-16.05. In the event that the planned unit development is approved subject to specified conditions, such conditions shall become a part of the record of approval, and such conditions shall be modified only as provided in section 51-16.07.

Where a project is proposed for construction in phases, the planning commission may recommend that final approval be granted contingent on subsequent review and approval of detailed site plans for individual buildings proposed for the later phases, provided that:

(a) The location and approximate size of such buildings shall be shown on the overall plan for the planned unit development;

(b) Detailed site plans for such buildings shall be submitted for review and approval in accordance with the site plan review requirements in section 51-21.28; and

(c) Phasing requirements in section 51-16.06 shall be complied with.

iii. *Denial.* Upon determination by the planning commission that a planned unit development proposal does not comply with the standards and regulations set

forth in this chapter, including section 51-16.05, or otherwise would be injurious to the public health, safety, welfare, and orderly development of the city, the planning commission shall recommend denial.

3. *Transmittal of findings to city council.* The planning commission shall prepare and transmit a report to the city council stating its conclusions and recommendation, the basis for its recommendation, and any recommended conditions relating to an affirmative decision.

(4) *City council action required.* Following receipt of the planning commission's report, the application shall be placed on the agenda of the next scheduled city council meeting. The city council shall review the final plan together with the findings of the planning commission, and, if requested, any reports and recommendations from consultants and other reviewing agencies. Following completion of its review, the city council shall approve, approve with conditions, or deny a planned unit development proposal in accordance with the guidelines described previously in subsection (3)b of this section.

Effect of approval. Approval of a planned unit development proposal shall constitute an amendment to the zoning ordinance. All improvements and use of the site shall be in conformity with the planned unit development amendment and any conditions imposed. Notice of the adoption of the amendment shall be published in accordance with the requirements set forth in this chapter. The applicant shall record an affidavit with the register of deeds containing the legal description of the entire project, specifying the date of approval, and declaring that all future improvements will be carried out in accordance with the approved planned unit development unless an amendment thereto is adopted by the city upon request of the applicant or his successors.

(5) *Recording of planning commission and city council action.* Each action taken with reference to a planned unit development shall be duly recorded in the minutes of the planning commission or city council as appropriate. The grounds for the action taken shall also be recorded in the minutes.

(6) *Completion of site design.* Following final approval of the planned unit development proposal, a building permit may be obtained for the entire project or specific phases, provided that final site plan approval for the project or the phase, as applicable, has been obtained in accordance with section 51-21.28; and provided, further, that the engineering plans for the project or the phase, as applicable, have been approved by the city engineer and building official. It shall be the responsibility of the applicant to obtain all other applicable city, county, or state permits prior to issuance of a building permit.

a. Construction shall commence on at least one phase of the project within 24 months of final approval. The planning commission may consider a 12-month extension, upon written request from the applicant, if it finds that the approved site plan adequately represents current conditions on and surrounding the site. The written request for extension must be received prior to the 24-month expiration date. In the event that construction has not commenced and a request for extension has not been received within 24 months, the city may initiate proceedings to amend the zoning classification of the site to return it to the same classification in effect before the planned unit development was approved.

b. It shall be the responsibility of the owner of a property for which approval has been granted to maintain the property in accordance with the approved planned unit development amendment on a continuing basis until the property is razed, or until an amendment to the planned unit development is approved. Any property owner who fails to so maintain an approved site design shall be deemed in violation of this chapter and shall be subject to the penalties appropriate for such violation.

c. Prior to expansion or conversion of a planned unit development project to include additional land, site plan review and approval shall be required pursuant to the requirements of this article and the zoning ordinance.

(7) *Performance guarantee.* A performance guarantee shall be deposited with the city to ensure faithful completion of improvements, in accordance with section 51-21.30.

(Code 1994, § 16.04)

Sec. 51-16.05. Application data requirements.

(a) *Required data.* Applications for planned unit development shall include all data requirements specified in this section. All information required to be furnished under this subsection shall be kept updated until a certificate of occupancy has been issued pursuant to section 51-22.06.

(1) Requirements for preliminary review. The following information shall be included on, or attached to, all planned unit development plans submitted for preliminary review. Upon review of a specific planned unit development proposal, the planning commission may waive or modify specify requirements if they are deemed unnecessary to make the determinations required by this article. For example, if final site plan approval is not being sought as a part of the planned unit development approval for specific phases of a project, the planning commission may accept schematics and minimum or maximum development standards in lieu of specific plans and a detailed layout. The name, address and telephone number of:

a. All persons with an ownership interest in the land on which the planned unit development project will be located together with a description of the nature of each entity's interest (for example, fee owner, optionee, leasee, or land contract vendee).

b. All engineers, attorneys, architects or registered land surveyors associated with the project.

c. The developer or proprietor of the planned unit development project.

(2) The legal description of the land on which the planned unit development project will be developed together with appropriate tax identification numbers.

(3) The acreage area of the land on which the planned unit development project will be developed.

(4) An overall conceptual land use plan for the planned unit development, drawn to scale. The overall plan shall graphically represent the development concept using maps and illustrations to indicate each type of use, approximate square footage or acreage allocated to each use, and approximate locations of each principal structure and use in the development. The overall plan shall indicate types of residential use; office, commercial, industrial, and other nonresidential uses; each type of open space; community facility and public areas; and other proposed land uses. The overall land use plan shall also include the following:

a. A general location map.

b. Approximate locations and setbacks of each structure and use in the development.

c. Typical layouts and facade design for each type of use or building. Detailed information, including floor plans, facade elevations, and other information normally required for site plan review, shall be provided for buildings which are proposed for construction in the first phase.

d. The building footprint of proposed buildings. In the case of single-family detached development, the plan should indicate the setbacks and outline of the area within which a house could be constructed on each lot.

e. The vehicular circulation system planned for the proposed development, including a designation of each street as to whether it is proposed to be private or dedicated to the public.

f. The location of existing private and public streets adjacent to the proposed development with an indication of how they will connect with the proposed circulation system for the new development.

g. The approximate layout of parking areas, open space, and recreation/park areas.

h. Proposed landscape screening along the perimeter and within the site, including greenbelts, berms and screening walls.

(5) The maximum number of nonresidential and residential units to be developed on the subject parcel.

(6) An environmental analysis of the land, including a topographic survey, hydrology study, analysis of soil conditions, and analysis of other significant environmental features.

(7) Specific locations and dimensions of wetland areas and significant site features such as tree stands, unusual slopes, streams and water drainage areas.

(8) A map showing existing zoning designations for the subject property and all land within one quarter mile.

(9) A map and written explanation of the relationship of the proposed planned unit development to the city's master plan and future land use map.

(10) Maps and written analysis of the significant natural, cultural, and geographic features of and near the site. Features which shall be considered include existing vegetation, topography, water courses, wildlife habitats, streets and rights-of-way, easements, structures, and soils.

(11) An analysis of the traffic impact of the proposed planned unit development on existing and proposed streets.

(12) An analysis of the fiscal impact of the proposed planned unit development on the city and the Walled Lake School District.

(13) Documentation that the applicant has sufficient development experience to complete the proposed project in its entirety.

(14) Information concerning the stormwater and drainage system, sanitary sewer service, water service, and other utility systems.

(15) Location of sidewalks along roads and elsewhere within the development.

(16) A specific schedule for completing the planned unit development, including the phasing or timing of all proposed improvements.

(17) If final site plan approval is being sought, then the information required in section 51-21.28 for site plan review shall be submitted.

(b) *Requirements for final review.* The following information shall be included on, or attached to, all planned unit development plans submitted for final review:

(1) All information required for preliminary review as specified in section 51-16.04(2).

(2) Detailed site plans for all buildings and uses which are proposed for construction in the first phase. Detailed site plans shall comply with the site plan review requirements in section 51-21.28. Where a project is proposed for construction in phases, the planning commission may recommend that final approval be granted contingent on subsequent review and approval of detailed site plans for individual buildings proposed for the later phases.

(3) Detailed engineering plans for the entire development or the first phase, as applicable. The plans shall be prepared in accordance with the engineering standards adopted by the city council, including the following:

a. Engineering plans for all roads, drive aisles, and paved areas;

b. Site drainage plans, including retention and/or retention areas;

c. Engineering plans for proposed utility systems, including sanitary sewerage and water systems;

d. Plans for controlling soil erosion and sedimentation during construction.

(4) If the planned unit development is to be constructed in phases, the developer shall obtain final review and approval for each phase prior to the commencement of construction for that phase.

(Code 1994, § 16.05)

Sec. 51-16.06. Standards and requirements with respect to review and approval.

In considering any application for approval of a planned unit development plan, the planning commission and city council shall make their determinations on the basis of the standards for site plan approval set forth in section 51-21.28, as well as the following standards and requirements:

(1) *Conformance with the planned unit development concept.* The overall design and all uses proposed in connection with a planned unit development shall be consistent with and promote the intent of the planned unit development concept, as well as with specific project design standards set forth herein.

(2) *Compatibility with adjacent uses.* The proposed planned unit development shall set forth specifications with respect to height, setbacks, density, parking, circulation, landscaping, views, and other design and layout features which exhibit due regard for the relationship of the development to surrounding properties and the uses thereon. In determining whether this requirement has been met, consideration shall be given to:

a. The bulk, placement, and materials of construction of proposed structures.

b. The location and screening of vehicular circulation and parking areas in relation to surrounding development.

c. The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.

d. The hours of operation of the proposed uses.

e. The provision of landscaping and other site amenities.

(3) *Public services.* The proposed planned unit development shall not exceed the capacity of existing and available public services, including, but not necessarily limited to, utilities, public roads, police and fire protection services, and educational services, unless the proposal contains an acceptable plan for providing necessary services or evidence that such services will be available by the time the planned unit development is completed.

(4) *Impact of traffic.* The planned unit development shall be designed to minimize the impact of traffic generated by the proposed development on surrounding uses. In determining whether this requirement has been met, consideration shall be given to:

a. Access to major thoroughfares.

b. Estimated traffic to be generated by the proposed development.

c. Proximity and relation to intersections.

d. Adequacy of driver site distances.

e. Location of and access to off-street parking.

f. Required vehicular turning movements.

g. Provisions for pedestrian traffic.

(5) *Protection of natural environment.* The proposed planned unit development shall be protective of the natural environment, and shall be in compliance with all applicable environmental protection laws and regulations.

(6) *Compatibility with the master plan.* The proposed planned unit development shall be consistent with the general principles and objectives of the adopted master plan and future land use map.

(7) *Compliance with applicable regulations.* The proposed planned unit development shall be in compliance with all applicable federal, state, and local laws and regulations.

(Code 1994, § 16.06)

Sec. 51-16.07. Phasing and commencement of construction.

Where a project is proposed for construction in phases, the project shall be so designed that each phase, when completed, contains all essential features, services, and facilities, necessary to ensure the long-term viability of each such phase, even if later phases are not completed. In addition, proposed phasing shall comply with the following requirements:

(1) In developments which include residential and nonresidential components, the residential component shall be completed at the same rate or prior to the nonresidential component. For example, if 50 percent of the nonresidential component is proposed to be completed in a certain phase, then at least 50 percent of the residential component should be completed in the same phase. One hundred percent of the residential component shall be completed prior to the final phase of nonresidential construction. The construction of roads, utilities, and other infrastructure shall be considered completion of a residential component.

The purpose of this provision is to ensure that planned unit developments are constructed in an orderly manner and, further, to ensure that the planned unit development approach is not used as a means of circumventing restrictions on the location or quantity of certain types of land use. For the purposes of carrying out this provision, the percentages shall be approximations as determined by the planning commission based on the floor area and land area allocated to each use. Such percentages may be varied should the city council, upon recommendation from the planning commission determine that the applicant has presented adequate and effective assurance that the residential component or components of the project shall be completed within the specified period.

(2) Construction shall be commenced for each phase of the project within 24 months of the schedule set forth on the approved plan for the planned unit development. The applicant may submit a revised phasing plan for review and approval by the planning commission. The applicant shall also submit a statement indicating the conditions which made the previous phasing plan unachievable. In the event that construction has not commenced within the required time period and a revised phasing plan has not been submitted, the city may initiate proceedings to amend the zoning classification of the site to return it to the same classification in effect before the planned unit development was approved.

(Code 1994, § 16.07)

Sec. 51-16.08. Revision of approved plans.

(a) *General revisions.* Approved final plans for a planned unit development may be revised in accordance with the procedures set forth in section 51-16.03.

(b) *Minor changes.* Notwithstanding section 16.07(1), minor changes may be permitted by the planning commission following normal site plan review procedures outlined in section 51-21.28, subject to its finding that:

(1) Such changes will not adversely affect the initial basis for granting approval.

(2) Such minor changes will not adversely affect the overall planned unit development in light of the intent and purpose of such development as set forth in section 15-16.01.

(Code 1994, § 16.08)

ARTICLE 17.00. SCHEDULE OF REGULATIONS

Sec. 51-17.01. Area, height, bulk and placement requirements.

Zoning Districts	Lot Minimums		Maximum Building Height[p]		Maximum Coverage of Lot by All Buildings (Percent)	Front Yard[o]	Minimum Setback Measured From Lot Line (Feet)[a, b, c, n]		Rear Yard	Waterfront Yard	Minimum Usable Floor Area Per Unit (In Square Feet)
							Side Yards				
	Area (Sq. ft.)	Width (Ft.)	In Stories	In Feet			Least One	Total of Two			
R-1A Single-family	12,000	90	2	30	30	30[o]	10n	25n	35	30	1,000
R-1B Single-family	9,600	80	2	30	30	30[o]	5[n]	20[n]	35	30	950
RD Two Family	12,000	100	2	30	30	30	5	20	35	30	950
RM-1 and RM-2 Multiple-family	40,000 d	200	2	30	35[d]	50[d, e, f]	20[d, e, f]	40[d, e, f]	35[d, e, f]	30	[d ,e]
RM-3 Multiple-family	j	j	j	j	j	j	j	j	j	30	j
O-1 Office	15,000	100	2	25	-	30i	10g	20g	20h	30	-
C-1 Neighborhood Commercial	15,000	100	2	30	-	30i	10g	20g	20h	30	-
C-2 General Commercial	15,000	100	2	30	-	35i	10g	20g	20h	30	-
C-3 Central Business	15,000	50	2	30	-	30i	10g	20g	20h	30	-
CS Community Service	15,000	100	2	30	-	30	25	50	25	30	-

I-1 Limited Industrial	15,000	100	2	40	-	50i	10g	20g	25h	30	-
P-1 Parking	-	-	1	12	-	10	5	10	10	30	-

See following section 51-17.02 for notes to schedule of regulations.

(Code 1994, § 17.01)

Sec. 51-17.02. Notes to schedule of regulations.

(a) Required setbacks shall be measured from the existing right-of-way line, except where a setback measurement standard is specified on the adopted zoning map, in which case the required setback shall be measured in accordance with said setback measurement standard.

(b) See section 51-21.10 for accessory building regulations.

(c) See section 51-21.07 for corner lot setbacks on side streets.

(d) The following schedule shows the maximum permissible density and minimum lot area in the RM-1 and RM-2 Districts. The minimum lot area, for each separate development, is 40,000 square feet. The maximum area per unit and maximum density shall be calculated according to the following schedule:

Zoning District	Efficiency and 1-Bedroom Units		2-Bedroom Units		3- or More-Bedroom Units	
	Minimum Area Per Unit	Maximum Density*	Minimum Area Per Unit	Maximum Density*	Minimum Area Per Unit	Maximum Density*
RM-1	5,000 sq. ft.	8.7	5,500 sq. ft.	7.9	6,000 sq. ft.**	7.2
RM-2	3,800 sq. ft.	11.4	4,300 sq. ft.	10.1	4,800 sq. ft.**	9

* Maximum density in units per acre is based upon number of bedrooms for that particular zoning district. The area used to compute density shall be the total area of the parcel exclusive of dedicated right-of-way.

** An additional 500 square feet of minimum lot area shall be required for each additional bedroom over three. A den, library or any other similar extra room shall count as a bedroom for the purpose of computing minimum lot area.

(e) Multiple-family building setback and minimum plan area required. All yards in any multiple-family district abutting any major thoroughfare shall be a minimum of 50 feet in depth and shall be measured from the nearest edge of said right-of-way toward any building. Minimum yard and building standards in the RM-1 and RM-2 districts shall be as follows:

(1) Minimum width of lot: 200 feet.

(2) Maximum building length: Multiple-family buildings shall not exceed 150 feet in overall length, measured along the front line of connecting units, inclusive of any architectural features which are attached to or connect the parts of the building together. Buildings which are adjoined by walls, arches, or similar features shall be considered separate, distinct buildings; each such building shall not exceed 150 feet in overall length, and the buildings shall be separated the distance specified in subsection (f) of this section.

(3) Minimum lot setbacks:

a. Front yard: 50 feet.

b. Each side yard: 20 feet.

c. Rear yard: 35 feet.

(4) Minimum floor area/unit:

a. 1-bedrooms: 600 square feet.

b. 2-bedrooms: 800 square feet.

c. 3-bedrooms: 1,000 square feet.

d. 4-bedrooms: 1,200 square feet.

(f) Building placement relationship. Front, side, and rear spacing between any two multiple-family buildings shall have the following minimum dimensions:

(1) Relationship of: Overall distance.

(2) Building to building: Between buildings.

(3) Front to front: 50 feet.

(4) Front to rear: 50 feet.

(5) Rear to rear: 75 feet.

(6) Rear to side: 50 feet.

(7) Side to side: 50 feet.

(8) Corner to corner: 50 feet.

(9) Side to corner: 50 feet.

Minimum clear open space for any principal building shall be measured horizontally and perpendicular from the exterior wall of said building in a direction away from such exterior wall and shall not be less than 25 feet and shall not be used for off-street parking.

(g) Within the O-1, C-1, C-2, C-3, and I-1 zoning districts, the minimum side yard setback as listed in the schedule of regulations shall be at least ten feet on each side of the principal building provided, however, that the side yard may be reduced to zero where there is a party wall construction if such party walls are composed of fire proof materials and further that such party walls contain no windows and/or doors. The side yard may be reduced to zero only where the adjoining property is zoned O-1, C-1, C-2, C-3, or I-1.

(h) Dumpsters and dumpster enclosures shall comply with the setback requirements in section 51-21.39.

(i) Setback requirements for off-street parking are set forth in section 51-19.01(k).

(j) See article 7.00 of this chapter, section 51-7.04, for area, height, bulk and placement requirements in the RM-3 District.

(k) See section 51-21.45 for permitted projections into required yard areas.

(l) The required front setback within the Old Downtown and along portions of Pontiac Trail and Maple Road delineated on the Downtown Overlay District Setback Map shall be as follows:

	Old Downtown	Pontiac Trail and Maple Road[(1)]
Minimum Front	Zero[(2)]	15 ft.

Maximum Front	5 ft.	None Established

[1] See downtown overlay district setback map.

[2] On corner parcel buildings shall be set back a sufficient distance to provide adequate sight distance for drivers.

(m) Impervious surface in single-family districts. A maximum of 35 percent of the parcel shall be covered by impervious surfaces in the R-1A and R-1B districts.

(n) Lots of record with widths between 65 feet and 74 feet may have a side yard total of 15 feet with 5 feet being the least, and lots of record less than 65 feet in width may have a side yard total of 12.5 feet, with the least side being 3.5 feet.(amended Feb. 2000)

(o) Front setback in single family districts. Except as expressly provided by this article, the minimum front setback in single family districts shall be based on the established residential building pattern (ERBP), or the minimum setback specified in the schedule of regulations (section 51-17.01), whichever is less. All prior interpretations of this subsection adopted by the zoning board of appeals prior to the effective date of this ordinance are hereby vacated.

For single family properties zoned R-1A and R-1B that have E. Walled Lake Dr. frontage from Leon Rd. to W. 14 Mile Road, the minimum front setback shall be based on the ERBP.

The ERBP setback shall be equal to the average of the front setbacks of the immediately adjacent dwelling on each side of the subject parcel on the same side of the road and in the same zoning district as the subject parcel, subject to the following requirements:

a. In the event that one of the adjacent parcels is vacant, then the minimum setback specified in section 51-17.01 shall be used for that parcel in calculating the ERBP.

b. In the event that the subject parcel is on a corner, then the minimum setback specified in section 51-17.01 shall be used in the ERBP calculations as the adjacent setback figure for the side of the parcel that adjoins a street.

c. The front setback of each adjacent structure shall be measured at the shortest distance between the structure's exterior surface and the front lot line.

(p) To minimize impacts on contiguous, developed, single-family residential property and ensure compatibility for new projects in established residential neighborhoods, the first-floor elevation height of new structures shall be consistent with the finished first floor elevation height of contiguous residences, in conformance with other requirements of this chapter.

(Code 1994, § 17.02; Ord. No. C-356-20 , § 2, 10-20-2020)

ARTICLE 18.00. NONCONFORMITY; NONCONFORMING USES OF LAND, NONCONFORMING STRUCTURES, AND NONCONFORMING USES OF STRUCTURES AND PREMISES

Sec. 51-18.01. Intent.

(a) It is the intent of this article to permit legal nonconforming lots, structures, or uses to continue until they are removed, but not to encourage their survival.

(b) It is recognized that there exists within the districts established by this chapter and subsequent amendments, lots, structures, and uses of land and structures which were lawful before this chapter was passed or amended which would be prohibited, regulated, or restricted under the terms of this article or future amendments.

(c) Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, nor be used as ground 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 chapter 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 in the district involved.

(d) To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this chapter 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.

(Code 1994, § 18.01)

Sec. 51-18.02. Nonconforming uses of land.

Where, at the effective date of adoption or amendment of this chapter, a lawful use of land exists that is no longer permissible under the terms of this chapter as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

(1) No such nonconforming use shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.

(2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot occupied by such use at the effective date of adoption or amendment of this chapter.

(Code 1994, § 18.02)

Sec. 51-18.03. Nonconforming structures.

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

(1) No such structures shall be enlarged or altered in a way which increases their nonconformity. Such structure may, however, be enlarged or altered in a way which does not increase nonconformity.

(2) Should such structure be destroyed by any means to the extent of 200 percent of its state equalized value, exclusive of foundation, it shall be reconstructed only in conformity with the regulations pertaining to the district in which it is located. Damage and destruction of a lesser extent to a nonconforming structure may be restored or replaced only when such restoration may be accomplished in compliance with current construction code ordinances of the city and no expansion of the structure results.

(3) 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.

(4) Nothing contained in this chapter shall, however, prohibit a single-family residential homeowner from improving his homestead by an enlargement or alteration of the homestead structure so long as the enlargement or alteration thereto is in keeping as near as reasonably can be with the provisions contained in this chapter and provided such improvement receives the prior approval of the zoning board of appeals; provided further that any homestead destroyed by any means, except voluntary destruction, to an extent of more than 100 percent of its current state equalized value at the time of destruction, may be reconstructed by a homeowner as his homestead provided such reconstruction meets the provisions of this chapter as near as reasonably can be. Under this section, a homeowner may only have one homestead in the city and such homestead must be his sole residence in the city and he must be residing in or have resided therein at time application to enlarge, alter or reconstruct is applied for.

(Code 1994, § 18.03)

Sec. 51-18.04. 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 chapter, that would not be allowed in the district under the terms of this chapter, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No existing structure devoted in whole or in part to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, 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 chapter, 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 planning commission, by making findings in the specific case, shall find that the proposed use is more appropriate to the district than the existing nonconforming use. In permitting such change, the planning commission may require appropriate conditions and safeguards in accordance with the purpose and intent of this chapter.

(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) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or ceases to exist for six consecutive months or for 12 months during any three-year period, or is otherwise sooner abandoned, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. In applying this section to seasonal uses, the time during the off-season is not counted, provided that the off-season time for such uses are reported to the building inspector.

(6) 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.

(Code 1994, § 18.04)

Sec. 51-18.05. Repairs and maintenance.

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding 50 percent of the state equalized value of the building, providing that the cubic content of the building as it existed at the time of passage or amendment of this chapter shall not be increased. Nothing in this chapter 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.

(Code 1994, § 18.05)

Sec. 51-18.06. Special approval uses.

Any use which is listed as a principal use permitted subject to special approval in this chapter shall be deemed a conforming use.

(Code 1994, § 18.06)

Sec. 51-18.07. 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.

(Code 1994, § 18.07)

Sec. 51-18.08. City removal of nonconforming uses and/or structures.

The city may acquire by purchase, condemnation, or otherwise, private property for the removal of nonconforming uses and/or structures. Pursuant thereto, the council may, in its discretion, provide that the cost and expense of acquiring such property be paid from general funds or that any portion thereof be assessed to a special district.

(Code 1994, § 18.08)

Sec. 51-18.09. Nonconforming lots of record.

(a) Notwithstanding limitations imposed by other provisions of this chapter, permitted uses may be developed on any single lot of record at the effective date of adoption or amendment to this chapter.

(b) 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 yard dimensions and other requirements not involving lot area or lot width, or both, shall conform to the regulations for the district in which the lot is located. Variances from yard requirements may be sought through application to the zoning board of appeals.

(c) If two or more lots or combination of lots and portions of lots with continuous frontage in single ownership are recorded at the time of passage or amendment of this chapter, and if all or part of such lots do not meet the requirements of the schedule of regulations and footnotes for lot width and area, the lands involved shall be considered to be a single undivided lot for building permit and all other purposes of this chapter, and no portion of said lot shall be used or sold in any manner which diminishes compliance with lot width, yard, and area requirements established by this chapter, nor shall any division of any lot be made which creates a lot

width, yard, or area less than the requirements stated in this chapter. These same provisions shall apply to platted and unplatted lots or parcels.

(d) When two or more abutting or contiguous lots (one or more of which is/are nonconforming in width or area) are of record and in single ownership as of the effective date of the ordinance from which this chapter is derived and each is occupied by a principal structure (as of the effective date of the ordinance from which this chapter is derived) the two or more abutting lots shall be deemed as nonconforming lots of record under this chapter.

(Code 1994, § 18.09)

ARTICLE 19.00. OFF-STREET PARKING AND LOADING REQUIREMENTS

Sec. 51-19.01. Off-street parking required.

(a) *Sufficient space required.* For every use, activity, or structure permitted by this chapter and for all buildings or structures erected in accordance therewith, there shall be provided sufficient space for access and off-street standing, parking, circulation, unloading, and loading for motor vehicles that may be expected to transport its users or occupants, whether as patrons, residents, customers, employees, guests, or otherwise, to an establishment, activity, or place of residence at any time under normal conditions for any purpose. When a use is expanded, accessory off-street parking and loading shall be provided in accordance with the regulations herein for the area or capacity of such expansion in combination with the previously existing uses, structure, or activity. Existing off-street parking facilities actually being used on the effective date of the ordinance from which this article is derived, for the parking of automobiles in connection with the operation of an existing building or use shall not be reduced to an amount less than that hereinafter required for a similar new building or use unless additional parking facilities of the same amount are provided as described herein.

(b) *Single-family residential districts.* Two paved parking spaces shall be provided per single-family residential dwelling unit. Required parking may be located in a garage. Driveways and all additional parking (above the required two spaces) shall be paved, except that paving shall not be required for occasional, temporary parking. Also, this paving requirement does not apply to existing, legally installed unpaved driveways and to parking of recreational vehicles.

(c) *Nonresidential uses of residential buildings.* In any district a residential building being used for nonresidential purposes, except places of public assembly as hereinafter provided, shall provide in addition to the off-street parking space or spaces for the dwelling units required under subsection (b) of this section, off-street parking in the same amounts set forth in section 51-19.02, for that portion of the floor area which is being utilized for nonresidential purposes.

(d) *Methods of providing parking facilities.* The required off-street parking facilities for buildings used for other than residential purposes may be provided by any one, or any combination of the following methods:

(1) By providing the required off-street parking on the same lot as the building served.

(2) By providing the required off-street parking within 300 feet of the building being served, measured without crossing a major thoroughfare, from the nearest point of the lot to the nearest point of the off-street parking facility.

(3) By the collective provisions of the required off-street parking for two or more buildings or uses, provided that the total of such off-street parking area shall not be less than the sum of the requirements of the various buildings or uses computed separately and such parking areas are within

300 feet of the buildings being served, measured without crossing a major thoroughfare, from the nearest point of the building or use to the nearest point of the off-street parking facility.

(e) *Uses not specifically mentioned.* For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accordance with a use which the planning commission determines as being most similar in nature.

(f) *Change in use of parking.* Any area once designated as required off-street parking shall never be changed to any other use unless and until off-street parking facilities are provided elsewhere in accordance with this section.

(g) *Zoning of accessory parking.* All accessory parking facilities, whether provided in fulfillment of or in excess of the requirements of this section, and whether located on the same or on a different lot from the principal use as provided herein, shall be located on property zoned within the same, or a less restrictive zoning district as the principal use served by the parking.

(h) *Joint parking facilities.* Off-street parking facilities for different buildings, structures, or uses, or for mixed uses, may be provided and used collectively or jointly in any zoning district in which separate off-street parking facilities for each constituent use would be permitted, subject to the following provisions.

(1) The parking spaces required for a theater or other place of evening entertainment, for a church, for multifamily dwelling units, or for a school, may be provided and used jointly by banks, offices, retail stores, repair shops, service establishments, and similar uses not normally open, used, or operated during evening hours if specifically approved by the planning commission; provided, however, that written agreement ensuring the retention for such purpose shall be properly drawn and executed by the parties concerned.

(2) A written agreement assuring the perpetual joint usage of said common parking for the combination of uses or buildings shall be properly drawn and executed by the parties concerned, approved as to form and execution by the planning commission and city attorney, and filed with and made part of the application for a building permit.

(i) *Mixed uses.* For building or land containing more than one use, the total parking requirement shall be determined to be the sum of the requirements for each use, unless joint parking facilities shall be provided.

(j) *Duty of continuing compliance.* Notwithstanding any transfer of the title to the real estate on which building or buildings are located, the transferees and occupants shall continue to maintain the off-street parking and loading area requirements of this chapter. It shall be unlawful for the owner or occupants of any building to discontinue or change, or cause the discontinuance or change of the required off-street parking without establishing, prior to such discontinuance or change, alternative off-street parking which meets the requirements of and is in compliance with this chapter.

(k) *Location.* Off-street parking lots shall comply with the following locational and screening requirements:

(1) *Minimum front setbacks.* Off-street parking shall not be permitted in the front yard of residential and community service districts. Off-street parking lots may be located in the front yard of office, commercial, industrial, and vehicular parking districts, provided that no portion of any parking lots shall be located closer than 20 feet to the setback measurement line or street right-of-way. If the planning commission determines unusual circumstances exist on the site, which present practical difficulties in complying with the 20-foot front yard setback requirement, then it may reduce the minimum setback distance by up to ten feet. Front yard parking lots shall comply with the screening requirements in section 51-21.35(4)e. Parking lots located in the downtown overlay district shall comply with the screening requirements in section 51-29.05(6)b.

(2) *Minimum side and rear setback.* No portion of any off-street parking lot shall be located closer than 7½ feet to any property line that abuts another parcel of land that is used or zoned for residential

purposes. Rear and side yard parking lots abutting a parcel of land zoned for residential purposes shall comply with the screening requirements in section 51-21.14. The setback may be reduced to five feet where the abutting parcel of land is used and zoned for nonresidential purposes.

a. Notwithstanding these requirements, in office, commercial, industrial, and vehicular parking districts, a zero setback may be permitted where parking lots on adjacent parcels abut one another such that they function as a single parking lot, allowing free flow of traffic across the common property line.

b. Minimum waterfront setback. No portion of any off-street parking lot shall be located closer than ten feet to the water line, unless otherwise specified in this chapter.

(3) *Parking setbacks in mobile home parks.* Parking setbacks in mobile home parks shall be subject to the mobile home commission rules.

(4) *Use of setback area.* The required setback area shall be appropriately landscaped or used for installation of screening, in accordance with section 51-21.14 or 51-21.35.

(Code 1994, § 19.01)

Sec. 51-19.02. Off-street parking requirements.

The minimum number of off-street parking spaces by use shall be determined in accordance with the following schedule:

Use	Number of Off-Street Parking Spaces Per Each Unit of Measure as Follows:
(a) Residential	
1. Single-family dwellings	Two per dwelling unit.
2. Multiple-family and apartments	A minimum of two independently accessible off street parking spaces shall be provided for each unit. One or both required spaces may be located in a garage or carport. In addition to the spaces for each unit, four off street spaces shall be provided per ten units for visitors.
3. Boarding, rooming, lodging establishments, and/or tourist homes	One and one-tenth (1.1) parking space for each occupancy unit plus one parking space for each employee.
4. Senior citizen housing	One parking space for each dwelling unit, plus one parking space for each employee, plus three spaces for each 10 units. Should units revert to general occupancy, then parking spaces shall be provided as indicated in No. 2 above.
5. Mobile home park	Two for each mobile home site and one for each three mobile homes for visitor parking.
(b) Institutional	

1. Churches, temples, community centers and similar places of public assembly having fixed seating	One per three seats or six linear feet or benches or pews in the main unit of assembly.
2. Dance halls, assembly halls, exhibition halls, mechanical amusement arcades places of public assembly not having fixed seating	One per each three persons allowed within a maximum occupancy as established by fire, building, or health codes.
3. Theaters, auditoriums or similar places of indoor assembly	Two per each five seats, or ten linear feet of bench, or one for every three persons allowed at maximum occupancy (as applicable) plus one additional for each employee.
4. Nurseries and childcare centers	One for each employee, plus two per classroom. Plus auditorium, if applicable.
5. Nursing homes, convalescent homes, orphanages, children's homes, special group housing and similar institutional uses for care of the young, ill, aged, or impaired	One for each four beds, plus one for each staff or visiting doctor, plus one for each employee including nurses.
6. Industrial or vocational school, including commercial schools, business schools, computer technology schools, and schools for special education	One parking space for every teacher, employee, and administrator, and one parking space for each two students. Additional parking shall be provided to accommodate any retail sales or service activities conducted.
7. Stadium, sports arena, or similar place of assembly	Two parking spaces for each five seats or similar vantage accommodation provided or two parking spaces for each ten linear feet of benches, plus one for each employee.
8. Fraternities or sororities, dormitories, or other residence halls	One parking space for each two beds or one for each 500 square feet of floor space, whichever is greater.
9. Hospitals and sanitariums	One parking space for every two beds plus one for each five outpatients plus one additional space for each employee, computed on the basis of the greatest number in the largest working shift.
10. Library	One parking space for each 300 square feet of floor space, plus one additional space for each employee on the largest shift.
11. Museum, cultural center, or similar facility	One parking space for each 300 square feet of floor space, plus one parking space per employee on the largest shift.

12. Post office	One parking space for every 200 square feet of usable floor area, plus one space for each person employed on the largest shift, plus one designated parking space for each postal vehicle.
13. Private civic, fraternal club or lodge	One parking space for every 50 square feet of floor area, or one per three persons of maximum occupancy as established by the fire marshal, whichever is greater.
14. Private swimming pool clubs	One parking space for every two member family or individual member.
15. Swimming pools (community)	One parking space for every four persons lawfully permitted plus one per each employee.
16. Senior high schools, public or private	One parking space for every teacher, employee, or administrator, plus one parking space for every ten students in addition to the requirements for the assembly hall, stadium, or sports arena.
17. Elementary, junior high schools, and intermediate schools, public or private	One parking space for each teacher, administrator, or other employee in addition to the requirements of the auditorium. The number of teachers, administrators, and other employees shall be based on the design capacity of the facility. If there is no auditorium or assembly hall, then two spaces per classroom shall be provided in addition to those for each teacher, administrator, or employee.
(c) Offices	
1. General tenant offices, professional offices of lawyers, architects, engineers, urban planners, and similar professions	One for each 150 sq. ft. of usable floor area.
2. Offices of doctors, dentists and similar practitioners, medical and dental clinics and sales offices for real estate, insurance, and similar professions	One for each 100 sq. ft. of usable floor area in waiting rooms plus one for each examining room, dental chair, or similar use area, plus one for each two employees.
(d) Retail sales or services	
1. Retail stores, except as otherwise specified herein	One for each 150 sq. ft. of usable floor area.

2. Planned commercial or retail shopping centers	One for each 150 sq. ft. of usable floor area.
3. Furniture or major appliances, household equipment, personal service shops (other than barber and beauty shops) repair shops, showroom of a plumber, decorator, electrician or a similar trade, shoe repair and other similar uses	One for each 800 sq. ft. of gross floor area, exclusive of that floor area used for processing for which one additional space shall be provided for each two persons employed therein.
4. Laundromats and self-service dry cleaning establishments	One for each two machines.
5. Banks, and similar financial institutions	One for each 200 square feet of usable floor area, plus one for each person employed on the largest shift.
6. Barber and beauty shops	One for each employee and/or service operator, plus two for each service chair and one additional for every two stationary hair dryers.
7. Bowling alleys	Five per alley plus such additional spaces as are required for restaurants, bars, assembly rooms and affiliated facilities.
8. Automobile service and filling stations	Two for each service bay, and one for each 200 sq. ft. of usable sales floor area; plus one for every two employees, with a minimum of two employee spaces.
9. Auto washes	One for each employee. In addition, stacking spaces equal in number to five times the maximum capacity of the auto wash for automobiles awaiting entrance to the auto wash shall be provided. "Maximum capacity" shall mean the greatest number possible of automobiles undergoing some phase of washing at the same time, which shall be determined by dividing the length of each wash line by 20 feet.
10. Auto repair, auto body repair, buffing, and/or collision	One per bay plus one space per each employee on the peak shift. The area used to store damaged or inoperative vehicles shall be screened as required for outdoor storage areas in this chapter and shall not be counted as off-street parking. Adequate area shall be

	provided to store two vehicles for every service bay.
11. Mortuary establishments	One for each 50 sq. ft. of assembly room, parlor and slumber room usable floor area, plus sufficient stacking space for assembly prior to funeral processions.
12. Indoor recreation facilities, athletic clubs, physical exercise establishments, skating rinks, exhibit or assembly halls, court recreation, health studios, sauna baths and similar use	One per each three patrons based on maximum occupancy as established by local, county or state fire, building or health codes, whichever is greater, plus one space per employee at peak shift; plus such space as required for affiliated uses such as bar, restaurant, etc.
13. Outdoor recreation facilities such as athletic, swimming, tennis, or similar uses	One per each potential patron plus one per peak shift employee; plus such spaces as may be required for any indoor facilities.
14. Restaurants	
a. Dining room, including banquet areas	One per 65 sq. ft. of usable floor area.
b. Lounge	One per 50 sq. ft. of usable floor area. That portion of a larger dining facility utilized for lounge shall be computed at this rate.
c. Fast food restaurant	One per 30 sq. ft. of usable floor area.
d. Carry-out restaurant	One per 80 sq. ft. of usable floor area or six spaces, whichever is greater.
e. Drive-in or drive-through restaurant	One per 30 sq. ft. of usable floor area plus ten stacking spaces for each or drive-through transaction station.
15. (New) motor vehicle sales rental, and service establishments	One parking space for each 200 square feet of floor area exclusive of the service area, plus one parking space for each auto service stall in the service room, plus one space per employee on the largest shift.
16. (Used) motor vehicle sales	One parking space for every 500 square feet of outdoor sales area plus one space for each auto service stall, plus one space per employee on the largest shift.
17. Pool room, billiard parlor, and table game establishments	Either one parking space per pool table, billiard table, or game, plus one space for every 20 square feet of floor area or one parking space per three persons based on the occupancy load as established by local,

	county, and state fire, building, and health codes, whichever is greater.
18. Open air businesses, including nurseries	One parking space per 500 square feet of land area being utilized for sales or rental purposes, plus one space per employee.
19. Retail lumber yard	One parking space for each employee on the largest shift, plus one space for each 150 square feet of enclosed retail sales areas.
20. Self-service storage facility (mini-warehouse)	Five, plus one for every 100 storage cubicles, plus one for every employee in the largest working shift.
21. (Reserved for future use)	
(e) Wholesale and warehouses	
1. Wholesale, storage and warehousing establishments	Five, plus one for each employee in the peak working shift or one for each 1,700 sq. ft. of usable floor area, whichever is greater. Any retail or service area shall be in addition to the above.
2. Heavy equipment storage yard, non-retail lumber and building materials yard, motor freight terminal or junk yard	One parking space per employee on the largest shift, plus one space per company vehicle, plus sufficient space to accommodate the largest number of visitors that may be expected at any one time, but with a minimum of one space per 1,000 square feet of gross floor area.
3. Manufacturing establishment or establishment for production, processing, assembly, compounding, preparation, cleaning, servicing, testing, repair or storage of materials, goods or products, and business offices accessory thereto	One parking space per employee on the largest shift, plus one space per company vehicle and piece of mobile equipment plus sufficient space to accommodate the largest number of visitors that may be expected at any one time, but with a minimum of one space per 1,000 square feet of gross floor area.

Sec. 51-19.03. Off-street parking space, layout, standards, construction and maintenance.

Whenever the off-street parking requirements require the building of an off-street parking facility or where the P-1 Vehicular Parking District is used for parking purposes, such off-street parking lots shall be designed, constructed, and maintained in accordance with the following standards and regulations.

(1) No building, structure, or land shall be erected or used for parking or driveway purposes of more than three required parking spaces unless a site plan therefor has been approved by the planning commission.

(2) No parking lot shall be constructed without a proper permit issued by the building inspector. Application for a permit shall be submitted to the building department in such form as may be determined by the department and shall be accompanied by not less than two sets of site plans for the development of the parking lot showing that the provisions of this section will be fully complied with.

(3) The parking facilities shall not be less than the following minimum requirements:

Parking Pattern	Maneuvering Lane Width	Parking Space Width	Parking Space Length	Tot. Width of One Tier of Spaces + Maneuvering Lane	Tot. Width of Two Tiers of Spaces + Maneuvering Lane
0 degrees (parallel parking)	12 ft.	9 ft.	23 ft.	20 ft.	30 ft.
30 to 53 degrees	12 ft.	9 ft.	20 ft.	32 ft.	52 ft.
54 to 74 degrees	15 ft.	9 ft.	20 ft.	36 ft., 6 in.	58 ft.
75 to 90 degrees	20 ft.	9 ft.	20 ft.	40 ft.	60 ft.

(4) Except for parallel parking, all parking spaces shall be clearly striped with a minimum of four-inch-wide double lines 24 inches apart, to facilitate movement and to help maintain an orderly and efficient parking arrangement.

(5) Parking space standards.

a. All parking spaces shall be nine feet in width, center to center, and 20 feet in length.

b. Barrier-free accessible parking. The required number of barrier-free accessible parking spaces shall comply with the following table[1, 2]:

Total Number of Parking Spaces Provided	Minimum Number of BFA Parking Spaces Required[1, 2]
1—25	1
26—50	2
51—75	3
76—100	4
101—150	5
151—200	6
201—300	8
301—400	12
401—700	14

701—1,000	1 per 50 spaces provided or fraction thereof
1,001 +	20 plus 1 per 100 over 1,000 or fraction thereof

1. No less than ten percent of the total parking spaces provided for Medical outpatient facilities shall be barrier-free accessible parking spaces.

2. A minimum of one barrier-free van-accessible parking space is required for every eight, or fraction of eight, barrier-free parking spaces provided.

c. Barrier-free accessible parking spaces (standard). Standard barrier-free accessible parking spaces shall be a minimum of eight feet in width, 20 feet in length, and have a minimum of one adjacent access aisle of five feet in width and 20 feet in length. An access aisle may be shared by two barrier-free accessible parking spaces. The surface slope of accessible parking spaces and access aisles shall not exceed 1:48 in any direction. Access aisles must be at the same level as the accessible parking spaces it serves.

d. Barrier-free accessible parking spaces (van-accessible). Barrier-free van-accessible parking spaces shall be a minimum of eight feet in width, 20 feet in length, and have a minimum of one adjacent access aisle of eight feet in width and 20 feet in length. To accommodate for the operation of van-mounted wheelchair lifting devices, barrier-free van-accessible parking spaces and access aisles must have a minimum clear height above the parking space and access aisle of 98 inches from the approved grade. An access aisle may be shared by two barrier-free accessible parking spaces. The surface slope of accessible parking spaces and access aisles shall not exceed 1:48 in any direction. Access aisles must be at the same level as the accessible parking spaces it serves.

e. Barrier-free accessible passenger loading zones. Barrier-free accessible passenger loading zones shall have an adjacent access aisle, on the curb side, of at least five feet in width and 20 feet in length. The surface slope of accessible passenger loading zone and access aisles shall not exceed 1:48 in any direction. Access aisles must be parallel to and at the same elevation as the accessible passenger loading zone. A minimum clear height of 114 inches from the approved grade shall be provided above all barrier-free accessible passenger loading zones and access aisles to and from vehicle site entrances.

f. Barrier-free accessible parking space location. All barrier-free accessible parking spaces (van-accessible/standard/loading zones) must be located on the shortest possible route from the parking facility to an accessible building entrance. When the off-street parking lot does not serve a building, the accessible parking spaces shall be located on the shortest possible route to an accessible pedestrian entrance to the off-street parking lot. When a building has multiple barrier-free accessible entrances, the accessible parking spaces must be dispersed among those entrances.

g. Barrier-free accessible parking space signs. Each barrier-free accessible parking space shall be individually signed with the symbol of compliance. The sign shall be a minimum of 12 inches wide by 18 inches in height centered in the spaces designated for the vehicle with the bottom edge of the sign being a minimum of 80 inches off the ground. Barrier-free van-accessible parking space signs shall designate "Van-Accessible" on the face of the sign or on an additional sign mounted below the sign. Non-projecting wall mounted barrier-free accessible parking signs shall be mounted not less than 60 inches above the grade (see diagram).

h. Exterior barrier-free accessible routes (curb ramps). Where an accessible route crosses a curb, a curb ramp, in compliance with the city's adopted building code, as amended, State of Michigan

Barrier-Free Rules, Michigan Public Act No. 1 of 1966, as amended, and the Americans with Disabilities Act, must be provided.

i. Exterior barrier-free accessible routes (required). An exterior barrier-free accessible route shall be provided from any public transportation stop, barrier-free accessible parking space (standard and van-accessible), barrier-free accessible loading zone, and public street or sidewalk to the building's barrier-free accessible entrance being served.

j. Exterior barrier-free accessible routes (design). All exterior barrier-free accessible routes shall be uninterrupted by steps or abrupt changes in level, have a minimum width of 60 inches, and have a gradient of not more than one foot in 20 feet. Where site constraints will not permit a gradient of one foot in 20 feet, a ramp, in compliance with the city's adopted building code, as amended, State of Michigan Barrier-Free Rules, Michigan Public Act No. 1 of 1966, as amended, and the Americans with Disabilities Act, must be provided.

k. Compliance. Where more restrictive, the limitations of the city's adopted building code, as amended, State of Michigan Barrier-Free Rules, Michigan Public Act No. 1 of 1966, as amended, and the American with Disabilities Act, as amended, shall take precedence over the regulations of this ordinance.

(6) Stacking spaces shall be a minimum of nine feet wide and 20 feet in length; shall not extend into any public street right-of-way and shall be distinctly separated from on-site parking so as not to interfere with ingress and egress to parking spaces.

(7) Parallel parking spaces shall be 20 feet in length with a six-foot maneuvering space for each two parking spaces.

(8) All parking lots shall have clearly limited and defined access from roadways and said access shall not be less than 24 feet in width at the right-of-way line. Interior driveways shall also be clearly defined and not less than 12 feet wide for one-way and 20 feet wide for two-way traffic.

(9) All parking spaces shall have access from an aisle on the site. Backing directly onto a street shall be prohibited.

(10) The city may require the posting of such traffic control signs as it deems necessary to promote vehicular and pedestrian safety.

(11) Bumper stops, curbing, or wheel chocks shall be provided to prevent any vehicle from damaging or encroaching upon any required wall, berm, pedestrian or bike path or buffer strips, upon any building adjacent to the parking lot, or upon any adjacent property. Freeway-type guard rails shall be prohibited.

(12) All lighting used to illuminate any off-street parking area shall be limited to 20 feet in height or the height of the principal building, whichever is less, and so installed, maintained, and directed as to have no adverse effect upon adjacent properties.

(13) Off-street parking lots, access lanes, driveways and other vehicle maneuvering areas shall be hard-surfaced with asphalt or concrete surfacing in accordance with city standards. Off-street parking areas, access lanes and driveways shall be graded and drained so as to dispose of surface waters in an approved manner. Surface water shall not be allowed to drain on to adjoining property, unless in accordance with an approved drainage plan. Grading, surfacing and drainage shall be subject to review and approval by the city engineer.

(14) In order to ensure pedestrian safety, sidewalks, of not less than five feet in width, may be required to separate any driveway or parking area from a building.

(15) For all developments requiring site plan approval, a new public sidewalk or safety path shall be constructed in accordance with city engineering standards along any road right-of-way. In the event that sidewalks or safety paths already exist, they shall be repaired or reconstructed, as necessary. Sidewalks and safety paths shall be five feet in width and constructed of concrete, and they shall be located one foot off of the property line in the right-of-way. Where a setback measurement standard is specified on the adopted zoning map, the sidewalk or safety path shall be located one foot from the setback measurement standard line. New or reconstructed sidewalks or safety paths shall be lined with existing or proposed sidewalks or safety paths on adjoining parcels. Sidewalks or safety paths shall be continuous across driveways; in such locations, the sidewalk or safety path shall be constructed of six-inch-thick reinforced concrete.

(16) All interior circulation routes shall have rights-of-way of a sufficient width to accommodate the vehicular traffic generated by the uses permitted in the district or adequate provision shall be made at the time of the approval of the plan for such sufficient width of rights-of-way. The right-of-way provided to satisfy this condition shall conform with the right-of-way as provided in the city master plan.

(Code 1994, § 19.03)

Sec. 51-19.04. Parking lot landscaping requirements.

(a) For those uses requiring greater than 20 parking spaces, there shall be a minimum of 25 square feet of landscaping for each space in excess of 20 spaces required, and a minimum of 200 square feet of landscaping, must be provided.

(1) This parking lot requirement is exclusive of any yard and other landscaping requirement within a given zone.

(2) Parking lot landscaping shall be no less than five feet in any single dimension and no less than 150 square feet in any single area and shall be protected from parking areas with curbing, or other permanent means to prevent vehicular encroachment onto the landscaped areas. Areas less than these minimum requirements shall not be considered as meeting part of the landscaping requirements.

(b) For all off-street parking lots, a landscaping plan shall be submitted to the planning commission. The landscape plan shall include an itemized plant materials schedule with botanical and common names of materials, their locations, sizes, and quantities. The arrangement of this landscaping shall be done in such a manner as to contribute significantly to safe circulation, visual orientation, and other positive environmental factors.

(Code 1994, § 19.04)

Sec. 51-19.05. Off-street loading and unloading.

(a) *General applicability.* On the same premises with every building, structure, or part thereof, erected and occupied for manufacturing, storage, warehouse, 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.

(b) *Change of use or intensity.* 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.

(c) *Location.* Required loading spaces shall be located to the rear of the building being served, except that loading spaces may be located on the side if rear loading is not practical. No loading area shall be permitted in a required waterfront yard. Loading spaces or access thereto shall not be located where loading/unloading operations will interfere with traffic on public streets or off-street parking, regardless of the time of day when the loading/unloading operations occur. Loading space shall not be in a location where vehicles using the spaces are required to back up farther than 50 feet or back around a corner to gain access to or leave the space. Required loading spaces shall be located no farther than 15 feet from the door providing entry into the building.

(d) *Size.* Unless otherwise specified, each required loading space shall be a minimum of ten feet in width by 40 feet in length, with a vertical clearance of 15 feet.

(e) *Surfacing and drainage.* Loading areas shall be hard-surfaced with concrete or plant-mixed bituminous material. Loading areas shall be graded and drained so as to properly dispose of surface waters, subject to approval by the city engineer.

(f) *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.

(g) *Use of loading space.* Required loading space shall not be counted or used for required parking.

(h) *Minimum loading space.* The amount of loading space shall be determined in accordance with the following schedule. 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.

SCHEDULE OF LOADING SPACE REQUIREMENTS

Gross Floor Area (Sq. Ft.)	Number of Loading Spaces
0—3,000	See note 1
3,001—20,000	1 space
20,110—100,000	1 space, plus 1 space for each 20,000 sq. ft. in excess of 20,000 sq. ft.
100,001 or more	5 spaces, plus 1 space for each 40,000 sq. ft. in excess of 100,000 sq. ft.

Note 1. Establishments containing less than 3,000 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, provided that in industrial districts sufficient space must be available to accommodate a ten-foot by 40-foot loading space should it become necessary because of a change in use.

(Code 1994, § 19.05)

ARTICLE 20.00. SIGNS

Sec. 51-20.01. Purpose.

The purpose of these sign regulations is to establish requirements for signs and other displays that are needed for identification or advertising, subject to the following objectives:

(1) *Safety.* The criteria are intended to minimize distractions to motorists, protect pedestrians, and otherwise minimize any threat to public health or safety.

(2) *Aesthetics.* Signs should enhance the aesthetic appeal of the city. Thus, these regulations are intended to:

a. Regulate signs that are out-of-scale with surrounding buildings and structures;

b. Prevent an excessive accumulation of signs;

c. Encourage signs that enhance the appearance and value of the business districts; and

d. Aesthetically enhance the value of surrounding properties.

(3) *Equal protection and fairness.* These regulations are designed to be fair to each property owner by establishing uniform standards that provide adequate exposure to the public for all property owners.

(4) *Land use planning objectives.* The placement and design of signs should further the land use planning objectives of the city, and protect neighborhood character and the value of surrounding properties.

(Code 1994, § 20.01)

Sec. 51-20.02. Scope of requirements.

No sign may be erected, relocated, enlarged, structurally changed, or structurally altered in the city unless in conformance with the standards and procedures set forth in this article, including the issuance of a permit except as otherwise provided herein. Typical sign maintenance, as required in section 51-20.04(b)(3), does not require issuance of a permit.

(Code 1994, § 20.02)

Sec. 51-20.03. Definitions.

Words and phrases not defined in this section but defined in article 2.00 of this chapter shall be given the meanings set forth in article 2.00 of this chapter. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory sign means a sign which pertains to the use of the premises on which it is located.

Add-on sign means a sign that is attached as an appendage to another sign, sign support, or a building, and is intended to draw attention to the goods or services available on the premises.

Animated sign means a sign which uses lights, moving parts, or other means to depict action, create an image of a moving creature or person, or create a special effect or scene. (See also *Flashing sign.*)

Awning sign means a sign which is painted on, printed on, or attached flat against the surface of an awning.

Banner sign means a sign made of fabric, cloth, paper, or other non-rigid material that is typically not enclosed in a frame.

Building frontage means the length of the building occupied by a business as measured on any side facing a public or private street.

Bulletin board means a type of changeable copy sign which displays the name of an institution, school, library, community center, fraternal lodge, golf course, country club, park or other recreational facility, and which displays announcements of its services and activities upon the premises.

Canopy sign means a sign painted on, printed on, or attached to the surface of a canopy.

Changeable copy sign (electronic) means a sign on which the message changes automatically (for example, electronic or electric time and temperature signs).

Changeable copy sign (manual) means a sign on which the message is changed manually (for example, by physically replacing the letters).

Community special event sign means signs and banners, including decorations and displays celebrating a traditionally-accepted patriotic or religious holiday, or special municipal or school activities.

Construction sign means a temporary sign identifying the architect, designer, contractors and subcontractors, and/or material suppliers participating in construction on the property on which the sign is located.

Cylindrical sign means a ground sign which is in the shape of a cylinder or barrel. A cylindrical sign has a footprint that is more or less in the shape of a circle.

Directional or informational sign means a sign which is intended to direct the flow of vehicular and pedestrian traffic to, from, and within a development site.

Festoon means a string of ribbons, tinsel, small flags, pinwheels or lights, typically strung overhead in loops.

Flashing sign means a sign which contains an intermittent or sequential flashing light source.

Freestanding sign means a three-dimensional, self-supporting, base-mounted freestanding sign, consisting of two or more sides extending up from the base, and upon which a message is painted or posted.

Gasoline price sign means 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.

Ground sign. See *Freestanding sign.*

Historic building means a building that is significant in the history, architecture, engineering, or culture of the City of Walled Lake, a city within the State of Michigan, the State of Michigan, or the United States, as reasonably determined by the planning and building department. In evaluating historic significance, the planning and building department shall utilize the selection criteria for evaluation issued by the United States Secretary of the Interior for the inclusion of resources in the national register of historic places, as set forth in 36 CFR part 60.

Historic sign means a sign that is significant in the history, architecture, engineering, or culture of the City of Walled Lake, a city within the State of Michigan, the State of Michigan, or the United States, as reasonably determined by the planning and building department. In evaluating historic significance, the planning and building department shall utilize the selection criteria for evaluation issued by the United States Secretary of the Interior for the inclusion of resources in the national register of historic places, as set forth in 36 CFR part 60.

Illegal sign means a sign which does not meet the requirements of this ordinance and which has not received legal nonconforming status.

Incidental sign means a small sign, emblem, or decal informing the public of goods, facilities, or services available on the premises. Examples of incidental signs include signs indicating the hours of business, no smoking signs, signs used to designate bathrooms, and signs providing information on credit cards and business affiliations.

Inflatable sign means a temporary sign consisting of a non-porous bag or balloon inflated with a gas.

Informational sign. See *Directional sign.*

Mansard roof means a sloped roof or roof-like facade. Signs mounted on the face of a mansard roof shall be considered wall signs.

Marquee sign means a rooflike structure, often bearing a sign, projecting over an entrance to a theater.

Moving sign means a sign in which the sign itself or any portion of the sign moves or revolves. The term "rotating sign" means a type of moving sign. Such motion does not refer to the method of changing the message on the sign.

Mural means 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.

Nameplate means a non-electric, on-premises identification sign giving only the name, address, and/or occupation of an occupant or group of occupants.

Neon sign. See *Outline tubing sign.*

Nonconforming sign means a sign which is prohibited under the terms of this chapter, but was erected lawfully and was in use on the date of enactment of this chapter, or amendment thereto.

Obsolete sign means a sign that advertises a product that is no longer made, a business that is no longer in operation, or an activity or event that has already occurred.

Off-premises advertising sign means a sign which contains a message unrelated to a business or profession conducted or to a commodity, service, or activity sold or offered upon the premises where such sign is located. The term "billboard" means a type of off-premises advertising sign.

On-premises advertising sign means a sign which contains a message related to a business or profession conducted or to a commodity, service, or activity sold or offered upon the premises where the sign is located.

Outline tubing sign means a sign consisting of glass tubing, filled with a gas such as neon, which glows when electric current is sent through it.

Parapet means 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.

Pedestal sign. See *Freestanding sign.*

Pole sign means a type of freestanding sign that is elevated above the ground on a pole.

Political sign means a temporary sign relating matters to be voted on in a local, state, or national election or referendum.

Portable sign means a sign designed to be moved easily and not permanently affixed to the ground or to a structure.

Poster panel means a type of temporary sign that is used to draw attention to matters that are temporary in nature, such as price changes or sales. The term "A-frame or sandwich sign" means types of poster panel signs.

Preferred materials means preferred materials include wrought iron, stone, and brick.

Projecting sign means a sign, other than a flat wall sign, that projects more than 12 inches from the face of the building or structure upon which it is located. The term "projecting roof sign" means one that projects beyond the face or exterior wall surface of the building upon which the roof sign is mounted.

Public sign means 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.

Real estate sign means a temporary sign which makes it known that real estate upon which the sign is located is for sale, lease, or rent.

Real estate development sign means 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.

Residential entranceway sign means a sign which marks the entrance to a subdivision, apartment complex, condominium development, or other residential development.

Roof line means the top edge of a roof or building parapet, whichever is higher, excluding cupolas, pylons, chimneys, or similar minor projections.

Roof sign means any sign that extends above the roof line or is erected over the surface of the roof.

Rotating sign. See *Moving sign.*

Sandwich sign means a sign which consists of two boards upon which a message is posted, and which are connected at the top and are open at the bottom so that the boards can lean against each other when placed on the ground.

Shopping center means a complex consisting of stores and shops of various kinds, typically with shared parking.

Sign means any device, structure, fixture, or placard which uses words, numbers, figures, graphic designs, illumination, logos or trademarks for the purpose of informing or attracting the attention of persons.

Temporary sign means a sign not constructed or intended for long term use. Examples of temporary signs include signs which announce a coming attraction, a sale or bargain, a new building under construction, a community or civic project, or other special events that occur for a limited period of time. (See also *Inflatable sign.*)

Time and temperature sign means a sign which display the current time and/or temperature.

Underhanging sign means a sign which are located on the underside of a roof structure which extends out over a sidewalk adjacent to a building.

Vehicle signs means signs painted or mounted on the side of a vehicle, including signs on the face of a truck trailer.

Wall sign means a sign attached parallel to and extending not more than 12 inches from the wall of a building. Painted signs, signs which consist of individual letters, cabinet signs, and signs mounted on the face of a mansard roof shall be considered wall signs.

Window sign means a sign located in or on a window, which is intended to be viewed from the outside.

(Code 1994, § 20.03)

Sec. 51-20.04. Enforcement.

(a) *Plans, specifications, and permits.*

(1) *Permits.* It shall be unlawful for any person to erect, structurally alter, relocate, enlarge, or structurally change a sign or other advertising structure, unless specifically exempted by these regulations, without first obtaining a permit in accordance with the provisions set forth herein. A permit is not required for permitted exempt signs. (See subsection (a)(8) of this section and section 51-20.05(b).) A permit must first be obtained from the planning department for all other signs.

(2) *Applications.* Application for sign permits shall be made upon a forms provided by the planning department. The applications shall contain the following information:

a. Name, address, and phone number and if available, fax number and e-mail address, of the applicant applying for the permit.

b. Name, address, phone number and if available, fax number and e-mail address, of the persons owning the parcel upon which the sign is proposed to be placed.

c. Location of the building, structure, and parcel on which the sign is to be attached or erected.

d. Position of the sign in relation to nearby buildings, structures, property lines, and existing or proposed right-of-way.

e. Two copies of the plans and specifications. The method of construction, and/or attachment to a building, or ground placement, shall be explained in the plans and specifications.

f. A copy of calculations, if deemed necessary by the planning department, showing the structure as designed for dead load and wind pressure.

g. Name, address, phone number and if available, fax number and e-mail address, of the person erecting the sign.

h. Information concerning required electrical connections.

i. Insurance policy, as required by this chapter.

j. Such other information as the planning department may require showing compliance with this article and any other applicable laws.

k. The seal or certificate of a registered structural or civil engineer, when required by the planning department.

l. The zoning district in which the sign is to be placed.

m. A notice stating: "Any change in the information in this application, such as a change of address, shall be submitted to the planning department within seven days after the change."

(3) *Review of application.* The planning and building department shall review applications submitted under this article.

a. *Planning commission review.* Sign proposals 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 shall be shown on the site plan.

b. *Building official review.* The building official shall review the sign permit application for any proposed sign.

c. *Issuance of a permit.* Following review and approval of a sign application, the building official shall have the authority to issue a sign permit.

(4) *Insurance certificates.* Where a sign is to be located on public property or within the public right-of-way, the applicant shall provide a copy of a current certificate of general liability insurance for the site and written confirmation from the insurance company or agent that if the requested permit is approved, the city shall be endorsed as a named ensured on the policy and will be provided with a copy of a new certificate of insurance with an additional ensured endorsement of at least $1,000,000.00 per person, per occurrence, for bodily injury and/or property damage that reads as follows: "The city, and including all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and their board members, employees and volunteers." The certificate shall also provide for a minimum of 30 days' written notice to the planning and building department of cancellation, material change, or reduction in coverage.

(5) *Permit fees.* The governing body of this municipality shall establish sign permit fees. The permit fees must relate to the cost of issuing the permit and may vary based upon the size, type, and height of the sign.

(6) *False information.* A person providing false information under this chapter shall be guilty of a civil infraction.

(7) *Time for review.* The planning and building department shall review and approve or deny an application for a sign permit within 15 business days of the receipt of an application submitted in compliance with this section. Failure to provide a written response within 15 business days of receipt of a complete

application shall be deemed an approval of the application and the applicant shall be entitled to a permit.

(8) *Servicing.* 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 51-20.05(b). However, an electrical permit shall be required for all signs that make use of electricity.

(b) *Inspection and maintenance.*

(1) *Inspection of new signs.* All signs for which a permit has been issued shall be inspected by the building official 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. In cases where fastenings or anchorages are to be eventually bricked in or otherwise enclosed, the sign erector shall advise the building official when such fastenings are to be installed so that inspection may be completed before enclosure.

(2) *Inspection of existing signs.* The building official shall have the authority to enter onto property during regular business hours to inspect existing signs.

(3) *Maintenance.* All signs shall be maintained at all times in a safe, secure, and aesthetically attractive manner. Exposed surfaces shall be cleaned and painted as necessary. Broken and defective parts shall be repaired or replaced.

(4) *Correction of violations.*

a. If the building official finds that any sign is in violation of this ordinance, he shall notify one or more of the responsible person to correct the violations by repair, removal or other action, within a timetable established by the building official.

b. The notice provided in subsection (a) of this section may be accompanied or followed by a written order, sent to the responsible persons, requiring correction of violations by repair, removal or other action within 30 days. Where there is imminent danger to public safety, immediate removal or action may be required.

c. For the purposes of this section, responsible persons include persons who own, erect or maintain a sign, the owner and/or operator of the building, structure or premises upon which the sign is located.

(c) *Removal of obsolete signs.* Any sign that identifies a business that is no longer in operation, or that identifies an activity or event that has already occurred, or a product that is no longer made, shall be considered abandoned and shall be removed by the owner, agent, or person having use of the building or structure. Historic signs are exempt from this requirement. Upon vacating a commercial or industrial establishment, the property owner shall be responsible for removal of all signs used in conjunction with the business. 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.* A nonconforming sign shall not be structurally altered or enlarged.

(e) *Substitution.* A nonconforming sign shall not be replaced with another nonconforming sign. However, the panel containing the message may be replaced with a different message without affecting the legal nonconforming status of a sign, provided that the sign structure or frame is not structurally altered.

(f) *Appeal.* 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 23.00 of this chapter.

(g) *Enforcement.* Placards, posters, circulars, showbills handbills, political signs, cards, leaflets or other advertising matter, except as otherwise provided herein, shall not be posted, pasted, nailed, placed, printed, stamped or in any way attached to any fence, wall, post, tree, sidewalk, pavement, platform, pole, tower, curbstone or surface in or upon any public easement, right-of-way or on any public property whatsoever; provided, however, nothing herein shall prevent official notices of the city, school districts, county, state or federal government from being posted on any public property deemed necessary. All placards, posters, circulars, showbills, handbills, political signs, cards, leaflets or other advertising matter posted, pasted, nailed, placed, printed, stamped on any right-of-way or public property may be removed and disposed of by city enforcement officials without regard to other provisions of this chapter.

(Code 1994, § 20.04)

Sec. 51-20.05. General provisions.

(a) *Construction standards.* All signs shall be designed and constructed in accordance with the current prevailing state building code.

(b) *Permitted exempt signs.* A sign permit shall not be required for the following signs, which shall be permitted subject to applicable provisions herein:

(1) Address numbers and/or nameplates identifying the occupants of the building, not to exceed two square feet in area.

(2) Memorial signs or tablets in cemeteries.

(3) A sign affixed to a parked vehicle or truck trailer, provided that:

a. The sign is not being used principally for the purpose of advertising a business or product, or for the purpose of directing people to a business or business activity; and

b. The vehicle or trailer is not parked in a location that is principally selected for the purpose of advertising a business or product, or for the purpose of directing people to a business or business activity (e.g., a vehicle parked close to a street in a large commercial parking lot).

(4) Public signs and traffic control 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.

(5) Flags bearing the design of a nation, state, municipality, educational institution, or organization provided the flag does not advertise a business on site.

(6) Incidental signs, defined as a small sign, emblem or decal informing the public of facilities or services available on the premises, including, but not limited to, a restroom, telephone, credit card sign or a sign indicating hours of business.

(7) Permanent signs on vending machines, gas pumps, or ice containers indicating only the contents of such devices.

(8) No more than two on-site real estate signs which advertise open house or the rental, sale or lease of the property on which they are located, and with an area no greater than three square feet per sign.

(9) Help wanted signs soliciting employees for the place of business where posted, provided that the maximum area for all such signs shall be four square feet.

(10) Any sign which is located completely within an enclosed building, and which is not clearly visible from outside the building.

(11) Plaques or signs designating a building as a historic structure, if the structure is in fact a historic structure, as designated on the city list of historic structures.

(12) No trespassing, no hunting, no dumping, and no soliciting signs.

(13) Signs used to direct vehicular or pedestrian traffic to parking areas, loading areas, or to certain buildings or locations on the site.

(c) *Prohibited signs.* The following signs are prohibited in all districts:

(1) 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; or is capable of causing electric shock to person who come in contact with it; or

c. Is not kept in good repair, such that it has broken parts, missing letters, or non-operational lights.

(2) Any sign erected on a tree or utility pole, except signs of a government or utility.

(3) Portable signs, except where expressly permitted in this chapter.

(4) Any sign which obstructs free access to or egress from a required door, window, fire escape, driveway or other required exit from a building or premises.

(5) Any sign which makes use of the terms "stop," "look," or "danger," or any other words, phrases, symbols, or characters, in such a manner as to interfere with, mislead, or confuse traffic.

(6) Any sign unlawfully installed, erected, enlarged, altered, moved or maintained.

(7) Signs on street furniture, including, but not limited to, signs on benches and trash receptacles.

(8) Signs affixed to parked vehicles for advertising purpose.

(9) Real estate signs no longer valid due to the sale, rental, or lease of the property.

(Code 1994, § 20.05)

Sec. 51-20.06. General regulations.

(a) *Sign area.* Sign area shall be determined as follows:

(1) The total area of all signs for any individual business shall not exceed three square feet per one foot of building frontage, not to exceed the limits specified in the following table:

Zoning District in Which Business is Located	Maximum Sign Area
CS	32 sq. ft.
O-1, C-1, C-3	96 sq. ft.
C-2, I-1	135 sq. ft.

Total Tenant Floor Area	Maximum Sign Area
Up to 4,000 sq. ft.	125 sq. ft.
4,001—10,000 sq. ft.	175 sq. ft.
10,001—20,000 sq. ft.	250 sq. ft.

Over 20,000 sq. ft.	375 sq. ft.

Areas advertising individual businesses located on freestanding signs advertising multi-tenant developments shall be counted toward the total area of all signs.

(2) In keeping with the city's purpose of enhancing the appearance of the business district, substantial use of one or more of the preferred materials, as defined in this chapter (see section 51-20.03), in the signage for the business will increase the maximum total area of signs for each business by five percent of the frontage, or 20 square feet, whichever is less.

(b) *Illuminated signs.* Illuminated signs shall not produce an unreasonable glare or have adverse impact on any residential properties. Low voltage illumination, when used only for architectural accents, shall not be considered as part of the sign area calculation. Sign illumination that could distract motorists or otherwise create a traffic hazard shall be prohibited.

(c) *Temporary signs.* Temporary signs shall be permitted as follows:

(1) One sign advertising buildings under construction may be erected for the period of construction and shall not exceed 32 square feet of total sign area. Such signs shall be erected on the building or lot where such construction is being carried on and shall advertise only the architect, contractor, subcontractor or builder. Any such temporary sign must be removed prior to the issuance of a certificate of occupancy.

(2) One sign advertising the rental, sale or lease of property shall be allowed, subject to the standards of the temporary sign standards table (subsection (c)(5) of this section).

(3) A business sign placed on the interior of a building with or without letters and numerals, such as window signs. Such as window signs in business and industrial districts, of lightweight cardboard, cloth, plastic, or paper materials and intended to be displayed for special events, sales, and notices.

(4) A sign permit is required for all canopy signs, and all canopy signs must comply with all provisions of section 51-20.05.

(5) Also, refer to the following table for standards.

TEMPORARY SIGN STANDARDS (this subsection(c)(5))

Type of Sign	Districts Permitted	Type of Sign Permitted	Maximum Size	Maximum Height	Maximum Number Per Parcel	Permit Required	Required Setback	Permitted Duration [
Construction Sign	All	Freestanding or Wall	32 sq. ft.	15 ft.	1	Yes	[a]	From: issuance o Bldg. Permit To: issuance o C of O.
Real Estate - sale or lease of individual home or residential lot	Residential	Portable Freestanding	6 sq. ft.	6 ft.	1[b]	No	[d]	Remove within 30 days of completion of sale or lease

Real Estate - sale or lease of individual business or vacant lot	Office, Commercial, Industrial	Portable Freestanding or Wall	16 sq. ft.	10 ft.	1[b]	No	[d]	Remove within 30 days of completion of sale or lease
Real Estate - sale or lease of unplatted vacant	All	Portable Freestanding	32 sq. ft.	10 ft.	1[b]	Yes	[a]	Remove within 30 days of completion of sale lan or lease
Real Estate Development Sign	All	Portable Freestanding	32 sq. ft.	10 ft.	[c]	Yes	[a][h]	Remove within 30 days after all units or lots are sold /leased
Grand Opening Sign	Commercial	Freestanding or Wall	16 sq. ft.	10 ft.	1	Yes	[d]	60 days
Garage Sale Sign	All	Freestanding or Wall	2 sq. ft.	5 ft.	5[m]	No	[d]	4 consecutiv days
Community Special Event Sign	All	[e]	[e]	[e]	[e]	Yes	[d]	Duration o the event
Political Campaign Sign	All	Freestanding or Wall	32 sq. ft.	10 ft.	[l]	No	[d]	From: 30 days prior to election To: 10 day after election
Temporary Window Sign	Commercial and Office	Paper or Fabric	[f]	Not Applicable	[f]	No	- -	Maximum display period: 30 days [g]
Banner Sign	Commercial	Plastic or Fabric	32 sq. ft.	15 ft.	1	[k]	[d]	Not to exceed 4 weeks in any 12-month period
Inflatable Signs	C-1 and C-2 Districts	Per definition in	Not Applicable	20 ft. [j]	1	Yes	[a]	Not to exceed 4

		section 20.03						days in any 1-month period

Footnotes:

[a] The temporary sign shall be set back a distance equal to the height of the sign.

[b] On a corner parcel two signs, one facing each street, shall be permitted.

[c] One on-premises sign shall be permitted for each frontage on a secondary or major thoroughfare, and one off-premises sign shall be permitted per development.

[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 city council approval.

[f] The total of all window signs, temporary and permanent, shall not exceed one-third of the total window area in commercial and office districts. The area of permanent window signs shall also be counted in determining compliance with standards for total area of wall signs. Temporary Window signs are not permitted in industrial districts

[g] Temporary window signs that are faded, yellowed, ripped or otherwise damaged shall be removed immediately.

[h] Real estate development signs shall not be erected within 50 feet of any occupied dwelling unit.

[i] The building official may require a performance bond to ensure proper removal of temporary signs upon expiration of the permitted duration.

[j] Height standard applies to the sign only and does not include the building on which it may be placed.

[k] No permit is required for banner signs under six square feet in area; a permit shall be required for banner signs that are six square feet or greater in area, up to a maximum of 32 square feet.

[l] No limit has been established on the number of political signs.

[m] Five garage sale signs total citywide per garage sale, no more than four signs off site, one additional sign on-site.

(d) *Off-premises advertising signs.* Freestanding off-premises advertising signs (i.e., billboards) shall be permitted in the I-1 Limited industrial district, subject to the following:

(1) *Maximum size.* No such sign shall exceed 72 square feet in area per sign face.

(2) *Maximum height.* The maximum height for such signs shall be 25 feet.

(3) *Minimum setbacks.*

a. Off-premises accessory signs shall comply with the setback requirement for the district in which they are located.

b. No part of any such sign shall be located closer than 300 feet to any park, school, church, hospital, cemetery, convention center, or government building.

(4) *Spacing.*

a. Billboard structures having more than one billboard face shall be considered as two billboards and shall be prohibited in accordance with the minimum spacing requirements set forth in this subsection.

b. Not more than three off-premises advertising signs shall be located per linear mile of street, regardless of the fact that such signs may be located on different sides of the street.

c. There shall be a minimum of 1,500 feet between off-premises advertising signs along any other public road or street.

d. No off-premises advertising sign shall be located closer than 1,000 feet to another off-premises advertising sign, measured on a direct line from sign to sign.

(Code 1994, § 20.06; Ord. No. C-316-14, 8-19-2014; Ord. No. C-316-14, § 2, 8-19-2014)

Sec. 51-20.07. Residential district signs.

The following signs shall be permitted in all districts zoned for residential use (see Generalized Schedule of Sign Standards):

(1) *Nameplate and street address.* A nameplate sign and street address shall be permitted in accordance with section 51-20.05(b).

(2) *Real estate signs.* Real estate signs shall be permitted in accordance with section 51-20.06(c)(2).

(3) *Garage sale signs.* Garage sale signs shall be permitted in accordance with section 51-20.06(c)(5) (see table).

(4) *Residential entranceway or identification signs.* Permanent residential entranceway or identification signs shall be permitted in accordance with section 51-21.09 and the following regulations:

a. There shall be no more than one such sign located at each entrance to a sub-division or other residential development.

b. The maximum size for such sign shall be 25 square feet.

c. The maximum height for such sign shall be six feet.

d. Such signs shall be set back a minimum distance of 25 feet from any property line or right-of-way line, unless another location is authorized by city council, provided that any such sign shall not obstruct the vision of drivers at the intersection and provided the placement of such sign shall not obstruct sidewalks or bicycle paths.

(5) *Signs for nonresidential uses.* Each nonresidential use in a residential district shall be permitted one wall-mounted sign, subject to the following requirements:

a. The maximum size for such a sign shall be two square feet.

b. No such sign shall be intentionally lighted.

(6) *Signs for special approval uses.* Except as otherwise noted, all uses which are permitted subject to special approval in residential districts shall comply with the following sign standards:

a. *Number.* There shall be no more than one sign per parcel, except on a corner parcel, two signs, one facing each street shall be permitted.

b. *Size.* The maximum size of each such sign shall be 25 square feet.

c. *Location.* Freestanding signs shall be located no closer than 25 feet from any right-of-way line, and at least 15 feet from all other property lines, driveways, and approaches.

d. *Height.* The maximum height of any freestanding sign shall be four feet.

e. *Churches.* Churches and other religious institutions shall be permitted one additional sign for each school, parsonage, or other related facility.

(Code 1994, § 20.07)

Sec. 51-20.08. Nonresidential district signs.

The following signs shall be permitted in districts zoned for nonresidential use:

(1) *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 51-20.07.

(2) *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.

(3) *Nameplate and street address.* A nameplate and street address shall be permitted in accordance with section 51-20.05(b).

(4) *Real estate signs.* Real estate signs shall be permitted in accordance with section 51-20.06(c)(2).

(5) *Wall signs.* Wall signs shall be permitted in office, commercial and industrial districts subject to the following regulations:

a. *Number.* One wall sign shall be permitted per street frontage on each parcel. However, in the case of a multi-tenant building or shopping center, one 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 sign on each side of the building. Where several tenants use a common entrance in a multi-tenant structure, only one wall sign shall be permitted, but the total sign area should be allocated to all tenants.

b. *Size.* The total area of a wall signage shall not exceed two square feet per one foot of building frontage, not to exceed the limits specified in the following table:

Zoning District in Which Sign Is Located	Maximum Sign Area
CS	25 sq. ft.
O-1, C-1, C-3	64 sq. ft.
C-2, I-1	90 sq. ft.

In the case of a multi-tenant building or shopping center, these size requirements shall apply to each business individually, except that in shopping centers having a total site area of ten acres or greater, wall signs shall comply with the following standards:

Total Tenant Floor Area	Maximum Sign Size	Maximum Sign Width	Maximum Letter Height
Up to 4,000 sq. ft.	100 sq. ft.	66 percent of store width	3.0 ft.
4,001—10,000 sq. ft.	150 sq. ft.	66 percent of store width	3.5 ft.
10,001—20,000 sq. ft.	200 sq. ft.	66 percent of store width	4.5 ft.
Over 20,000 sq. ft.	300 sq. ft.	66 percent of store width	5.0 ft.

c. *Location.* One wall sign may be located on each side of a building that faces a street.

d. *Vertical dimensions.* The maximum vertical dimension of any wall sign shall not exceed one-third of the building height, except as noted for shopping centers.

e. *Horizontal dimensions.* The maximum horizontal dimension of any wall-mounted sign shall not exceed two-thirds the width of the building.

f. *Height.* The top of a wall sign shall not be higher than whichever is lowest:

1. The maximum height specified for the district in which the sign is located.

2. The top of the sills at the first level on windows above the first story.

3. The height of the building facing the street on which the sign is located.

(6) *Freestanding signs.* Freestanding signs shall be permitted in office, commercial and industrial districts, subject to the following regulations:

a. *Building setback.* Freestanding signs shall be permitted only if the buildings are set back at least 40 feet from the existing right-of-way line.

b. *Number.* One freestanding sign shall be permitted per street frontage on each parcel. However, only one sign shall be permitted on lots having frontage on more than one street if a single sign can be located such that it is clearly visible from both streets. In multi-tenant buildings or shopping centers the sign area may be allocated for use by individual tenants.

c. *Size.* The total area of the freestanding sign shall not exceed one-half of a square foot per linear foot of street frontage not to exceed the limits in the following table:

Zoning District in Which Sign Is Located	Maximum Sign Area
CS	25 sq. ft.
O-1, C-1, C-3	40 sq. ft.
C-2, I-1	100 sq. ft.

Shopping centers having a total site area of ten acres or greater shall comply with the following freestanding sign standards:

1. Maximum size of sign face: 100 square feet.

2. Maximum size of freestanding sign structure: 150 square feet.

Maximum height: 15 feet.

3. Number: One freestanding sign per street frontage on an arterial or collector road.

d. *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 one foot to the existing right-of-way line. If a parcel is served by a private road or service road, no portion of a freestanding sign shall closer than five feet to the edge of such road.

e. *Setback from residential districts.* Freestanding signs shall be located no closer than 50 feet to any residential district.

f. *Height.* Except as noted above for shopping center signs, freestanding signs shall comply with the following height requirements:

Maximum District/Sign Type	Height
Office districts (Freestanding signs)	6 ft.Commercial, Industrial districts (Freestanding Signs)
If set back 25 ft. or more[1]	8 ft.

If set back less than 25 ft.[1]	6 ft.Setbacks shall be measured from existing right-of-way line.[1]

(7) *Marquee signs.* Marquee signs shall be permitted for theaters located in commercial districts subject to the following requirements:

a. *Construction.* Marquee signs shall consist of hard incombustible materials. The written message shall be affixed flat to the vertical face of the marquee.

b. *Vertical clearance.* A minimum vertical clearance of ten feet shall be provided beneath any marquee.

c. *Projection.* Limitations imposed by this chapter concerning projection of signs from the face of a wall or building shall not apply to marquee signs, provided that marquee signs shall comply with the setback requirements for the district in which they are located.

d. *Number.* One marquee shall be permitted per street frontage.

e. *Size.* The total size of a marquee sign shall not exceed 1½ square feet per linear foot of building frontage.

f. *Compliance with size requirements for wall signs.* The area of permanent lettering on a marquee sign shall be counted in determining compliance with the standards for total area of wall signs permitted on the parcel.

(8) *Awnings and canopies.* Signs on awnings and canopies in commercial, office, and industrial districts shall be permitted, subject to the following standards:

a. *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.

b. *Projection.* Limitations imposed by this chapter 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.

(9) *Gasoline price signs.* Gasoline price signs shall be permitted subject to the following standards:

a. *Number.* One gasoline price sign shall be permitted per street frontage.

b. *Size.* Gasoline price signs shall not exceed 20 square feet in area.

c. *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.

(10) *Pole signs.* Pole signs shall be permitted subject to the following standards:

Maximum permitted sign area for pole signs shall be determined using the same calculations as freestanding signs.

a. Spacing:

1. There shall be a minimum of 1,500 feet between pole signs along any other public road or street.

2. No pole sign shall be located closer than 1,000 feet to another pole sign, measured on a direct line from sign to sign.

b. Pole signs shall be permitted only on parcels having greater than 150 feet of frontage.

c. Pole signs shall be permitted only if the buildings are set back at least 40 feet from the existing right-of-way line.

d. One pole sign shall be permitted per parcel. In multi-tenant buildings or shopping centers the sign area may be allocated for use by individual tenants.

e. Pole signs may have a maximum height of 20 feet.

f. No part of the sign or sign structure may overhang into the public right-of-way

g. Pole signs shall be located no closer than 100 feet to any residential district.

(11) *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-third of the total window area. Temporary window signs shall comply with the requirements in section 51-20.06(c)(5).

(12) *Time and temperature signs.* Time and temperature signs shall be permitted in commercial and office districts, subject to the following conditions:

a. *Frequency of message change.* The message change shall not be more frequent than once every three seconds.

b. *Size.* The area of these types of signs shall be included within the maximum sign area permitted on the site.

c. *Number.* One such sign shall be permitted per street frontage.

(13) *Underhanging signs.* One underhanging sign shall be permitted for each business, subject to the following conditions:

a. *Vertical clearance.* A minimum vertical clearance of eight feet shall be provided between the bottom edge of the sign and the surface of the sidewalk.

b. *Orientation.* Underhanging signs shall be designed to serve pedestrians rather than vehicular traffic.

c. *Size.* Underhanging signs shall not exceed six square feet in area.

(14) *Signs in the C-3 District.* The C-3 District encompasses land in the Historic Lakefront District, consisting of buildings with distinctive architectural features that date back to the early settlement of the city. It is important to capture and preserve the unique character of the Historic Lakefront District in the types of signs permitted. Accordingly, the following additional standards shall apply to signs in the C-3 district:

a. *Location.* Signs shall not cover architectural details such as arches, transom windows, moldings, columns, capitals, sills cornices and similar details.

b. *Materials.* Sign materials shall complement the original construction materials and architectural style of the building facade. Generally, wood or metal signs are considered more appropriate than plastic.

c. *Lettering style.* Lettering style shall complement the style and period of architecture of the building. No more than two different type styles shall be used on each sign.

d. *Illumination.* Signs shall be illuminated using a direct but shielded light source, rather than internal illumination.

e. *Colors.* No more than three complementary colors may be used per sign, with generally one color for the background, one for lettering, and one for accent. More than three complementary colors may be used for graphics or symbols on the sign.

(15) *Outline tubing (neon) signs.* Outline tubing signs, also known as neon signs, are permitted in commercial districts subject to the following conditions:

a. *Construction.* Such signs shall be enclosed unless the applicant provides sufficient documentation that unenclosed signs satisfy requirements in the adopted building code and National Electric Code.

b. *Maximum size.* Such signs shall be considered wall signs for the purposes of determining compliance with maximum size standards.

(16) *Sandwich signs.* Sandwich signs are permitted in the C-1, C-2, and C-3 Districts, and may be placed at the public entrances to businesses, on either private property or the public sidewalk, in accordance with the following specifications:

a. No sign shall be placed within a distance of ten feet from any fire hydrant, or in any location where it would imperil public safety, as determined by the building official, or interfere with the function of the fire department.

b. There shall be only one sandwich sign per business per frontage.

c. The sign shall be located within four feet of the main entrance to the business and shall not interfere with pedestrian or vehicular circulation. A sandwich sign that is located farther than four feet from the main entrance (i.e., near the street) shall be a minimum of 25 feet from any other sandwich sign, unless approved by the city manager or their designee.

d. For business sites located within the C-3 District having less than 20 linear feet of frontage, a first-floor business may have not more than two types of signs (projecting, wall or sidewalk).

e. Each sign shall be placed outside only during the hours when the business is open to the general public and shall be stored indoors at all other times.

f. Sandwich signs shall not have more than two sign faces.

g. The following design requirements shall apply to all sandwich signs:

1. Sandwich sign lettering shall be a minimum of two inches high in the C-3 District and four inches high in all other districts.

2. Sandwich sign designs shall be uncluttered, with a minimum of text. Logos and graphics are encouraged.

3. The sign shall be kept in good repair at all times.

h. The following design requirements shall apply to sandwich signs located in the C-3 District:

1. All design requirements stated in subsection (16)(g) of this section.

2. All Sandwich signs shall be sensitive to the character of the city's historic downtown.

i. Any sandwich sign shall not exceed an overall height of 36 inches and an overall width of 24 inches. In addition to the maximum height of 36 inches, sign standing legs may be a maximum of nine inches in height, which is not to be calculated in the overall sign height. The Maximum sign area per sidewalk sign is six square feet.

(17) *Projecting signs.* Projecting signs may be permitted in the C-1, C-2, and C-3 Districts subject to the following conditions:

a. Have a minimum under-clearance of eight feet, and have a maximum size of eight square feet.

b. Projecting signs must oriented towards pedestrian traffic.

c. Projecting signs in the C-3 District may be permitted to overhang in the right-of-way a maximum of three feet.

d. Be in compliance with current building code.

(18) *Electronic changeable copy (LED) signs.*

a. LED signs may be permitted in the C-1, C-2, and C-3 Districts subject to the following conditions:

1. Such sign shall not produce blinking or animated messages.

2. The changeable copy or message delivered by the sign shall be no more than four times per minute.

3. Such sign may be a maximum of 15 percent, up to a maximum of 30 square feet, of the total sign size.

4. LED signs may only be incorporated into freestanding signs.

5. All messages shall not exceed two lines of characters.

6. Such sign shall be limited to 50 footcandles power output.

b. Exempt signs. Public signs and traffic control 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.

(Code 1994, § 20.08; Ord. No. C-316-14, § 3, 8-19-2014; Ord. No. C-319-14, § 3, 5-12-2015)

ARTICLE 21.00. GENERAL PROVISIONS

Sec. 51-21.01. Classification of annexed areas.

All territory annexed to the city shall automatically be classified R1-A Single-Family Residential District, pending immediate review by the planning commission of use, zoning, and master plan considerations concerning such annexed territory. If deemed appropriate following such review, the planning commission may recommend zoning map revisions to the city council.

(Code 1994, § 21.01)

Sec. 51-21.02. Zoning of vacated streets.

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

(Code 1994, § 21.02)

Sec. 51-21.03. Use regulations.

Except as otherwise provided herein, regulations governing land and building use are hereby established as shown on the schedule of regulations. Uses permitted in each district after special approval shall be permitted only in accordance with the special approval standards and procedures in section 51-21.29.

(Code 1994, § 21.03)

Sec. 51-21.04. General area, height, bulk regulations.

Except as otherwise provided herein, regulations governing the minimum lot width, lot area per dwelling unit, required open spaces, height of buildings and other pertinent factors are as shown on the schedule of regulations.

(Code 1994, § 21.04)

Sec. 51-21.05. Land required to satisfy regulations.

No portion of a lot used in or necessary for compliance with the provisions of this chapter shall through sale or otherwise be reduced beyond said minimums or again be used to satisfy the zoning requirements of another lot.

(Code 1994, § 21.05)

Sec. 51-21.06. Exceptions to height limits.

(a) The height limits of this ordinance may be modified by the zoning board of appeals in its application to radio transmitting and receiving or television antennae, chimneys or flagpoles, church spires, belfries, cupolas, domes, water towers, observation towers, power transmission towers, radio towers, masts, aerials, smokestacks, ventilators, skylights, derricks, conveyors, cooling towers, and other similar and necessary mechanical appurtenances pertaining to the permitted uses of the districts in which they are located.

(b) The maximum height set forth in the schedule of regulations shall not apply to radio transmitting or television antennae that do not exceed the maximum permitted height of the building by more than ten feet.

(Code 1994, § 21.06)

Sec. 51-21.07. Corner lot setback on the side street in residential zone districts.

Every corner lot in any residential district which has on its side street an abutting interior residential lot, shall have a minimum setback from the side street equal to the minimum front setback for the district in which such building is located. Where there is no abutting interior residential lot on said side street, the minimum side street setback shall be 15 feet for the permitted principal building and 20 feet for permitted accessory buildings.

(Code 1994, § 21.07)

Sec. 51-21.08. Obstructions to vision on corner lots.

On any corner lot in any district, no wall, fence or other structure, nor any hedge, shrub or other growth shall be maintained at a height which would obscure vision of drivers properly using the street. Any such structures or growth above a height of 30 inches from the established street grades 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 25 feet from their point of intersection shall be presumed an obstruction and shall be specifically prohibited.

(Code 1994, § 21.08)

Sec. 51-21.09. Residential entranceway.

In all residential districts, so-called entranceway structures, including, but not limited to, walls, columns and gates, marking entrances to single-family subdivisions or multiple housing projects may be permitted and may be located in a required yard, except as provided in section 51-21.08, provided that such entranceway structures shall comply to all codes and ordinances of the city, be approved by the building inspector and a permit issued.

(Code 1994, § 21.09)

Sec. 51-21.10. Accessory buildings, structures and uses.

(a) *General requirements.*

(1) *Timing of construction.* No accessory use shall be established on a lot, and no accessory building or structure shall be occupied or used, unless there is a principal use already lawfully established on the same lot.

(2) *Site plan approval.* Accessory structures, buildings and uses shall require site plan review and approval when and as required by any applicable code or ordinance. If submission of a site plan for review and approval is required, then the site plan shall indicate the location and description of proposed accessory buildings, structures or uses.

(3) *Nuisances.* In residential districts, accessory uses, such as animal enclosures, dog runs, central air conditioning units, heat pumps and other mechanical equipment that typically produce noise, odors, or other nuisances, shall be located to the rear of the principal dwelling except that upon a showing of practical difficulty, mechanical units may be located in a side yard provided the mechanical unit is screened on the front and side by natural vegetative screening or enclosed by a wood or masonry fence not exceeding the height of the mechanical unit.

(4) *Conformance with lot coverage standards.* Accessory buildings and structures shall be included in computations to determine compliance with maximum lot coverage standards.

(5) *Location in proximity to easements or rights-of-way.* Accessory buildings, structures, or uses shall not be located within a dedicated easement or right-of-way, unless otherwise permitted by the terms and conditions in the easement.

(6) *Use of accessory structures.* Accessory buildings or structures in residential districts shall not be used as dwelling units or for any business, profession, trade or occupation.

(7) *Applicability of other codes and ordinances.* Accessory buildings and structures shall be subject to all other applicable codes and ordinances regarding construction, installation, and operation, including requirements for foundations and rat walls.

(b) *Attached accessory buildings and structures.* Accessory buildings or structures which are structurally attached to the principal building (such as an attached garage, breezeway, or workshop that is essentially a continuation of the principal building) shall be considered a part of the principal building for the purposes of determining conformance with area, setback, height, and bulk requirements.

(c) *Detached accessory buildings and structures.*

(1) *Location.* Detached accessory buildings and structures shall not be located in a front yard or a required side yard, except that on a lot that either abuts the lake or is across the street from the lake, one accessory building or structure may be permitted in the front (i.e., on the side facing the road), provided further that any such accessory building or structure shall comply with the minimum setback requirements for the district in which it is located. Accessory buildings and structures shall not be permitted in a required waterfront yard except, docks, mooring structures, boat launches, lifts and hoists as permitted by and subject to the regulations, requirements and conditions pursuant to applicable codes and ordinances, including, but not limited to, chapter 50, article IX, and section 51-21.49, as amended. (See section 51-21.45 for permitted projections into required yards.)

(2) *Setbacks.* Detached accessory buildings and structures shall comply with the following setback requirements:

a. *Front yard setback.* Unless otherwise specified, when an accessory building or structure is permitted in the front yard it shall comply with the front yard setback requirement for the district in which it is located.

b. *Waterfront yard setback.* Accessory buildings and structures shall comply with the 30-foot waterfront setback requirement, except docks, mooring structures, boat launches, lifts and hoists as permitted by and subject to the regulations, requirements and conditions pursuant to applicable codes and ordinances, including, but not limited to, chapter 50, article IX, and section 51-21.49, as amended.

c. *Rear yard setback.*

1. *Residential detached accessory buildings and structures.* Detached accessory buildings and structures located on property that is zoned and used for residential purposes shall have a minimum rear yard setback of seven feet.

2. *Nonresidential detached accessory buildings and structures.* Detached accessory buildings and structures located on property that is zoned or used for nonresidential purposes shall comply with the minimum rear yard setback requirements in section 51-17.01 for the district in which it is located.

d. *Side yard setback.* Accessory buildings and structures shall comply with the side yard setback requirements for the district in which it is located.

Private, residential docks in single-family zoning districts. Docks shall be located on the property so as to observe the following minimum side yard setback from each riparian side lot line:

Lot Width	RI -A (each side)	RI-B (each side)
20 ft. or less	1.5 ft.	1.5 ft.
21—64 ft.	3.5 ft.	3.5 ft.
65—74 ft.	5 ft.	5 ft.
75 ft. or more	10 ft.	10 ft.

e. *Side yard setback on corner lots.*

1. When an accessory building, structure or use is located on a corner lot where the exterior side lot line of which is substantially a continuation of the front lot line of the lot to its rear, the accessory building; structure or use shall not project beyond the front setback required on the lot in the rear.

2. When an accessory building, structure or use is located on a corner lot where the side lot line of which is substantially a continuation of the side lot line of the lot to its rear, the

accessory building, structure, or use shall comply with the required side setback for the district in which it is located, provided that in no case shall an accessory building, structure, or use be located nearer than 20 feet to a street right-of-way.

f. *Distance from other buildings.* Detached accessory buildings and structures shall be located at least ten feet from any other building, except that a 15-foot setback shall be required for dumpsters and dumpster enclosures (see section 51-21.39).

(3) *Size.*

a. Unless otherwise specifically permitted elsewhere in this chapter, the maximum combined ground area coverage of all accessory buildings and structures related to a principal residential use shall not exceed 30 percent of the rear yard, provided that the total ground area coverage of all accessory buildings shall not exceed 1,000 square feet or the total ground area coverage of the principal dwelling, whichever is greater.

b. In nonresidential districts, the maximum combined ground area coverage of all accessory buildings, structures, and uses shall not exceed 30 percent of the total floor area of the principal building.

(4) *Height.* Detached accessory buildings and structures in single- and two-family districts shall not exceed 18 feet in height. Detached accessory buildings and structures in other than single- and two-family districts shall comply with the height requirement for the district in which they are located.

(5) *Number.*

a. *Single- and two-family districts.* Except where otherwise specified, not more than two accessory buildings, structures, or uses shall be located on any lot exclusive of permitted docks, mooring structures, boat launches, lifts and hoists located on a waterfront lot, except that up to four may be permitted on lots that exceed one acre in size. No more than one dock per 50 linear feet of shoreline shall be permitted on a waterfront lot.

b. *Districts other than single- and two-family districts.* Except where otherwise specified, not more than two accessory buildings; structures or uses shall be permitted in districts other than single-family and two-family districts.

(6) *Mobile home parks.* Detached accessory buildings in mobile home parks shall comply with the setback and spacing requirements in the mobile home commission rules.

(d) *Outdoor seating and outdoor display areas.*

(1) Outdoor seating shall be permitted in all nonresidential zoning districts as an accessory use, subject to the permit/licensing requirements of chapter 18, article X of the city Code of Ordinances.

(2) Outdoor display areas shall be permitted in all nonresidential zoning districts as an accessory use, subject to the permit/licensing requirements of chapter 18, article X of the city Code of Ordinances.

(Code 1994, § 21.10; Ord. No. C-287-10, § 6, 1-18-2011; Ord. No. C-338-18, 6-19-2018)

Sec. 51-21.11. Reserved for future use.

(Code 1994, § 21.11)

Sec. 51-21.12. Grading, drainage and building grades.

(a) The ground areas outside the walls of any building or structure hereafter erected, altered, or moved shall be so designed that surface water shall flow away from the building walls in such a direction and with such a method of collection so as not to cause or create a nuisance to adjacent properties or public nuisance detrimental to the general health, safety or welfare of the community. Where property is developed adjacent to previously developed existing properties, existing grades of adjacent properties shall have priority over any proposed grade changes. Any property owner/developer who intends to add fill above the height of the existing contiguous grades shall demonstrate to the building official's satisfaction, that additional fill is not detrimental to surrounding properties in terms of compatibility and drainage issues. Grades around houses or structures shall meet existing grades in the shortest possible distance, as determined by the building official, but under no circumstances shall exceed 1:4 slopes or 25 percent grades.

(b) A certificate of occupancy will not be issued until final grades are approved by the city building official. A certificate of grading shall be completed by the applicant. The building official shall require a certified copy of the grading plan to be submitted by a registered civil engineer or land surveyor.

(Code 1994, § 21.12; Ord. No. C-333-17, § 4, 7-18-2017)

Sec. 51-21.13. Fence, wall and privacy screen regulations.

Fences and walls shall comply with the following regulations:

(1) *Height, location, clearance.* Fences and walls shall comply with the height, location, and clearance requirements specified in the attached table. Decorative fences are permitted to extend to the water's edge. No other type of fence is permitted in the waterfront yard.

(2) *General requirements.*

a. *Application.*

1. Applications for a permit shall be accompanied by a plot plan showing the location of the proposed fence or wall in relation to property lines and buildings on the subject property and adjacent properties. The applicant shall provide detailed specifications, such as height, type of materials, foundation of fence post anchoring, and surface treatment.

2. The application shall be accompanied by a fee as established by resolution by the city council. A plot plan and separate application shall not be required if all such information has been provided on a site plan submitted for approval.

b. *Construction.* Fences shall be constructed of materials commonly used in conventional fence construction, such as wood or metal.

c. *Depth of wall foundations.* Wall foundations shall comply with building code requirements.

d. *Depth of posts.* All fences shall be installed with posts sunk below the approved grade to a depth of no less than one-half of the height of the fence.

e. *Maintenance.* All fences and walls shall be maintained in good, safe, and stable condition in accordance with all municipal codes. Rotten, broken or missing components shall be replaced or repaired. As required, surfaces shall be painted, stained, or similarly treated.

f. *Permit required.* It shall be unlawful to construct, erect, install, alter or to cause the construction, erection, installation or alteration of any fence or wall without first obtaining required permits.

g. *Orientation.* If, because of the design or construction, one side of a 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.

h. *Vision.* All fences and walls shall comply with the requirements regarding obstructions to vision on corner lots in section 51-21.08.

i. *Barbed wire, razor wire.* Fences and walls shall not contain barbed wire, razor wire, electric current, or charge of electricity.

j. *Enclosure of utility facilities and playgrounds.* The zoning board of appeals may permit fences in front yards or exterior side yards in the I-1 District. Light public playgrounds that are available for general use in any district. Fences which enclose industrial district or to enclose a playground shall not exceed seven feet in height above grade, and shall not obstruct vision to an extent greater than 25 percent.

k. *Pools.* State law, see appendix G of current and prevailing building code.

(Code 1994, § 21.13)

Sec. 51-21.13(a). Fence and wall requirements.

	Fences		Decorative Fences		Walls	
	Maximum Height[3]	Permitted Location	Maximum Height[4]	Permitted Location	Maximum Height[4]	Permitted Location
Single-family	4.5 to 6.0 ft.[2, 6]	No closer to front than any portion of the main building[1, 10]	36 in.[3]	Any Yard[5]	Not Permitted	Not Permitted
Multiple-Family	6.0 ft.[6]	No closer to front than any portion of the main building[1, 10]	36 in.[3]	Any Yard[5]	6 ft.[7]	To the rear of the principal structure[8]
Commercial, Office	8.0 ft.[9]	Side or rear yard[1, 10]	Not Permitted	Not Permitted	8 ft.[7, 9]	Side or rear yard[1]
Industrial	8.0 ft.[9]	Side or rear yard[1, 10]	Not Permitted	Not Permitted	8 ft.[7, 9]	Side or rear yard[1]

Footnotes.

1. May be located in the required side or rear yard, but on corner lots fences and walls shall be set back at least ten feet from the road right-of-way.

2. Fences located between the front of the house and the rear of the house shall not exceed 4.5 feet in height: fences located to the rear of the house shall not exceed six feet in height.

3. Decorative fences in the single-family or multiple-family districts may include decorative fence posts which do not exceed 42 inches in height.

4. Walls shall be reduced to a maximum of three feet above grade within 25 feet of any street right-of-way.

5. Decorative fences may be located in the required side, rear or waterfront yard, but they shall be set back at least one foot from the road right-of-way.

6. Fences which enclose public playgrounds or institutional playgrounds shall not exceed seven feet above grade and shall not obstruct vision to an extent greater than 25 percent of the total fence area.

7. See wall requirements in sections 51-21.14 and 51-21.16.

8. Walls on corner lots shall be set back at least ten feet from the road right-of-way.

9. Where needed to screen outside storage, fences and walls may be up to eight feet in height.

10. Fences may be permitted in the front yard or side yard facing a street to enclose public utility yards and public playgrounds.

(Code 1994, § 21.13(a))

Sec. 51-21.14. Screening requirements.

Lots which are utilized for nonresidential purposes or for off-street parking shall provide and maintain screening in accordance with the following regulations:

(1) Where the side or rear lot lines of a lot that is used for nonresidential purposes or off-street parking abut property that is zoned for residential use, a masonry screening wall shall be constructed in accordance with the height and locational standards in this section and section 51-21.16.

(2) The extent and height of a required screening wall shall be determined by the planning commission, provided the minimum wall height shall be as indicated in the following table, except that the wall shall be reduced to a maximum height of three feet above grade within 25 feet of any street right-of-way line.

Use	Minimum Wall Height
P-1 Vehicular Parking District	6.0 ft.
O-1 District	6.0 ft.
C-1, C-2, C-3 District	6.0 ft.
Off-Street Parking Lot	6.0 ft.
Nonresidential Use in a Residential District	6.0 ft.
I-1 District, Outside Storage	6.0 to 8.0 ft.
Areas, Loading and Unloading	See section 51-14.03
Hospital Ambulance and Delivery Area	6.0 ft.
Utility Facilities	6.0 ft.

(3) Required walls shall be placed inside and adjacent to the lot line except in the following instances:

a. Where underground utilities interfere with placement of a wall at the property line, the wall shall be placed on the utility easement line located nearest the property line.

b. Where required by this chapter, walls shall conform to the setback requirements for the district in which they are located.

c. Where landscaping is required adjacent to a required wall, the wall may be located up to 15 feet from the property line to allow space for the required landscaping.

(4) As a substitute for a required screening wall, the planning commission may, in its review of the site plan, approve the use of other existing or proposed living or manmade landscape features (such as closely spaced evergreens and a berm) that would produce substantially the same results in terms of screening, durability, and permanence. Any such substitute screening shall comply with the applicable requirements in section 51-21.35.

(5) The planning commission may waive the requirements for a screening wall upon making the determination that:

a. The adjoining residential district is in transition and will become nonresidential in the future; or

b. Existing physical features provide adequate screening.

(Code 1994, § 21.14)

Sec. 51-21.15. (Reserved for future use).

(Code 1994, § 21.15)

Sec. 51-21.16. Wall, stone or brick facing.

Wherever in this chapter a wall is required:

(1) The wall shall be stone, brick, faced with brick or precast concrete of an ornamental design, and shall be erected on a concrete foundation which shall have a minimum depth of 42 inches below the approved grade and in compliance with the adopted building code, and at least four inches wider than the wall to be erected. The wall shall be capped with concrete coping block or another suitable method of preventing damage to the top of the wall.

(2) All walls shall be constructed prior to the back filling of any foundation or prior to any construction that extends above the foundation wall, whichever first occurs, in order to preserve the residential character and livability of the adjacent residential properties during the time of construction.

(3) Foundation plantings from the recommended plant list in section 51-21.35(5)a shall be planted along all required walls. The plantings shall be on the side of the wall facing the road or adjacent property. Any one of the following shall be provided to fulfill the foundation planting requirement: One shrub like tree or evergreen tree every ten linear feet of wall; one deciduous tree planted per 30 linear feet; or eight shrubs planted per 30 linear feet of wall. Other landscaping may be substituted for one tree at the discretion of the planning commission.

(4) Whenever a required wall exceeds 40 feet in length, it shall incorporate piers, pilasters, modulations in the wall (variation in height or break in linearity), or other ornamental architectural elements, spaced a distance of no more than six times the height of the wall.

(5) A curb constructed of concrete, or other barrier approved by the planning commission, shall be placed at all parking spaces abutting a required wall, and shall be placed no closer than five feet from the wall to prevent vehicle encroachment into the wall.

(Code 1994, § 21.16)

Sec. 51-21.17. Access to residential property.

No residential building shall be erected on any lot which does not abut for at least 20 feet upon a public street or permanent unobstructed easement of access connecting such lot with a public street. Such street or easement shall have a minimum width of 30 feet, except where such street or easement of less width existed prior to the adoption of this chapter. Such building shall not be permitted nearer to such easement line than to the street line. Such street or easement of access shall not reduce the side open space of an existing residential building to less than eight feet or reduce the rear open space to less than 20 feet.

(Code 1994, § 21.17)

Sec. 51-21.18. Dwelling in accessory building prohibited.

In all zoning districts, residential occupancy of any accessory building is expressly prohibited.

(Code 1994, § 21.18)

Sec. 51-21.19. Essential services.

Essential services shall be permitted as authorized and regulated by law and other ordinances of the city, it being the intention hereof to exempt such essential services from the application of this chapter, except that all above-grade buildings hereunder shall be subject to site plan review in accordance with this chapter.

(Code 1994, § 21.19)

Sec. 51-21.20. Automotive trailer camps or tourist cabins prohibited.

No automotive trailer camps or tourist cabins shall be established, and automobile trailers, recreational vehicles, boats and similar portable dwellings or tents shall not be permitted to be used or occupied as dwellings.

(Code 1994, § 21.20)

Sec. 51-21.21. Temporary and portable buildings, uses, structures and events.

Temporary buildings, structures, and uses may be permitted by the director of planning and development or the director's designee, subject to the following conditions:

(1) Unless otherwise noted in this section, a permit for a temporary building, structure, or use shall not be issued for a period exceeding six months. However, extension of a temporary permit may be granted, provided that the applicant demonstrates that diligent efforts are underway to alleviate the condition necessitating the temporary permit.

(2) The application for temporary permit shall be accompanied by a properly-dimensioned plot plan that clearly illustrates, where applicable, the proposed structure or use, parking, signs, lighting, storage, trash collection areas, utility services (including electrical and telephone wires, water service, and sanitary service), generators and other power equipment, driveways and other pertinent site features. The plot plan shall be based on a mortgage survey or registered survey or shall be based on actual field measurements, provided that such measurements adequately and accurately portray the conditions on the site.

(3) The director of planning and development may require safeguards related to minimum setbacks, screening, off-street parking, hours of operation, site clean-up, site access, and any other reasonable conditions the director deems necessary to protect the health, safety, welfare and comfort of the public.

(4) A temporary permit shall not be issued for a structure or use that is listed as a permitted principal or special land use in a district and is intended to operate year-after-year with no specific date of or conditions for termination.

(5) The director shall require posting of a performance guarantee to ensure site clean-up, including sign removal.

(6) A temporary use permit shall not be required for installation of a temporary construction trailer or other structures or uses during the period that a construction project is in progress on the same or a nearby site.

(Code 1994, § 21.21)

Sec. 51-21.22. Storage of obnoxious matter in open containers prohibited.

No compost heaps, garbage, filth, refuse or other obnoxious matter shall be kept in open containers, piled or laid on the open ground; and all containers shall be stored in such a way so as not to be visible from any street.

(Code 1994, § 21.22)

Sec. 51-21.23. Soil removal or filling.

The use of land for quarry excavation or the removal or filling of topsoil, sand, gravel or other material from or on the land is not permitted in any zoning district except under a permit from the building inspector. Approval shall not be granted, and a permit shall not be issued, if such removal or filling will be above or below the normal grade as established from the nearest existing or proposed street, or will cause stagnant water to collect or leave the surface of the land, at the expiration date of such permit, in an unsuitable condition or unfit for the growing of turf or for other land uses permitted in the district in which the removal or filling occurs. This regulation shall not prohibit the normal removal or filling of soil for the construction of an approved building or structure when such plans have been approved by the building inspector, and a building permit has been issued for said building development. The removal, filling or combination of removal and filling of soil in excess of 1,000 cubic yards shall require site plan approval by the planning commission, unless such activity is normally related to activity for which a building permit has been issued.

(Code 1994, § 21.23)

Sec. 51-21.24. Storage or dumping on open land prohibited.

The use of open land for the open storage or collection or accumulation of lumber, except for firewood less than two feet long that is stored for use on the premises, or manmade materials, or for the dumping or disposal of scrap metal, junk, parts of automobiles, trucks, boats, tires, garbage, rubbish, or other refuse or of ashes, slag or other wastes or by-products, shall not be permitted in any district.

(Code 1994, § 21.24)

Sec. 51-21.25. Governmental functions permitted.

The city shall have the right to construct and maintain any building or structure required for the performance of its governmental or proprietary functions, provided that such building, structure or function shall conform to the use and procedural regulations of the district in which it is located and of this chapter, be constructed so as to conform with the surrounding uses, and shall be subject to site plan approval pursuant to section 51-21.28.

(Code 1994, § 21.25)

Sec. 51-21.26. Easements.

It shall be unlawful for any person to install, erect or cause or permit the installation of a permanent structure (including by way of example but not limitation, garage, building or large tree) on or across an easement of record which will prevent or interfere with the free right or opportunity to use or make accessible such easement for its proper use. Where public utilities now exist, a six-foot easement shall be maintained.

(Code 1994, § 21.26)

Sec. 51-21.27. Regulation of nuisance activities.

No activity or use shall be permitted on any property which by reason of the emission of odor, fumes, smoke, vibration, radiation, noise, disposal of waste or other similar externality is deleterious to other permitted activities in the zone district or is obnoxious or offensive to uses permitted in neighboring districts.

(Code 1994, § 21.27)

Sec. 51-21.28. Site plan review.

(a) *Statement of purposes.* The site plan review process is established for the following purposes:

(1) *Consultation and cooperation.* A purpose of site plan review is to provide a framework for consultation and cooperation between land owners and developers and the city in order to accomplish the owner's and developer's land use objectives in harmony with surrounding existing and planned land.

(2) *Determination of compliance.* This section establishes procedures to ensure that development proposals are in compliance with this chapter and other applicable city, county, state and federal regulations.

(3) *Overview of procedures.*

a. Pre-site plan review provides the land owner or developer and city the opportunity to discuss a proposed development prior to planning commission review to determine the project's feasibility and potential problems.

b. Planning commission review is required to determine the compliance of the site plan with the zoning ordinance and other applicable regulations, its adherence with sound site planning and design principles, and conformance with the criteria for approval of site plans outlined in subsection (g) of this section.

c. Variances may be required for site plan approval if the site plan does not conform to specific requirements of the zoning ordinance. The zoning board of appeals hears requests for variances under the provisions of article 23.00 of this chapter.

d. Administrative review shall be conducted pursuant to the criteria set forth in subsection (e) of this section by the development coordinator or his designated representative for site plan review, and/or by an administrative plan review committee as determined by the development coordinator.

(b) *Scope of requirements.* In each zoning district, except for single-family residential uses in the R1-A and R1-B Single-Family Residential Districts, no building shall be erected, moved, relocated, converted or structurally altered and no change or addition of use, expansion or reduction of off-street parking, or filling, excavation or grading shall be undertaken until a site plan has been submitted for review and approval, as specified in this section. A structural alteration shall be defined as one that changes the location of the exterior walls and/or the area of the building. Filling, grading or excavation which causes more than five cubic yards of earth material to be disturbed shall require site plan approval. Condominium development in any district requires site plan approval.

(c) *Pre-site plan review.*

(1) *Required.* Pre-site plan review shall be required for all site plans except those determined by the development coordinator to be generally minor in scope, complete and in compliance with zoning regulations, free of any impact on surrounding property, and not requiring a discretionary decision by the planning commission. In making these determinations, the coordinator may seek the advice of the planning consultant or others.

(2) *Pre-site plan review committee.*

a. *Membership.* Membership on the pre-site plan review committee may vary depending on the nature of the proposal being reviewed at a particular committee meeting, but shall generally consist of the members listed below. Attendance by each member or class of members is not required, and a majority of members need not be present for the committee to conduct a review of a development proposal.

1. The development coordinator or his designated representative or successor.

2. The city planner and city engineer.

3. One to three representatives of the planning commission.

4. Other city staff or consultants who the director of planning and development determines are needed to properly evaluate a proposal.

b. *Meetings.* Meetings of the pre-site plan review committee shall be scheduled and held as needed by the development coordinator. The development coordinator shall ensure that all members of the committee are notified of meetings.

c. *Responsibilities.* The committee may, in an advisory capacity:

1. Review and comment on site plan proposals;

2. Provide guidance to land developers, particularly regarding zoning ordinance and other applicable regulations and planning and development objectives of the city;

3. Review other plans or proposals referred to it by the planning commission or development coordinator; and

4. Identify when a site plan or other development proposal is substantially complete.

d. *Effect of committee's review.* The pre-site plan review committee's review shall not substitute for or be construed in any way as a decision or opinion of the planning commission regarding the site plan.

e. *Placement of site plan on planning commission's agenda.* The development coordinator or his designee shall prepare the agenda for the planning commission's regular meeting. The coordinator shall seek assistance from the planning commission chairperson and the city planner.

(3) *Application for review by pre-site plan review committee.*

a. An applicant shall submit the following prior to review by the pre-site plan review committee:

1. A completed application form.

2. The fee established by the city council.

3. Not less than nine individually folded copies of the site plan and supporting documentation, prepared in sufficient detail to indicate the layout of the proposed development and to enable determination of compliance with this chapter.

i. An applicant may submit plans and documentation that are less than complete for the purposes of obtaining guidance during the plan preparation process. The pre-site plan review committee can only comment on the plans that have been submitted, so the committee's comments are subject to revision when completed plans and documentation are submitted.

ii. The development coordinator shall review the plans and supporting documentation to determine if sufficient information has been provided to determine the nature and scope of the proposal and compliance with zoning regulations.

b. If the development coordinator determines the materials are sufficient, he shall schedule a meeting of the pre-site plan review committee as soon as is convenient.

(d) *Planning commission review.* Where a site plan requires review by the planning commission, the applicant shall comply with the following procedures and requirements.

(1) *Application for planning commission review.*

a. An applicant shall submit the following in order to be entitled to review by the planning commission:

1. Not less than 16 individual folded copies of the detailed site plan and supporting documentation.

2. A completed application form (if one has not been submitted previously for pre-site plan review).

3. The fee established by the city council.

b. The development coordinator shall examine the site plan to determine that it contains all the required information as specified in this chapter.

c. If the site plan has been placed on the planning commission agenda as a result of pre-site plan review committee action, then the development coordinator shall determine if the plan submitted for planning commission review is substantially similar to the plan reviewed by the committee. If the plan is not substantially similar, or is incomplete, the development coordinator shall return it to the applicant with a written explanation of the plan's deficiencies.

(2) *Required information.* All plans must conform to the requirements of subsection (f) of this section prior to acceptance for planning commission review.

(3) *Distribution of plans for review.* The development coordinator shall review the site plans and shall secure comments from the department of public works, police and fire departments, and the city

engineer and planner, and forward the site plans along with written comments to the planning commission for review. The planning commission shall review the plans and may solicit further comments from the review authorities. The planning commission has the authority to take action on a site plan at the first meeting that it appears on the planning commission agenda.

(4) *Planning commission action.* The planning commission shall review the site plan proposal together with any public hearing findings and any requested reports and recommendations from the city staff, city planner, city engineer, and other reviewing agencies. The planning commission shall then approve, approve with conditions, deny, or table the site plan as follows:

a. *Approval.* Upon determination that a site plan is in compliance with the standards and requirements of this chapter, including the criteria in subsection (e) of this section, and other applicable ordinances and laws, the planning commission shall approve the plan.

b. *Approval subject to conditions.* Upon determination that a site plan is in compliance except for certain modifications, the planning commission may approve the site plan subject to reasonable conditions. The conditions for approval shall be identified and the applicant shall be given the opportunity to correct the site plan. The conditions may include the need to obtain variances or obtain approvals from other agencies. If a site plan has been approved subject to conditions, the applicant shall be required to re-submit a revised site plan with a revision date, and with all conditions addressed on the plan.

c. *Denial.* Upon determination that a site plan does not comply with the standards and regulations set forth in this section or elsewhere in this chapter, or requires extensive revision in order to comply with said standards and regulations, the planning commission shall deny the site plan.

d. *Tabling.* Upon determination that a site plan is not ready for approval or denial, or upon request by the applicant, the planning commission may table consideration of a site plan until a later meeting.

(5) *Record of action.* Each action taken with reference to site plan review and approval shall be recorded in minutes of the planning commission. A building permit shall not be issued until five copies of the final site plan which addresses all conditions of approval and includes a revision date and notation of all variances, has been signed by the planning commission chairperson, the development coordinator, the city planner, and the city engineer.

(e) *Administrative review.* The development coordinator shall determine which projects, proposals, developments, uses and activities are eligible for administrative review and action in accordance with eligibility criteria set forth in this subsection. In the case of reuse or expansion of an existing building or structure, an approved site plan must be on file at the city to be eligible for administrative review. The development coordinator shall review and take action on all projects, plans, developments, proposals and uses eligible for administrative review pursuant to the provisions of this ordinance, provided he may submit an eligible plan, project, proposal or use to an administrative plan review committee for administrative review, recommendation and/or action as determined by the development coordinator. The following provisions shall apply to administrative reviews:

(1) *Review by administrative plan review committee.*

a. Subject to the exceptions and limitations designated in this subsection, the Development Coordinator may submit the following plans, proposals, developments, uses and activities to an administrative plan review committee (review committee) for administrative review:

1. Construction of an addition to an existing building or expansion of an existing, conforming use, subject to the following:

i. The proposed addition or expansion shall not increase the total square footage of the building or area occupied by the use by more than 1,500 square feet, provided further that no other expansion has occurred within the past three years.

ii. The proposed addition or expansion excludes a single-family dwelling.

2. Co-location on an existing wireless communication facility.

3. Family day care homes (less than six children), as licensed by the state.

4. Modifications to an approved site plan not deemed minor, as described in subsection (e)(7) of this section.

5. Projects, plans, developments, proposals submitted to the review committee under any other ordinance provision allowing for administrative review by the review committee.

6. Modifications to an approved site plan for a special land use, conditional zoning, commercial planned development, or planned unit development project are not eligible for review by a review committee.

7. Unless requested by the applicant, review committee approval of a site plan is not required for the construction, moving, relocating or structurally altering of a single- or two-family home, including any customarily incidental accessory structure.

b. Prior to final determination by the review committee, the review committee or applicant may remove any plan, project, development, or proposal under consideration by the review committee to the planning commission for review and final determination, with all costs associated with such review borne by the applicant.

c. An administrative plan review committee shall consist of the building official or his designee, three members of the planning commission, of which one shall be the chairperson of the planning commission or his designee, and the city's planning consultant, if requested by the planning commission chair.

d. The development coordinator shall review all findings, actions, recommendations and/or determinations by the review committee for substantial compliance with all applicable zoning ordinance requirements. The development coordinator may modify any review committee findings, actions, determinations, or recommendations that do not substantially comply with any applicable zoning ordinance requirements.

(2) *Development coordinator approval.* Development coordinator approval of a site plan or sketch plan shall be required prior to the establishment, construction, expansion, or structural alteration of any structure or change in use when any provision of this zoning ordinance requires administrative site plan/sketch plan review and approval by the development coordinator. Unless another provision of this zoning ordinance expressly provides to the contrary, the following provisions apply to administrative site plan/sketch plan review by the development coordinator:

a. Construction, moving, relocating, or structurally altering a single- or two-family home, including any customarily incidental accessory structure.

b. Construction of an addition to an existing and conforming building or expansion of an existing, conforming use, subject to the following:

1. No variances to the requirements of this chapter are required.

2. The proposed addition or expansion shall not increase the total square footage of the building or area occupied by the use by more than 1,000 square feet, provided further that no other expansion has occurred within the past three years.

c. Re-use or re-occupancy of an existing and conforming nonresidential structure or building, subject to the following:

1. The proposed use shall not require additional parking demands, access changes or other substantial modifications and improvements to the existing site or building.

2. The proposed use shall not require special use approval, as set forth in this chapter.

3. No variances to the requirements of this chapter shall be required.

d. Minor changes during construction due to unanticipated site constraints or outside agency requirements, and minor landscaping changes or species substitutions, consistent with an approved site plan, which do not change the intent of the approved site plan.

e. Minor building modifications that do not alter the facade beyond normal repairs, height or floor area of a multiple-family or nonresidential building.

f. For multiple-family or nonresidential uses, construction of accessory structures or fences or construction of a wall around a waste receptacle, or installation of a fence around a mechanical unit or other similar equipment, subject to the provisions of this chapter.

g. Changes to a site required by the building official to comply with state construction code requirements.

h. Modifications to an approved site deemed minor, in accordance with subsection (e)(7) of this section.

i. Sidewalk or pedestrian pathway construction or relocation, or barrier-free access improvements.

j. Temporary construction buildings.

k. Accessory structures and uses specified in section 51-21.10 (accessory buildings, structures and uses).

l. Modifications to an approved site plan for a special land use, conditional zoning, commercial planned development or planned unit development project are not eligible for review by the development coordinator.

m. The development coordinator or applicant shall have the option to request review committee or planning commission review of a project or proposal that would otherwise qualify for administrative review and action under the provisions of this subsection, with all costs associated with such review borne by the applicant.

(3) *Exempt improvements.* Site plan review and a building permit shall generally not be required for painting, reshingling, window replacement that does not involve structural or dimensional changes, replacement of existing diseased or dead landscaping, pot hole repair, parking lot restriping, installation of a dumpster screen in accordance with this chapter, temporary seasonal accessory docks, mooring structures, boat launches, ramps and hoists located in single-family residential zoning districts only for the sole use of one single-family, or other ordinary maintenance activities.

(4) *Application requirements and procedures.* If the proposed modifications are determined to be minor per subsection (e)(7) of this section, then a sketch plan and application may be submitted. The sketch plan must include the following minimum information:

a. Name, address and telephone number of the applicant.

b. Title block.

c. Scale.

d. Northpoint.

e. Dates of submission and revisions (month, date, year).

f. The seal of one of the following professionals registered in the State of Michigan: architect, civil engineer, landscape architect, or professional community planner. The architectural plan of the buildings shall be prepared by and bear the seal of an architect.

g. Existing lot lines, building lines, structures, parking areas and other improvements on the site and within 100 feet of the site.

h. Detailed plans and specifications describing the proposed improvements on the site.

i. Any additional information deemed necessary by the development coordinator to determine compliance with the city ordinances. The coordinator may waive any application requirement he determines is not needed to determine compliance with this chapter.

(5) *Submission to review agencies.* If review input is required, the development coordinator may request that review agencies or professionals, including the fire department, department of public works, planner, and engineer, confine their review to the proposed alterations only, rather than review the entire building or site layout.

(6) *Development coordinator review.* The development coordinator shall review each site plan that has been submitted for administrative review, together with any reports and recommendations submitted by review agencies and professionals. The development coordinator shall reject any application, plan or proposal submitted for administrative review that is either incomplete or does not substantially comply with the applicable ordinance requirements and notify the applicant as to any deficiencies.

(7) *Minor modifications.* Minor modifications are changes that do not substantially affect the character or intensity of the use, vehicular or pedestrian circulation, drainage patterns, the demand for public services, or the vulnerability to hazards. Examples of minor modifications include:

a. An addition to an existing commercial or industrial building that does not increase the floor space by more than 1,500 square feet.

b. Re-occupancy of a vacant building that has been unoccupied for less than 12 months.

c. Changes to building height that do not add an additional floor.

d. Reduction in the square footage of an existing or proposed building.

e. Additions to the landscape plan or landscape materials, relocation of plant material because of road right-of-way restrictions or to avoid conflict with utilities, substitution of comparable species instead of the approved species, and installation of street trees consistent with the species and location standards specified by the city.

f. Relocation or screening of the trash receptacle.

g. Alterations to the internal parking layout of an off-street lot.

h. Relocation of a trash receptacle or installation of screening around an existing dumpster, provided that the dumpster is in compliance with the required setbacks.

i. Construction of sidewalks, whether on private property or within the road right-of-way.

j. Installation of street and parking lot lighting, provided that lighting fixtures installed in the road right-of-way shall comply with the design and installation standards specified by the city.

k. Minor building alterations designed to improve accessibility to a building consistent with the state barrier-free design regulations and/or the Americans with Disabilities Act or to otherwise enhance public safety and convenience.

l. Installation of a three-foot-wide hard-surfaced splash area, consisting of paving brick, cobblestone, or similar material consistent with the provisions of section 51-21.35(4)a.5.

m. Installation of concrete curbing and drainage adjacent to public streets.

n. Burial of existing above ground utility lines.

o. Modifications to an approved site plan for a special land use, conditional zoning, or planned development project or which require a variance, shall not be considered a minor

p. Shared waterfront lot dock use and mooring as provided in section 51-21.49.

(8) *Authorization.*

a. The development coordinator and/or review committee shall review the site plan proposal together with any public hearing findings and any requested reports and recommendations from the building official, city planning consultant, and/or other city staff and reviewing agencies, as applicable.

b. The development coordinator (as per subsection (e) of this section) or review committee when authorized by the development coordinator, shall take the following action on a complete plan, subject to guidelines in this chapter: approval, approval with conditions, denial, or table the site plan, as follows:

1. *Approval.* Upon determination that a site plan is in compliance with the standards and requirements of this chapter and other applicable ordinances and laws, approval shall be granted.

2. *Approval subject to conditions.* Upon determination that a site plan is in compliance except for minor modifications, the conditions for approval shall be identified and the applicant shall be given the opportunity to correct the site plan. The conditions may include the need to obtain variances or obtain approvals from other agencies. If a plan is approved subject to conditions, the applicant shall submit five copies of a revised plan with a revision date, indicating compliance with the conditions of approval, to the development coordinator.

3. *Denial.* Upon determination that a site plan does not comply with the standards and regulations set forth in this article or elsewhere in this chapter, or requires extensive revision in order to comply with said standards and regulations, site plan approval shall be denied.

4. *Tabling.* Upon determination that a site plan is not ready for approval or rejection, or upon a request by the applicant, the review committee may table consideration of a site plan until a future meeting.

(9) *Appeal.* An applicant may appeal any condition or denial of any plan, proposal, development or use submitted for administrative review by submitting a signed, written request for appeal to the city clerk's office within 30 days of the administrative denial and/or imposition of conditions. The planning commission shall review all appeals filed under this subsection. The planning commission shall review the denial or conditions in accordance with planning commission review criteria applicable to original/initial planning commission review. The planning commission may affirm, reverse, modify or affirm/modify subject to conditions any administrative decision appealed under this subsection.

(f) *Criteria for approval of site plans.* The following criteria shall be used by the planning commission as a basis upon which site plans will be reviewed and approved. The planning commission shall adhere to sound

planning and design principles, yet may allow for design flexibility in the administration of the following standards:

(1) All elements of the site shall be harmoniously and efficiently designed in relation to the topography, size, and type of land, and the character of the adjacent properties and the proposed use. The site will be developed so as not to impede the normal and orderly development or improvement of surrounding properties for uses permitted on such property.

(2) The site plan shall comply with the district requirements for minimum floor space, height of building, lot size, open space, density and all other requirements as set forth in the schedule of regulations unless otherwise provided in this chapter.

(3) The existing natural landscape shall be preserved in its natural state as much as possible, by minimizing tree and soil removal and by topographic modifications that result in maximum harmony with adjacent properties.

(4) There shall be reasonable visual and sound privacy. Fences, walls, barriers, and landscaping shall be used, as appropriate, for the protection and enhancement of property and the safety and privacy of occupants and users.

(5) All buildings or groups of buildings shall be so arranged as to permit convenient and direct emergency vehicle access.

(6) Where possible and practical, drainage design shall recognize existing natural drainage patterns.

(7) There shall be a pedestrian circulation system that is insulated as completely as possible from the vehicular circulation system. In order to ensure public safety, pedestrian underpasses or overpasses may be required in the vicinity of schools, playgrounds, local shopping facilities, and other uses that generate considerable amounts of pedestrian movement.

(8) The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets or pedestrian or bicycle pathways in the vicinity of the site. Streets and drives that are a part of an existing or planned street system serving adjacent developments shall be of an appropriate width to the volume of traffic they are planned to carry and shall have a dedicated right-of-way equal to that specified in a city recognized source of reference. In order to ensure public safety and promote efficient traffic flow and turning movements, the applicant may be required to limit street access points or construct a marginal access road.

(9) Appropriate measures shall be taken to ensure that the removal of surface waters will not adversely affect adjoining properties or the capacity of the public or natural storm drainage system. Provisions shall be made for a feasible storm drainage system, the construction of stormwater facilities, and the prevention of erosion and dust. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicles or pedestrian traffic and will not create nuisance ponding in paved areas. Final grades may be required to conform to existing and future grades of adjacent properties. Grading and drainage plans shall be subject to review by the city engineer.

(10) Off-street parking, loading and unloading areas and outside refuse storage areas, or other storage areas that face or are visible from adjacent homes, or from public thoroughfares, shall be screened by walls or landscaping of effective height. Dumpsters shall have gates.

(11) Exterior lighting shall be so arranged and limited in intensity and height or adequately shielded, so that it is deflected away from adjoining properties and so that it does not impede vision of drivers along adjacent streets.

(12) Adequate services and utilities including sanitary sewers, and improvements shall be available or provided, located and constructed with sufficient capacity and durability to properly serve the development.

(13) Any use permitted in any zoning district must also comply with all applicable federal, state, county and city health and pollution laws and regulations with respect to noise, smoke and particulate matter, vibration, noxious and odorous matter, glare and heat, fire and explosive hazards, gases, electromagnetic radiation and drifting and airborne matter, toxic and hazardous materials, erosion control, floodplains, and requirements of the state fire marshal.

(14) An objective of site plan review shall be to protect and to promote public health, safety and general welfare by requiring the screening, buffering and landscaping of sites and parking lots which will serve to reduce wind and air turbulence, heat and noise, and the glare of automobile lights; to preserve underground water reservoirs and return precipitation to the ground water strata; to act as a natural drainage system and solve stormwater drainage problems; to reduce the level of carbon dioxide and return oxygen to the atmosphere; to prevent soil erosion; to provide shade; to conserve and stabilize property values; to relieve the stark character of parking lots; to conserve energy, provide visual and sound privacy and to otherwise facilitate the preservation and creation of a healthful, convenient, attractive and harmonious community.

(15) It is an objective of site plan review to improve the quality of existing developments as they are expanded, contracted, redeveloped or changed in keeping with sound site development standards of the city.

(16) A major objective shall be to retain, enhance and protect the quality, value and privacy of single-family land uses.

(17) All development phases shall be designed in logical sequence to ensure that each phase will independently function in a safe, convenient and efficient manner without being dependent upon improvements of a subsequent development potential of lands.

(18) All sites shall be designed to comply with state and local barrier-free requirements and to reasonably accommodate the handicapped and elderly.

(19) All site features, including circulation, parking, building orientation, landscaping, lighting, utilities, common facilities and open space shall be coordinated with adjacent properties.

(20) All designs shall recognize and follow any design themes adopted by the city.

(g) *Submittal requirements.* The following required information shall be included on all site plans:

(1) *Application form.* The application form shall contain the following information:

a. Applicant's name and address.

b. Name and address of property owner, if different from applicant.

c. Common description of property and complete legal description.

d. Dimensions of land and total acreage.

e. Existing zoning and zoning of all adjacent properties.

f. Proposed use of land and name of proposed development, if applicable.

g. Proposed buildings to be constructed.

h. Name and address of firm or individual who prepared site plan.

i. Proof of property ownership.

(2) *Site plan descriptive and identification data.* Site plans shall consist of an overall plan for the entire development, drawn to a scale of not less than one inch equals 30 feet for property less than five acres,

or one inch equals 50 feet for property five acres or more in size. Sheet size shall be at least 24 inches by 36 inches. The following descriptive and identification information shall be included on all site plans:

a. Applicant's name, address, telephone number.

b. Title block.

c. Scale.

d. Northpoint.

e. Dates of submission and revisions (month, day, year).

f. Location map drawn to a scale with north point.

g. Legal and common description of property.

h. Written description of proposed land use.

i. Zoning classification of petitioner's parcel and all abutting parcels.

j. Proximity to section corner and major thoroughfares.

k. The seal of one of the following professionals registered in the state: Registered architect, registered civil engineer, registered landscape architect, or registered professional community planner. The architectural plan of the buildings shall be prepared by and bear the seal of a registered architect.

l. Boundary dimensions of the property. The boundaries of the site shall be clearly differentiated from other contiguous property.

m. Notation of any variances which have been or must be secured.

n. The performance guarantees to be provided including the amounts, types, and terms.

o. The area of the site in square feet and acres excluding all existing and proposed public right-of-way; and the total area of all building, pavement and other impervious surface.

p. The dimensions of all lots and property lines, showing the relationship of the subject property to abutting properties and all required minimum setbacks from the existing or proposed right-of-way and from adjacent properties.

q. Information and statement of how applicant proposes to comply with state, local and federal laws, as applicable to site or use.

r. Information and special data which may be critical to the adequate review of the proposed use and its impacts on the site or city. Such data requirements may include traffic studies, market analysis, environmental assessments (including inventory and impact data on flora, fauna, natural resources, hazardous materials, erosion control and pollution), demands on public facilities and services and estimates of potential costs to the city due to failures (as a basis for performance guarantees).

(3) *Site data.*

a. Existing lot lines, building lines, structures, parking areas and other improvements on the site and within 100 feet of the site.

b. On parcels of more than one acre, topography on the site and within 100 feet of the site at two-foot contour intervals, referenced to a USGS benchmark.

c. Proposed lot lines, lot dimensions, property lines, structures, parking areas, and other improvements on the site and within 100 feet of the site.

d. Dimensions and centerlines of existing and proposed roads and road rights-of-way.

e. Acceleration, deceleration, and passing lanes, where required.

f. Proposed location of access drives and on-site driveways.

g. Location of existing drainage courses, floodplains, lakes and streams, with elevations.

h. Location and dimensions of existing and proposed interior sidewalks and sidewalks in the right-of-way, in accordance with section 51-21.36.

i. Exterior lighting locations and method of shielding lights from shining off the site.

j. Trash receptacle locations and method of screening, in accordance with section 51-21.39.

k. Transformer pad location and method of screening, if applicable.

l. Front, side, and rear yard dimensions.

m. Parking spaces, typical dimensions of spaces, indication of total number of spaces, drives, and method of surfacing.

n. Information needed to calculate required parking in accordance with zoning ordinance standards.

o. The location of lawns and landscaped areas.

p. Detailed landscape plan in accordance with the requirements of section 51-21.35 indicating location, types and sizes of materials. A landscaping and property maintenance plan and schedule for pruning, mowing, watering, fertilizing, and replacement of dead and diseased materials. Cross-section of any berms shall be provided.

q. Location, sizes, and types of existing trees five inches or greater in diameter, measured at one foot off the ground, before and after proposed development.

r. All existing and proposed easements.

s. Designation of fire lanes.

t. Loading/unloading area.

u. All proposed screen and freestanding architectural walls, including typical cross-section and the height above ground on both sides.

v. The location of any outdoor storage of materials and the manner in which it shall be screened or covered.

w. Location and description of all easements for public right-of-way, utilities, access, shared access, and drainage.

x. A three-foot-wide hard surfaced splash area shall be installed in the road right-of-way along the curb edge, plus along both sides of any driveway approach, pursuant to the design and installation standards maintained by the city and in accordance with section 51-21.35(4).

(4) *Building and structure details.*

a. Location, height, and outside dimensions of all proposed buildings or structures.

b. Indication of number of stories and number of commercial or office units contained therein.

c. Typical building floor plans.

d. Total floor area.

e. Location, size, height, and lighting of all proposed signs.

f. Obscuring walls or berm locations with cross sections where required.

g. Building facade elevations drawn to a scale of one inch equals four feet, or to another scale approved by the inspector and adequate to determine compliance with the requirements of this chapter. Elevations of proposed buildings shall indicate type of building materials, roof design, projections, canopies, awnings and overhangs, screen walls and accessory buildings, and any other outdoor or roof-located mechanical equipment, such as: air-conditioning, heating units and transformers that will be visible from the exterior.

(5) *Information concerning utilities, drainage, and related issues.*

a. Location of sanitary sewers and septic systems, existing and proposed.

b. Location and size of water mains, well sites, and water service leads, existing and proposed.

c. Location of hydrants, existing and proposed, with reasonable access thereto for use by public safety and firefighting personnel.

d. Location of storm sewers and storm sewer facilities existing and proposed, including stormwater retention/detention facilities.

e. Indication of site grading, drainage patterns, and other stormwater control measures.

f. Stormwater drainage and retention calculations.

g. Location of gas, electric, and telephone lines, above and below ground.

h. Types of soils and location of floodplains and wetlands, if applicable.

i. Assessment of potential impacts from the use, processing, or movement of hazardous materials or chemicals, if applicable.

j. Soil erosion and sedimentation control measures.

k. Existing ground elevations on the site of appropriate intervals to show drainage patterns, including existing ground elevations of adjacent land within 100 feet of the subject property and existing building, drive and/or parking lot elevations or any adjacent unusual surface conditions.

l. Proposed finish grades on the site, including the finish grades of all buildings, driveways, walkways, and parking lots.

m. Curbs and gutters, in accordance with section 51-21.44.

(6) *Information applicable to multiple-family residential development.*

a. The number and location of each type of residential unit (one-bedroom units, two-bedroom units, etc.).

b. Density calculations by type of residential unit (dwelling units per acre).

c. Floor plans of typical buildings with square feet of floor area.

d. Building elevations of typical buildings.

e. Garage and/or carport locations and details, if proposed.

f. Dedicated road or service drive locations.

g. Community building location, dimensions, floor plans, and elevations, if applicable.

h. Swimming pool fencing detail, including height and type of fence, if applicable.

i. Location and size of recreation and open space areas.

j. Indication of type of recreation facilities proposed for recreation area.

(7) *General notes.*

a. If any of the items listed above are not applicable, the following information should be provided on the site plan:

1. A list of each item considered not applicable.

2. The reasons why each listed item is not considered applicable.

b. Other data may be required if deemed necessary by the city or planning commission to determine compliance with the provisions of this chapter.

(h) *Construction pursuant to an approved plan.* When an applicant receives site plan approval as provided herein, the applicant shall develop the site in complete conformity with the approved site plan. Complete construction plans, including a landscape plan prepared by a registered landscape architect for all landscaped areas, shall be submitted for review by the director of planning and development. Upon finding by the director of planning and development that the construction plans meet the requirements of site plan approval and other applicable ordinances of the city, the shall authorize issuance of a building permit.

(i) *Period of validity, extension of site plan approval.* Site plan approval shall be valid for one year from the date of approval. If no building permit is obtained within one year of site plan approval or if no work is commenced within six months after the issuance of a building permit, the site plan approval expires and is of no force or effect, unless extended by the planning commission.

(j) *Certificate of occupancy.* A certificate of occupancy shall be withheld by the building official if construction is not consistent with the approved site plan. Minor variations may be approved by the building official; if the site plan was originally approved by the planning commission, then the building official shall report such minor variations to the planning commission within 30 days after issuance of the certificate of occupancy.

(Code 1994, § 21.28; Ord. No. C-287-10, §§ 7, 8, 1-18-2011; Ord. No. C-334-17, § 6, 1-16-2018)

Sec. 51-21.29. Procedures and standards for principal uses permitted subject to special conditions.

(a) *Intent.* The types of uses requiring special approval shall be deemed to be permitted uses in their respective districts, subject, as to each specific use, to satisfaction of the procedures, requirements and standards set forth in this section. Each specific use for which a permit is sought shall be considered as an individual case and shall conform to the detailed application of the following procedures and standards in a manner appropriate to the particular circumstances of such use. Each use as listed in any district requiring special approval for a permit shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is suggested and will not be detrimental to the orderly development of adjacent districts and uses.

(b) *Public hearings.* Upon receiving a substantially complete application for special approval, a public hearing shall be scheduled by the director of planning and development and held by the planning commission before a decision is made on the special approval request. No decision on a special approval request shall be made unless notification of the public hearing is given as required.

(c) *Procedure of notice.*

(1) One notice of a public hearing shall be published in a newspaper of general circulation in the city; said notice shall be posted in the city offices, and shall be sent by mail or personal delivery to the owners of the property for which approval is being considered, to all persons to whom real property is assessed,

within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet of the property regardless of whether property or occupant in the zoning jurisdiction.

(2) The notice shall be given not less than 15 days before the application will be considered. If the name of the occupant is not known, the term "occupant" may be used in making notification. The notice shall:

a. Describe the nature of the special land use request.

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

c. State when and where the special land use request will be considered.

d. Indicate when and where written comments will be received concerning the request.

(d) *Planning commission hearing, review and approval.* Special land use approval shall not be granted until a public hearing has been held by the planning commission, in accordance with the procedures and notice described herein above. The planning commission shall deny, approve, or approve with conditions, requests for special land use approval. The decision on a special land use shall be incorporated in a statement of conclusions relative to the special land use under consideration. The decision shall specify the basis for the decision, and any conditions imposed.

(e) *Site plan review and information required.* For all special approval uses, a site plan shall be required and submitted in accordance with section 51-21.28. Approval shall run with the land and shall not be issued for specified periods, unless the use is temporary or time-related in nature.

(f) *Performance guarantees.* Performance guarantees may be required by the planning commission to ensure compliance with special approval conditions, in accordance with this chapter.

(g) *Standards.* In addition to any specific site plan standards set forth in this chapter which the city shall apply to the use, the following standards shall serve the planning commission as the basis for decisions involving special land uses and other discretionary decisions contained in this chapter. Each proposed use or activity shall:

(1) In location, size and intensity of the principal and/or accessory operations, be compatible with adjacent uses and zoning of land.

(2) Be consistent with and promote the intent and purpose of this chapter.

(3) Be compatible with the natural environment and conserve natural resources and energy.

(4) Be consistent with existing and future capabilities of municipal services and facilities affected by the proposed use.

(5) Protect the public health, safety, and welfare as well as the social and economic wellbeing of those who will use the land use or activity, residents, businesses and landowners immediately adjacent, and the city as the whole.

(6) Promote the use of land in a socially and economically desirable manner.

(7) Not be in conflict with convenient, safe and normal neighborhood vehicular and pedestrian traffic routes, flows, intersections, and general character and intensity of neighborhood development.

(8) Be of such a design and impact that the use, its location and height of buildings, the location, nature and height of walls, fences and the nature and extent of landscaping on the site shall not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.

(9) In the nature, location, size and site layout and function of the use, be a harmonious part of the district in which it is situated taking into account, among other things, prevailing shopping habits, convenience of access by prospective patrons, the physical and economic relationship of one type of use to another and characteristic groupings of uses of said district.

(10) In the location, size, intensity of the use and site layout, be such that operations will not be objectionable to nearby dwellings or uses, by reason of noise, fumes, glare, flash of lights, or other similar externalities.

(h) *Record.* All conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the planning commission and the applicant. The city shall maintain a record of changes granted in conditions.

(i) *Specific minimum requirements for specific uses.* The following uses shall be subject to the following minimum requirements set forth in this subsection:

(1) *Clubs.* Private, noncommercial service clubs of a social or fraternal nature, or boat clubs; municipal owned and operated libraries, parks, swimming pools or beaches; private, noncommercial recreation centers; nonprofit swimming pool clubs; public or private golf courses; except playgrounds and similar uses designed and intended for local residential neighborhood use only:

a. The proposed site shall have at least one property line abutting a major thoroughfare and the site shall be so planned as to provide all ingress and egress directly onto or from said major thoroughfare.

b. Front and rear yards shall be at least 80 feet and side yards shall be at least 50 feet. The first 20 feet of such yards shall be kept free of off-street parking and shall be landscaped.

c. All lighting shall be specially shielded to protect adjacent single-family areas.

d. Whenever off-street parking areas are adjacent to land used or zoned for single-family residential purposes, a wall shall be provided along the sides of the parking area adjacent to such residential land in accordance with section 51-21.14.

e. Any such use shall have a minimum site area of two acres.

f. Whenever a pool is involved, said pool area shall be provided with a protective fence six feet in height and entry shall be provided by means of a controlled gate or turnstile.

g. Buildings erected on the premises shall not exceed one story in height except where due to topography a lower level shall be permitted when said lower level is entirely below the grade of the major thoroughfare abutting the parcel in question.

h. Off-street parking shall be provided so as to accommodate at least one-half of the member families and/or individual members notwithstanding any other provisions of this chapter. Bylaws of the organization shall be provided to the planning commission in order to establish the membership involved for computing parking requirements. In those cases wherein the proposed use or organization does not have bylaws or formal membership, or the planning commission finds that the parking requirement will be excessive, the off-street parking requirements shall be determined by the planning commission on the basis of usage.

i. Additional minimum requirements for golf courses shall include the following:

1. Accessory uses not strictly related to a golf course which are generally of a commercial nature such as a restaurant and bar shall be housed in the clubhouse. Accessory uses which are strictly related to the operation of the golf course itself, such as a maintenance garage and pro shop or golf shop may be located in separate structures.

2. No building shall be located on the site closer than 100 feet from the lot line of any adjacent residential land or from any public right-of-way.

3. Lighting of playing areas of the golf course for night use shall be prohibited.

(2) *Nursery schools, day nurseries, childcare centers, and preschools, under certain conditions.* Nursery schools, day nurseries, childcare centers, and preschools, when operated as a principal use or as an accessory use to an approved church or school, subject to the following conditions:

a. *Setbacks.* The required front and rear setbacks shall be 50 feet, and no portion of the front 20 feet shall be used for parking.

b. *Lighting.* All exterior lighting shall be shielded so that it does not shine onto adjacent properties.

c. *Off-street parking.* Whenever off-street parking areas are adjacent to land used or zoned for residential purposes, a wall or landscaped screen shall be provided along the sides of the parking adjacent to such residential land.

d. *Outdoor play area.* For each child cared for there shall be provided and maintained a minimum of 150 square feet of outdoor play area. The play area shall be screened from any adjacent residential use in accordance with sections 51-21.14 and 51-21.35. Outdoor play areas shall be located in the rear or waterfront yard.

(3) *Indoor commercial recreation uses.* Indoor commercial recreation uses including indoor archery range, indoor tennis courts, indoor skating rink, indoor paintball arenas, or other similar uses in the C-2 General Commercial District:

a. All indoor commercial recreation uses must meet the development standards of section 51-29.05.

b. The square footage of buildings used for indoor recreation must be deemed to be compatible with adjacent uses by the planning commission.

(4) *Churches and related religious buildings and facilities.*

a. The proposed site shall have at least one property line abutting a major thoroughfare and the site shall be so planned as to provide all ingress and egress directly onto or from said major thoroughfare.

b. Front and rear yards shall be at least 50 feet and side yards at least 20 feet, provided that no setback shall be less than the height of the building under any circumstances.

c. All lighting shall be shielded.

d. Whenever off-street parking areas are adjacent to land zoned for residential purposes, a wall shall be provided along the sides of the parking area adjacent to such residential land.

(5) *Public, parochial and other private elementary, intermediate and/or high schools.*

a. The proposed site shall have at least one property line abutting a major thoroughfare and the site shall be so planned as to provide all main ingress and egress directly onto or from said major thoroughfare.

b. Front and rear yards shall be at least 50 feet and side yards shall be at least 30 feet. The first 20 feet of such yards shall be kept free of off-street parking and shall be landscaped.

c. All lighting shall be specifically shielded from adjacent single-family areas.

d. Whenever off-street parking areas are adjacent to land zoned for residential purposes, a wall shall be provided along the sides of the parking area adjacent to such residential land in accordance with section 51-21.14.

(6) *Indoor commercial recreation uses.* Indoor commercial recreation uses, including indoor archery range, indoor tennis courts, indoor skating rink, indoor paintball arenas, or other similar uses in the I-1 Limited Industrial District: All characteristics of indoor commercial recreation uses, including, but not limited to, pedestrian circulation, hours of operation, noise, lighting, vehicular volume and vehicular circulation, must prove compatibility with all adjacent existing and permitted future land uses to ensure minimal land use conflicts and the protection of public safety.

(7) *Public or private colleges, universities and other institutions of higher learning.*

a. The proposed site shall have at least one property line abutting a major thoroughfare and the site shall be so planned as to provide all main ingress and egress directly onto or from said major thoroughfare.

b. Front and rear yards shall be at least 80 feet. The first 50 feet of such yards shall be kept free of off-street parking and shall be landscaped.

c. All lighting shall be specifically shielded from any adjacent single-family areas.

d. Whenever off-street parking areas are adjacent to land used or zoned for residential purposes, a wall shall be provided along the sides of the parking area adjacent to such residential land in accordance with section 51-21.14.

e. Height of residential buildings in excess of the minimum requirements may be allowed provided minimum yard setbacks where yards abut land zoned for residential purposes, are increased by not less than 30 feet for each yard, for each 12 feet or fraction thereof by which said building exceeds the minimum height requirements of the zone.

f. Those buildings to be used for servicing or maintenance, such as heating plants, garages, storage structures and the like, shall not be located on the outer perimeter of the site where abutting property is used or zoned for residential purposes.

(8) *Nursing and convalescent homes; orphanages.*

a. The proposed site shall have at least one property line abutting a major thoroughfare and the site shall be so planned as to provide all ingress and egress directly onto or from said major thoroughfare.

b. Front, side and rear yards shall be at least 120 feet. The first 50 feet of such yards shall be kept free of off-street parking and shall be landscaped.

c. All lighting shall be specially shielded from adjacent residential areas.

d. Whenever off-street parking areas are adjacent to land uses or zoned for residential purposes, a wall shall be provided along the sides of the parking area adjacent to such residential land.

e. For each such use in any residentially zoned district, there shall be provided on the site not less than 1,000 square feet of open space for each bed in the home. The 1,000 square feet of land area shall provide for landscape setting, off-street parking, service drives, loading space, yard requirements and accessory uses, but shall not include the area covered by main or accessory buildings.

(9) *General hospitals.*

a. The proposed site shall have at least one property line abutting a major thoroughfare and the site shall be so planned as to provide all ingress and egress directly onto or from said major thoroughfare.

b. Front, side and rear yards shall be at least 80 feet. The first 50 feet of such yards shall be kept free of off-street parking and shall be landscaped.

c. All lighting shall be specially shielded from all adjacent residential land use.

d. Whenever off-street parking areas are adjacent to land used or zoned for residential purposes, a wall shall be provided along the sides of the parking area adjacent to such residential land.

e. Buildings not to exceed 45 feet in height may be built, provided that minimum site, front and rear yard setbacks of not less than two times the height of the building.

f. Ambulance, emergency entrance and delivery areas shall be visually screened from the view of adjacent residential areas by a masonry wall at least six feet in height, in accordance with section 51-21.14.

(10) *Elderly housing.*

a. Elderly housing may provide for the following:

1. Cottage-type one story dwellings and/or apartments-type dwelling units.

2. Common service containing, but not limited to, central dining rooms, recreational rooms, central lounge and workshops.

b. All dwellings shall consist of at least 350 square feet per unit (not including kitchen and sanitary facilities).

c. Total coverage of all buildings (including dwelling units and related service buildings) shall not exceed 25 percent of the total site, not including any dedicated public right-of-way.

d. Facilities shall be designed with grab bars in hallways and bathrooms.

e. Off-street parking shall be provided on site in an amount equal to one space for each dwelling unit.

(11) *Group day care homes, large group homes, small group homes.*

a. *Location.* The proposed site shall have at least one property line abutting a major thoroughfare and the site shall be so planned as to provide all ingress and egress directly onto or from said major thoroughfare.

b. *Compliance with zoning ordinance.* The proposed site and building shall be in full compliance with all yard and bulk regulations (including setback, lot size, and lot width regulations) for the district in which it is located.

c. *Lighting.* All exterior lighting shall be shielded so that it does not shine on adjacent property.

d. *Off-street parking.* Off-street parking shall be provided for any employees who are not residents of the home. Whenever off-street parking areas are adjacent to land used or zoned for residential purposes, a wall or landscaped screen shall be provided along the sides of the parking area adjacent to such residential land.

e. *Outdoor play area.* For each child cared for in a group day care home there shall be provided and maintained a minimum of 150 square feet of outdoor play area. The play area shall be screened from any adjacent residential use in accordance with sections 51-21.14 and 51-21.35. Outdoor play areas must be located in the rear yard.

f. *Conformance with state regulations.* The home shall meet all applicable requirements (including licensing and certification requirements) of the state department of social services and all other applicable local, county, state and federal regulations.

g. *Loading/unloading areas.* Group day care homes shall provide for safe loading and unloading of children, preferably not requiring vehicles to back up.

h. *Conformance with home occupation regulations.* Group day care homes shall comply fully with the regulations concerning home occupations in section 51-21.33.

i. *Concentration of facilities.* In considering whether to permit establishment of group day care homes and/or the number of children that should be permitted in such a home, the city shall take into account the number of other existing facilities in the neighborhood and the potential overall impact on the neighborhood.

(12) *Quick oil change or lubrication stations.*

a. Must be on a major thoroughfare.

b. Must have a minimum of 150 feet frontage on the principal street serving the site.

c. Cannot be located within 300 feet of any other facilities.

d. Only one ingress/egress per street frontage is allowed, no closer than 50 feet to an intersection. One is allowed on residential streets.

e. Buildings shall be set back 35 feet from any setback.

f. No building shall be located closer than 40 feet to any residentially-zoned land.

g. There shall be a minimum of three stacking spaces per bay, provided they do not cross any drive, lane, sidewalk or parking space.

h. There shall be two parking spots per bay, plus one.

i. When abutting residentially-zoned land, there shall be a six-foot-high decorative masonry wall and a 20-foot landscape setback.

j. There shall be a ten-foot landscape setback along all side and rear lot lines.

(13) *Automobile service stations.*

a. Site must be located on a major thoroughfare.

b. Minimum lot area 22,500 square feet, for each additional use (i.e., fast food restaurant, car wash, etc.) an additional 5,000 square feet is required.

c. Minimum frontage of 150 feet shall be required on the principal street serving such station.

d. All buildings, awnings, pumps, air stations shall be set back 35 feet from the setback measurement line or street right-of-way, 50 feet, front residentially-zoned property, 20 feet from any other lot line.

e. Only one ingress/egress per street frontage is allowed. In no instance shall a drive be closer than 50 feet to any intersection.

f. Adjacent to residentially-zoned districts there shall be a six-foot-high masonry wall and a 20-foot landscape setback.

g. There shall be a minimum of ten feet landscape setback from side and rear lot lines that don't abut residentially-zoned land.

h. There shall be no on-site sale, or rental of any trucks, cars, trailers or equipment.

i. There shall be no outside storage of junk vehicles that are inoperable or unlicensed.

(14) *Outdoor recreational vehicle sales.* Outdoor sales space for car, truck, recreational vehicle, trailer or mobile home sales:

a. The lot or area shall be provided with a permanent, durable and dustless surface, and shall be graded and drained as to dispose of all surface water accumulated within the area.

b. Access to the outdoor sales area shall be at least 60 feet from the intersection of any two streets measured from the existing or planned right-of-way, whichever is greater.

(15) *Car wash establishments.*

a. All washing facilities shall be within a completely enclosed building. This requirements may be addressed with solid overhead doors or folding doors, but not including plastic curtains.

b. Vacuuming and drying areas may be located outside the building but shall not be closer than 25 feet from any residential district.

c. All cars required to wait for access to the facilities shall be provided space off the street right-of-way and parking shall be provided in accordance with section 51-5.135.

d. Access points shall be located at least 60 feet from the intersection of any two streets measured from the existing or planned right-of-way, whichever is greater.

(16) *Retail sales of plant materials.* Seasonal or year-round retail sales of plant materials not grown on site and sales of lawn furniture, playground equipment, and other merchandise or home garden supplies in the open, when accessory to a business within a building and when not located at the intersection of two major thoroughfares.

(17) *Outdoor recreational space fencing.* Outdoor recreational space such as shuffleboard, miniature golf, and other similar recreation facilities, but not at the intersection of two major thoroughfares. All such recreation space shall be adequately fenced on all sides with at least a four foot high fence.

(18) *Boat launches, docks, waterfront parks, beaches and similar waterfront recreation uses.*

a. *Purpose.* The purpose of these regulations is to regulate the land-based improvements and activities related to various waterfront uses, so as to alleviate the impact on nearby properties, adjacent roads, and the community in general.

b. *Site plan review and building permit.* Site plan review and approval shall be required prior to construction of any boat launch, dock, beach, waterfront park, structure or improvement related thereto, except:

l. Where improvements are for the sole use of one single residence; or

2. Shared waterfront lot dock use and/or mooring pursuant to section 51-21.49.

A building permit shall be required for any construction or other activity regulated by the building Code. Permits required by the Michigan Department of Natural Resources and Environment (MDNRE) or other state agencies shall be a condition of approval granted under this section.

c. *Parking.* Off-street parking shall be required for only the structures and facilities requiring site plan review and approval pursuant to subsection (i)(18)b of this section in accordance with the following chart:

	Residential	Commercial

Boat Launch	6 spaces*	24 spaces*
Dock	1 per dock space	1 per dock space
Beach or Park	1 per 1,350 sq. ft. of site	1 per 1,350 sq. ft. of site

*Combined 40-foot vehicle-trailer spaces shall be provided for boat launches.

1. Such spaces shall be of a drive-through design, using a 45-degree layout.
2. Off-street parking shall comply with the requirements in article 19.00 of this chapter. Off-street parking spaces shall not be located closer than 20 feet to the road right-of-way line or the edge of the water.

d. *Maneuvering lanes.* Maneuvering lanes for boat launches and parking areas shall be located completely on private property and not within the road right-of-way. Maneuvering lanes serving a boat launch shall be paved and shall comply with the following dimensional requirements:

Maneuvering Lane Width	
One-Way	15 Feet
Two-Way	22 Feet
A maneuvering lane shall extend on the land a minimum of 60 feet in front of the boat launch to provide sufficient space for backing in and exiting from the launch.	

e. *Pedestrian access.* Sidewalks shall be required in accordance with section 51-21.36. Pedestrian movement shall be insulated from vehicular traffic.

f. *Outside storage.* Outside storage of boats, trailers, equipment, supplies, and debris shall be prohibited.

g. *Lighting.* All lighting shall be directed onto the site and shielded to prevent glare onto surrounding properties.

h. *Screening.* Whenever off-street parking areas are adjacent to land used or zoned for single-family residential purposes, a wall shall be provided along the sides of the parking area adjacent to such.

i. *Number of docks.* No more than one dock per 50 linear feet of shoreline shall be permitted on a waterfront lot.

j. *Minimum side yard setback.* In two-family residential districts, docks shall be located on the property so as to observe a minimum five-foot side yard setback from each riparian side lot line. In multiple-family residential districts, docks shall be located on the property so as to observe a minimum 20-foot side yard setback from each riparian side lot line.

(19) *Drive-through restaurant.*

a. Site must be located on a major thoroughfare.

b. Buildings must be set back a minimum of 35 feet from the setback measurement line.

c. Lots must have a minimum 150-foot frontage on the principal street serving said street.

d. Shall not be located closer than 250 feet to any other drive-through restaurant unless separated by a major road.

e. Buildings must be set back a minimum of 40 feet from any residentially-zoned property.

f. Speakers shall be muted so as to not be audible beyond any lot line, and shall be set back a minimum of 30 feet from residentially-zoned and.

g. When adjacent to residentially-zoned land, there shall be a six-foot decorative masonry wall and a 20-foot landscape setback.

h. There shall be a ten-foot landscape setback from all side and rear yards.

i. There shall be only one ingress/egress per street frontage, with no drive closer than 50 feet to any intersection.

(20) *Bed and breakfast establishments.*

a. Bed and breakfast establishments within the R1-B District shall be located on parcels within 150 feet of, and with direct access to, East Walled Lake Drive between Witherall and Leeds Roads.

b. Sufficient off-street parking shall be provided at the rate of two parking spaces plus one space per double occupied room.

c. No retail or other sales shall be permitted unless they are clearly incidental and directly related to the conduct of the bed and breakfast, including, but not limited to, the sale of goods directly related to the history of the city or locally produced items.

d. One non-illuminated wall sign may be erected on the property, not to exceed six square feet in size. The sign shall compliment the nature of the use; i.e. historic structures should have an historic style sign.

e. No alteration to the exterior of the residential dwelling, accessory building, or yard that alters the residential character of the premises is permissible.

f. No vehicle used in the conduct of the bed and breakfast may be parked, kept, or otherwise be present at the premises, other than such as are normally suitable for use for domestic or household purposes.

g. Rooms utilized for sleeping shall be part of the primary residential structure and shall not have been specifically constructed for rental purposes.

h. Rooms utilized for sleeping shall have no direct access to the outside.

i. Not more than three sleeping rooms may be used for such purposes.

j. The proprietor or owner is required to occupy the property.

k. There shall be no separate or additional kitchen facility for the guests.

l. Meals shall be served only to residents and overnight guests.

m. No exterior lighting, except as normally permitted for a typical single-family use, shall be permitted.

n. A city business license is required.

o. A bed and breakfast must comply with all other provisions of the zoning district in which it is located and must comply with all other ordinances of the city. Additionally, a bed and breakfast is subject to all other applicable local, county, state and federal regulations.

p. A permit shall be obtained from the director of planning, or his designee. Such permit shall be revoked should the bed and breakfast at any time not meet the above conditions. Any permit to allow a bed and breakfast shall be issued for a period not to exceed two years. Further, any permit shall become null and void after one year from the date such permit is granted unless the bed and breakfast has been established and is operating.

q. Any permit issued is nontransferable.

r. Any other conditions deemed essential and desirable by the planning commission may be imposed on such a use.

s. The use is subject to review at any time and may be revoked for cause by the planning commission. The term "cause" shall include, but not be limited to, operating the bed and breakfast in an unlawful manner or in such a manner as to constitute the maintenance of a nuisance upon or in connection with the bed and breakfast. For the purposes of this section, the term "nuisance" shall be given the normal and customary meaning, and shall include, but not be limited to, the following:

1. Existing violations of building, electrical, mechanical, plumbing, zoning, health, fire or other applicable regulatory codes.

2. A pattern or practice of patron conduct, which is in violation of the law and/or interferes with the health, safety and welfare of other persons in the area.

3. Failure after receiving notice from the city to maintain the grounds and exterior of the bed and breakfast, including frequent litter, debris or refuse blowing or being deposited upon adjoining properties.

4. Failure by the owner and/or operator to permit the reasonable inspection of the bed and breakfast by the city's employees or agents in connection with the enforcement of this section.

(Code 1994, § 21.29; Ord. No. C-261-06, § 8, 3-7-2006; Ord. No. C-287-10, § 9, 1-18-2011; Ord. No. C-341-18, § 3, 1-15-2019)

Sec. 51-21.30. Performance guarantees.

(a) *Required.* To ensure compliance with this chapter and any conditions imposed under this chapter, including conditions of site plan approval, special approval, cluster development, planned development, and street access approval, the city council, planning commission or zoning board of appeals may require that financial security acceptable to the city be deposited with the city clerk to ensure faithful completion of improvements as defined in subsection (b) of this section. The amount of the cash deposit, certified check, or irrevocable bank letter of credit shall cover the estimated cost of improvements associated with a project and other reasonable incidental costs associated therewith, for which approval is sought.

(b) *Improvements.* The term "improvements" means those features and actions associated with a project which are considered necessary to protect natural resources, or the health, safety, and welfare of the residents of the city and future users or inhabitants of the proposed project or project area, including by way of example, but not limitation, roadways, lighting, utilities, landscaping, parking, paving of parking and circulation areas, screening, drainage and other similar site improvements. The term "improvements" shall not include the entire project which is the subject of the approval.

(c) *Timing.* The performance guarantee along with a detailed description and schedule of improvements to be completed shall be deposited with the clerk prior to the issuance of any certificate of occupancy authorizing use of the activity or project.

(d) *Type.* The applicant shall be required to provide the performance guarantee or financial security in one or a combination of the following arrangements, whichever the applicant elects:

(1) *Irrevocable letter of credit.* An irrevocable letter of credit issued by a bank authorized to do business in Michigan in an amount sufficient to cover the cost of the contemplated improvements as estimated by the city.

(2) *Escrow fund.* A cash deposit, or deposit by certified check drawn on a bank authorized to do business in the state sufficient to cover the cost of the contemplated improvements as estimated by the city shall be deposited with the clerk. The escrow deposit shall be for the time period necessary to complete the required improvements.

(e) *Rebate.* In the case of cash deposits, the clerk shall rebate or release to the applicant, as the work progresses, amounts equal to the ratio of the completed and accepted work to the entire project, after approvals described below.

(f) *Inspection and certification.* Inspection and certificate of acceptance of private improvements shall be as follows:

(1) *Inspection of public improvements by the city engineer or building department.* After the completion of the construction of the required public improvements, the engineer or building inspector, or the county, state or federal agency with jurisdiction to grant approval or accept, shall conduct a final inspection and certify compliance with the required improvements. This inspection shall be made to ensure the improvements are completed according to the approved plans and specifications.

(2) *Certification by the building department.* The applicant shall furnish the clerk a letter or document signed by the building inspector indicating satisfactory completion of the required improvements.

(g) *Failure.* In case the applicant shall fail to complete the required improvements or work within such time period as required by the conditions or guarantees as outlined above, the city council may proceed to have such work completed and reimburse itself for the cost thereof, including all administrative costs, by appropriating the cash deposit or certified check, or by drawing upon the letter of credit.

(h) *Maintenance bond.* The city may require, prior to the acceptance by the city of public improvements, a maintenance bond acceptable to the city for a period of up to three years in an amount not to exceed 35 percent of the total cost of the public improvements.

(i) *Subdivisions.* This section shall not be applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been deposited pursuant to the subdivision Control Act, No. 288 of the Public Acts of 1967, as amended, being section 560.101 to 560.293 of the Michigan Compiled Laws.

(Code 1994, § 21.30)

Sec. 51-21.31. Commercial and unlicensed vehicles in residential areas.

(a) *Purpose.* The purpose of restrictions on commercial and unlicensed vehicles is to preserve the health, safety and general welfare of persons and property in residential areas designed and utilized for residential development by regulating the parking of certain large commercial vehicles which frequently are impediments to the ingress and egress of emergency and fire protection vehicles and equipment, which are frequently unsafe when operated on residential streets, and the noise, exhaust emissions and appearance of which tend to impair the health, safety and general welfare of the people of the city.

(b) *Residential parking prohibited.* No commercial vehicle of any kind, except a truck not exceeding 10,000 pounds gross vehicle weight, shall be parked in a residentially zoned or used area; provided, however, this provision shall not apply to commercial vehicles temporarily parked (less than eight hours) in a residential area in conjunction with maintenance or service to a residential property. No unlicensed vehicle of any kind shall be parked or stored outside in any residentially zoned or used area.

(c) *Presumption of ownership.* In any proceeding for violation of any parking provision of this section, the person to whom a commercial vehicle is registered, as determined from the registration plate displayed on said motor vehicle, or the person who owns the property on which an unlicensed vehicle is located, shall be presumed in evidence to be the person who committed the violation charged.

(Code 1994, § 21.31)

Sec. 51-21.32. Adult-regulated uses.

(a) *Intent and rationale.*

(1) In the development and execution of this chapter and this section, it is recognized that there are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances, thereby having deleterious effect upon adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting, deteriorating and/or downgrading of the area, and that area adjacent thereto. These special regulations are itemized in this section. The city believes that control or regulation is for the purpose of preventing a concentration of these uses in any one area, i.e., not more than one such use within 750 feet of another such use.

(2) It is further recognized in the development of this chapter that the prohibition against the establishment of more than one adult/regulated use within 750 feet of each other serves to avoid the clustering of a blighted or deteriorated area frequented by vagrants, and the like; such prohibition further serves to avoid the deleterious effects of blight and devaluation of both business and residential property values resulting from the establishment of adult regulated uses (as defined in this chapter) immediately adjacent to residential neighborhoods; such prohibition further serves to prevent the deleterious effect of blight and devaluation that may be caused by these uses.

(3) It is further recognized in the development of this chapter and this section that concern for, and pride in, the orderly planning and development of the neighborhood and area should be encouraged and fostered in those persons who comprise the business and residential segments of that neighborhood and area.

(b) *Itemization of adult regulated uses.* Uses subject to the controls set forth in this section shall be as follows, and are referred to herein as adult-regulated uses:

(1) Adult book store.

(2) Adult mini-motion picture theater.

(3) Adult motion picture theater.

(4) Amusement gallery.

(5) Cabaret.

(6) Halfway house.

(7) Massage parlor.

(8) Modeling studio.

(9) Tattoo parlor.

(10) Any use defined as adult regulated uses in section 51-2.02.

(c) *Prohibition.* Unless and until approval is first sought and obtained hereunder, it shall be unlawful to hereafter establish any adult regulated use (as defined herein).

(d) *Requirements.*

(1) The adult regulated use shall be located only in the C-2 General Commercial Districts.

(2) The structure of any adult regulated use shall be at least 750 feet from the nearest property line of any public, private or parochial school, library, park, playground or other recreational facility which admits minors, day care center, or nursery schools; and at least 750 feet from the nearest property line of any church, convent, monastery, synagogue, or other similar place of worship, except as provided below.

(3) Application to establish any adult regulated use shall not be approved if there is already in existence another adult regulated use, or if a site plan has been approved for one or more adult regulated uses, within 750 feet of the boundaries of the site of the proposed adult regulated use, except as provided below.

(4) The measurement used to determine the application of any of the above restrictions shall be made from the nearest boundary line of the proposed adult regulated use on a plane to the nearest boundary line of the use in connection with which the measurement is being taken.

(e) *Application and review.*

(1) Any person desiring to establish an adult regulated use shall submit an application for special approval to the city clerk, who shall place the application on the planning commission agenda for formal receipt at the next regular planning commission meeting.

(2) A date for public hearing shall be set by the planning commission. The city council may order a joint meeting with the planning commission for its input if the council believes such information would allow greater factual information. The public hearing of the planning commission, whether jointly with the council or not, shall be conducted as soon as reasonably possible, and in any event shall not exceed 75 days from the filing of the application. Notice of public hearing shall be published mailed and delivered as required by the same procedures as for special approval in this chapter pursuant to section 51-21.29.

(3) The planning commission may approve the application if all of the following findings are made:

a. All locational requirements of this section are met.

b. The site layout and its relation to streets giving access to it, shall be such that vehicular and pedestrian traffic to and from the use or uses, and the assembly of persons in connection therewith, will not be clearly hazardous, dangerous, or inconvenient to the neighborhood. In applying this standard the city shall consider, among other things: convenient routes for pedestrian traffic, the relationship of the proposed use to main vehicular traffic thoroughfares and to streets and road intersections, and the general nature and intensity of the existing and potential development of the neighborhood. The commission shall determine that the proposed use will not have a clear detrimental effect.

c. The proposed use will not clearly cause a nuisance and/or harm the public health, safety and general welfare and/or cause an unreasonable diminution in the value of other property in the immediate area.

(4) The planning commission may waive the locational provision requiring minimum distances between adult regulated uses and a public, private or parochial school, library, park, playground, or other recreational facility, which admits minors, day care center or nursery school, church, convent, monastery, synagogue, or other similar place or worship, if all of the following findings are made after public hearing:

a. That the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this chapter will be observed;

b. That the proposed use will not contribute to, create, enlarge and/or encourage a blighted or deteriorated area;

c. That the establishment of an additional adult regulated use in the area will not be contrary to any program of neighborhood conservation, nor will it interfere with any program of urban renewal;

d. That all applicable regulations of this chapter will be observed;

e. That there is no other reasonable location in the city at which the use is suited.

(5) Prior to granting a permit for any adult regulated use, the planning commission may impose any such conditions or limitations authorized by law or by this chapter in connection with the grant of special approval pursuant to the procedures and standards in section 51-21.29 and the standards in this section.

(f) *Discontinuance.* Any adult regulated use may not be re-established after discontinuance for a period of 90 consecutive days without a new grant of approval by the city.

(Code 1994, § 21.32; Ord. No. C-267-07, § 4, 1-3-2007)

Sec. 51-21.33. Home occupations.

Home occupations, as defined herein, shall be permitted in all residential districts subject to the following minimum requirements:

(1) That such occupation is incidental to the residential use to the extent that not more than 20 percent of the useable floor area of the principal building shall be occupied.

(2) That no article or service is sold or offered for sale on the premises except such as is produced by such occupation.

(3) No home occupation shall be conducted in any accessory building.

(4) Such occupation shall not require internal or external alterations or construction features, equipment, machinery, outdoor storage, or signs not customarily in residential areas.

(5) No home occupations shall generate other than normal residential traffic either in amount or type.

(6) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

(7) All home occupations shall be allowed a two square foot wall plaque announcing said home occupation.

(8) Parking needs generated by a home occupation shall be provided for in an off-street parking area, located other than in a required front yard.

(Code 1994, § 21.33)

Sec. 51-21.34. Screening of roof appliances or accessories.

In all zone districts, roof appliances, such as, but not limited to, cooling towers, air conditioners, heating apparatus, dust collectors, filters, transformers and any other such appliance or apparatus, other than flag poles,

chimneys for carrying products of combustion and radio antenna towers, except solar collectors, shall be enclosed with opaque screens not less in height than the height of the highest appliance, as measured from the plane of the roof surface upon which the screen device is mounted to the top of the highest appliance. However, if the screening device is mounted on the top of the parapet or other part of the building facade which extends above the roof surface, the height of the parapet or other part of the building facade extending above the roof surface and the screening device is equal to the height of the highest appliance, such walls may be lowered to permit passage of air for cross ventilation, but shall be adequate to totally screen such equipment from view. The design of the screening device shall be compatible with the architectural design of the building upon which it is located.

(Code 1994, § 21.34)

Sec. 51-21.35. Landscape requirements.

Landscaping, greenbelts, and screening are necessary for the continued protection and enhancement of all land uses. Landscaping and greenbelts are capable of enhancing the visual image of the city, preserving natural features, improving property values, and alleviating the impact of noise, traffic, and visual distraction associated with certain uses. Screening is important to protect less-intensive uses from the noise, light, traffic, litter and other impacts of more intensive, nonresidential uses. Accordingly, the provisions set forth herein 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.

(1) *Scope of application.* The requirements set forth herein shall apply to all uses which are developed, expanded, or changed, and to all lots, sites, and parcels which are developed or expanded upon following the effective date of this chapter. No site plan shall be approved unless said site plan shows landscaping consistent with the requirements of this section. Where landscaping is required, a building permit shall not be issued unless provisions set forth in this section have been met or a performance guarantee has been posted in accordance with the provisions set forth in section 51-21.30.

(2) *Minimum requirements.* The requirements set forth herein are minimum requirements, and nothing herein shall preclude the developer and the city from agreeing to more extensive landscaping.

(3) *Modifications to requirements.* In consideration of the overall design and impact of the landscape plan, and in consideration of the amount of existing plant material to be retained on the site, the planning commission may reduce or waive specific requirements outlined herein, provided that any such adjustment is in keeping with the intent of this section and this chapter in general.

(4) *Landscaping requirements.*

a. *General 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.

2. A mixture of evergreen and deciduous trees shall be planted at the rate of one tree per 3,000 square feet or portion thereof of unpaved open area. Required trees may be planted at uniform intervals, at random, or in groupings.

3. All required landscaping shall be served by an in-ground sprinkling system.

4. Landscaped areas which adjoin paved parking or driveways shall be protected with curbs from encroachment of vehicles.

5. A three-foot-wide hard-surfaced splash area, consisting of paving brick, cobblestone, or similar material (but not including asphalt), shall be installed in the road right-of-way along the curb edge, plus along both sides of any driveway approach, pursuant to the design and installation standards maintained by the city. The splash area shall extend to the edge of the existing or proposed sidewalk, or, if no sidewalk is proposed, to the existing road right-of-way. The splash area is required so as to provide consistent attractive appearance adjacent to road sides in the city which are subject to salt spray and other traffic impacts which prevent the healthy growth of sod and landscaping.

b. *Greenbelts.* In addition to locations specified elsewhere in this chapter, a greenbelt shall be required in any front, side, or rear yard that is adjacent to a road. Notwithstanding this requirement, greenbelts shall be required in the MH Mobile Home Park District only as specified in section 51-12.04(3)a. Greenbelts shall conform to the following requirements:

1. A required greenbelt or greenbelt buffer may be interrupted only to provide for pedestrian or vehicular access.

2. Grass, ground cover, or other suitable live plant material shall be planted over the entire greenbelt area, except where paved walkways are used.

3. A minimum of one deciduous or evergreen tree shall be planted for each 30 linear feet or portion thereof of required greenbelt length, or alternatively, eight shrubs may be substituted for each required tree.

4. Plant materials shall not be placed closer than four feet to the property line or right-of-way when a greenbelt abuts a public sidewalk.

5. For the purposes of calculating required plant material, greenbelt length shall be measured along the exterior edge of the greenbelt.

c. *Berms.* In addition to locations specified elsewhere in this ordinance, a berm shall be required in any front, side, or rear yard that is used for parking and is adjacent to a road. Notwithstanding this requirement, berms shall be required in the MH Mobile Home Park District only as specified in section 51-12.04(3)a. Berms shall conform to the following requirements:

1. Required berms shall be at least two feet above grade elevation, and shall be constructed with slopes no steeper than one foot vertical for each three feet horizontal, with at least a two-foot flat area on the top.

2. Required berms shall be planted with grass, ground cover, or other suitable plant material to protect it from erosion so that it retains its height and shape.

3. Unless otherwise specified (such as for the purposes of screening), berms shall be planted in accordance with the requirements for greenbelts (subsection (4)c.2 of this section).

4. For the purposes of calculating required plant material, berm length shall be measured along the exterior edge of the berm.

d. *Parking lot landscaping.* In addition to screening which may be required around off-street parking areas, all off-street parking areas shall also provide landscaping as indicated in section 51-19.04.

e. *Evergreen landscaped screening.*

1. Parking located in front or on the side of a building shall be screened from the road with a three foot high red or brown brick wall, evergreen landscaping, or an approved alternative. Appropriate species for a three foot high evergreen hedge include:

i. Yew (Taxus x media). Appropriate cultivars include Browni, Densiformis, Hartfield, Hicks.

ii. Dwarf Mugo Pine (Pinus mugo).

iii. Arborvitae (Thija occidentalis). Appropriate cultivars include Globosa, Techny.

iv. Canadian Hemlock (Tsuga canadensis).

Use of dwarf species is recommended in the interest of minimizing pruning and maintaining the natural form of the plant material.

2. Wherever an evergreen or landscaped screen is required, other than to screen parking from the road, the evergreen screening shall consist of closely spaced plantings which form a complete visual barrier that is at least five feet above ground level at the time of planting. Appropriate species for such purposes include:

i. Arborvitae (Thuja occidentalis) - appropriate cultivars include Pyramidalis, Nigra.

ii. Eastern Red Cedar (Juniperus virginiana).

iii. Chinerie Juniper (Juniperus chinersis).

iv. White Spruce (Picea glauca) or Serbian Spruce (Picea omorika) - an effective screen requires two rows, staggered.

v. An approved alternative.

f. *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.

g. *Maintenance of unobstructed visibility for drivers.* Where a driveway intersects a public right-of-way or where a site abuts the intersection of public rights-of-way, all landscaping within the corner triangular areas described below shall permit unobstructed cross-visibility for drivers. Shrubs and portions of required berms located in the triangular area shall not be permitted to grow to a height of more than 30 inches above the pavement grade at the edge of the pavement. Trees may be maintained in this area, provided that all branches are trimmed to maintain a clear vision to a height of eight feet above the pavement grade at the edge of the pavement. The triangular areas referred to above are:

1. The area formed at the corner intersection of a public right-of-way and a driveway, two sides of the triangle being ten feet in length measured along the right-of-way line and driveway line and the third side being a line connecting these two sides.

2. The area formed at the corner intersection of two public right-of-way lines, the two sides of the triangular area being 30 feet in length measured along the intersecting public rights-of-way lines and the third side being a line connecting these two sides.

(5) *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 chapter shall be nursery grown, free of pests and diseases, hardy in Oakland County, in conformance with the standards of the American Association of Nurseryman, and shall have passed inspections required under state regulations. The following plant list, although not intended to be all-

inclusive, contains recommended trees and shrubs which would generally be considered suitable in meeting the landscaping requirements set forth herein.

b. *Non-living plant material.* Plastic and other nonliving plant materials shall not be considered acceptable to meet the landscaping requirements of this chapter.

c. *Plant Material Specifications.* The following specifications shall apply to all plant material proposed in accordance with the landscaping requirements of this chapter:

1. Deciduous shade trees shall be a minimum of 2½ inches in caliper measured 12 inches above grade with the first branch a minimum of four feet above grade when planted.

2. Deciduous ornamental trees shall be a minimum of two inches in caliper measured 12 inches above grade with a minimum height of four feet above grade when planted.

3. Evergreen trees shall be a minimum of six feet in height, measured from grade to top break, when planted, except that juniper, yew and arborvitae species shall be a minimum of three feet in height when planted. Furthermore, evergreen trees shall have a minimum spread of three feet, and the size of the burlapped root ball shall be at least ten times the caliper measured six inches above grade.

4. Shrubs shall be a minimum of two feet in height when planted. Low growing shrubs shall have a minimum spread of 24 inches when planted.

5. Hedges shall be planted and maintained so as to form a continuous, unbroken, visual screen within two years after planting.

6. Vines shall have a minimum of three runners, six inches to eight inches long when installed, and be a minimum of 30 inches in length after one growing season.

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 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, noxious pests, and diseases. 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 three inches deep, and installed in a manner as to present a finished appearance.

RECOMMENDED PLANT LIST SIZE AND SCREENING REQUIREMENTS

Recommended Plants	Minimum Size Allowable							Acceptable for Screening	
	Caliper[3]		Height[4]			Spread		Parking Lot or Transformer	All Other
	2"	2.5"	2'	3'	6'	2'	3'		
Deciduous Trees (shade/canopy)									
Maple		T							
Oak		T							
Locust		T							
Linden		T							
Ash		T							
Gingko (male only)		T							

London Plane[5]		T							
Dawn Redwood[5]		T							
Evergreen Trees									
Pine[1]					T				
Fir					T				
Spruce					T				●
Hemlock				X[2]	T			X[2]	
Juniper					T				
Ornamental Trees									
Flowering Crabapple	T								
Dogwoods	T								
Birch (selected varieties)	T								
Magnolia	T								
Fruit (Pear, Cherry, Plum, Peach)	T								
Serviceberry	T								
Hawthorne (thornless varieties)	T								
Hornbeam	T								
Beech	T								

T = Minimum Allowable Size

X = Minimum Allowable Size for Parking Lot or Transformer Screening

● = Minimum Allowable Size for All other Screening

[1] Austrian and Scotch Pines should be used with discretion.

[2] Canadian Hemlock, 3-ft. height, can be used for parking lot screen.

[3] Measured one foot above approved graded.

[4] Height is measured from grade to top break.

[5] London Plane trees and Dawn Redwoods shall be planted at least 20 ft. from buildings and pavement.

Recommended Plants	Minimum Size Allowable							Acceptable for Screening	
	Caliper[3]		Height[4]			Spread[6]		Parking Lot or Transformer	All Other
	2"	2.5"	2'	3'	6'	2'	3'		
Shrub Like Trees									
Redbud					T				
Hawthorn					T				
Amur Maple					T				
Dogwood					T				
Osage Orange					T				

Evergreen Shrubs									
Yews			T	X		T		X	
Arborvitae			T	X	●			X	●
Junipers			T	X	●	T		X	●
Mugho Pine			T	X				X	
Boxwood			T	X					
Rhododendron			T						
Deciduous Shrubs									
Lilac			T						
Forsythia			T						
Euonymous (selected varieties)			T						
Cotoneaster (selected varieties)			T						
Dogwood			T						
Hydrangea			T						
Beauty bush			T						
Privet			T						
Mock Orange			T						
Althea (Rose-of-Sharon)			T						
Potentilla			T						
Spiraea			T						

T = Minimum Allowable Size

X = Minimum Allowable Size for Parking Lot or Transformer Screening

● = Minimum Allowable Size for All other Screening.

[3] Caliper is measured one foot above approved graded.

[4] Measured from grade to top break.

[6] Minimum spread applies to plants with horizontal habit.

Recommended Plants	Minimum Size Allowable							Acceptable for Screening	
	Caliper[3]		Height[4]			Spread		Parking Lot or Transformer	All Other
	2"	2.5"	2'	3'	6'	2'	3'		
Deciduous Shrubs									
Viburnum			T						
Wiegela			T						
Honeysuckle			T						
Buckthorne			T						
Flowering Quince			T						

Barberry			T						
Pryracantha (Apache and Mohave)			T						
Hollies			T						

T = Minimum Allowable Size

X = Minimum Allowable Size for Parking Lot or Transformer Screening

● = Minimum Allowable Size for All other Screening.

[3] Measured one foot above approved graded.

[4] Height is measured from grade to top break.

(6) *Installation and maintenance.* The following standards shall be observed where installation and maintenance of landscape materials is required:

a. *Installation.* Landscaping shall be installed in a sound, workmanlike manner to ensure the continued growth of healthy plant material.

b. *Protection from vehicles.* Landscaping shall be protected from vehicles through use of wheel stops or other means. Landscape areas shall be elevated above the pavement to a height adequate to protect the plants from snow removal, salt, and other hazards.

c. *Off-season planting requirements.* If development is completed during the off-season when plants cannot be installed, the owner shall provide a performance bond to ensure installation of required landscaping in the next planting season.

d. *Maintenance.*

1. Landscaping required by this chapter shall be maintained in a healthy, neat, and orderly appearance, free from refuse and debris. All unhealthy and dead plant material shall be removed within 30 days following city notification and replaced in the next appropriate planting period. The landscape plan shall indicate the individuals or businesses who will be responsible for continued maintenance of the landscaping. Those charged with this responsibility shall also be responsible for maintenance of adjacent landscaped areas in public rights-of-way.

2. In the event the owner fails to maintain the landscaping area in a neat and orderly manner, free from debris, the building inspector shall mail to the owner a written notice setting forth the manner in which there has been failure to maintain said landscaping and require that the deficiencies of maintenance be cured within 30 days from date of said notice. If the deficiencies set forth in the notice shall not be cured within 30 days, or any extensions thereof granted by the planning commission, the city shall have the right to enter upon such property and correct such deficiencies and the costs thereof shall be charged, assessed and collected pursuant to this Code.

(7) *Treatment of existing plant material.* The following regulations shall apply to existing plant material:

a. *Consideration of existing elements in the landscape design.* In instances where healthy plant material exists on a site prior to its development, the planning commission may permit substitution of such plant material in place of the requirements set forth previously in this section, provided such substitution is in keeping with the spirit and intent of this section and the zoning ordinance in general.

b. *Preservation of existing plant material.*

1. Site plans shall show all existing trees which are located in the portions of the site that will be built upon or otherwise altered, and are five inches or greater in caliper, measured 12 inches above grade.

2. Trees shall be labeled "To Be Removed" or "To Be Saved" on the site plan. If existing plant material is labeled "To Be Saved" on the site plan, protective measures should be implemented, 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 other plant material intended to be saved.

3. In the event that healthy plant materials which are intended to meet the requirements of this chapter are cut down, damaged or destroyed during construction, said plant material shall be replaced in accordance with the following schedule, with the same species as the damaged or removed tree, unless otherwise approved by the planning commission.

Caliper Measured 12 Inches Above Grade		
Damaged Tree	Replacement Tree	Replacement Ratio
Less than 6 inches	2 to 3 inches	1 for 1
More than 6 inches	2 to 3 inches	1 replacement tree for each 6 inches in caliper or fraction thereof of damaged tree

(8) *Undesirable plant materials.* Use of the following plant materials (and/or their clones and cultivars) is not encouraged because of susceptibility to storm damage, disease, and/or other undesirable characteristics:

a. Silver Maple.

b. Box Elder.

c. Tree of Heaven.

d. European Barberry.

e. Northern Catalpa.

f. Eastern Red Cedar.

g. Poplar.

h. Willow.

i. American Elm.

(9) *Variances from landscape regulations.* Where conditions on the site present practical difficulties to complying with the landscape regulations, the applicant may petition the zoning board of appeals for a variance or variances from the regulations. In determining whether a variance is appropriate, the zoning board of appeals shall consider whether the following conditions exist.

a. 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.

b. Parking, vehicular circulation, or land use are such that required landscaping would not enhance the site or result in the desired screening effect.

c. The public benefit intended by the landscape regulations could be better achieved with a plan that varies from the strict requirements of this chapter.

(Code 1994, § 21.35)

Sec. 51-21.36. Sidewalks or safety paths.

For all developments requiring site plan approval, a new public sidewalk or safety path shall be constructed in accordance with city engineering standards along any road right-of-way. In the event that sidewalks or safety paths already exist, they shall be repaired or reconstructed as necessary. Sidewalks and safety paths shall be five feet in width and constructed of concrete, and they shall be located one foot off of the property line in the right-of-way. Where a setback measurement standard is specified on the adopted zoning map, the sidewalk or safety path shall be located one foot from the setback measurement standard line. New or reconstructed sidewalks or safety paths shall be aligned with existing or proposed sidewalks or safety paths on adjoining parcels. Sidewalks or safety paths shall be continuous across driveways; in such locations, the sidewalks or safety paths shall be constructed of six-inch-thick reinforced concrete.

(Code 1994, § 21.36)

Sec. 51-21.37. One single-family dwelling per lot.

Except in the instance of cluster developments or condominium developments where a site plan is approved by the planning commission and except for lots used for education or religious institutions, not more than one single-family dwelling shall be located on a lot as defined herein, nor shall a single-family dwelling be located on the same lot with another principal building. This provision shall not prohibit the lawful division of land.

(Code 1994, § 21.37)

Sec. 51-21.38. Keeping of farm animals and other animals.

The keeping, raising, or breeding of animals including farm animals and non-domestic animals and reptiles (except domesticated cats, dogs, canaries, parakeets, parrots, gerbils, hamsters, guinea pigs, turtles, fish, rabbits and similar animals commonly kept as pets) shall be prohibited, except as may be permitted by and under conditions of public safety, comfort, convenience and quiet use of property imposed by the zoning board of appeals. The zoning board of appeals may permit up to five horses, subject to the minimum land area of three acres per horse.

(Code 1994, § 21.38)

Sec. 51-21.39. Dumpsters or outdoor trash receptacles.

Dumpsters may be permitted or required as accessory to any use other than single- and two-family residential uses, subject to the following conditions:

(1) *Location.* Dumpsters shall be located to the rear of the principal building, provided any such dumpster shall not encroach on a required parking area and is clearly accessible to servicing vehicles. Dumpsters and dumpster screening shall be located at least five feet from any property line. On corner lots, dumpster and dumpster screening shall be no closer to the street right-of-way than the building.

(2) *Concrete pad.* Dumpsters shall be placed on a concrete pad. The concrete pad should extend a minimum of five feet in front of the dumpster enclosure.

(3) *Screening.* Dumpsters shall be screened from view from adjoining property and public streets and thoroughfares. Dumpsters shall be screened on three sides with a permanent building, decorative masonry wall or wood fencing, not less than six feet in height or at least one foot above the height of the enclosed dumpster, whichever is taller. The fourth side of the dumpster screening shall be equipped with an opaque lockable gate that is the same height as the enclosure around the other three sides.

(4) *Wood screening standards.* If wood fencing is selected as the desired dumpster screening alternative, the following standards shall apply:

a. *Materials.* Only solid No. 1 pressure-treated wood or comparable wood material shall be permitted.

b. *Posts.* Posts shall be set in concrete 42 inches below grade level. Two types of posts shall be permitted:

1. Six-inch by six-inch pressure-treated wood; or

2. Three-inch diameter galvanized steel posts.

(5) *Bollards.* Bollards (concrete filled metal posts having a minimum diameter of four inches) or similar protective devices shall be installed at the opening to prevent damage to the screening wall or fence.

(6) *Site plan requirements.* The location and method of screening of dumpsters shall be shown on all site plans and shall be subject to the approval of the planning commission.

(7) *Maintenance.* Dumpsters and dumpster screening and the surrounding area shall be maintained in a neat and orderly appearance, free from uncontained waste or debris. This maintenance shall be the responsibility of the owner of the premises on which the dumpster is placed.

(Code 1994, § 21.39)

Sec. 51-21.40. Performance standards.

Notwithstanding any other provision of this chapter, no use shall be permitted within any district which does not conform to the following standards, which standards are hereby established as the minimum requirements to be maintained in any district:

(1) *Smoke.*

a. It shall be unlawful for any person, firm or corporation to permit the emission of any smoke from any source whatever to a density greater than that density described as No. 1 of the Ringlemann Chart, provided that the following exceptions shall be permitted: smoke, the shade or appearance of which is equal to but not darker than No. 2 of the Ringlemann Chart for a period, or periods, aggregating four minutes in any 30 minutes.

b. Method of measurement. For the purpose of grading the density of the smoke, the Ringlemann Chart, as published and used by the United States Bureau of Mines, is hereby made a part of this chapter and shall be the standard of measurement used in this chapter. Nevertheless, the Umbrascope readings of smoke densities may be used when correlated with Ringlemann's Chart.

(2) *Dust, dirt and fly ash.*

a. No person, firm or corporation shall operate or cause to be operated, maintain 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, without maintaining and operating, while using said process or furnace or combustion device, recognized and approved equipment, means, method, device or contrivance to reduce the quantity of gas borne or airborne solids or fumes emitted into the open air, which is operated in conjunction with said process, furnace, or combustion device so that the quantity of gas-borne or airborne solids shall not exceed 0.20 grains per cubic foot of the carrying medium at a temperature of 500 degrees Fahrenheit.

b. Method of measurement. For the purpose of determining the adequacy of such devices, these conditions are to be conformed to when the percentage of excess air in the stack does not exceed 50 percent at full load. The foregoing requirement shall be measured by the ASME Test Code for dust-separating apparatus. All other forms of dust, dirt and fly ash shall be completely eliminated insofar as escape or emission into the open air is concerned. The building inspector may require such additional data as is deemed necessary to show that adequate and approved provisions for the prevention and elimination of dust, dirt and fly ash have been made.

(3) *Glare and radioactive materials.* Glare from any process (such as or similar to arc welding or acetylene torch cutting) which emits harmful ultraviolet rays shall be performed in such a manner as not to be seen from any point beyond the property line, and as not to create a public nuisance or hazard along lot lines. Radioactive materials and wastes, and including electromagnetic radiation such as x-ray machine operation, shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, when measured at the property line.

(4) *Fire and explosive hazards.*

a. In the I-1 District, the storage, utilization or manufacture of materials or products ranging from incombustible to moderate burning, as determined by the fire marshal, is permitted subject to compliance with all other performance standards above mentioned. The following shall define the ranges of burning:

1. Intense burning materials which by virtue of low ignition temperature, high rate of burning and large heat evolution, burn with great intensity. An example would be manganese.

2. Free and active burning materials are materials constituting an active fuel. Free burning and active burning is the rate of combustion described by a material which burns actively and easily supports combustion. An example would be fuel oil.

3. Moderate burning implies a rate of combustion described by material which supports combustion and is consumed slowly as it burns. An example would be coal.

b. The storage, utilization or manufacture of materials, goods or products ranging from free or active burning to intense burning, as determined by the fire marshal, is permitted subject to compliance with all other yard requirements and performance standards previously mentioned, and providing that the following conditions are met:

1. Said materials or products shall be stored, utilized or produced within completely enclosed buildings or structures having incombustible exterior walls, which meet the requirements of building code of the city.

2. All such buildings or structures shall have a setback of at least 40 feet from lot lines thereof. All such buildings or structures shall be protected throughout by an automatic sprinkler system complying with installation standards prescribed by the National Fire Association.

3. The storage and handling of flammable liquids, liquefied petroleum, gases and explosives shall comply with the State Rules and Regulations as established by Public Act No. 207 of 1941, as amended.

(5) *Noise.* All mechanical noise shall be muffled so as not to become objectionable to areas zoned for residential use due to intermittence, beat frequency or shrillness. Noise may equal but shall not exceed average street traffic noise. Measurement of noise levels shall be made at the zoning district boundary and shall not exceed the sound level of the abutting use district or the street abutting such use, whichever is the greater.

(6) *Odors and fumes.* Creation of offensive odors and fumes shall be prohibited.

(7) *Wastes.* No waste shall be discharged in the public sewer system which, in the determination of the city engineer, is dangerous to the public health and safety.

(8) *Vibration.*

a. All stamping machines, punch presses, press breaks and similar machines or machines which cause vibrations shall be mounted on shock-absorbing mountings on suitable reinforced concrete footings. Stamping machines, punch presses, press breaks and similar machines shall be located no closer to residential districts than the following:

1. Up to ten ton, with 18 gauge stock or less in thickness when located 150 feet from any residential district.

2. Up to 50 ton when 200 feet from any residential district.

3. Up to 100 ton when 250 from any residential district.

4. Up to 100 ton when 250 from any residential district.

5. Up to 200 ton when 300 feet from any residential district.

b. In those instances where the abutting zoning district is residential, walls enclosing such machines shall be constructed with no openings on the side abutting residential districts.

(Code 1994, § 21.40)

Sec. 51-21.41. Limitations on outside storage or operation.

Unless specifically provided otherwise in this chapter, all businesses, servicing or manufacturing, except off-street parking and loading, shall be conducted within a completely enclosed building; and no outdoor storage or display of any kind shall be permitted.

(Code 1994, § 21.41)

Sec. 51-21.42. Service roads.

If the planning commission determines that proposed or anticipated development will result in an excessive number of entrance or exit drives onto a public road, thereby creating potentially hazardous traffic conditions and/or diminishing the carrying capacity of the public road, the commission may require construction of private service roads on abutting parcels to allow traffic circulation from one parcel to another without re-entering the public road. Private roads are also permitted in commercial and industrial districts to provide access to parcels that do not have frontage on a public road. Such roads shall conform to the following specifications:

(1) *Location and dimensions.* The front edge of a private service road located parallel to a public road shall be located no closer than the future right-of-way line of the public road, and shall be at least 24 feet in width.

(2) *Easement.* Use of a private service road shall be secured through an easement permitting the use of the road for traffic circulation from one parcel to another. Said easement shall be in written form acceptable to the planning commission, and shall be recorded with the county register of deeds. The easement shall cover the full width of the road plus related drainage and stormwater detention/retention ponds. The easement for private roads that serve parcels that have no frontage on a public road shall be at least 40 feet in width with an adjoining ten-foot utility easement. For the purposes of determining compliance with setback requirements, the service road easement shall have the same status as a public street right-of-way.

(3) *Surfacing and drainage.* Private roads shall be paved, graded and drained in compliance with city engineering standards.

(4) *Maintenance.*

a. Service roads located parallel to a public road shall be maintained by abutting property owners so that the road remains in good condition. A road maintenance agreement shall be prepared, executed, and recorded, to address ongoing and long-term maintenance of private roads that provide the sole means of access to parcels that have no direct public road frontage.

b. The maintenance agreement shall address the method of financing road maintenance and improvements. Maintenance activities covered by the agreement shall include, at minimum, snow plowing, cleaning, patching, and periodic reconstruction or resurfacing.

(Code 1994, § 21.42)

Sec. 51-21.43. Satellite dish antennas.

In all zoning districts, satellite dish antennas may be permitted as an accessory use, subject to the following conditions:

(1) Roof mounted dish antenna up to ten feet in diameter shall be permitted only in commercial and industrial districts. If located on a roof, such antenna shall be considered a roof structure and shall comply with the provisions of section 51-21.06.

(2) Ground mounted antenna up to ten feet in diameter shall be subject to the following conditions:

a. An accessory use building permit for satellite dishes shall be required.

b. Maximum height permitted shall be 20 feet.

c. The satellite dish structure shall be securely mounted and anchored to a pole, and secured in accordance with the requirements of the manufacturer and the building code.

d. If elevated off of the ground, all such antennas shall be located so that there is an eight-foot clearance between the lowest part of the dish and grade.

e. Satellite dish antenna shall not be permitted in front yards.

f. Such antenna shall be located a minimum of ten feet from any street line and three feet from any other property line.

g. All electrical and antenna wiring shall be placed underground or otherwise obscured from view.

h. The surface of the dish shall be painted or treated as not to reflect glare from sunlight, and shall not be used as any sign or message board. All installations shall employ (to the extent possible) materials and colors that blend with the surroundings.

(Code 1994, § 21.43)

Sec. 51-21.44. Curb and gutter.

For all developments requiring site plan approval, curb and gutter shall be constructed along all abutting roads required in accordance with city standards.

(Code 1994, § 21.44)

Sec. 51-21.45. Projections into required yards.

Outside stairways, fire escapes, fire towers, chimneys, platforms, balconies, boiler flues, and other projections shall be considered part of the building, subject to the setback requirements for the district in which the building is located. The following projections shall be permitted to project into required yards, subject to any specified conditions:

(1) Awnings.

(2) Approved freestanding signs.

(3) Approved landscaping.

(4) Arbors and trellises.

(5) Flagpoles.

(6) Window air-conditioning units.

(7) Fences and walls, subject to applicable restrictions set forth herein.

(8) Bay windows, window sills, belt courses, cornices, eaves, overhanging eaves, and other architectural features may project into a required side yard not more than two inches for each one foot of width of such side yard, and may extend into any front or rear yard not more than 36 inches.

(9) Open paved terraces, open porches, and steps below first floor level may project into required yards, provided that such structural features shall not project more than 12 feet into a front or rear yard and not more than eight feet into a side yard; and provided, further, that such structural alterations shall not be closer than 20 feet to a front or rear lot line or closer than six feet to a side lot line.

(10) Access driveways may be placed in required front or side yards so as to provide access to the rear yard, the principal building or accessory buildings.

(11) Central air-conditioning units may encroach into a required rear yard or non-required side yard provided, however, that no unit may be placed in a location that would block emergency access or ingress/egress through any window or opening to the building.

(12) Decks that are attached to or accessory to single-family residences in the R-1A and R-1B Districts may project up to 12 feet into a required rear yard, provided that no portion of any such deck shall be closer than 20 feet to the rear lot line.

(Code 1994, § 21.45)

Sec. 51-21.46. Condominium projects.

The following regulations shall apply to all condominium projects within the city:

(1) *Definitions.* For the purposes of this chapter and this section, the following terms shall be defined as set forth herein. Condominium terms shall also have the meaning as set forth in the Condominium Act in addition to any meaning set forth herein.

a. *Condominium act.* Shall mean the Public Act 59 of 1978, as amended, MCLA 559.101 et seq.

b. *Condominium lot.* Shall mean that portion of a site condominium project designed and intended to function similar to a platted subdivision lot for the purposes of determining minimum yard setback requirements and other requirements set forth in section 51-17.01, schedule of regulations.

c. *Condominium unit.* Shall mean that portion of the condominium project designed and intended for separate ownership and use, as described in the master deed for the condominium project.

d. *Detached condominium.* Shall mean a condominium project designed to be similar in appearance to a conventional single-family subdivision, except that limited common areas are not arranged in such a manner as to create clearly defined condominium lots.

e. *Site condominium.* Shall mean a condominium project designed to function in a similar manner, or as an alternative, to a platted subdivision. A site condominium shall be considered as equivalent to a platted subdivision for the purposes of the regulations in this chapter and may be referred to as a "condominium subdivision."

(2) *Regulatory intent and applicable regulations.* All condominium projects shall conform to the requirements of this section and all other applicable regulations of this chapter.

a. General requirements for site condominium and single-family detached condominiums. All site condominium projects shall be considered as equivalent to platted subdivisions for the purposes of enforcing site and building standards. It shall be the intent of this section to regulate site condominium and single-family detached condominium projects in a similar manner as a subdivision plat, except that the review procedures of this chapter shall apply. The substantive requirements for streets, sidewalks, utilities, storm drainage and subdivision layout and design as set forth in the subdivision Control Act of 1967, Act 288 of the Public Acts of 1967, as amended, MCLA 560.101 et seq., and of the city subdivision regulations ordinance, are intended to apply to site condominiums and also, subject to layout and design renovations permitted by this chapter, to single-family detached condominium projects.

b. General requirements for single-family site condominiums. Single-family site condominiums shall be subject to all requirements applicable to R-1A or R-1B Districts, including minimum lot requirements and all other applicable requirements set forth in section 51-17.01. These regulations shall be applied by requiring the site condominium unit and a surrounding limited common element to be equal in size to the minimum lot size and lot width requirements for the district in which the project is located. The site condominium unit shall be equivalent to the area of the lot where a principal building can be constructed and there shall be a limited common element associated with each site condominium unit which shall be at least equivalent to the minimum yard area requirements.

c. Specific requirements for single-family site condominiums. Single-family detached condominiums shall be subject to all requirements and standards of the applicable R-1A or R-1B Districts, including minimum floor area requirements, regulations governing the distance between buildings and the attachment of buildings, and other requirements as set forth in this chapter. Proposed single-family detached condominium projects shall not exceed the maximum permitted density for the district in which the project is located, as determined on the basis of minimum lot size standards set forth in section 51-17.01. Appropriate information and dimensions shall be

depicted on the site plan so that the planning commission can determine that all applicable minimum requirements are met.

d. Requirements for attached condominium units. Attached condominium units shall be subject to all requirements applicable to RM-1 and RM-2 Districts, including minimum floor area requirements, regulations governing the distance between buildings and attachment of buildings, and other requirements as set forth in this chapter.

e. Street and road requirements in all single-family detached, single-family site condominiums, and attached condominium projects. All streets and roads in a single-family detached condominium project or a single-family site condominium project shall, at a minimum, conform to the standards and specifications promulgated by the county road commission for a typical paved residential road in single-family residential subdivisions. All streets and roads in an attached condominium project shall conform to the standards adopted by the city for a typical road in a multiple-family development.

(3) *Site plan review.* Prior to recording of the Master Deed required by section 72 of the Michigan Public Act 59 of 1978, as amended, the condominium project shall undergo site plan review and approval pursuant to section 51-21.28. Expansion of a project to include additional land in a new phase shall also require site plan review.

(4) *Information required.* In addition to the requirements in section 51-21.28 and the information specified on the site plan review checklist, the information listed below shall be included on, or attached to, all site plans, concurrently with the notice required to be given to the city pursuant to section 71 of Public Act 59 of 1978, as amended.

a. The name, address and telephone number of:

1. All persons with an ownership interest in the land on which the condominium project will be located together with a description of the nature of each entity's interest (for example, fee owner, optionee, lessee, or land contract vendee).

2. All engineers, attorneys, architects or registered land surveyors associated with the project.

3. The developer or proprietor of the condominium project.

b. The legal description of the land on which the condominium project will be developed together with appropriate tax identification numbers.

c. The acreage area of the land on which the condominium project will be developed.

d. The purpose of the project (for example, residential, commercial, industrial, etc.).

e. Approximate number of condominium units to be developed on the subject parcel.

f. A site plan, drawn to scale, which shows the following information:

1. A general location map.

2. The vehicular circulation system planned for the proposed development, including all roads, drive aisles, and paved areas, plus a designation of each street as to whether it is proposed to be private or dedicated to the public.

3. The location of existing private and public streets adjacent to the proposed development with an indication of how they will connect with the proposed circulation system for the new development.

4. The layout and boundaries of condominium units, limited common areas, and general common areas.

5. The proposed layout of parking, open space and recreation/park areas.

6. Proposed landscape screening, including greenbelts and berms, and screening walls.

7. Proposed sanitary sewer system.

8. Proposed water supply system.

9. Proposed stormwater and drainage system, including retention and detention areas.

10. Preliminary approval of the county health department.

11. The condominium documents, including the proposed master deed and condominium bylaws. All information required to be furnished under this subsection shall be kept updated until a certificate of occupancy has been issued pursuant to section 51-20.04.

(5) *State and county approval.*

a. All site condominium projects shall require the review and approval of the following agencies prior to final site plan approval:

1. The county road commission, if any part of the project includes or abuts a street or road that is under the jurisdiction of the county;

2. The city engineer and city's department of public works; and

3. The county health department and the state department of natural resources shall approve the public water system and the sanitary sewer system.

b. In addition to the specific required approvals, all site condominium project site plans shall be submitted to the state department of natural resources, the county plat board, each of the public utilities serving the site, and any other state agency designated by the planning commission, for informational purposes. The planning commission shall consider any comments made by these agencies prior to final site plan approval.

(6) *Site plan review and approval.* Pursuant to section 51-21.28, the planning commission shall review the proposed condominium site plan, together with the comments and recommendations from the city planner, city engineer, city staff, and county and state agencies. Based on the standards and requirements set forth in this chapter and this section, the planning commission shall approve, approve subject to conditions, or deny the proposed condominium project and site plan.

(7) *Issuance of permits.* A building permit for a structure shall not be issued until evidence of a recorded master deed has been provided to the city. However, the building official may issue permits for site grading, erosion control, installation of public water and sewage facilities, and construction of roads prior to recording of the master deed. No permit issued or work undertaken prior to recording of the master deed pursuant to this section shall grant any rights or any expectancy interest in the approval of the master deed.

(8) *Master deed, restrictive covenants, as built survey and Mylar copy.*

a. Upon approval of the site plan, the condominium project developer or proprietor shall furnish the building official with the following:

1. One copy of the recorded master deed; and

2. One copy of all restrictive covenants.

b. Upon completion of the project, the condominium project developer or proprietor shall furnish the building official with the following:

1. Two copies of an "as built survey"; and

2. One copy of the site plan on a Mylar sheet of at least 13 inches by 16 inches with an image not to exceed 10½ inches by 14 inches.

c. The as built survey shall be reviewed by the city engineer for compliance with city ordinances. Fees for this review shall be established by resolution of the city council.

(9) *Monuments required.* All condominium projects shall be marked with monuments as follows:

a. Monuments shall be located in the ground and made according to the following requirements, but it is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium project if the angle points can be readily re-established by reference to monuments along the sidelines of the streets.

b. All monuments used shall be made of solid iron or steel bars at least one-half inch in diameter and 36 inches long and completely encased in concrete at least four inches in diameter.

c. Monuments shall be located in the ground at all angles in the boundaries of the condominium project; at the intersection lines of streets and at the intersection of the lines of streets with the boundaries of the condominium project; at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature and angle points in the side lines of streets and alleys; at all angles of an intermediate traverse line and at the intersection of all limited common elements and all common elements.

d. If the required location of a monument is an inaccessible place, or where the locating of a monument would be clearly impracticable, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the plans and referenced to the true point.

e. If a point required to be monumented is on a bedrock outcropping, a steel rod, at least one-half inch in diameter shall be drilled and grouted into solid rock to a depth of at least eight inches.

f. All required monuments shall be placed flush with the ground where practicable.

g. All unit corners shall be monumented in the field by iron or steel bars or iron pipes at least 18 inches long and one-half inch in diameter, or other approved markers.

h. The building official may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one year, on the condition that the proprietor deposits with the city cash or a certified check, or irrevocable bank letter of credit running to the city, whichever the proprietor selects, in an amount approved by the city. Such cash, certified check or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified.

(10) *Temporary occupancy.* The building official may allow occupancy of the condominium project before all improvements required by this chapter are installed, provided that a bond is submitted sufficient in amount and type to provide for the installation of improvements without expense to the city, before the expiration of the temporary occupancy permit.

(11) *Performance guarantee.* The planning commission may require that a performance guarantee be deposited with the city to ensure faithful completion of improvements, in accordance with section 51-21.30. Improvements that shall be covered by the performance guarantee include, but are not necessarily limited to, landscaping, open space improvements, streets, utilities, and sidewalks.

(12) *Continued maintenance.* The master deed shall contain provisions making it the responsibility of the condominium association to maintain the property in accordance with the approved site plan on a continuing basis. The master deed shall further establish the means of financing required maintenance

and improvement activities in perpetuity. Failure to maintain an improved site plan shall be deemed in violation of the use provisions of this chapter and shall be subject to the same penalties appropriate for a use violation.

(Code 1994, § 21.46)

Sec. 51-21.47. Lighting.

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 involving commercial, industrial, office, multiple-family, or mobile home park development shall be sufficiently illuminated during typical hours of operation or uses to ensure the security of property and the safety of persons using such public or common areas.

(1) *Permitted lighting.* Only non-glare lighting shall be permitted. Lighting shall have a color rendering index of at least 50 so that objects being lit have reasonably natural color. Lighting shall be placed and shielded so as to focus the light downward onto the site and away from adjoining properties. The lighting source (i.e., the luminaire) shall not be directly visible from adjoining properties. Lighting shall be shielded so that it does not cause glare or interfere with the vision of motorists.

(2) *Intensity.* In parking areas, the light intensity shall average a minimum of 1.0 footcandle, measured five feet above the surface. In pedestrian areas, the light intensity shall average a minimum of 2.0 footcandles, measured five feet above surface. The planning commission may require a photometric map with each site plan to evaluate compliance with these standards.

(3) *Height.*

a. Except as noted below, lighting fixtures shall not exceed a height of 20 feet measured from the ground level to the centerline of the light source. Fixtures should provide an overlapping pattern of light at a height of approximately seven feet above ground level.

b. 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.

(4) *Sign lighting.* Signs shall be illuminated in accordance with the regulations set forth in section 51-20.06.

(5) *Site plan requirements.* All lighting, including lighting that is intended to be primarily decorative in nature, 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.

(6) *Exceptions.* Because of requirements for night-time visibility and limited hours of operation, lighting for ball diamonds, playing fields, and tennis courts may extend as high as 80 feet above grade, subject to special land use approval. In reviewing the special land use, the planning commission shall consider the proximity of residential uses and the impact of the proposed lights on nearby residential areas.

(Code 1994, § 21.47)

Sec. 51-21.48. Wireless communication facilities and services.

(a) *Intent, purpose, and exemptions.*

(1) *Intent.* The procedures, standards, and regulations of this ordinance are intended to balance the interests of commercial entities to provide wireless communications without significant gaps in coverage with the public interest to protect the character and environmental features of the city and to ensure wireless communications facilities are situated in appropriate locations in relationship to other land uses, structures, and buildings, and to comply with all applicable state and federal laws and regulations.

(2) *Purpose.* The purpose of this section includes:

a. *Efficient planning.* Efficient planning will encourage prudent siting of facilities in accordance with principles of planning, zoning, land use and the need for service by:

1. Facilitating and expediting the placement of facilities in appropriate locations.

2. Protecting designated historic properties.

3. Encouraging careful design of facilities to ensure architectural compatibility and where possible, concealment within existing structures on the site.

4. Ensuring structural integrity of support structures.

5. Protecting public and private rights-of-way from interference and distractions to motorists.

6. Requiring necessary clear vision and safe fall zones for the protection of the public.

b. *Promote co-location.* Co-location on approved support structures and existing buildings and structures will reduce the need for the erection of new support structures, will expedite the approval process, will be less costly to industry, and will provide opportunities for architectural concealment of wireless communication facilities in existing structures.

c. *Maintenance agreement.* A maintenance agreement will ensure long-term, continuous maintenance of all site improvements proposed for the wireless communications facilities.

d. *Removal.* Timely removal of equipment and facilities upon discontinuance of use will minimize the adverse impacts of technological obsolescence.

(3) *Exemptions.* Amateur radio, citizen band radio, short wave radio, residential TV or satellite TV antennas are exempt from the provisions of this section. All wireless communications facilities located, or proposed for location, within any public right-of-way, or upon any city-owned property, are exempt from the provisions of this section and any other zoning regulations and shall comply with all applicable non-zoning regulations and requirements adopted by the city.

(b) *Prohibited structures and locations.* A new lattice tower, guy-wired tower or wooden pole shall not be permitted as a wireless communication equipment support structure or a facility for wireless communication within the city. All existing support structures and facilities may be used as permitted in this section.

(c) *Permitted districts and approval/review process.* Wireless communication facilities may be provided in the zoning districts in accordance with the following table, subject to review, approval and compliance with the requirements of this section:

Zoning District	Co-location	New Facility
C-2, I-1, CS	Administrative Review/Approval	Special Use Approval
All other districts	Administrative Review/Approval	Not Permitted

(d) *General application requirements.* An application for a new facility or co-location on an existing facility shall be prepared and submitted to the city for review and/or approval as required by this section prior to constructing a new facility or collocating on an existing facility. Applications required by this section shall be made by the property owner, the owner's agent or authorized representative as provided by this section. The application shall contain all information and submittals required by this section including payment of performance guarantees and/or required fees established by resolution of city council and submission of all information that is needed to determine compliance with the requirements of this section and chapter. The city may prepare and provide required application forms for the purposes of submitting an application pursuant to this section.

(e) *Co-location.* It is the policy of the city to minimize the overall number of newly established locations for wireless communication facilities within the community, by requiring co-location and the use of existing structures for attached wireless communication antennas. The provisions of this subsection are designed to carry out and encourage conformity with this policy. Co-location shall be deemed to be feasible for the purposes of this section where all of the following are met:

(1) *Permitted co-location requiring review.*

a. *Existing facilities in permitted district.* An existing wireless communications support structure located in a C-2, I-1 or CS District is an eligible facility for permitted co-location subject to administrative review as required by this subsection (e)(1)a.

b. *Rooftop of existing buildings.* The roof of an existing building located in a nonresidential zoning district, or any nonresidential use within a multiple-family residential zoning district, is an eligible facility for permitted co-location of wireless communications equipment subject to compliance with the provisions of this subsection, and provided the roof and existing building can safely support the proposed co-location of wireless communication equipment. Rooftop co-location of wireless communications equipment shall further comply with the following regulations:

1. The wireless communications facilities shall be designed, constructed, and maintained to be visually and architecturally compatible with the principal building.

2. The equipment compound shall be designed as a properly screened roof appliance, a penthouse, or may be located within the principal building.

3. The wireless communications equipment height shall not extend above the roof of the principal structure unless the equipment is incorporated as an architectural element and is integrated into the overall architecture of the building.

4. The height of any antenna, wireless communications equipment, and associated architectural element, shall not extend more than ten feet above the maximum height permissible in the underlying zoning district.

c. *Existing electrical transmission towers.* Existing electrical transmission towers, such as the ITC towers are eligible facilities for permitted co-location of wireless communications facilities in compliance with the provisions of this subsection within any zoning district where located.

d. *Existing wireless communications facilities.* Existing wireless communications facilities are eligible facilities for permitted co-location in the zoning district where located, provided that the proposed co-location complies with all of the following criteria:

1. *Existing.* The wireless communications equipment will be collocated on an existing wireless communications support structure or in an existing equipment compound.

2. *Approved.* The existing wireless communications support structure or existing equipment compound was previously approved by the city.

3. *Not a substantial change.* The proposed co-location will not substantially change the physical dimensions of the eligible facility and increases in the height, width, and area according to the following criteria:

    i. *Height.* The overall height of the wireless communications support structure shall not be increased by more than 20 feet or ten percent of the structure's originally approved height, whichever is greater.

    ii. *Width.* The width of the wireless communications support structure shall not be increased by more than the minimum necessary to permit co-location; and in no event shall it involve adding an appurtenance to the body of:

        (a) An existing tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower at the level of the appurtenance, whichever is greater; or

        (b) A non-tower support structure that would protrude from the edge of the structure by more than six feet.

    iii. *Equipment compound.* The area of the existing equipment compound shall not be increased to exceed a total area of 2,500 square feet, or exceed four cabinets; and the height shall not be increased by more than ten percent or ten feet of the compound's originally approved height, whichever is greater.

    iv. *Limited to current site.* The proposed co-location shall not include the excavation or deployment outside the current site.

    v. *Maintains concealment.* The proposed co-location shall not defeat any concealment elements of the eligible support structure.

4. *Compliance.* The proposed co-location complies with all terms and conditions of the previous final approval of the existing wireless communications support structure and/or equipment compound.

5. *Equipment compound.* In the event the addition of wireless communications equipment to the equipment compound results in an increase to the height, width, or total size of the compound area, the compound shall be brought into compliance with the design regulations for equipment compounds as set forth in subsection (g) of this section, regulations.

e. *Zoning compliance review procedure.* An administrative zoning compliance review of proposed co-location of wireless communications facilities as a permitted co-location shall be conducted by the planning and building department for determining compliance with the provisions of this subsection (e)(1)e.

1. *Application requirements.* A complete application for the review of a permitted co-location shall be made to the building and planning department, which complies with all of the following:

    i. Is signed by the applicant, the property owner, and the licensed entity intended to be an operator of the wireless communications facility.

    ii. Includes the following documentation:

        (a) Plans that comply with the requirements of this section and contain all information, format and data describing and depicting the proposed work and installations as needed to perform a review under this section.

(b) A state-licensed professional engineer or surveyor certification of the resulting increase in height and width of the structure, and any increase in the size of the equipment compound due to the proposed co-location.

(c) Prior to issuance of a building permit, the applicant shall submit a state-licensed professional engineer certification of the structural integrity of the support structure, including added and existing loads and foundation.

(d) A copy of all required building, electrical or other permits as may be required by applicable buildings codes and/or state or federal regulations.

iii. Demonstrates that the proposed co-location complies with all terms and conditions of the previous final approval of the existing wireless communications support structure and/or equipment compound.

iv. Demonstrates that the proposed co-location and the site complies with the previously approved maintenance agreement.

v. Includes the name, address and phone number of the person to contact for engineering, maintenance, emergency and other notice purposes, during and after business hours. This information shall be updated annually by January 31 of each year.

vi. Demonstrates that the application complies with applicable state laws, federal laws, and Federal Communications Commission regulations.

vii. Includes a one-time nonrefundable compliance review fee in the amount established by resolution of city council.

2. *Determination of complete application.* The application shall be reviewed to determine if it is complete within 14 business days of submittal. The application shall be marked "complete" or "incomplete" with the date reviewed, and if incomplete the building and planning department shall issue a notice in writing or by electronic notification to the applicant that the application is incomplete. The notice shall specify the information necessary to make the application administratively complete. The 14-day review period shall be tolled until the applicant submits to the city a complete application including all information, documents, and fees required. The building and planning department shall review any supplemental submission to determine if the required information is included to make the application administratively complete. If the application remains incomplete, the applicant shall be notified within ten calendar days of submittal of the supplemental information that the application remains incomplete and shall specify the information needed. Second or subsequent notices of incompleteness shall not specify missing information that was not identified in the original notice of incompleteness. The date the application is determined complete shall be marked on the application.

3. *Compliance determination.* The building and planning department shall conduct a zoning compliance review of the complete application and all supporting documents to determine if the proposed co-location is a permitted co-location and if it complies with all required criteria, applicable ordinances, and state and federal laws. Upon completion of the compliance review, the building and planning department shall issue a written determination of compliance and notify the applicant in writing of the determination.

4. *Time limit.* The time period to complete the compliance review shall not exceed 60 calendar days from the date that the application is filed and may be tolled if the application is incomplete or by mutual agreement. Any tolling of the time period, either due to an

incomplete application or by mutual agreement, shall not apply to the 60-day review period. If the determination of compliance is not made within the 60 days, or as tolled, MCL 125.3514 mandates that the application shall be considered approved. The approval shall not become effective until the applicant notifies the city in writing that, including the period of tolling, the time period for review has expired and the application has been deemed approved.

(2) *Co-location requiring approval.*

a. *Co-location requiring approval.* The co-location of wireless communications facilities which complies with the criteria set forth in subsections (a)(4)a and b of this section, but does not comply with the criteria set forth in subsections (a)(4)c or d of this section, is permitted subject to compliance with all applicable provisions set forth in this subsection (e)(2) of this section, co-location requiring approval. An application requiring approval under this subsection shall be submitted to the building and planning department for review. Unless denial is required as provided in this subsection, co-locations requiring approval under this subsection shall be approved subject to applicable conditions and compliance with applicable regulations set forth in subsection (g) of this section, regulations, and the following requirements.

1. The proposal will not significantly alter the appearance of the existing structure.

2. An agreement between the title holder of the property and the antenna provider shall be submitted regarding co-location.

3. A coverage area map shall be submitted of the area served by the provider's existing wireless communications facilities, along with a map of the same area showing the coverage provided by the addition of any proposed facilities and sufficient documentation to demonstrate the need for the antenna.

4. Any accessory equipment for the antenna shall be placed inside the structure to which the antenna is attached, or in the rear yard with screening provided so that the equipment is not visible from adjacent properties and public rights-of-way. If location within a structure or rear yard is not feasible, accessory equipment may be located on the facade of an existing building as provided below.

5. The issuance of applicable building and electrical permits as may be required by applicable building, electrical or construction codes.

b. *Facade of existing buildings.* Co-location of wireless communications facilities on the facade of an existing building where permitted shall comply with the following regulations:

1. The wireless communications facilities shall be designed, constructed, and maintained to be visually and architecturally compatible with the principal building.

2. The equipment compound shall be designed as a properly screened roof appliance or penthouse, located within the principal building, or located in a ground compound in compliance with applicable regulations.

3. The wireless communications equipment height shall not extend above the roof of the principal structure unless the antennas and equipment are incorporated as an architectural element and integrated into the overall architecture of the building.

4. The height of any antenna, equipment, and associated architectural element shall not extend more than ten feet above the maximum height permissible in the underlying zoning district.

c. *Procedure for co-location requiring approval.*

1. *Co-location application requirements.* A complete application for approval of a proposed co-location shall be made in writing on forms provided by the city and submitted to the planning department in compliance with all of the following:

    i. Is signed by the applicant, the property owner, and the licensed entity intended to be an operator on the wireless communications facility.

    ii. Includes the following documentation:

        (a) A site plan submission prepared in accordance with section 51-21.28, site plan review.

        (b) A state-licensed professional engineer or surveyor certification of the resulting increase in height and width of the structure, and any increase in the size of the equipment compound due to the proposed co-location.

        (c) Propagation studies and modeling information used to develop the studies; a map showing existing and known proposed wireless communication facilities within the city and areas surrounding the borders of the city; and a map showing all properties which meet the search criteria of the provider. Any request for confidentiality of the information provided must be prominently stated on the face of the document.

        (d) Prior to issuance of a building permit, the applicant shall submit a state-licensed professional engineer certification of the structural integrity of the support structure and foundation.

    iii. Demonstrates that the proposed co-location is required to fill a significant gap in service; and that the manner proposed to fill the significant gap in service is the least intrusive method.

    iv. Demonstrates that the proposed co-location will not result in encroachment into a required setback.

    v. Demonstrates that the proposed co-location is architecturally compatible with the structures on-site or will be concealed within the structures on site.

    vi. Demonstrates that the proposed co-location will not interfere with any necessary clear vision area.

    vii. Demonstrates that the proposed co-location will not interfere with any public or private right-of-way and will not be a distraction to motorists.

    viii. Demonstrates compliance with all applicable regulations set forth in subsection (g) of this section, regulations.

    ix. Includes the name, address and phone number of the person to contact for engineering, maintenance, emergency and other notice purposes, during and after business hours. This information shall be updated annually by January 31 of each year.

    x. Includes a maintenance plan and a proposed maintenance agreement to ensure long term, continuous maintenance of all site improvements proposed for the wireless communications facilities.

    xi. Includes a one-time nonrefundable application review fee in the amount established by resolution of city council.

2. *Complete application required.* An application shall not be complete unless all required information is included and all documentation is attached.

    i. *Review for completeness; notice required.* The application shall be reviewed to determine if it is complete within 14 business days of submittal. The application shall be marked "complete" or "incomplete" with the date reviewed, and if incomplete, the building and planning department shall issue a notice in writing or by electronic notification to the applicant that the application is incomplete. The notice shall specify the information necessary to make the application administratively complete. The 14-day review period shall be tolled until the applicant submits to the city a complete application including all information, documents, and fees required. The date the application is determined complete shall be marked on the application.

    ii. *Application deemed complete.* Pursuant to MCL 125.3514, the application shall be deemed administratively complete if the city fails to notify the applicant of an incomplete application within 14 business days after the city receives the application.

3. *Standards for co-location approval.* No co-location shall be approved unless the applicant has demonstrated all of the following:

    i. The proposed co-location is required to fill a significant gap in service, and the manner proposed to fill the significant gap in service is the least intrusive method.

    ii. The proposed wireless communications facility is structurally sound.

    iii. The proposed co-location shall comply with the required yard setbacks for the district.

    iv. The proposed co-location is designed to be architecturally compatible with the structures on site or will be concealed within the structures on-site.

    v. The proposed co-location will not interfere with any necessary clear vision area.

    vi. The proposed co-location will not interfere with any public or private right-of-way.

    vii. The proposed co-location complies with all applicable regulations set forth in subsection (g) of this section, regulations.

    viii. The maintenance plan will ensure long term, continuous maintenance of the site improvements proposed for the wireless communications facilities; and the agreement is signed by the applicant, licensed operator and property owner and is in recordable form.

    ix. The required application fee and all fees for recording the maintenance agreement are paid in full.

    x. The application complies with applicable state laws, federal laws, and Federal Communications Commission regulations.

4. *Decision on application for co-location approval.*

    i. *Time.* An application for approval of a co-location shall be approved or denied within 60 calendar days from the date the application is deemed complete, except that the 60-day time period for approval or denial may be tolled by

mutual agreement. If the decision to approve or deny is not made within the 60 days, or as tolled, MCL 125.3514 mandates that the application shall be considered approved. The approval shall not become effective until the applicant notifies the city in writing that, including the period of tolling, the time period for review has expired and the application has been deemed approved.

ii. *Conditional approval.* An approval shall be made expressly conditioned upon:

A. Compliance with all applicable ordinances, state and federal laws before the wireless communications equipment begins operation.

B. Submission of a state-licensed professional engineer certification of the structural integrity of the support structure and foundation prior to issuance of a building permit.

C. For structures, equipment or facilities located on city-owned property, approval shall be expressly conditional upon the applicant providing copies of fully executed un-redacted sub-leases or agreements relative to all co-locations.

D. Issuance of all required building and electrical permits as may be required by applicable building codes and/or state or federal regulations.

All conditions imposed shall be set forth in the written decision.

iii. *Denial.* A denial of the application shall be supported by substantial evidence. The substantial evidence supporting the denial shall be specified in writing and made part of the written record, as required by the Federal Telecommunications Act, 47 USC 332(c)(7). The written record shall summarize the proceedings and articulate the reasons for finding that the applicant failed to demonstrate that the request met the standards for co-location approval as set forth above in subsection (e)(2)c.3 of this section.

f. *In writing.* The decision approving or denying an application shall be in writing, shall be sent to the applicant by regular mail, and shall be postmarked within 60 days of the date the application is deemed complete. The written reasons for denial shall be provided to the applicant with the written decision.

(f) *New wireless communications support structure; new equipment compound.*

(1) *General.*

a. *Permitted districts.* A new wireless communications support structure or a new equipment compound is a permitted use subject to special land use approval in the zoning districts designated in this ordinance.

b. *Preferred locations.* Based on the nature and size of the land use, the ability to design architecturally compatible facilities with the structures on-site, to conceal the facilities within the structures on site, and the ability to provide necessary and adequate clear vision and safe fall zones, use of the following sites where permitted is encouraged for new support structures and equipment compounds:

1. Municipally-owned property.

2. State, county, or other government owned property.

3. Sites containing a public or private school or educational institution.

4. Public park, golf course, or other large permanent open space area.

5. Sites containing a religious, or other institution including country clubs, fraternal lodges, civic or social organizations, and community buildings.

c. *Coverage area map.* The coverage area map (as defined in section 51-2.02) shall be submitted for review. The coverage area map for the proposed site shall include documentation for a minimum of three antenna heights; the first at the proposed height, the second at a height that is no less than 25 feet lower and the third at no less than 25 feet higher than the proposed height. The applicant shall demonstrate a justification for the proposed structure height and provide an evaluation of the impacts of such alternative designs on coverage and co-location options, which might result in a different height from the proposed height being approved.

d. *Existing locations and co-location.* Wherever possible, systems shall locate on existing buildings, structures and existing wireless communication facilities. Further, no new pole or tower shall be permitted unless the applicant demonstrates to the satisfaction of the planning commission that no existing building, structure, facility or alternative technology that does not require the use of towers can accommodate the proposed antenna. The agreement between the property titleholder and the wireless communication facility provider shall be submitted to show that co-location shall be required and that a total of three antenna arrays shall be allowed to co-locate, and shall limit accessory utility buildings on the site to one that shall be designed to accommodate all current, proposed and future providers. If a provider fails to or refuses to permit co-location, said structure and its existing wireless communication systems shall become a nonconforming structure and shall not be altered or expanded in any way. No lattice towers, guy-wired poles or wooden poles shall be permitted.

e. *Site plan.* The site plan must address the wireless communication facility plus the existing site development. A condition of any site plan approval shall be that the entire site, and not just the area proposed for the wireless communication facility shall be reviewed so that any necessary improvements to existing nonconforming aspects are modified to bring the site into compliance with this chapter to the fullest practical extent. The site plan shall also be accompanied by a photograph or digital image of the elevation perspective of the tower, including adjacent buildings within 100 feet of the site shown at the same horizontal and vertical scale.

(2) *Special use approval required.*

a. *Procedure for a new support structure or equipment compound.* An application for a new support structure or for a new equipment compound shall be submitted to the planning commission for review and approval under the special land use process established by ordinance by filing the appropriate application for planning commission approval, including the following:

1. Payment of fees as indicated in the schedule of fees.

2. Submission of all other necessary information, including information required by section 51-21.29, special land uses, to allow the planning commission to hold a public hearing on the request and determine compliance with the requirements of the zoning ordinance as provided in this subsection (f)(2).

3. After receiving approval of the special land use and site plan from the planning commission, the property owner or his agent must file a building permit application for review and approval consistent with the requirements of this section and the state construction code enforced by the city and any other requirement of the building official which shall be a condition of approval.

b. *New support structure or equipment compound application requirements.* A complete application for approval of a new support structure or new equipment compound shall be made in writing, and shall include all of the following:

1. Is signed by the applicant, the property owner, and the licensed entity intended to be an operator on the wireless communications facility.

2. Includes the following documentation:

    i. Submission of a coverage area map and site plan which meets the requirements of section 51-21.28, site plan review and the additional requirements of this chapter.

    ii. Propagation studies and modeling information used to develop the studies; a map showing existing and known proposed wireless communication facilities within the city and areas surrounding the borders of the city; and a map showing all properties which are identified within the search ring of the applicant. Any request for confidentiality of the information provided must be prominently stated on the face of the document.

    iii. Identifies all alternative sites and demonstrates all efforts made to utilize the alternative sites and explains why each cannot be utilized.

    iv. Certification from a structural professional engineer licensed by the State of Michigan certifying the structural integrity of the support structure and the foundation, and the structure's compliance with the safe fall zone.

    v. A soils report from a geotechnical professional engineer licensed by the State of Michigan. The soils report shall include soil borings and statements confirming the suitability of soil conditions for the proposed wireless communications facility.

3. Demonstrates that the new support structure is required to fill a significant gap in service; and that the manner proposed to fill the significant gap in service is the least intrusive method.

4. Demonstrates that the new wireless communications facility will have adequate access to the facility and overall circulation shall be reviewed and approved. An access road that serves only the facility may be constructed of gravel and/or aggregate sufficient to maintain adequate access to the site. The planning commission may require the access to be paved if it determines that paving is needed to satisfy overall circulation needs.

5. Demonstrates that the new wireless communications facility will not result in encroachment into a required setback.

6. Demonstrates that the proposed wireless communications facilities are architecturally compatible with the structures on-site, or will be concealed within the structures on-site.

7. Demonstrates that the proposed wireless communications facility is designed to be aesthetically compatible with the zoning district and land uses in the surrounding neighborhood.

8. Demonstrates that the proposed new wireless communications facilities will not impact any designated historic property.

9. Demonstrates that the new wireless communications facilities will not interfere with any public or private right-of-way, comply with the clear vision regulations, and will not be a distraction to motorists.

10. Demonstrates compliance with all applicable regulations set forth in section 51-21.48, Regulations.

11. Includes the name, address and phone number of the person to contact for engineering, maintenance, emergency and other notice purposes, during and after business hours. This information shall be updated annually by January 31 of each year.

12. Includes a maintenance plan, and a proposed maintenance agreement to ensure long-term, continuous maintenance of all site improvements proposed for the wireless communications facilities.

13. Includes a one-time nonrefundable application review fee in the amount established by resolution of the city board.

    i. *Complete application required.* An application shall not be complete unless all required information is included and all documentation is attached.

    ii. *Review for completeness; notice required.* The application shall be reviewed to determine if it is complete within 14 business days of submittal. The application shall be marked "complete" or "incomplete" with the date reviewed, and if incomplete, the planning department shall issue a notice in writing or by electronic notification to the applicant that the application is incomplete, and shall specify the information necessary to make the application administratively complete. The 14-day review period shall be tolled until the applicant submits to the city a complete application including all information, documents, and fees required. The date the application is determined complete shall be marked on the application.

    iii. *Application deemed complete.* Pursuant to MCL 125.3514, the application shall be deemed administratively complete if the city fails to notify the applicant of an incomplete application within 14 business days after the city receives the application.

    iv. *Standards for approval of a new support structure or equipment compound.* No application for a new wireless communications support structure or equipment compound shall be approved unless the applicant has demonstrated all of the following:

        A. The proposed new wireless communications facility is needed to fill a significant gap in service.

        B. Alternative sites cannot be utilized to fill the significant gap in service.

        C. A state-licensed professional engineer certified the structural integrity of the support structure and foundation, and compliance with the safe fall zone.

        D. The soil conditions for the support structure are suitable as certified by a geotechnical professional engineer licensed by the state.

        E. The manner in which it proposes to fill the significant gap in service is the least intrusive method.

        F. The proposed new wireless communications facilities will not disturb any area designated as a wetland, woodland or environmental feature; or if the proposed new wireless communications facilities will disturb a

wetland, woodland or environmental feature, a use permit has been obtained.

G. The proposed new wireless communications facility will not encroach into a required setback.

H. The proposed new wireless communications facilities are designed to be architecturally compatible with the structures on site, or will be concealed within the structures on-site.

I. The proposed new wireless communications facilities are designed to be aesthetically compatible with the zoning district and land uses in the surrounding neighborhood, and to the extent possible, blend into the visual landscape.

J. The proposed new wireless communications facilities will not impact any designated historic property.

K. The proposed new wireless communications facilities will not interfere with any public or private right-of-way, will not be a distraction to motorists and will not interfere with any necessary clear vision area.

L. The proposed new wireless communications facilities comply with all applicable regulations set forth in subsection (g) of this section, regulations.

M. The maintenance plan will ensure long-term, continuous maintenance of all site improvements proposed for the wireless communications facilities, and the agreement is signed by the applicant, licensed operator and property owner and is in recordable form.

N. The required application fee and all fees for recording the maintenance agreement are paid in full.

O. Prior to issuance of a building permit, the proposed use shall be reviewed and approved in accordance with section 51-21.28, site plan review.

v. Decision on application for new support structure or equipment compound.

A. *Hearing.* A hearing shall be held by the planning commission on the application and public notice of the hearing shall be provided. Due to the time limit for a decision on the application as mandated by MCL 125.3514, the requirement to publish the notice in a newspaper of general circulation shall not apply to an application for a new wireless communications support structure or equipment compound.

B. *Time.* An application for approval of a new support structure or an equipment compound shall be approved or denied within 90 calendar days from the date the application is deemed complete, except that the 90-day time period for approval or denial may be tolled by mutual agreement. If the decision to approve or deny is not made within the 90 days, or as tolled, MCL 125.3514 mandates that the application shall be considered approved. The approval shall not become effective until the applicant notifies the city in writing that, including the period of tolling, the time period for review has expired and the application has been deemed approved.

C. *Conditional approval.* An approval shall be made expressly conditioned upon:

1) Issuance of all required building, electrical and construction permits as required by applicable building, electrical and construction codes. Compliance with all applicable ordinances, and state and federal laws before the wireless communications equipment begins operation.

2) Protection of natural resources as required by state and federal environmental laws and local ordinances.

3) Disclosure of the nature and extent of the applicant's ownership or lease interest in the property or structure shall be submitted. For structures or facilities located on city-owned property, approval shall be expressly conditional upon the applicant providing copies of fully executed un-redacted sub-leases or agreements relative to all co-locations and the applicant incorporating disclosure provisions in all co-location agreements and/or subleases.

All conditions imposed shall be set forth in the written decision.

D. *Security.* The approval shall require security to be posted at the time of receiving the building permit to ensure removal of the facilities and restoration of the site to its original state. The security shall be maintained until the wireless communications facilities are removed. In the event the wireless communications facility is not erected as planned or is removed as required by this chapter, the remaining balance of the cash bond shall be refunded. In the event a wireless communications facility is not removed pursuant to the provisions of this chapter, the security shall be forfeited and applied to the costs of removal and site restoration.

E. *Denial.* A denial of the application shall be supported by substantial evidence. The substantial evidence supporting the denial shall be specified in writing and made part of the written record, as required by the Federal Telecommunications Act, 47 USC 332(c)(7). The written record shall summarize the proceedings and articulate the reasons for finding that the applicant failed to demonstrate that the request met the standards for approval as set forth above in subsection (f)(2)b.13.iv of this section

F. *In writing.* The decision approving or denying an application shall be in writing, shall be sent to the applicant by regular mail, and shall be postmarked within 90 calendar days of the date the application is deemed complete. The written reasons for denial shall be provided to the applicant with the written decision.

(g) *Regulations.* The co-location of wireless communications facilities as permitted by subsection (e)(2) of this section, co-location requiring approval, and all new support structures and new equipment compounds as permitted by this ordinance, shall comply with the following regulations:

(1) *Principal or accessory use.* A wireless communications support structure, together with an equipment compound may be a principal or accessory use of property, provided that the proposed use complies with all applicable ordinances, and state and federal laws.

(2) *Design.*

a. *Support structure.* The design of the support structure shall comply with the following regulations:

1. The support structure shall be designed to be architecturally compatible with the structures on the site.

2. All new wireless communication systems shall be designed within the applicable ANSI standards and NEC standards. Metal facilities shall be constructed of (or treated with) corrosion resistant materials. The need for anti-climbing devices and/or other security measures must be addressed and shall be provided if required.

3. Antennas and metal towers shall be grounded for protection against lightning strikes, and shall comply with all state electrical code requirements, and with all applicable local statues, regulations, and standards.

4. The support structure shall be designed to be aesthetically compatible with the zoning district and land uses in the surrounding neighborhood, and to the extent possible, blend into the visual landscape. Commercial signs, advertising, and logos, and artificial lighting such as strobe lights (other than lighting or other identification required by the FAA or FCC) shall be prohibited on the facility.

5. The structure shall be designed and constructed to permit co-location.

6. The support structure shall be structurally sound as certified by a structural professional engineer licensed by the state. Facilities shall be designed to withstand a uniform wind loading as prescribed in the state construction code or other applicable engineering standard.

7. The soil conditions for the support structure shall be suitable as certified by a geotechnical professional engineer licensed by the state.

8. Unobstructed legal access to the support structure shall be provided and maintained and shall comply with all access requirements of the fire department.

9. All cables and utilities serving the support structure shall be underground.

10. The support structure shall be designed and constructed in accordance with all applicable building, electrical and construction codes. Facilities shall be self-collapsing, where any collapse will be completely contained within the subject property, and shall comply with all state construction code and electrical code regulations. The applicant shall provide all necessary engineering information, site plans, and drawings to make these determinations with the application. No structure, (other than the associated support building) sidewalk, parking lot or other pedestrian or vehicular traffic area shall be permitted within the self-collapsing or safe fall area.

11. The wireless communication provider shall provide proof of insurance for liability and property damage of not less than $1,000,000.00.

b. *Equipment compound.* The design of the equipment compound shall comply with the following regulations:

1. The equipment shall be located within a building or otherwise concealed within the support structure.

2. The equipment compound shall be designed to be architecturally compatible with the structures on the site, or concealed within the buildings or structures on site

3. The exterior of the equipment compound shall be constructed of decorative face brick or other material compatible with the building materials on site, shall use the same primary and secondary colors of other buildings located on the site, and shall have a gabled roof with decorative shingles or a standing seam metal roof.

4. The equipment compound shall be designed and constructed to permit co-location for the number of additional providers that the support structure can accommodate.

5. Unobstructed legal access to the support structure shall be provided and maintained and shall comply with all access requirements of the fire department.

6. All cables and utilities serving the equipment compound shall be underground.

7. The equipment compound shall be designed and constructed in accordance with all applicable building, electrical and construction codes.

8. The equipment compound shall not be used for offices, storage, broadcast studios, signage, advertising or other uses which are not necessary to send or receive transmissions.

(3) *Height.*

a. *Support structure.* Maximum height of a wireless communication facility shall be 120 feet. A height no greater than 150 feet may be considered by the planning commission where the applicant has sufficiently demonstrated that the additional height will reduce the total number of potential communication facilities in the city. Further, the maximum height shall be the minimum demonstrated to be necessary for reasonable communication by the applicant, including co-location.

b. *Equipment compound.* buildings shall be limited to the maximum height permitted for an accessory structure in the zoning district.

(4) *Setbacks and location.* No part of any antenna or facility shall project over, or be constructed, located or maintained at any time, permanently or temporarily within any setback area required in the zoning district.

a. *Support structure.*

1. *Safe fall zone.* A safe fall zone setback shall be provided for support structures as follows: the center of the base of the support structure must be set back from the property line of the site, a minimum distance equal to the height of the support structure, except, the safe fall zone setback does not apply when wireless communications equipment is co-located on an existing building. However, in no case shall any setback be less than the setback that would be required for a primary structure in the zoning district. Except as expressly provided by this chapter, a wireless communication facility must be located a minimum of 500 feet from any property that is zoned or used for residential purposes.

2. *Yard.* The facility and all equipment shall be located in the rear yard, in an area of the site where the visual impact to the public is minimized. Alternate locations may be approved by the planning commission upon determining that an alternate location provides better screening of the facility and equipment from public view.

3. *Waterfront property.* A support structure shall be set back not less than 1,000 feet from the shoreline of a lake.

4. *On-site residential buildings.* A support structure shall be set back from any residential building located on the site, a minimum distance that is equal to the height of the structure.

5. *Certain uses.* No support structure shall be located closer than 300 feet to any private, religious, charter, or public elementary school; day care; or senior citizen facility.

6. *Compliance with greatest distance.* When there is more than one applicable setback required, the structure and all equipment shall comply with the greatest distance requirement.

7. *Measurement.* The minimum required setback distance shall be measured from the center point of the base of the tower in a straight line to the nearest point of the property line requiring the setback.

b. *Equipment compound.*

1. *Front yard restrictions.* An equipment compound shall not be located in any front yard, or within any required setback, including the required front yard setback for waterfront property.

2. *District requirements.* An equipment compound shall comply with the setback standards for a structure/or accessory structure in the zoning district for the parcel.

(5) *Screening and decorative fence.* To prevent unauthorized persons from access to the wireless communications facility, all wireless communication facilities, shall be screened from entry by a six-foot-high decorative fence.

(6) *Landscaping.* There shall be provided a landscaping screen for the base of the structure and equipment compound. At a minimum, the landscaping shall provide a continuous landscape screen around the entire lease area and shall include a variety of plantings. The planting shall incorporate full size trees, both deciduous and evergreen, large deciduous shrubs, and other low level plantings. Native plantings shall be incorporated whenever possible. Existing on site landscaping and natural vegetation shall be preserved to the maximum extent possible. The applicant shall be required to submit a detailed landscape plan in accordance with section 51-21.28, site plan review.

(7) *Maintenance.*

a. Routine maintenance shall be provided to ensure the continued soundness of the wireless communication system, and to ensure that the site will be kept in a safe condition. Any system that is determined to be unsafe, unlawfully erected or not maintained shall be in violation of this section and chapter. The use of said system shall be discontinued until all violations are corrected, or it shall be immediately removed.

b. All wireless communications facilities shall be maintained in compliance with an approved maintenance plan and/or agreement.

(h) *Removal.*

(1) All abandoned or unused (as defined in section 51-2.02) wireless communication antennas, equipment, facilities or systems shall be removed within 180 days of the cessation of operations on the site, unless a time extension is approved by the city manager. In the event that a tower is not removed within 180 days of the cessation of operations, the tower and associated facilities may be removed by the city and the costs of removal assessed against the property. Removal of a wireless communication system, in whole or in part, shall require administrative approval from the city, and issuance of any applicable permits.

(2) It shall be the obligation of the wireless communications provider to inform the building and planning department of any wireless communication system termination or upgrade.

(3) The city shall require a bond to secure the future removal of any abandoned or unsafe wireless communication system or structure.

(4) The city may secure the removal of the structure if it is still standing 30 days after the city has sent a notice to the operator stating the need to remove the structure.

(5) Unused portions of towers located above a manufactured connection shall be removed within 180 days of the time of antenna relocation. The replacement of portions of a tower previously removed shall be subject to a new special land use approval.

(6) The base of any tower and/or support anchors shall be removed to a point no less than 12 feet below grade. The excavation shall be filled with suitable soil, than covered with topsoil and hydro seeded.

(i) *Enforcement.* A violation of any provision or requirement of this section shall be deemed a municipal civil infraction. Additionally, the city may pursue any other legal or equitable remedy in any court of competent jurisdiction to abate or enforce any violation of this section.

(Ord. No. C-267-07, § 3, 1-3-2007; Ord. No. C-321-15, § 3, 6-2-2015; Ord. No. C-342-18, § 2, 1-15-2019)

Sec. 51-21.49. Shared waterfront dock use and mooring.

(a) *Intent and purpose.* The intent of this section is to reduce the conflicts that may occur between residential single-family use and private noncommercial shared waterfront use in single-family zoning districts only by setting forth requirements and provisions for administrative approval of limited private, noncommercial shared waterfront dock use and mooring upon single-family residential waterfront lots improved with occupied dwellings by no more than two families on a temporary seasonal basis by enacting regulations and requirements applicable to watercraft docks, docking and watercraft launching and activities related to dock use and mooring of watercraft as a measure to protect the public health, safety and welfare of persons and property within the city. The provisions of this section shall in no way convey, grant, expand, reduce, take, abrogate, impair, alter or modify property interests, easements or restrictive covenants existing upon the effective date of the zoning ordinance codified in this chapter. Vested, permitted property interests, easements or restrictive covenants existing upon the effective date of this ordinance shall be controlling in the event of a conflict with any provision of this section.

(b) *Scope and general limitations.*

(1) Shared waterfront lot dock use and mooring pursuant to this section shall include and be limited to, gratuitous, noncommercial docking/mooring of watercraft upon a single-family residential waterfront lot improved with a principal single-family dwelling by no more than two families on a temporary seasonal basis as authorized and permitted by this section and shall further include:

a. Seasonal/non-daily watercraft launching and removal; and

b. Access to docked/moored watercraft.

(2) This section shall not authorize, permit or apply to waterfront parks, keyhole lake access lots, or other similar uses, or proposed uses, as a means of providing permanent lake access and related riparian uses for multiple families and/or lot owners other than the families and/or lot owners who lawfully dwell upon and/or use a waterfront lot in compliance with all applicable codes and ordinances, including, but not limited to, applicable zoning ordinance use restrictions. Except established, lawful nonconforming uses existing upon the effective date of the ordinance from which this section is derived, waterfront parks, keyhole lake access uses and lots used, or proposed for use, as a means of providing permanent lake access and related riparian uses to multiple families and/or lot owners other than the families and/or lot owners who lawfully dwell upon and/or use a waterfront lot in compliance with all applicable codes and ordinances, including, but not limited to, applicable zoning ordinance use restrictions, shall require review and approval by the planning commission as required by the provisions of the city zoning ordinance and/or a variance or rezoning as appropriate.

(3) Payment, acceptance or providing any valuable consideration in exchange for any docking, mooring or other lake access privileges pursuant to this section is prohibited.

(4) Except storage of trailers, vehicles, equipment and items owned by and lawfully stored by the lot owner and/or dwelling occupant, outdoor storage of trailers, equipment, vehicles or other items upon the land of a waterfront lot of another is prohibited.

(5) This section shall in no way prohibit, limit, restrict or apply to temporary anchoring of occupied watercraft or vessels within any riparian zone or restrict lawful use of surface waters of the city.

(6) Shared waterfront lot dock use and mooring pursuant to this section shall comply with all requirements of applicable codes and ordinances, including, but not limited to, chapter 50, article IX of this Code.

(c) *Administrative review and approval.*

(1) Shared waterfront lot dock use and mooring pursuant to this section, including sharing of any related accessory structures, shall constitute an accessory use requiring administrative review and approval by the development coordinator, or his designee, pursuant to the requirements and procedures set forth in section 51-21.28(e), as amended.

(2) Applications under the administrative approval process shall be made by the waterfront lot owner and/or dwelling occupant upon forms furnished by the city and shall include payment of required fees and submission of all information and submittals necessary to permit the development coordinator, or his designee, to determine compliance with the requirements of this section and chapter. In addition to the information and submittals required by section 51-21.28(e)(4), the application shall further include the following:

a. The name and address of the principle family member requested to share waterfront dock use and mooring with the lot owner and/or family occupying the waterfront lot as a dwelling;

b. The location, configuration, type, size, number of slips/capacity, dimensions (length, width, height, water depth) of the dock and/or mooring structure sought to be shared and the dimensions, including water frontage, of the lot to be shared;

c. A description of all watercraft proposed for docking/mooring upon the lot during the season including the total number, registered owner, MC local watercraft registration numbers, type and size of each watercraft;

d. The location, configuration, type, size, number of slips/capacity, dimensions (length, width, height) of all other docks, mooring structures, or other riparian accessory structures located on the lot

e. A description and location of all means of egress/access facilities to shared areas/facilities, including, but limited to, vehicular parking for nonresidents utilizing shared facilities.

f. Documentation that the principle family member requested to share waterfront dock use and mooring identified in subsection (a) of this section has deeded riparian rights in a riparian lot bordering waters of the city requirements for shared waterfront lot dock use and mooring.

(d) *Applications.* Applications that are incomplete or would result in a violation of any requirement arising under local codes, ordinances or state law shall be denied. An application for shared waterfront lot dock use and mooring shall be approved upon the development coordinator finding that the requested waterfront lot dock use and mooring as proposed in the applications satisfies all the following:

(1) All docks, mooring structures and related riparian accessory structures and facilities comply with all applicable code and ordinance requirements, including, but not limited to, applicable use, setback, location and quantity/numerical requirements;

(2) All watercraft proposed for seasonal docking/mooring at the lot meet state and local registration requirements;

(3) Shared docking/mooring structures and related facilities will reasonably accommodate the proposed shared use, including, but not limited, all watercraft so as not to present an unreasonable safety hazard or unreasonably interfere with use and enjoyment of neighboring properties;

(4) Compliance with applicable requirements, limitations, conditions or restrictions set forth in this section and chapter 50, article IX of this Code;

(5) Compliance with all applicable state law requirements, including, but not limited to, permits required by the state department of natural resources and environment (MDNRE) or other state agencies.

(6) The lot proposed for shared dock and/or mooring use has a minimum of 40 linear feet of water frontage.

(e) *Expiration, revocation of approval.* Approved shared waterfront lot dock use and mooring pursuant to this section shall expire on October 31 of each year. Violation of any requirement, limitation or restriction of this section, or noncompliance with a shared use as proposed in an application, shall constitute grounds for revocation prior to expiration.

(Ord. No. C-287-10, § 10, 1-18-2011)

Sec. 51-21.50. Marijuana facilities.

(a) *Purpose and definitions.* This ordinance is adopted for the purpose of promulgating city land use and zoning requirements for medical marijuana facilities and adult use establishments by adopting local land use and zoning application, review and approval criteria in a manner that promotes and protects the public health, safety and welfare, mitigates potential impacts on surrounding properties and persons, and that conforms with the policies and requirements of: 1) Michigan Medical Marihuana Act, MCL 333.26421, et seq. ("MMMA"), and; 2) the Medical Marihuana Establishments Licensing Act, MCL 333.27101, et seq. as amended, and the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq. as amended (collectively "Act" or "Acts"), and; 3) the State Administrative Rules, as amended, adopted pursuant to the Acts ("Rules") and for the further purpose of implementing provisions of the Acts and Rules. In the event of any conflict between any requirement or provision arising under this article and state law, state law shall be controlling regarding any conflicting provisions. By seeking local approval of a marijuana facility or a marihuana establishment under the zoning ordinance, applicants acknowledge and accept that local approval, licensure and regulation of marihuana establishments and marijuana facilities represent a new and evolving area of law that presents entrepreneurial risks and uncertainties regarding the state and local regulatory and licensing process, a risk that the applicant fully acknowledges, accepts and assumes. For purposes of this section, the following definitions shall apply:

Act(s) refer to the Medical Marihuana Establishments Licensing Act, MCL 333.27101, et seq. as amended, and the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq. as amended (collectively "Act" or "Acts").

Department means the state department of licensing and regulatory affairs.

Registered primary caregiver facility means any facility, structure, or parcel used, maintained or occupied by a registered primary caregiver for any caregiver use, facility or activity authorized under the Michigan Medical Marihuana Act, MCL 333.26421, et seq. as amended. Except as expressly provided by this article, requirements and provisions applicable to a "marijuana facility" shall also apply to a "registered primary caregiver facility". Unless required by state law, a "marijuana facility operating license" and compliance with the "Act" or "Rules" shall not be required for a "registered primary caregiver facility", any contrary provision in this article notwithstanding.

Rules means the rules adopted by the department pursuant to the Act, as amended.

(b) *Number and location.* A marijuana facility or registered primary caregiver facility shall not be located in any zoning district or upon any property or structure except as expressly provided by this section. The number and placement of marijuana facilities and registered primary caregiver facilities shall comply with zoning district limitations and requirements as follows:

Facility	Zoning District	Number
Grower	I-1	3
Processor	I-1	3
Secure transporter	I-1	3
Provisioning center	C-2, C-3	C-2: 2 C-3: 1
Safety compliance	I-1, C-2	I-1: 1 C-2: 1
Registered primary caregiver	I-1	Not applicable

(c) *Conditions.* Any land use, site plan or other zoning approval of a marijuana facility granted under any provision of this zoning ordinance shall be deemed conditional upon the timely approval and issuance of the following:

(1) A state marijuana facility operating license;

(2) A city marijuana facility operating license;

(3) A building permit as required by the rules; and

(4) A certificate of occupancy as required by the rules.

Revocation or denial of a required marijuana facility operating license, building permit or certificate of occupancy shall render any approval of a marijuana facility granted under any provision of this zoning ordinance null and void.

(d) *Approved site plan required.* Use of any property or existing structure as a marijuana facility within a C-2 or C-3 zoning district requires administrative review and approval of a site plan by the development coordinator pursuant to section 51-21.28(e)(2). Marijuana facilities within an Industrial zoning district or requiring new construction in any zoning district shall require site plan review and approval by the planning commission as provided in section 51-21.28. Marijuana facilities shall be operated and maintained in compliance with the approved site plan for the facility. Any use of property or a structure without, or in violation of, an approved site plan shall constitute a violation of this zoning ordinance and a nuisance per se subject to abatement by a court of competent jurisdiction.

(e) *Site plan application and review criteria.* A site plan and site plan approval application for a marijuana facility shall generally comply with section 51-21.28, site plan review. Except as otherwise provided by this section, a site plan application for a marijuana facility shall be processed in accordance with the administrative review procedures in section 51-21.28(e)(2). by the development coordinator. Marijuana facilities in an Industrial zoning district or requiring new construction in any zoning district shall require site plan review and approval by the planning commission. In addition to the criteria set forth in section 51-21.28, the following shall apply to a site plan/application for a marijuana facility:

(1) Identification of the type of marijuana facility applied for (e.g., grower, provisioning center, etc.) and a detailed description of all services, products, items, uses, operations or merchandise produced, sold, offered, conducted or provided by the proposed marijuana facility including hours of operation.

(2) Marijuana facility uses, operations and activities shall comply with the rules and all operating regulations adopted pursuant to section 206 of the Act. A plan for the proposed marijuana facility shall be provided including the following:

a. Diagram of the marijuana facility, including, but not limited to, its size and dimensions, specifications, physical address, location of common entryways, doorways, passageways, means of public entry or exit, limited access areas within the facility, and indication of the distinct areas or structures at a same location as provided for in rule 24 of the rules;

b. A floor plan, drawn to scale, showing the layout of the marijuana facility and the principal uses of the floor area depicted therein, including dimensions, maximum storage capabilities, number of rooms, dividing structures, fire walls, entrances and exits and a detailed depiction of where any uses other than marijuana related uses are proposed to occur on the premises;

c. A detailed description of all marijuana storage facilities and equipment including enclosed, locked facilities, if any, as may be required by the Act. Storage of marijuana shall comply with applicable Rules adopted pursuant to section 206 of the Act;

d. Means of egress, including, but not limited to, delivery and transfer points;

e. If the proposed marijuana facility is in a location that contains multiple tenants and any applicable occupancy restrictions;

f. Description of the products and services to be provided by the marijuana facility, including retail sales of food and/or beverages, if any, and any related accommodations or facilities;

g. Building structure information including new, pre-existing, freestanding, or fixed. Building type information including commercial, warehouse, industrial, retail, converted property, house, building, mercantile building, pole barn, greenhouse, laboratory or center;

h. Any proposed outdoor uses or operations related to the facility.

(3) A description of waste disposal procedures, methods and facilities for marijuana waste products, including, but not limited to, usable and non-usable marijuana. Waste product disposal and storage shall comply with applicable rules adopted pursuant to section 206 of the Act.

(4) A description of any proposed signs including a detailed depiction of sign language or displays, dimensions, locations, quantity, configuration and illumination. Signs and advertisement/product displays shall comply with applicable provisions of the city's sign ordinance and the rules.

(5) Signed and dated verification by the property owner, or his duly authorized agent, of the premises where the proposed marijuana facility will be located certifying that the property owner has reviewed and been provided with a complete copy of the application and consents to use and occupancy of the premises as a marijuana facility as described and referenced in the application.

(6) A detailed description of the proposed security plan for the facility including identification of all proposed security measures, equipment and devises. A security plan shall comply with the rules and security regulations and requirements adopted pursuant to section 206 of the Act. Security plans require review and approval by the chief of police. The chief of police may require review and recommendation of a proposed security plan by an independent consultant with credentialed expertise in the field of site/facility security measures. The cost of an independent review by an independent security consultant shall be paid by the applicant.

(7) A marijuana facility and/or establishment shall not be located less than 500 feet from a school. For purpose of this ordinance "school" means any public or private school meeting all requirements of the compulsory education laws of the state. A provisioning center or marihuana retailer shall not be

located within 500 feet of another city approved (including site plan approval) provisioning center or marihuana retailer.

(8) All facility operations, transactions and activities, including cultivation, shall be conducted within an enclosed structure. Other than waste disposal, outdoor storage is prohibited.

(9) An area map, drawn to scale, shall be provided indicating, within a radius of 1,500 feet from the boundaries of the proposed marijuana facility site, the proximity of the site to any school, existing marijuana facility, recreational facility, church, public or private park, or to any residential zone, structure or use.

(10) A provisioning center or retail establishment may be open to the public daily between the hours of 9:00 a.m. and 9:00 p.m. only.

(11) Execution, acceptance or delivery by the city of any state departmental form or document shall not constitute, nor be deemed as, city approval of a site plan or other local approval required by the zoning ordinance, or any other applicable provision of any city code, ordinance, rule or regulation, any language contained in any state departmental form or document to the contrary notwithstanding.

(12) Registered primary caregiver uses, activities and facilities shall comply with all requirements and limitations under the Michigan Medical Marihuana Act, MCL 333.26421, et seq. as amended and all other applicable requirements arising under state law or local ordinance including, without limitation, building code and certificate of occupancy requirements. In addition to the above, the applicant shall provide a business operating plan demonstrating compliance with all applicable state and local requirements, including the following:

a. Enclosed locked facility requirements for all marijuana plants and products as required by the MMMA;

b. Possession limitations on the number of marijuana plants and/or quantity of marijuana product allowable under the MMMA;

c. Access limitations and requirements applicable to marijuana plants, products and areas where marijuana plants or product are grown, stored, processed, displayed or transacted as required by the MMMA;

d. Limitations, provisions and requirements applicable to the sale, distribution, furnishing, exchange, purchase or transaction of marijuana plants or products as provided by the MMMA;

(f) *City consultant review.* The city may, in its discretion, refer an application to any city consultant for review and recommendation. An applicant shall be responsible for payment of any city consultant review fees and the city may require advance payment of a reasonable escrow amount to cover city consultant review fees. The balance of any unused escrow proceeds to cover city consultant review fees shall be refunded to the applicant upon final action and determination on an application.

(g) *Action on application.* Upon reviewing the application and all findings and recommendations of the city department heads and consultants, the development coordinator, or planning commission where applicable, shall take action on the application according to the applicable review criteria and procedures in section 51-21.28 and the provisions specific to marijuana facilities as set forth in this zoning ordinance. An application for site plan approval of a marijuana facility that is materially incomplete or would result in a violation of state or local law or the rules shall be denied. Approval of a site plan for a marijuana facility does not guarantee, represent or imply approval of a marijuana facility operating license or any other permit or local approval that may be required by city codes or ordinances for the proposed facility.

(h) *Temporary operation.* City council may by resolution provide for temporary operation of a marijuana facility as provided by rule 19 of the rules.

(i) *Additional information gathering.* In addition to reviewing information provided in the applicant's application, additional investigations, inspections and/or information gathering may be conducted and undertaken in conjunction with city department head reviews and recommendations. All relevant and available information and evidence may be considered in evaluating an application. The city may request additional information or documentation from an applicant as deemed necessary and appropriate by the city for the purposes of reviewing and taking action on an application. The application, and all other information, documentation and evidence relied upon in taking action on an application shall be made part of the record.

(j) *Documented verification required before approval.* A site plan for a marijuana facility shall not be approved until the applicant submits documented verification that the applicant has received either pre-qualification approval by the state bureau of medical marijuana regulation (BMMR) or issuance of a state operating license for the proposed facility. Temporary land use approval may be granted for the proposed facility for not more than 90 days upon the applicant demonstrating that a complete state application for pre-qualification has been submitted to the BMMR. Temporary land use approval does guarantee or represent eligibility for final site plan approval.

(k) *Administrative rules.* Administrative rules establishing pre-application eligibility requirements, application review and action procedures, and other implementing procedures may be adopted by resolution of city council for the purposes of further implementing and administering land use procedures and requirements for marijuana facilities. The city shall provide applicants and existing approved facilities with a copy of any administrative rules adopted pursuant to this subsection at no cost. Administrative rules adopted pursuant to this subsection shall be available for public inspection at the city clerk's office. Any administrative rules adopted by the city council at any time shall be binding upon and applicable to all applications reviewed and acted upon subsequent to the adoption and/or amendment of any applicable administrative rules. Applicants shall be afforded a reasonable opportunity to supplement a pending application to satisfy any requirements under city administrative rules adopted subsequent to the filing of an application while action on the application remains pending.

(l) *Site plan approval expiration.* A site plan for a marijuana facility approved at any time pursuant to the city's zoning ordinance shall be deemed valid for one year following the date of approval. If no building permit for the approved project is obtained within one year of site plan approval or if no work is commenced within six months after issuance of a building permit, the site plan approval expires and is of no further force or effect, unless extended as provided by section 51-21.28(i) of the zoning chapter.

(m) *Conditional site plan approval.* Registered caregivers may apply for site plan approval of a marijuana facility provided any site plan approval for a grower and/or processor facility shall be conditional upon the caregiver canceling caregiver status within five business days of approval of a state operating license. Site plan approval for a grower and/or processor facility shall lapse by operation of law if a caregiver fails to surrender caregiver status as required by the Act. Caregivers receiving site plan approval for a grower and/or processor facility shall submit documented verification of surrender of caregiver status with the city clerk. Registered caregivers and patients are ineligible to apply for site plan approval of a secure transporter facility.

(n) *Residency requirement.* The applicant, if an individual, must have been a resident of the State of Michigan for a continuous two-year period immediately preceding the date of filing the application. This requirement does not apply after June 30, 2018.

(o) *Compliance.* The applicant must demonstrate compliance with all rules and requirements promulgated under the Act including, without limitation, Rule 21, 24, 25, 27, 36, 42 and section 402 of the Act.

(p) *Notice.* The applicant shall be notified in writing of any action, determination, decision or condition on an application for a marijuana facility, including appeal rights provided by this section.

(q) *Appeal.* An aggrieved party may appeal any decision, condition or action taken by a city appointive body or official on an application for zoning approval of a marijuana facility as provided in this subsection only. For the limited purposes of hearing and acting upon an appeal under this subsection only, the city council shall

act as, and in place of, the zoning board of appeals pursuant to section 601 of the MZEA, any contrary provision in this chapter notwithstanding.

(1) Upon a concurring vote of a majority of the members, the city council, acting as the zoning of board of appeals, may reveres or affirm, in whole or in part, or modify any decision, determination or condition by a city appointive body or official in acting upon an application for zoning approval of a marijuana facility.

(2) In hearing and acting upon an appeal under this subsection, the city council, acting as the zoning board of appeals, may grant a variance from any requirement under this chapter in accordance with section 604 of the MZEA so that the spirit of this chapter is observed, public safety secured, and substantial justice done. Upon a showing of practical difficulty, the city council, acting as the zoning board of appeals, may grant a non-use variance from any requirement under this chapter. Upon a showing of unnecessary hardship, the city council, acting as the zoning board of appeals, may grant a use variance from any requirement under this chapter. A use variance requires a vote of two-thirds of the members of the city council, acting as the zoning board of appeals, to approve a use variance. Except as expressly provided by this section, the standards and procedures for review and approval of a variance by the zoning of board of appeals shall apply to an appeal pursuant to this subsection.

(3) Any member of the city council who voted on an application as an ex officio member of the planning commission shall not participate in a public hearing and shall abstain from voting on an appeal under this subsection concerning the same application.

(4) Within 30 days of a decision, determination or action by a city appointive body or official on an application for zoning approval of a marijuana facility, an appeal under this subsection may be taken by filing with the body or officer from whom the appeal is taken and with the city clerk, a written notice of appeal specifying the grounds and support for the appeal and further specifying why the aggrieved party believes the decision, determination or condition appealed from was erroneous.

(5) Upon receipt of a notice of appeal, the body or officer from whom the appeal is taken shall immediately transmit to the city clerk all papers and documents constituting the record upon which the action appealed from was taken. An appeal to the city council, acting as the zoning board of appeals, stays all proceedings in furtherance of the action appealed.

(6) In hearing an appeal under this subsection, the city council, acting as the zoning board of appeals, shall conduct a public hearing on the matter appealed within a reasonable time following the filing of an appeal. Notice of the public hearing shall be given as required under section 103 of the MZEA. An aggrieved party may appear personally or by agent or attorney.

(7) Following a public hearing, the city council, acting as the zoning board of appeals, may take action on the matter appealed as provided by this subsection. The decision of the city council, acting as the zoning board of appeals, shall be final subject to any judicial review as may be provided by law.

(8) The city clerk shall provide an applicant with written notice of the action taken on the appeal by city council, acting as the zoning board of appeals. The city clerk may provide an aggrieved party with written notice of the action taken on the appeal by city council, acting as the zoning board of appeals.

(9) Prior to hearing and acting on an appeal pursuant to this subsection, the city may require an appellant to deposit $2,500.00 in an escrow account with the city to cover consultant review fees incurred by the city. The balance of any used escrow deposit shall be refunded upon disposition of the appeal.

(Ord. No. C-334-17, § 6, 1-16-2018; Ord. No. C-337-18, § 2, 6-19-2018; Ord. No. C-349-20 , § 2, 7-21-2020; Ord. No. C-351-20 , §§ 2, 3, 7-21-2020; Ord. No. C-357-20 , § 3, 2-16-2021)

Sec. 51-21.51. Reasonable accommodations for disabled.

(a) *Intent and rationale.*

(1) It is the policy of the city, pursuant to the Fair Housing Amendments Act of 1988, the Americans with Disabilities Act and applicable state laws, to provide individuals with disabilities reasonable accommodations (including modifications or exceptions) in the city's zoning, land use and other regulations, rules, policies and practices, to ensure equal access to housing and to facilitate the development of housing for individuals with disabilities, or developers of housing for people with disabilities, flexibility in the application of land use, zoning, building and other regulations, policies, practices and procedures, including waiving certain requirements, when it is necessary to eliminate barriers to housing opportunities to ensure a person with a disability has an equal opportunity to use and enjoy a dwelling.

(2) This section provides a procedure and criteria for making and acting upon requests for accommodations in land use, zoning, building regulations and other regulations, policies, practices, and procedures of the city to comply fully with the intent and purpose of applicable laws, including federal laws, in making a reasonable accommodation.

(3) Nothing in this section shall require persons with disabilities or operators of homes for persons with disabilities otherwise acting or operating in accordance with applicable zoning or land use laws or practices to seek a reasonable accommodation under this section. Nothing in this division shall require the city to agree to requested accommodations that are unreasonable including, without limitation, requests for accommodations that are not reasonably required to redress a disability related need.

(b) *Applicability.*

(1) The provisions of this section apply to residential uses that will be used by persons with disabilities.

(2) The accommodation granted shall be considered personal to the individuals and shall not run with the land. If the structure is sold, or otherwise changes ownership, an accommodation granted to the previous owner is not transferable to the new owner. The accommodation shall otherwise be in force and effect as long as the persons or group of persons with disabilities for whom the accommodation was sought resides on the property that is the subject of the accommodation. It is the duty of the owner to notify the Director of this event. The city shall allow the new owner an opportunity to renew and/or modify a granted reasonable accommodation in accordance with this section. In the event that the reasonable accommodation is not renewed or modified within 60 days from the date of change in ownership, the accommodation will lapse and the structure will have to comply with all requirements of this section.

(3) Nothing in this section will require the city to expend any funds to achieve a reasonable accommodation except and to the extent required by state or federal law.

(4) Nothing in this section will alter a person with disabilities' obligation to comply with other applicable federal, state and city regulation including, without limitation, licensing, approval or permitting requirements arising under state law.

(c) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Director means the city manager or city manager's designee with authority to administer, implement, or enforce a requirement that is the basis of the request for reasonable accommodation.

Disability or *handicap* shall have the meaning ascribed by the Fair Housing Amendments Act of 1988, 42 USC 3601 et seq., as amended and is an individual who has a physical or mental impairment that limits one or more of

the major life activities of such individual, is regarded as having such impairment, or has a record of such impairment. While a person recovering from substance abuse is considered a person with a disability under 42 USC 3602(h), a person who is actively engaged in substance abuse is not.

Group disability home means a dwelling shared as their principal residence by two or more unrelated handicapped persons (as defined by the FHA, as amended) where a reasonable accommodation is needed as a reasonable means to have an equal opportunity to use and enjoy a dwelling.

Home for disabled means a structure occupied or requested to be occupied as a dwelling by a handicapped persons as defined by the Fair Housing Amendment Act of 1988, as amended (42 USC 3601 et seq. (FHA)), as a reasonable means to have an equal opportunity to use and enjoy a dwelling. Home for Disabled shall not include any state regulated home or facility providing permanent or temporary housing or living arrangements for handicapped persons if state law pre-empts local zoning and land use regulations that would otherwise apply to the state regulated home or facility.

Reasonable accommodation means a change, exception, or adjustment to a city zoning or land use rule, policy, practice or service that:

(1) Arises out of a disability related need; and

(2) Is reasonably necessary for a person with a disability or handicap to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces.

Requirement means a provision of this Code or an administrative policy, program or procedure.

(d) *Effect.* A reasonable accommodation afforded by the city controls over a conflicting city regulation or requirement. In the event a home or facility for the disabled requires a state license, approval or permit under state law, any reasonable accommodation afforded by the city is conditional upon timely application and issuance of any state license, permit or approval required by state law. A reasonable accommodation afforded by the city shall not prevent, waive, modify or limit enforcement of state law requirements unless modified by the state. In the event a disabled person requires or requests a reasonable accommodation from a state law requirement, the city shall notify the disabled person to seek accommodation through the appropriate state agency.

(e) *Requests for accommodation; application.*

(1) An application for an accommodation may be made by any persons with a disability, his representative, or a developer or provider of housing for persons with disabilities.

(2) A request for accommodation may be submitted at any time the accommodation may be necessary to afford the person with a disability equal opportunity to use and enjoy the dwelling. A written acknowledgement of the request shall be sent to the applicant within ten days of receipt by the director.

(3) Requests for an accommodation may include a modification or exception to the rules, standards and practices for the siting, development, and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to a dwelling of his choice as provided in this section.

(4) An individual requesting an accommodation may direct the request to the director orally, which shall be transcribed by the city into writing if requested by the applicant or if it is apparent to a city employee or staff that assistance is needed in filling out the application form (e.g., if the individual is unable to write), or in writing. The individual shall submit an application for a reasonable accommodation using the appropriate city form, to be provided by the city clerk. The city shall assist the applicant with furnishing all information maintained by the city with respect to an accommodation. The applicant shall provide the following:

a. Name and address of the person or entity requesting accommodation. If the applicant is applying on behalf of a person with a disability, the name and address of the person with a disability shall be provided.

b. Address of the property for which the accommodation is requested.

c. Indication of whether that the applicant is:

1. A person with a disability;

2. Applying on behalf of a person with a disability; or

3. A developer or provider of housing for one or more persons with a disability.

(5) Description of the disability at issue, the requested accommodation, and the specific regulations, policy, practice or procedure for which the accommodation is sought and a description of the disability related need for the requested accommodation. In the event that the specific individuals who are expected to reside at the property are not known to a provider in advance of making the application, the applicant shall not be precluded from filing the application, but shall submit details describing the range of disabilities that prospective residents are expected to have to qualify for the housing.

(6) Description of whether the specific accommodation requested by the applicant is necessary for the persons with the disability to use and enjoy the dwelling, or is necessary to make the provision of housing for persons with disabilities financially or practically feasible.

(7) Any other information the director concludes is necessary in order to make the findings required by this section to the extent permissible under applicable local, state and federal law. In most cases, an individual's medical records or detailed information about the nature of a person's disability is not necessary for this inquiry. (See Joint Statement of the Department of Housing and Urban Development and the Department of Justice: Reasonable Accommodations Under the Fair Housing Act #18.)

(8) Any personal information regarding disability status identified by an applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and/or person with a disability and shall not be made available for public inspection unless required by the Michigan Public Information Act. Any information received regarding the disability status identified, including, but not limited to, medical records, will be returned to the applicant within ten days of the decision of the director. The applicant need provide only the information necessary for the city to evaluate the reasonable accommodation request.

(9) If the person with the disability needs assistance to make a request for accommodation, the clerk will provide assistance, including transcribing a verbal request into a written request.

(10) The city shall prominently display a notice at the counter in the planning and development department advising those with disabilities or their representatives that they may request a reasonable accommodation in accordance with the procedures established in this division. A copy of the notice shall be available upon request.

(11) A fee shall not be required for an application for an accommodation.

(f) *Review authority.*

(1) Upon completion of an application, a request for accommodation shall be reviewed, and a determination made, by the director, using the criteria set forth in this section.

(2) The director shall issue a written decision on a request for accommodation within 30 calendar days of the date of the application, and may either grant, grant with alterations or conditions, or deny a request for an accommodation in accordance with the required findings set forth in this section.

(3) If necessary to reach a determination on the request for accommodation, the director may request further information from the applicant consistent with applicable laws, specifying in detail the additional information that is required. Any personal information related to the disability status identified by the applicant as confidential shall be retained in a manner so as to protect the privacy rights of the applicant and shall not be made available for public inspection unless required by the Michigan Public Information Act. Any information received regarding the disability status identified, including, but not limited to, medical records, will be returned to the applicant within ten days of the decision of the director. If a request for additional information is made, the running of the 30 calendar day period to issue a decision is stayed until the applicant responds to the request.

(g) *Criteria.* A reasonable accommodation is a case by case determination based on an individualized assessment of each request. The written decision to grant, grant with alterations or conditions, or deny a request for accommodation shall be based on the following factors to the extent they are consistent with applicable laws:

(1) Whether the request was made by or on behalf of a person with a disability.

(2) Whether the requested accommodation may be necessary to afford one or more persons with a disability an equal opportunity to use and enjoy a dwelling.

(3) Whether the requested accommodation would pose an undue financial and administrative burden on the city. The determination of undue financial and administrative burden will be done on a case-by-case basis.

(4) Whether the requested accommodation would require a fundamental alteration in the nature of a city program or law, including, but not limited to, zoning and land use.

(5) Whether the use that is the subject of the request for accommodation requires a state license, approval or permit under state law and whether the required state license, approval or permit has been issued, denied or applied for.

(6) Any additional permissible factors set forth in the Joint Statement of the Department of Housing and Urban Development and the Department of Justice: Reasonable Accommodations Under the Fair Housing Act.

(7) In making findings, the director may grant with alterations or conditions, reasonable accommodations, if the director determines that the applicant's initial request would impose undue financial and administrative burdens on the city, or fundamentally alter a city program or law, or if the request requires compliance with other applicable state or federal regulations. The alterations or conditions shall provide an equivalent level of benefit to the applicant with respect to:

a. Enabling the persons with a disability to use and enjoy the dwelling; and

b. Making the provision of housing for persons with a disability financially or practically feasible.

(h) *Written decision.*

(1) The written decision of the director on an application for an accommodation shall explain in detail the basis of the decision, including the director's findings on the criteria set forth in subsection (g) of this section. All written decisions shall give notice of the applicant's right to appeal and to request assistance in the appeal process as set forth in subsection (i) of this section. The notice of the decision shall be sent to the applicant by certified mail and electronic mail, if the applicant's electronic mail address is known to the city.

(2) The written decision of the director shall be final unless the applicant files an appeal to the city manager's designee in accordance with subsection (i) of this section. Nothing herein shall prohibit the applicant, or persons on whose behalf a specific application was filed, from reapplying for an

accommodation based on additional grounds or changed circumstances. Nor shall this provision be construed to affect in any way the rights of a person to challenge the denial of a request for reasonable accommodation as violating the Fair Housing Act, the ADA or any other applicable state, federal or local law.

(3) If the director fails to render a written decision on the request for accommodation within the 30 calendar day period established in subsection (f) of this section, the accommodation request shall be deemed granted.

(4) A request for accommodation stays all proceedings in furtherance of the enforcement of any requirement that is the subject of the request. An accommodation request does not affect an applicant's obligation to comply with other applicable regulations not at issue in the requested accommodation.

(5) The director shall retain, for the duration of the accommodation and at least five years thereafter, written records of each request and all related records, including the city's responses and decisions.

(i) *Appeals.*

(1) An applicant, or a person on whose behalf an application was filed, may appeal the written decision to deny or grant an accommodation with alterations or conditions or a denial of the accommodation no later than 30 calendar days from the date the decision is mailed.

(2) An appeal must be in writing (or reduced to writing as provided by subsection (i)(3) of this section and include grounds for appeal. Any personal information related to the disability status identified by the applicant as confidential shall be retained in a manner so as to protect the privacy rights of the applicant and shall not be made available for public inspection unless required by the Michigan Public Information Act. Any information received regarding the disability status identified, including, but not limited to, medical records, will be returned to the applicant within ten days of the final decision.

(3) If an applicant needs assistance appealing a written decision, the city will provide assistance transcribing a verbal request into a written appeal to ensure that the appeals process is accessible.

(4) An applicant shall not be required to pay a fee to appeal a written decision.

(5) An appeal will be decided by the city manager's designee other than the director. In considering an appeal of a decision of the director, the city manager's designee shall consider:

a. The application requesting the accommodation;

b. The director's decision;

c. The applicant's written statement of the grounds of the appeal; and

d. The provisions of this section, in order to determine whether the director's decision was consistent with applicable fair housing laws and the required findings in subsection (g) of this section.

(6) If a written decision on the appeal is not rendered within 30 calendar days from the date the appeal is received, the requested accommodation shall be deemed granted.

(7) The decision of the city manager's designee is final.

(Ord. No. C-341-18, § 4, 1-15-2019)

Sec. 51-21.52. Residential design standards.

(a) *Compliance with design standards.* All dwellings shall be erected or constructed only if in compliance with the following residential design standards. The zoning administrator shall have the authority to determine if the following requirements are being complied with.

(b) *General requirements.*

(1) *Use.* All dwellings shall be used only for the purposes permitted in the zoning district in which they are located.

(2) *Code compliance.* Dwellings shall be constructed in compliance with applicable state, federal, or local laws or ordinances. Mobile home dwellings shall comply with the most recent regulations specified by the United States Department of Housing and Urban Development, Mobile Home Construction and Safety Standards, 24 CFR 3280, as amended and with the Mobile Home Commission Act, PA 96 of 1987, as amended.

(3) *Utility connections.* All dwellings shall be connected to the public sewer and water systems.

(4) *Area and bulk regulations.* All dwellings, including any mobile home dwelling unit, shall comply with the minimum floor area requirements specified for the zoning district where the structure is located. Mobile home dwellings shall comply with all regulations normally required for all dwellings in the zoning district in which it is located, unless specifically indicated otherwise herein.

(5) *Foundation.* All dwellings shall be firmly attached to permanent foundation constructed on the site in accordance with the building code and shall have a wall of the same perimeter dimensions as the dwelling and constructed of such materials and type as required in the applicable building code for the relevant dwelling type. Mobile home dwellings shall be placed on a permanent foundation to form a complete enclosure under the exterior walls. All foundations shall be constructed in accordance with the adopted building code of the city. A mobile home dwelling shall be securely anchored to its foundation in order to prevent displacement during windstorms. The wheels, tongue and hitch assembly, and other towing appurtenances, shall be removed before attaching a mobile home dwelling to its permanent foundation.

(6) *Elevation widths.* All single-family dwellings shall have a minimum width across front, side and rear elevations of 24 feet and comply in all respects with the building code.

(7) *Storage Area.* A single-family dwelling shall contain a storage area in a basement located under the dwelling, in an attic area, in closet areas, or in a separately constructed building of equal or of better quality than the principal dwelling. The required storage area shall be equal to ten percent of the square footage of the dwelling or 200 square feet, whichever shall be less.

(8) *Attachments.* Dwellings shall contain no additions, rooms, exterior attachments, extensions or other areas which are not constructed with a quality or workmanship equal to the original structure, including permanent attachments to the principal structure and construction of a foundation as required herein.

(9) *Exterior materials.* The exterior siding shall consist of materials that are generally acceptable for site-built dwellings in the vicinity, provided that the reflection from the exterior surface shall be no greater than from white semi-gloss exterior enamel and provided further that any exterior is comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction.

(10) *Exterior doors.* All single-family, attached single-family and two-family dwellings shall have not less than two exterior doors which shall not be located on the same side of the building with permanently

attached porches or decks with steps connected to the door areas where a difference in elevation requires the same.

(11) *Roof pitch.* The pitch of the main roof shall have a minimum vertical rise of one foot for each four feet of horizontal run, and the minimum distance from the eaves to the ridge shall be ten feet, except where the specific housing design dictates otherwise (i.e., French provincial, Italianate, and the like). The roof shall be finished with a type of shingle or other material that is commonly used in standard on-site residential construction, including, but not limited to, metal roofing products.

(12) *Roof overhang.* Dwellings shall be designed with either a roof overhang of not less than six inches on all sides and with windowsills and roof drainage systems to concentrate roof drainage at collection points along the sides of the dwelling.

(13) *Compatibility with other dwellings.* New dwellings shall be aesthetically compatible in design and appearance with other residences in the vicinity. All such dwellings shall be either designed, positioned on a site or provided with front yard landscaping as to prevent monotony in appearance. To assess compatibility, the zoning administrator shall evaluate the dwelling's architectural design and character which shall include, but not be limited to, the position of windows, exterior wall colors and color combinations, type of materials, architectural design elements, architectural style, percentage of materials, and other features of the new structure in relation to these elements of the existing structures within 500 feet.

(14) *Mobile home dwelling regulations.* Mobile home dwellings shall only be located in a mobile home park. The foregoing standards shall not apply to a mobile home dwelling located in a licensed mobile home park except to the extent allowed by state or federal law, or otherwise specifically required in the city zoning ordinance pertaining to such parks.

(c) *Application requirements.* All applications for a building permit to construct any dwelling shall be required to include building elevation plans in order to determine compliance with the residential design standards.

(Ord. No. C-354-20 , § 4, 1-19-2021)

ARTICLE 22.00. ADMINISTRATION AND ENFORCEMENT

Sec. 51-22.01. Enforcement.

Except where herein otherwise stated, the building inspector or his authorized representative shall enforce the provisions of this chapter and shall issue appearance tickets for violations of this chapter.

(Code 1994, § 22.01)

Sec. 51-22.02. Duties of building inspector or building director.

(a) The building inspector shall have the power to grant building and occupancy permits and to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this chapter. It shall be unlawful for the building inspector 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 chapter.

(b) The building inspector shall record all nonconforming uses existing at the effective date of the ordinance from which this chapter is derived for the purpose of carrying out the provisions of article 18.00 of this chapter.

(c) Under no circumstances is the building inspector permitted to make changes to this chapter nor to vary the terms of this chapter in carrying out his duties as building inspector.

(d) The building inspector shall not refuse to issue a permit when conditions imposed by this chapter are complied with by the applicant despite violations of contracts, such as covenants or private agreements, which may occur upon the granting of said permit.

(Code 1994, § 22.02)

Sec. 51-22.03. Plot plan.

The building inspector shall require that all applications for building permits shall be accompanied by plans and specifications including a plot plan in triplicate, drawn to scale, showing the following:

(1) The actual shape, location, and dimensions of the lot.

(2) The shape, size and location of all buildings or other structures to be erected, altered, or moved and of any building or other structure already on the lot.

(3) The existing and intended use of the lot and of all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.

(4) The location, to scale, of all structures and setbacks within 25 feet of all lot lines.

(5) Such other information concerning the lot or adjoining lot as may be essential for determining whether the provisions of this chapter are being observed.

(Code 1994, § 22.03)

Sec. 51-22.04. Reserved.

(Code 1994, § 22.04)

Sec. 51-22.05. Permits.

The following shall apply in the issuance of any permit:

(1) *Permits not to be issued.* No building permit shall be issued for the erection, alteration or use of any building or structure, or part thereof, or for the use of any land which is not in accordance with all provisions of this chapter.

(2) *Permits for new use of land.* No land heretofore vacant shall hereafter be used, nor shall an existing use of land be hereafter changed to a different class or type, unless a certificate of occupancy is first obtained for the new or different use.

(3) *Permits for new use of buildings.* No building or structure, or part thereof, shall be changed to a new use, nor occupied by a use of a different class or type, unless a certificate of occupancy is first obtained for the new or different use.

(4) *Permits required.* 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 building code, or by this chapter, except for minor repairs or changes not involving any of the aforesaid features.

(Code 1994, § 22.05)

Sec. 51-22.06. Certificates of occupancy.

No land or building, or part thereof, shall be occupied by or for any use unless and until a certificate of occupancy shall have been issued for such use. The following shall apply in the issuance of any certificate:

(1) *Certificates not to be issued.* No certificates of occupancy 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 chapter.

(2) *Certificates required.* No building or structure, or part thereof, which is hereafter erected or altered shall be occupied or used unless and until a certificate of occupancy shall have been issued for such building or structure.

(3) *Certificates and building code.* Certificates of occupancy 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 chapter.

(4) *Certificates for existing buildings.* Certificates of occupancy shall be issued for existing buildings or structures, or parts thereof, or existing uses of land if, after inspection, it is found that such buildings or structures, or parts thereof, or such use of land, are in conformity with the provisions of this chapter.

(5) *Records of certificates.* A record of all certificates issued shall be kept on file in the office of the building inspector, and copies shall be furnished upon request to any person.

(6) *Certificates for dwelling accessory buildings.* Buildings or structures accessory to dwelling units shall not require separate certificates of occupancy but may be included in the certificate of occupancy for the dwelling units when shown on the plot plan and when completed at the same time as such dwelling units.

(7) *Application for certificates.* Applications for certificates of occupancy shall be made in writing to the building inspector on forms furnished by that department, and such certificates shall be issued within five days after receipt of such application if it is found that the buildings or structures, or parts thereof, or the use of land, is in accordance with the provisions of this chapter. If such certificate is refused for cause, the applicant therefore shall be notified of such refusal and cause thereof, within the aforesaid five-day period.

(8) *Issuance not a waiver.* The issuance of any certificate of occupancy shall not be construed as a waiver of any provision of this chapter.

(Code 1994, § 22.06)

Sec. 51-22.07. 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 building inspector immediately upon the completion of the work authorized by such permit, for final inspection.

(Code 1994, § 22.07)

Sec. 51-22.08. Fees.

Fees for inspection and the issuance of permits or certificates, or copies thereof, required or issued under the provisions of this chapter may be collected by the building inspector in advance of issuance. The amount of such fees shall be established by the council and shall cover the cost of inspection and supervision resulting from enforcement of this chapter.

(Code 1994, § 22.08)

Sec. 51-22.09. Planning commission.

The planning commission shall perform all of the duties of such commission as are set forth in the zoning ordinance creating said planning commission, any amendments thereto and this chapter.

(Code 1994, § 22.09)

ARTICLE 23.00. ZONING BOARD OF APPEALS

Sec. 51-23.01. Creation.

(a) A zoning board of appeals (ZBA) is hereby established, which shall consist of five members and two alternate members to be appointed by the legislative body, in accordance with Michigan Zoning Enabling Act, Act 110 of 2006, as amended. One member of the ZBA shall be a member of the planning commission. One regular member may be a member of the legislative body but shall not serve as chairperson of the board. An employee or contractor of the legislative body may not serve as a member of the board.

(b) An alternate may be called as specified to serve as a member of the board in the absence of a regular member if the regular member will be unable to attend one or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve the case until a final decision is made. The alternate member has the same voting rights as a regular member of the board.

(c) A member of the board may be removed by the legislative body for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing. A member shall disqualify himself from a vote in which the member has a conflict of interest. Failure to disqualify himself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

(d) The terms of office for members appointed to the board shall be for three years, except for members serving because their membership on the planning commission of legislative body, whose terms shall be limited to the time are members of those bodies. When members are first appointed, the appointments may be for less than three years for staggered terms. A successor shall be appointed not more than one month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term.

(Code 1994, § 23.01)

Sec. 51-23.02. Meetings of zoning board of appeals.

All meetings of the board shall be held at the call of the chairperson and at such times as such board may determine. All hearings conducted by said board shall be open to the public. The board shall keep minutes of its

proceedings showing the vote of each member upon each question, or if absent, or failing to vote, indicating such fact; and shall also keep records of its hearings and other official action. The board shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, and other evidence pertinent to the matters before it.

(Code 1994, § 23.02)

Sec. 51-23.03. Powers of zoning board of appeals.

The board shall have all powers and duties granted by state law and by this chapter to such boards, including the following powers:

(1) *General powers.* The ZBA shall have authority to act on those matters where this chapter provides for administrative review/appeal, interpretation, or special approval/appeal, and shall have the authority to authorize a variance as defined in this chapter and laws of the state of Michigan. The ZBA shall not have the authority to alter or change zoning district classifications of any property, nor to make any change in the text of this chapter.

(2) *Administrative review.* The ZBA shall have the authority to hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, or refusal made by the planning commission, city council, building inspector or any other administrative body or official in interpreting or in enforcing any provision of this chapter. Such appeal shall be requested within 30 days of the date of the order, refusal, requirement, or determination being appealed.

In hearing and deciding appeals under this subsection, ZBA review shall be based upon the record of the administrative decision being appealed, and the ZBA shall not consider new information which had not been presented to the administrative official, board or commission from whom the appeal is taken. The ZBA shall not substitute its judgment for that of the administrative official, board or commission being appealed, and the appeal shall be limited to determining, based upon the record, whether the administrative official, board or commission breached a duty or discretion in carrying out this chapter.

(3) *Variances.* To authorize, upon an appeal, a variance from the strict application of the provisions of this chapter in accordance with the provisions of sections 51-23.04 and 51-23.05.

(4) *Interpretation.* The ZBA shall have the authority to hear and decide requests for interpretation of the zoning ordinance, including the zoning map. The ZBA shall make such decision so that the spirit and intent of this chapter shall be observed. Text interpretations shall be limited to the issues presented, and shall be based upon a reading of the zoning ordinance as a whole, and shall not have the effect of amending the zoning ordinance. Map interpretations shall be made based upon rules in the zoning ordinance, and any relevant historical information. In carrying out its authority to interpret the zoning ordinance, the ZBA shall consider reasonable and/or practical interpretations which have been consistently applied in the administration of the zoning ordinance. Prior to deciding a request for an interpretation, the ZBA may confer with staff and/or consultants to determine the basic purpose of the provision subject to interpretation and any consequences which may result from differing decisions. A decision providing an interpretation may be accompanied by a recommendation for consideration of an amendment of this chapter.

(5) *Conditions.* The ZBA may impose reasonable conditions in connection with an affirmative decision on an appeal, interpretation or variance request. The conditions may include requirement necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent

uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet the following requirements.

a. Be designed to protect natural resources, the health, safety and welfare and the social and economic wellbeing of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

b. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.

c. Be necessary to meet the intent and purpose of this chapter, be related to the standards established in this chapter for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

Conditions imposed with respect to the approval of a variance shall be recorded as part of the ZBA minutes, and shall remain unchanged except upon the mutual consent of the ZBA and the landowner following notice and hearing as required in a new case.

(Code 1994, § 23.03)

Sec. 51-23.04. Application of the variance power.

The ZBA shall have authority in specific cases to authorize variances from the strict letter and terms of this chapter by varying or modifying any of its rules or provisions so that the spirit of this chapter is observed, public safety secured, and substantial justice done. Such authority shall be exercised in accordance with the following standards.

(1) *Use variance.* The ZBA may grant a use variance only upon a finding that an unnecessary hardship exists. A "use" variance is a variance that permits a use that is otherwise prohibited in a zoning district. A finding of an unnecessary hardship shall require demonstration by the applicant of all of the following:

a. The property cannot be reasonably used for any purpose permitted in the zoning district without the variance.

b. The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.

c. The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.

d. The variance will not alter the essential character of the area. In determining whether the effect the variance will have on the character of the area, the established type and pattern of land uses in the area and the natural characteristics of the site and surrounding area will be considered.

(2) *Non-use variance.* The ZBA may grant a non-use variance only upon a finding that practical difficulties exist. A non-use variance is a variance from any standard or requirement of this chapter, such as, but not limited to, a deviation from density, height, bulk, setback, or parking, landscaping and sign standards and requirements. A finding of practical difficulties shall require demonstration by the applicant of all of the following:

a. Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other "non-use" matters will unreasonably prevent the owner from using the property for a permitted purpose or will be unnecessarily burdensome.

b. The variance will do substantial justice to the applicant, as well as to other property owners.

c. A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.

d. The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.

e. The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.

(Code 1994, § 23.04)

Sec. 51-23.05. Decisions by the zoning board of appeals.

(a) *ZBA powers.* The ZBA may reverse, affirm, vary or modify any order, requirement, decision, or determination presented in a case within the ZBA's jurisdiction, and to that end, shall have all of the powers of the officer, board or commission from whom the appeal is taken, subject to the ZBA's scope of review, as specified in this chapter and/or by law. The ZBA may remand a case for further proceedings and decisions, with or without instructions.

(b) *Variances and other appeals.* The concurring vote of a majority of the members of the zoning board of appeals is necessary to reverse an order, requirement, decision, or determination of the administrative official or body, to decide in favor of the applicant on a matter upon which the zoning board of appeals is required to pass under this chapter, or to grant a variance in this chapter.

(c) *Findings, responsibilities of applicant.* In all variance proceedings, it shall be the responsibility of the applicant to provide information, plans, testimony and/or evidence from which the ZBA may make the required findings. Administrative officials and other persons may, but shall not be required to, provide information, testimony and/or evidence on a variance request.

(d) *ZBA decision final.* The decision of the zoning board of appeals shall be final. A party aggrieved by the decision may appeal to the circuit court of Oakland County, as provided in Public Act 110 of 2006. An appeal to the circuit court for Bat County shall be filed within 30 days after the board certifies its decision in writing or approves the minutes of its decision.

(e) *Period of validity.* Any decision of the ZBA favorable to the applicant shall remain valid only as long as the information and data relating to such decisions are found to be correct, and the conditions upon which the decision was based are maintained. The relief granted by the ZBA shall be valid for a period not longer than six months, unless otherwise specified by the ZBA, and within such period of effectiveness, actual, on-site improvement of property in accordance with the approved plan and the relief granted, under a valid building permit, must be commenced or grant of relief shall be deemed void.

(f) *Period of validity.* Any decision of the ZBA favorable to the applicant shall remain valid only as long as the information and data relating to such decisions are found to be correct, and the conditions upon which the decision was based are maintained. Except as expressly provided by this subsection, the relief granted by the ZBA shall be valid for a period not longer than six months, unless otherwise specified by the ZBA, and within such period of effectiveness, actual, on-site improvement of property in accordance with the approved plan and the relief granted, under a valid building permit, must be commenced or grant of relief shall be deemed void. In the event the ZBA grants a variance to perform improvements under an approved site plan, commercial planned development option (CPD) or planned unit development (PUD), the variance shall remain valid for the period of validity of the corresponding approved site plan, CPD or PUD, any contrary provision in this subsection notwithstanding.

(Code 1994, § 23.05; Ord. No. C-295-11, §§ 3—5, 10-4-2011)

Sec. 51-23.06. Procedure for appeals to the board.

(a) *Notice of appeal.* Following receipt of a written request concerning a request for a variance, the board shall fix a reasonable time for hearing of the request and a notice that a request for a variance has been received shall be published in a newspaper which circulates in the city, and sent by mail or personal delivery to the owners of the property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. The notice shall be given not less than 15 days before the date the application will be considered. If the name of the occupant is not known, the term "occupant" may be used in making notification. The notice shall:

(1) Describe nature of request.

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

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

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

(5) Indicate that a public hearing on the variance request may be requested by any property owner or the occupant of any structure located within 300 feet of the boundary of the property being considered for a variance.

(b) *Hearings.* Upon receipt of written request seeking an interpretation of this chapter or an appeal of an administrative decision, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the city and shall be sent to the person requesting the interpretation not less than 15 days before the public hearing. In addition, if the request for an interpretation or appeal of an administrative decision involves a specific parcel, written notice stating the nature of the interpretation request and the time, date, and place of the public hearing on the interpretation request shall be sent by First-Class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the property in question and to the occupants of all structures within 300 feet of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used.

(c) *Official record.* The board shall prepare an official record for each appeal and shall base its decision on this record. The official record shall include:

(1) The relevant administrative 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.

(d) *Plot plan.* The applicant shall submit a plot plan drawn to a scale with any variance request. The plan which shall accompany all variance requests shall be based on a mortgage survey or land survey prepared by a registered land surveyor or registered engineer. The plan shall be to scale and shall include all property lines and dimensions, setbacks and all existing and proposed structures. The zoning board of appeals has the authority to require a land survey prepared by a registered land surveyor or registered engineer when the ZBA determines it to be necessary to ensure accuracy of the plan. The ZBA shall have no obligation to consider and/or grant a request for relief unless and until a conforming and complete application has been filed, including relevant plans, studies and other information.

(e) *Copies of official record.* 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 $1.00 per page.

(f) *Stay of proceedings.* An appeal shall have the effect of staying all proceedings in furtherance of the action being appealed unless the officer or entity from whom the appeal is taken certifies to the ZBA that, by reason of facts stated in such certification, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed unless specifically determined by the ZBA, or by a court of competent jurisdiction.

(Code 1994, § 23.06)

ARTICLE 24.00. CHANGES AND AMENDMENTS

Sec. 51-24.01. Statement of intent.

For the purpose of establishing and maintaining sound, stable and desirable development within the territorial limits of the municipality, this chapter shall not be amended except to correct an error in this chapter or, because of changed or changing conditions in a particular area or in the municipality generally, to rezone an area, to extend the boundary of an existing district or to change the regulations and restrictions thereof. Such amendment to this chapter may be initiated by any person, firm, or corporation by filing an application therefor with the city clerk, or by motion of the city council or the planning commission requesting the city clerk to initiate an amendment procedure.

(Code 1994, § 24.01)

Sec. 51-24.02. Amendment procedure.

(a) All applications for amendments to this chapter shall be in writing, signed, and filed in triplicate with the city clerk. All applications for amendments to this chapter, without limiting the right to file additional material, shall contain the following:

1. The applicant's name, address and interest in the application as well as the name, address and interest of every person, firm or corporation having a legal or equitable interest in the land.
2. The nature and effect of the proposed amendment.
3. If the proposed amendment would require a change in the zoning map, a fully dimensioned site plan showing the land which would be affected by the proposed amendment, a complete legal description of the land, the present zoning classification of the land, the zoning classification of all abutting districts, all public and private rights-of-way and easements bounding and intersecting the land under consideration.
4. If the proposed amendment would require a change in the zoning map, the names and addresses of the owners of all land and their legal descriptions within the area to be changed by the proposed amendment.
5. The alleged error in this chapter which would be corrected by the proposed amendment, with a detailed explanation of such alleged error and detailed reasons the proposed amendment will correct the same.
6. The changed or changing conditions in the area or in the municipality that make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare.

7. All other circumstances, factors and reasons which applicant offers in support of the proposed amendment.

(b) The city clerk, upon receipt of an application to amend or request to amend by any person, the city council or planning commission, shall refer the same to the planning commission for study and report. The planning commission shall cause a complete study of the proposed amendment to be made and shall recommend to city council such action as it deems proper. Prior to its recommendation to council on any proposed amendment, the planning commission shall hold at least one public hearing. The planning commission shall fix a reasonable time for the request and a notice that a request has been received shall be published in a newspaper which circulates in the city. The notice shall be given not less than 15 days before the date the application will be considered. If the name of the occupant is not known, the term "occupant" may be used in making notification.

(c) If an individual property or ten or fewer adjacent properties are proposed for rezoning, the planning commission shall fix a reasonable time for the hearing of the rezoning request and a notice that a request has been received shall be published in a newspaper that circulates in the city, and sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. The notice shall be given not less than 15 days before the date the application will be considered. If the name of the occupant is not known, the term "occupant" may be used in making notification. The notice shall:

(1) Describe the nature of the rezoning request.

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

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

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

(5) Indicate that a public hearing on the rezoning request may be requested by any property owner or the occupant of any structure located within 300 feet of the boundary of the property being considered for rezoning.

(d) If 11 or more adjacent properties are proposed for rezoning, the planning commission shall fix a reasonable time for the hearing of the rezoning request and a notice that a request has been received shall be published in a newspaper which circulates in the city. The notice shall be given not less than 15 days before the date the application will be considered. If the name of the occupant is not known, the term "occupant" may be used in making notification. The notice shall:

(1) Describe the nature of the rezoning request.

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

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

(4) Indicate that a public hearing on the rezoning request may be requested by any property owner or the occupant of any structure located within 300 feet of the boundary of the property being considered for a rezoning.

(e) After the public hearing, the planning commission shall make a report and recommendation to the city council. The city council may decline to adopt the proposed amendment or may adopt it in whole, in part, or with or without additional changes. The council may also refer the proposed amendment back to the planning commission for further study and review or for additional public hearings.

(f) Following adoption of the zoning ordinance amendment, the amendment shall be published in a newspaper of general circulation in the local unit of government within 15 days after adoption.

(g) The city council shall then file the zoning ordinance in the official ordinance book of the city within seven days after publication with a certification of the clerk stating the vote on passage, date published, and date filed.

(Code 1994, § 24.02)

Sec. 51-24.03. Protests.

(a) In case a protest against a proposed amendment is presented, duly signed by the owners, or part owners, of 20 percent of the land proposed to be altered, or by the owners of at least 20 percent of the area of land included within the area extending outward 100 feet from any point on the boundary of the land included in the proposed change, such amendment shall not be passed except by the three-fourths vote of the city council.

(b) If parcel of land is owned by the entireties, by joint tenants, by tenants in common or by legal and equitable owners, any one of such owners may sign the protest for the parcel so owned. In determining the land area upon which percentages shall be calculated, there shall be included all the property in a common ownership as a single unit. For the purposes of this subsection, publicly-owned land shall be excluded in calculating the 20 percent land area requirement.

(Code 1994, § 24.03)

Sec. 51-24.04. Comprehensive review of ordinance.

The planning commission shall, at least once per year prepare for the city council a report on the administration and enforcement of this chapter and recommendations for amendments or supplements to the ordinance, if any, which are desirable in the interest of public health, safety, and general welfare.

(Code 1994, § 24.04)

Sec. 51-24.05. Conditional rezoning.

(a) *Intent.* It is the intent of this section to provide a process consistent with the provisions of section 405 of the Michigan Zoning Enabling Act (MCL 125.3405) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

(b) *Application and offer of conditions.*

(1) An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. The offer shall be contained in a proposed conditional rezoning agreement, as described in this section, below. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process; however, the offer shall in all events be considered by the planning commission prior to being acted upon by the city council.

(2) The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this section. Prior to submission of a formal application, applicants are encouraged to request and attend pre-application meetings with the city staff.

(3) The owner's offer of conditions may not authorize uses or development not permitted in the requested new zoning district.

(4) The owner's offer of conditions may include deviations from the schedule of regulations under this chapter or any overlay district and the city may approve such deviations as part of the offer of conditions, including, but not limited to, deviations in location, size and height of buildings, setbacks, and architectural features.

(5) Any use or development proposed as part of an offer of condition that would require site plan approval under the terms of this chapter may only be commenced if a site plan is made part of the offer of conditions and approval for such use or development is ultimately granted in accordance with the provisions of this ordinance, if necessary.

(6) The offer of conditions may be amended during the process of rezoning consideration, provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the city council, provided that if such withdrawal occurs subsequent to the planning commission's public hearing on the original rezoning request, then the rezoning application may be referred to the planning commission for a new public hearing with appropriate notice and a new recommendation.

(7) If the city is in the process of proceeding with a conditional rezoning under this section, and the applicant has not voluntarily offered one or more of the conditions being considered, the applicant shall inform the city clerk in writing of such fact prior to any action being taken by the city council granting the conditional rezoning.

(c) *Planning commission review.* The planning commission, after public hearing and consideration of the factors for rezoning set forth in this article, may recommend approval or denial of the rezoning.

(d) *City council review.* After receipt of the planning commission's recommendation, the city council shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The city council's deliberations shall include, but not be limited to, the following:

(1) Compatibility with the policies and uses designated for the land and area in the city's master plan, or deviation from the master plan if the proposed development is compatible with the overall development within the city and the needs of the residents;

(2) Compatibility with other uses in the surrounding areas considering the area as a whole and considering the needs of the city as a whole;

(3) Availability and adequacy of public services and facilities, and whether there is likely to be any adverse impact from a development or use allowed under the rezoning with conditional rezoning agreement; and

(4) Whether the development that would be approved shall advance the public interest, weighing the reasonably expected burdens likely to result from allowing the development against the reasonably expected benefits to be achieved by the development.

The city council may consider amendments to the proposed conditional rezoning, which have been offered by the owner of the property, and may deny or approve the conditional rezoning with or without amendments.

(e) *Approval.*

(1) If the city council finds a rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into the conditional rezoning agreement. The agreement shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the city council to accomplish the requested rezoning.

(2) The conditional rezoning agreement, as initially submitted, or as may be modified during the course of the rezoning process, shall:

a. Be in a form recordable with the register of deeds for the county or, in the alternative, be accompanied by a recordable affidavit or memorandum prepared and signed by the owner of the property giving notice of the conditional rezoning agreement in a manner acceptable to the city council.

b. Contain a legal description of the land to which it pertains.

c. Contain a statement and acknowledgement that the terms and conditions of the conditional rezoning agreement shall run with the land and be binding upon and inure to the benefit of the property owner and the city, and their respective heirs, successors, assigns and transferees.

d. A specification of all conditions proposed by the land owner to be applicable to the use and development of the land, including the following to the extent relevant:

1. The location, size, height or other measure for and/or of buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture and other features.

2. Permissible uses of the property, and a specification of maximum density or intensity of development and/or use, expressed in terms fashioned for the particular development and/or use, for example, and in no respect by way of limitation, units per acre, maximum usable floor area, hours of operation, and the like.

3. Preservation of natural resources and/or features.

4. Facilities to address any relevant traffic, stormwater and water quality issues.

5. Provisions for maintenance of areas on the land, as relevant.

e. Contain a statement acknowledging that the conditional rezoning agreement, or an affidavit or memorandum giving notice thereof, may be recorded by the city with the register of deeds of the county.

f. Contain a statement acknowledging that the city is not required to issue a certificate of occupancy until all conditions in the conditional rezoning agreement have been met.

g. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that the conditional rezoning agreement, as the same may have been modified during the rezoning process (if applicable) has been freely, voluntarily and knowledgeably offered by such owners, and agreed upon in its entirety. If the land owner is unable to sign this due to a lack of one or more conditions that are not voluntary, the land owner shall provide a notice to this effect with the city clerk before final action of the city council.

(3) Upon the rezoning taking effect, the zoning map shall be amended to reflect the new zoning classification, along with a designation that the land was rezoned with a conditional rezoning agreement. The city clerk shall maintain a listing of all lands rezoned with a conditional rezoning agreement.

(4) The approved conditional rezoning agreement, or affidavit or memorandum giving notice thereof, shall be filed by the city with the register of deeds of the county. The city council shall have the authority to waive this requirement if it determines that, given the nature of the conditions and/or the timeframe in which the conditions are to be satisfied, the recording of such document would be of no material benefit to the city or to subsequent owners of land.

(5) Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the conditional rezoning agreement.

(f) *Compliance with conditions.*

(1) Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the conditional rezoning agreement. Any failure to comply with a condition contained within the conditional rezoning agreement shall constitute a violation of this chapter and shall be punishable accordingly. Additionally, any such violations shall be deemed a nuisance per se and be subject to judicial abatement as provided by law.

(2) No permit or approval shall be granted under this chapter for any use or development that is contrary to an applicable conditional rezoning agreement.

(g) *Time period for establishing development or use.* Unless another time period is specified in this chapter rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within six months after the rezoning took effect, and thereafter proceed diligently to completion. This time limitation may, upon written request, be extended by the city council if:

(1) It is determined to the city council's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion; and

(2) The city council finds that there has not been a change in circumstance that would render the current zoning with conditional rezoning agreement incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

(h) *Termination.* If approved development and/or use of the rezoned land does not occur within the timeframe specified under subsection (g) of this section, or if the property owner makes a request in writing for termination of the conditional rezoning agreement prior to making any improvements pursuant to the conditional rezoning agreement, then the rezoning and the conditional rezoning agreement shall be deemed to be immediately terminated except in the city's discretion as to that part of the land, if any, that has been developed. In the event of such termination, no new development or use of the land shall be permitted until a new zoning classification is approved by a rezoning of the land. Upon such termination, the planning commission shall immediately initiate the process to rezone the land in whole or in part to its prior or other appropriate zoning classification. The procedure for considering and adopting this rezoning shall be the same as applied to all other rezoning requests. Once the rezoning has occurred, the city shall, upon request of the land owner, record with the register of deeds for the county a notice that the conditional rezoning agreement, except in the city's discretion as to that part of the land, if any, that has been developed, is no longer in effect.

(i) *Amendment of conditions.*

(1) During the time period for commencement of an approved development or use specified pursuant to subsection (g) of this section or any extension granted by the city council, the city shall not add to or alter the conditions in the conditional rezoning agreement.

(2) The conditional rezoning agreement may be amended in the same manner as was prescribed for the original rezoning and conditional rezoning agreement.

(j) *City's right to rezone.* Nothing in the conditional rezoning agreement or in the provisions of this section shall be deemed to prohibit the city from rezoning all or any portion of land that is subject to a conditional

rezoning agreement to another zoning classification. Any rezoning shall be conducted in compliance with this ordinance and the Michigan Zoning Enabling Act, MCL 125.3101 et seq.

(k) *Failure to offer conditions.* The city shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's right under this chapter.

(Ord. No. C-311-13, § 1, 2-4-2014)

ARTICLE 25.00. REPEAL

Sec. 51-25.01. Repeal.

The existing zoning regulations of the city, being the city zoning Ordinance No. 186, as amended, are hereby repealed. The adoption of this chapter, however, shall not affect or prevent any pending or future prosecution of, or action to abate, any existing violation of the aforementioned ordinance dated February 18, 1975, as amended, if the use so in violation is in violation of the provisions of this chapter.

(Code 1994, § 25.01)

ARTICLE 26.00. INTERPRETATION AND VESTED RIGHT

Sec. 51-26.01. Interpretation and conflict.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare. It is not intended by this chapter 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 chapter, 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 chapter; nor is it intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises or upon height of buildings, or required larger open spaces or larger lot areas than are imposed or required by such other ordinance or agreements, the provisions of this chapter shall control.

(Code 1994, § 26.01)

Sec. 51-26.02. Vested right.

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

(Code 1994, § 26.02)

ARTICLE 27.00. ENFORCEMENT AND PENALTIES

Sec. 51-27.01. Violations and penalties.

(a) Any person, persons, firm or corporation, or anyone acting on behalf of said person, persons, firm or corporation, who should violate the provisions of this chapter, or who fails to comply with the regulatory measures or conditions adopted by the board of appeals, planning commission or the city council, shall be responsible for a municipal civil infraction, and subject to the penalties, sanctions, and procedures set forth in the article.

(b) Uses of land, and dwellings, buildings, or structures, including tents, trailer coaches and mobile homes, used, altered, raised, or converted in violation of any provision of this chapter are hereby declared to be a nuisance per se. The court may, in addition to the remedies provided above, enter any such judgment, writ or order necessary to enforce or enjoin violation of this zoning ordinance.

(c) Other rights or remedies not affected. The rights and remedies provided in this chapter are cumulative and shall be deemed to be in addition to, and shall not adversely effect, any and all other rights and remedies provided by law.

(d) Rights and remedies preserved, no waiver. Any failure or omission to enforce the provisions of this chapter, and any failure or omission to prosecute any violations of this chapter, shall not constitute a waiver of any rights and remedies provided by this chapter or by law, and shall not constitute a waiver of nor prevent any further prosecution of violations of this chapter.

(Code 1994, § 27.01)

Sec. 51-27.02. Public nuisance.

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

(Code 1994, § 27.02)

Sec. 51-27.03. Owners/occupants, separate offenses.

The owner of any building, structure or premises or part thereof and the person or persons in possession of any building, structure or premises or part thereof, where any condition in violation of this chapter shall exist or shall be created, and who has assisted knowingly in the commission of such violation, shall be responsible for a separate offense and upon a determination of responsibility thereof shall be liable for a separate civil infraction.

(Code 1994, § 27.03)

Sec. 51-27.04. Penalties, sanctions, and remedies for zoning ordinance violation.

(a) *Schedule of fines, civil infraction violation notice.*

(1) A schedule of civil fines payable to the bureau by persons served with municipal civil infraction violation notices is hereby established. The fine for the violation of this chapter shall be as follows:

Fine

First offense$75.00

Second offense$100.00

Third or subsequent offense$300.00

(2) A copy of this schedule shall be posted at the bureau.

(b) *Penalties of municipal civil infractions.*

(1) The following civil fines shall apply in the event of a determination of responsibility for a municipal civil infraction, unless otherwise specifically designated in the text of this zoning ordinance:

a. *First offense.* The civil fine for a first offense violation shall be in an amount of $150.00, plus costs and other situations, for each offense.

b. *Repeat offense.* The civil fine for any offense, which is a repeat offense, shall be in an amount of $250.00, plus costs and other sanctions for each offense.

(2) In addition to ordering the defendant determined to be responsible for a municipal civil infraction to pay a civil fine, costs, damages and expenses, the judge or magistrate shall be authorized to issue any judgment, writ or order necessary to enforce or enjoin violation of this zoning ordinance.

(3) Continuing offense. Each act of violation, and on each day upon which any such violation shall occur, shall constitute a separate offense.

(4) Remedies not exclusive. In addition to any remedies provided for in this zoning ordinance, any equitable or other remedies available may be sought.

(5) The judge or magistrate shall also be authorized to impose costs, damages and expenses as provided by law.

(6) A municipal civil infraction shall not be a lesser-included offense of a criminal offense or of an ordinance violation, which is not a civil infraction.

(Code 1994, § 27.04)

Sec. 51-27.05. Rights and remedies are cumulative.

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

(Code 1994, § 27.05)

Sec. 51-27.06. Commencement of municipal civil infraction action.

(a) A municipal civil infraction may be commenced upon issuance by an authorized official of either of the following:

(1) A municipal civil infraction citation directing the person alleged to be responsible to appear in court.

(2) A municipal civil infraction notice directing the alleged violator to appear at the municipal violation bureau.

(b) The form of citations used to charge municipal civil infraction violation shall be in accordance with state law. (See MCL 600.8709.)

(c) The basis for issuance of a municipal civil infraction citation shall be as set forth below:

(1) An authorized official who witnesses a person violate this chapter, the violation of which is a municipal civil infraction.

(2) An authorized official may issue a citation or notice to a person if, based upon investigation, the official has reasonable cause to believe that a person is responsible for a municipal civil infraction.

(3) An authorized official may issue a citation or notice to a person if, based upon investigation of a complaint by someone who allegedly witnessed the person violate this chapter, a violation of which is a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction and if the attorney for the city for whom the authorized local officer is acting approves in writing the issuance of the citation or notice.

(d) Municipal civil infraction citations or notices shall be served in the following manner:

(1) Except as otherwise provided below, the authorized official shall personally serve a copy of the citation or notice upon the person alleged to be in violation of this chapter.

(2) In a municipal civil infraction action involving the use or occupancy of land or a building or other structure, a copy of the citation or notice need not be personally served upon the person alleged to be in violation of this chapter but may be served upon an owner or occupant of the land, building or structure by posting the copy on the land or attaching the copy to the building or structure. In addition, a copy of the citation or notice shall be sent by first class mail to the owner of the land, building or structure at the owner's last-known address.

(3) A citation or notice served as provided in subsection (d)(2) of this section, shall be processed in the same manner as a citation or notice served personally upon an individual.

a. The original citation or notice shall be filed with the district court or municipal violations bureau.

b. The first copy shall be an abstract of court or bureau records.

c. The second copy shall be retained by the authorized official.

d. The third copy shall be delivered to the alleged violator.

(Code 1994, § 27.06)

Sec. 51-27.07. Election of person served with violation.

(a) Any person receiving a municipal civil infraction violation notice shall be permitted to dispose of the charge alleged in the notice by making payment of the fine and/or costs to the bureau. However, a person shall have the right to elect not to have the violation processed by the bureau and to have the alleged violation processed in a court of competent jurisdiction. The unwillingness of any person to dispose of a violation at the bureau shall not prejudice the person or in any way diminish the person's rights, privileges and protection accorded by law.

(b) A person electing to have the alleged violation processed at the bureau shall appear at the bureau and pay the specified fine and/or costs within the time specified for the appearance in the municipal civil infraction violation notice. Such appearance may be made by mail, in person or by representation, provided if appearance is made by mail, the person charged in the notice shall have the responsibility for timely delivery of the fine and/or costs within the time specified in the municipal civil infraction violation notice.

(c) In the event a person elects not to admit responsibility and pay the specified civil fine and/or costs prescribed for the respective violation, a municipal civil infraction citation may be issued. The authorized official is not required to issue a municipal civil infraction violation notice as a precondition of issuance of a municipal civil infraction.

(Code 1994, § 27.07)

ARTICLE 28.00. SEVERANCE CLAUSE

Sec. 51-28.01. Severance clause.

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

(Code 1994, § 28.01)

Sec. 51-28.02. Rule of construction.

The rule that a penalty statute is to be strictly construed shall not apply to this chapter or any of the provisions thereof. All provisions of this chapter shall be construed according to the fair import of their terms, to promote justice and to effect the objects of this chapter.

(Code 1994, § 28.02)

ARTICLE 29.00. DOWNTOWN OVERLAY DISTRICT

Sec. 51-29.01. Statement of purpose.

The intent of the Downtown Overlay District is to establish commercial and office development standards consistent with the Walled Lake downtown urban design plan.

(Code 1994, § 29.01)

Sec. 51-29.02. Overlay zoning concept.

(a) The Downtown Overlay Zone is a mapped zone that imposes a set of requirements in addition to those of the underlying zoning district. In this case, the underlying zoning districts are the 0-1 (Office), C-1 (Neighborhood Commercial), C-2 (General Commercial), and C-3 (Central Business).

(b) In an area where an overlay zone is established, the property is placed simultaneously in the two zones, and the property may be developed only under the applicable conditions and requirements of both zones. In the event that there are conflicts between the requirements of the two zones, the requirements of the Downtown Overlay District shaft govern.

(Code 1994, § 29.02)

Sec. 51-29.03. Creation of Downtown Overlay District Boundaries.

The Downtown Overlay District Boundaries shall be as established on the official zoning map, and shall include generally all properties located within the Downtown Development Authority (DDA) District at the time of

adoption of this article 29.00 may be established or amended according to this chapter procedures set forth in section 51-24.02.

(Code 1994, § 29.03)

Sec. 51-29.04. Permitted uses and structures.

Within all adopted Downtown Overlay Districts, no building shall be erected, used, or structurally altered, nor shall the land or premises be used in whole or in part, except for uses permitted in the underlying zoning district.

(Code 1994, § 29.04)

Sec. 51-29.05. Development standards.

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

(1) *Building entrances.* AU buildings shall have at least one public entrance that faces the street.

(2) *Facade design.* AU building facades that face a street shall conform with the following design criteria:

a. At least 30 percent of the facade shall consist of windows.

b. The use of bare metal, aluminum siding, metal panels, plastic, and mirrored glass shall be prohibited.

c. Exterior colors shall be compatible with the colors on adjacent buildings, subject to review by the planning commission. Proposed colors shall be specified on the site plan. Gaudy or fluorescent colors are prohibited.

(3) *Side or rear facade design.* Wherever a side or rear facade is visible from a public street, or if parking is located at the side or rear of a building, the facade shall be designed to create a pleasing appearance, in accordance with the following design criteria:

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

b. Dumpster and service areas shall be completely screened with landscaping, a fence, a wall, or a combination thereof.

c. Open areas shall be landscaped with lawn, ground cover, ornamental shrubs and trees. On every site involving new development or redevelopment foundation plantings adjacent to the building shall be provided. The species and design shall be identical to or compatible with the landscaping schematic on file with the city building official.

d. 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 feet above the surface. In pedestrian areas, the light intensity shaft average a minimum of 2.0 footcandles, measured five feet above the surface.

(4) *Awnings.* Awnings shall be permitted on buildings as follows:

a. AU awnings must be made from fabric or similar material, rather than metal, plastic, or rigid fiberglass.

b. AU awnings shall be attached directly to the building, rather than supported by columns or poles.

(5) *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, 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 historic-style street lamps installed by the city.

(6) *Parking.* Parking and parking lot design shall comply with the standards below, in addition to the provisions of section 19.00.

a. 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:

1. Front yard parking is required to maintain the continuity of front building setbacks in the block while making efficient use of the site; or

2. 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.

b. Parking located in front or on the side of a building shall be screened from the road with a three-foot-high red or brown brick wall or evergreen landscaping.

c. 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 in article 19.00 of this chapter.

(7) *Landscaping.* Landscaping shall comply with the provisions of section 51-21.35(4), in addition to the standards below:

a. On every site involving new development or redevelopment, street trees shall be provided at 25-foot intervals. The species of street tree and exact locations shall be as specified on the Master Street Tree Plan that is on file with the city building official. In the event that a Master Street Tree Plan has not been prepared, then any of the following street trees shall be planted within the road right-of-way at 25-foot intervals: Norway Maple, Red Maple, Green Ash, Bradford Pear, or Little Leaf Linden,

b. On every site involving new development or redevelopment, a landscape plan shall be submitted for review and approval. The landscape design shall be identical to or compatible with the landscaping schematic on file with the city budding official.

(8) *Setbacks.* Front setbacks within the Downtown Overlay District shall be as specified in section 51-17.02, downtown overlay district setback map.

(Code 1994, § 29.05)

Sec. 51-29.06. Area, height, bulk, and placement requirements.

Area, height, bulk, and placement requirements, unless otherwise specified, are as provided in article 17.00 of this chapter, schedule of regulations.

(Code 1994, § 29.06)

Sec. 51-29.07. Site plan review.

Site plan review and approval is required for all uses in the Downtown Overlay District in accordance with retail sales or services section 51-21.28.

(Code 1994, § 29.07)

ARTICLE 30.00. COMMERCIAL PLANNED DEVELOPMENT (CPD) OPTION

Sec. 51-30.01. Intent.

(a) The intent of the Commercial Planned Development (CPD) Option is to permit, with city approval, private or public development which is substantially in accordance with the goals and objectives of the downtown urban design plan which was adopted by the planning commission in August 1991 and may be amended from time-to-time, and the master plan for the city, which was adopted by the planning commission on April 10, 1990, and which may be amended from time-to-time.

(b) The development permitted under this article 30.00 of this chapter shall be considered as an optional means of development. The availability of the option imposes no obligation on the city to encourage or foster its use. The decision to approve its use shall be at the sole discretion of the city. Consequently, in this article, the development opportunities made available under this article may be referred to as the CPD option.

(c) The CPD option is intended to permit regulatory flexibility to achieve development that is in accordance with the city's downtown urban design plan and master plan; to achieve economy and efficiency in the use of land, natural resources, energy and in the provision of public services and utilities; to encourage the creation of useful open space particularly suited to the proposed development and parcel on which it is located; and to provide appropriate employment, services and shopping opportunities to satisfy the needs of residents of the city.

(d) It is further intended that the development in the CPD option be laid out so that proposed uses, buildings, and site improvements relate to each other and to adjoining existing and planned uses in such a way that they will be compatible, with no material adverse impact of one use on another.

(e) The CPD option is further intended to permit reasonable development or use of parcels of land that were subdivided and/or developed prior to adoption of the current ordinance, or amendment thereto, and which would otherwise be restricted from development or use because of existing or resulting nonconformities.

(Code 1994, § 30.01)

Sec. 51-30.02. Definitions.

For the purposes of this article, the following definitions shall apply:

(1) *Commercial planned development.* The term "commercial planned development" means a specific parcel of land or several contiguous parcels of land, which has been, is being, or will be developed in accordance with a site plan approved by city council, following a recommendation from the planning commission, where the site plan meets the requirements of this article, proposing permitted land uses, density patterns, a fixed system of streets (where necessary), provisions for public utilities, drainage and other essential services and similar features necessary or incidental to development.

(2) *Underlying zoning.* The term "underlying zoning" means the zoning classification applicable to any portion of land that is proposed to be developed in accordance with the commercial planned development regulations.

(Code 1994, § 30.02)

Sec. 51-30.03. Qualification criteria.

In order to qualify for the Commercial Planned Development Option, it must be demonstrated that all of the following criteria will be met:

(1) The CPD option may be used only if a portion of the site is included in the Downtown Overlay District or if the site is located on an arterial road as designated in the city's master plan.

(2) The use of the CPD option shall not be for the purpose of avoiding applicable zoning requirements of the underlying zoning district.

(3) The CPD option shall not be used in situations where the same land use objectives can be accomplished by the application of conventional zoning provisions or standards without the need for variances.

(4) The CPD option may be used only when the proposed land use will not add public service and facility loads beyond those contemplated in the master plan or other applicable plans or policies of the city unless the applicant can demonstrate to the sole satisfaction of the city council that such added loads will be accommodated or mitigated by the proponent as part of the CPD or by some other means deemed acceptable to the city council.

(5) Use of the CPD option shall establish land use patterns which are compatible with and protect existing or planned uses.

(6) Use of the CPD option shall promote the goals and objectives of the downtown urban design plan and master plan.

(7) The CPD option shall not be allowed solely as a means of increasing the density or intensity of development.

(8) The CPD option shall result in a higher quality of development than could be achieved under conventional zoning.

(9) Each proposal that uses the CPD option shall also meet one or more of the following objectives:

a. To guarantee the provision of a public improvement which could not otherwise be required that would further the public health, safety or welfare, protect existing or future uses from the impact of a proposed use, or alleviate an existing or potential problem relating to public facilities.

b. To improve the appearance of the city through quality building design and site development, the provision of trees and landscaping consistent with or beyond minimum requirements; the preservation of unique and/or historic sites or structures; and the provision of open space or other desirable features of a site beyond minimum requirements.

c. To bring about re-use and/or redevelopment of sites where an orderly change of use is determined to be desirable, especially where re-use or redevelopment is unreasonably restricted because of existing nonconformities or the constraints of conventional zoning standards.

(Code 1994, § 30.03)

Sec. 51-30.04. Permitted uses.

(a) Only uses that are listed as principal permitted uses or permitted uses after special approval in any of the underlying zoning districts shall be permitted in a CPD development. However, expansion of or renovation to a building containing a use that is not listed as a principal permitted use or a permitted use after special approval may be permitted by the city council upon making the determination that:

(1) The use has operated and will continue to operate in a manner that is compatible with surrounding and nearby land uses;

(2) The proposed expansion or renovation will not impair the efforts of the city, property and business owners and residents to further the goals and objectives of the downtown urban design plan and master plan; and

(3) The proposed expansion or renovation will have a recognized and substantial beneficial impact as a result of improved building design, site improvements that are consistent with urban design guidelines set forth in the downtown urban design plan, improved traffic and transportation patterns or other benefits.

(b) The determination whether a specific use should be permitted shall be subject to review and approval of a site plan, pursuant to the review procedures in section 51-30.06.

(Code 1994, § 30.04)

Sec. 51-30.05. Height, bulk, density and area standards.

(a) A CPD proposal shall comply with the height, bulk, density, and setback standards of the underlying zoning district except as specifically modified and noted on the CPD site plan. Uses listed as special approval uses shall be subject to applicable height, bulk, density, area and use standards in section 51-21.29, unless such standards are modified and noted on the CPD site plan.

(b) The city council may approve a modification or waiver of one or more standards of the underlying district or standards for special approval uses, after reviewing the recommendation of the planning commission, upon making the determination that any such modification or waiver would be consistent with the land use goals and objectives of the city and the intent of this article, and upon making the determination that the modification or waiver would be appropriate because of the particular design and orientation of buildings and uses. Action by the city council on a CPD site plan, including modification or waiver that is approved as part of approval of a CPD site plan, shall not require further consideration or action by the zoning board of appeals; furthermore, action by the city council on a CPD site plan may not be appealed to the zoning board of appeals.

(Code 1994, § 30.05)

Sec. 51-30.06. Review procedures.

(a) *Request for qualification.*

(1) Any person who owns land in the Downtown Overlay District, or the owner's designated agent, may make application for consideration of a Commercial Planned Development proposal. Such application shall be made by submitting a request for a determination whether the proposal qualifies for the CPD option.

(2) A request shall be submitted to the city council and shall include the following:

a. A written statement explaining in detail the proposed use, building and site improvements, phasing plan, and resulting floor area and parking.

b. Substantiation that all conditions for qualification set forth in section 51-30.03 are or will be met.

c. A schematic land use plan containing enough detail to explain the proposed uses, relationship to adjoining parcels, vehicular and pedestrian circulation patterns, open spaces and landscape areas, and building density or intensity.

(3) Upon receipt of the request for qualifications, the city council may undertake such investigation, study and/or deliberation into the merits of the proposal as it deems appropriate. In conducting such investigation, the city council may seek information, analysis and advice from the planning commission, city staff, city planner, city attorney, or others as necessary.

(4) Upon completing its investigation, the city council shall approve, approve with conditions, or deny the request for qualification. A determination that a proposal qualifies for review under the CPD district standards shall be accompanied by a description of the minimum conditions under which the proposal will be considered for final approval. In describing such conditions, the city council may identify specific requirements or standards in this chapter which could be waived or modified upon approval of the final CPD site plan. A preliminary determination does not ensure final approval of a Commercial Planned Development proposal, but is intended to provide an initial indication as to whether or not an applicant should proceed to prepare a CPD site plan upon which a final determination would be based. If the city council denies the request for qualification, the applicant may pursue development or use of the site under conventional zoning standards.

(b) *Request for final approval.* An applicant who has been granted qualification by city council may apply for final approval under this section with submittal of the following materials:

(1) *CPD site plan.* An application shall be made to the department of planning and development for review and recommendation by the planning commission. The CPD site plan shall contain all of the information required for site plans in section 51-21.28(f) and any additional information requested by the city council upon granting approval of the request for qualification.

(2) *Planning commission review.*

a. If the director of planning and development determines that the CPD site plan is substantially in compliance with the site plan submittal requirements and the minimum conditions for consideration imposed by the city council, the director shall place the site plan on the planning commission agenda and schedule a public hearing.

b. Notice of the public hearing shall be published in a newspaper which circulates in the city, and sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet regardless of whether the property or occupant is located on the zoning district. Such notice shall be given not less than 15 days before the public hearing scheduled the date the application will be considered for approval. If the name of the occupant is not known, the term "occupant" may be used in making notification. Such notification shall be made in accordance with the provisions of section 103 of Michigan Public Act 110 of 2006, as amended. Accordingly, the notice shall:

1. Describe the nature of the planned unit development project requested.

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

3. State when and where the planned unit development project will be considered and the public hearing will be held.

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

c. After the public hearing, the planning commission shall report its findings and make its recommendations to the city council. The planning commission shall review the proposed Plan and make a determination whether:

1. The CPD proposal satisfies the CPD qualification criteria.

2. The CPD proposal promotes the land use goals and objectives of the city.

3. The CPD proposal meets all applicable provisions of this article and chapter. Insofar as any provisions of this article are in conflict with the provisions of any other section of this chapter, the provisions of this article shall apply to the lands within an approved CPD.

(3) *Final approval of commercial planned development.*

a. Upon receipt of the report and recommendation of the planning commission, the city council shall review all findings. If the city council determines that approval would be appropriate, it shall instruct the city attorney to prepare a contract setting forth the conditions upon which such approval is based. Such conditions shall include, where appropriate, identification of the phases and time table for development, and an estimate of the costs of implementing each phase. After approval by resolution of the city council, the contract shall be executed by the city and the applicant and recorded in the county records. Approval shall be granted only upon the city council determining that all qualification requirements, conditions of approval, and provisions of this and other city ordinances have been met, and that the proposed development will not adversely affect the public health, welfare and safety. Approval shall further be subjected to the condition that the contract will be properly recorded.

b. Approval of a CPD site plan shall be effective upon recording the contract and filing proof of recording with the city clerk.

c. Once an area has been included, within the boundaries of an approved CPD, no development may take place in the CPD except in accordance with the city council-approved CPD site plan.

d. Prior to any development within the area involved, an approved CPD site plan may be terminated by the applicant or the applicant's successors or assigns, by filing with the city and recording in the county records an affidavit so stating. The approval of the plan shall terminate upon such recording.

e. No approved plan shall be terminated after development commences except with the approval of the city council and of all parties having an equity interest in the land.

f. Site plan approval granted pursuant to approval of a CPD plan shall remain valid for a period of two years from the date of approval. If required city permits have not been issued and work lawfully commenced within this two-year period, the city council may terminate and revoke the CPD plan approval and contract by written notice to the owner and recording an affidavit in the county records.

g. Approval of a CPD site plan under this article shall be considered an optional method of development and improvement of property subject to the mutual agreement of the city and the applicant.

(c) *Amendments to CPD site plan.* Proposed amendments or changes to an approved CPD site plan shall be submitted to the director of planning and development. If the director determines that the proposed modification is minor based on the criteria in section 51-21.28, then the director may approve or deny the

proposed amendment. If the director denies the proposed modification or determines the proposed modification is not minor, and if the applicant then requests further consideration, then the site plan shall be reviewed by the planning commission and city council in accordance with the provisions and procedures of this section as they relate to final approval of the commercial planned development.

(d) *Fees.* The applicant shall be responsible for all costs associated with processing, amending, or terminating a CPD site plan, including, but not necessarily limited to, the costs of review, publication notices, and recording. Fees for review of CPD plans under this article shall be established by resolution of the city council.

(Code 1994, § 30.06)