

Chapter 86 - ZONING⁽¹⁾

Footnotes:

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Editor's note— Ord. No. [2019-06](#), adopted January 6, 2020, amended the Code by repealing former chapter 86, §§ 86-1—86-7, 86-36—86-52, 86-86—86-91, 86-126—86-130, 86-161—86-164, 86-196—86-198, 86-231—86-234, 86-266—86-269, 86-301—86-303, 86-336—86-339, 86-371—86-376, 86-446, 86-447, 86-481—86-487, 86-501—86-505, 86-521—86-538, 86-571—86-582, 86-611—86-618; and adding a new ch. 86. Former ch. 86 pertained to similar subject matter, and derived from an ordinance of May 6, 2002; an amendment of July 8, 2002; ordinances of December 6, 2004 and April 30, 2007; Ord. No. 2012-03, adopted September 4, 2012; Ord. Nos. 2014-01 and 2014-02, adopted February 3, 2014; Ord. No. 2014-08, adopted August 4, 2014; Ord. No. 2014-09, adopted December 1, 2014; and Ord. No. [2017-04](#), adopted October 2, 2017.

Cross reference— Administration, ch. 2; buildings and building regulations, ch. 10; businesses, ch. 14; cemeteries, ch. 18; community development, ch. 26; environment, ch. 38; floods, ch. 42; health and sanitation, ch. 46; parks and recreation, ch. 54; subdivisions, ch. 70; traffic and vehicles, ch. 74; utilities, ch. 78; vegetation, ch. 82.

ARTICLE I. - INTRODUCTION

DIVISION 1. - TITLE, PURPOSE, AND AUTHORITY

Sec. 86-1. - Title.

This chapter shall be known and may be cited as the "City of Vassar Zoning Ordinance."

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-2. - Purpose.

- (a) The purpose of this chapter is to promote the public health, safety, and general welfare of the community as a wholesome, serviceable, and attractive municipality, by having regulations and restrictions that:
- (1) Promote compatibility of existing and future land uses.
 - (2) Increase the safety and security of home life.
 - (3) Preserve and create a favorable quality of life for residents.
 - (4) Develop good citizenship.
 - (5) Protect and enhance property and civic values.
 - (6) Facilitate efficient traffic operations, minimize congestion, and accident potential.
 - (7) Enhance the environment for pedestrians and other non-motorized types of transportation.
 - (8) Restrict building in floodplain areas as a means of protecting property owners.
 - (9) Protect wetlands in recognition of their irreplaceable environmental value.
 - (10) Promote aesthetics and minimize blight.
 - (11) Provide for convenient vehicular parking.
 - (12) Provide parks, recreation, schools, religious institutions, and community facilities.

- (13) Encourage a variety of quality housing.
 - (14) Encourage preservation of environmental features through flexible design standards.
 - (15) Promote clean air and water, access to sunlight, sufficient infrastructure, and public services.
 - (16) Assist in implementing and accomplishing the objectives of the city's adopted master plan.
 - (17) Provide reasonable means of protecting and safeguarding the city's economic structure.
 - (18) Provide each property owner with a reasonable and economic use of their land.
 - (19) Lessen congestion, disorder, and infringement on property values, safety, and quality of life which are often aggravated due to unregulated development.
 - (20) Prevent overcrowding of land and undue concentration of population.
- (b) In order to effectively meet this purpose, the city is divided into districts of such number, shape, and area, and of such common unity of purpose, adaptability, or use, that are deemed most suitable to provide for the best general civic use, protect the common rights and interests within each district, and the city as a whole, preserve the property owners right to use their land, and to promote quality of life and business vitality. The regulations of this chapter accomplish these purposes by controlling land uses within each district; acknowledging the unique impacts of special land uses through specific standards for their development in appropriate locations within selected districts; promoting quality by limiting the location, height, bulk, occupancy, and uses of buildings, and other structures; defining maximum residential density, specifying the percentage of a site available for a building; and requiring building and parking setbacks from property lines and public street rights-of-way.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-3. - Conflicting regulations.

- (a) Where any condition imposed by any provision of this chapter, upon the use of any lot, building, or structure, is either more restrictive or less restrictive than any comparable condition imposed by any other provision of this chapter or by the provision of any ordinance adopted under any other law, the provision which is more restrictive or which imposes the higher standard or requirement shall govern.
- (b) This chapter is not intended to abrogate or annul any easement, covenant, or other private agreement, provided that where any provision of this chapter is more restrictive or imposes a higher standard or requirement than such easement, covenant, or other private agreement, the provision of this chapter shall govern.
- (c) Except as may otherwise be provided in this chapter, every building and structure erected; every use of any lot, building, or structure; every structural alteration or relocation of an existing building or structure and every enlargement of, or addition to, an existing use, building, or structure shall be subject to all regulations of this chapter which are applicable in the zoning district in which such use, building, or structure is located.
- (d) No setback area or lot existing at the time of adoption of this chapter shall be reduced in dimensions or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established herein.
- (e) The regulations herein established shall be considered the minimum regulations for promoting and protecting the public health, safety, and welfare.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-4. - Vested rights.

- (a) Site plans submitted prior to effective date.

- (1) *Construction begun.* Nothing in this chapter shall be deemed to require any change in the plans, construction, or designated use of any building upon which actual construction was begun prior to the enactment of this chapter, provided construction has lawfully begun, is being diligently carried on, and shall be completed within one year of the effective date of this chapter. The zoning board of appeals (ZBA) may permit an extension of up to one year for completion.
 - (2) *Application submitted.* An application shall meet the requirements of the ordinance effective on the date of submission. An application submitted before the effective date of this chapter must be approved by the planning commission by the date that the ordinance takes effect or the requirements of this chapter shall be followed.
 - (3) *Application approved.* If an application has been approved within 12 months of the effective date of this chapter, it shall remain valid if construction is begun within one year and completed within two years of the effective date of this chapter.
- (b) For projects not subject to site plan approval, a building permit must be issued prior to the effective date of this chapter; otherwise the requirements of this chapter take effect.
 - (c) If the conditions of this chapter are not met, the standards and provisions of this zoning ordinance shall govern.
 - (d) Nothing in this chapter should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety, and welfare.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-5. - Authority.

This chapter is enacted in accordance with the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-6. - Validity and severability.

If any court of competent jurisdiction shall declare any part of this chapter to be invalid, such ruling shall not affect any other provisions of this chapter not specifically included in such ruling. Further, if any court of competent jurisdiction shall declare invalid the application of any provision of this chapter to a particular parcel, lot, use, building, or structure, such ruling shall not affect the application of such provision to any other parcel, lot, use, building, or structure not specifically included in such ruling.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-7. - Effective date.

This chapter shall become effective seven days from the date of publication of notice of adoption.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-8. - Repeal of prior ordinance.

The zoning ordinance previously adopted by the city prior to the adoption of the ordinance from which this chapter is derived and all amendments thereto are hereby repealed. The repeal of such

ordinances shall not have the effect of releasing or relinquishing any penalty, forfeiture, or liability incurred under such ordinance, or any part thereof, and such ordinance shall be treated as still remaining in force for the purpose of instituting or sustaining any proper action for the enforcement of such penalty, forfeiture, or liability.

(Ord. No. [2019-06](#), 1-6-20)

DIVISION 2. - DEFINITIONS

Sec. 86-9. - Construction of language.

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

- (1) The particular shall control the general.
- (2) In case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control.
- (3) The word "shall" is always mandatory and not discretionary. The word "may" is permissive, with the decision made by the planning commission, city council, or zoning board of appeals, as indicated.
- (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) The words "used" or "occupied" include the words "intended," "designed," or "arranged to be used or occupied;" the word "building" includes the word "structure" and any part thereof; the word "dwelling" includes the word "residence;" the word "lot" includes the words "plot" or "parcel."
- (6) The word "person" includes an individual, a corporation, a partnership, an incorporated or unincorporated association, or any other entity recognizable as a "person" under the laws of the state.
- (7) 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. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
 - b. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination (i.e., "or" also means "and/or").
 - c. "Either...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
- (8) The terms "abutting" or "adjacent to" include property along the lot lines of the subject site including those in another community, but do not include lands separated by a public street right-of-way.
- (9) The term "this zoning ordinance" or "this chapter" includes the city zoning ordinance and any amendments thereto.
- (10) Terms not herein defined shall have the meaning customarily assigned to them.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-10. - Definitions A—B.

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

Access management (access control): A technique to improve traffic operations along a major roadway and decrease the potential for accidents through the control of driveway locations and design; consideration of the relationship of traffic activity for properties adjacent to, and across from, one another; and the promotion of alternatives to direct access.

Access to Property, Reasonable: A property owner's legal right, incident to property ownership, to access a public road right-of-way. Reasonable access to property may be indirect or certain vehicle turning movements prohibited for improved safety and traffic operations.

Accessory Building, Structure, or Use: A building, structure, or use which is clearly incidental to, customarily found in connection with, devoted exclusively to, subordinate to, and located on the same lot as the principal use to which it is related.

Accessory dwelling unit (ADU): A smaller secondary home on the same lot as a primary dwelling, having total square footage between 200 and 600. ADUs are independent, habitable, and provide basic requirements of shelter, heating, cooking, water, and sanitary services. There are two types of ADUs: garden or granny cottage and accessory suite or mother-in-law apartment.

Accessory Suite/Mother-in-law Apartment: A type of accessory dwelling unit (ADU). A smaller secondary home on the same lot as a primary dwelling, having total square footage between 200 and 600. ADUs are independent, habitable, and provide basic requirements of shelter, heating, cooking, water, and sanitary services. Accessory suites are attached or are part of the primary dwelling (converted living space, apartment over a garage, basement apartment, etc.).

Adequate lateral support: The control of soil movement on a site as determined by accepted engineering standards.

Adult day-care facility: A facility other than a private residence, which provides care for more than six adults for less than 24 hours a day.

Adult care facility, state-licensed: Any structure constructed for residential purposes that is licensed by the state pursuant to Public Act 218 of 1979. These acts provide for the following types of residential structures:

- (1) *Adult foster care small group home:* A facility with the approved capacity to receive twelve (12) or fewer adults who are provided supervision, personal care, and protection in addition to room and board, for 24 hours a day, five or more days a week, and for two or more consecutive weeks for compensation.
- (2) *Adult foster care large group home:* A facility with approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided supervision, personal care, and protection in addition to room and board, for 24 hours a day, five or more days a week, and for two or more consecutive weeks for compensation.
- (3) *Adult foster care family home:* A private residence with the approved capacity to receive six or fewer adults to be provided with foster care for 24 hours a day for five or more days a week and for two or more consecutive weeks. The adult foster care family home licensee must be a member of the household and an occupant of the residence.
- (4) *Congregate facility:* Residence for more than 20 adults.

Adult entertainment regulated uses: See subsection 86-287(1), special land use specific requirements.

Alley: Any dedicated public way affording a secondary means of access to abutting property, and not intended for general traffic circulation.

Alteration: 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, the consummated act of which may be referred to herein as "altered" or "reconstructed."

Animal, domesticated: An animal that is commonly considered capable of being trained or is capable of adapting to living in a human environment and being of use to human beings, and which is not likely to bite without provocation, nor cause death, maiming or illness to human beings, including by way of example: bird (caged), fish, turtle, rodent (bred, such as a gerbil, rabbit, hamster or guinea pig), cat (domesticated), lizard (non-poisonous), and dog. Wild, vicious, or exotic animals shall not be considered domesticated.

Animal, exotic: Any animal of a species not indigenous to the state and not a domesticated animal, including any hybrid animal that is part exotic animal.

Animal, non-domesticated (wild): Any living member of the animal kingdom, including those born or raised in captivity, except the following: human beings, domestic dogs (excluding hybrids with wolves, coyotes, or jackals), domestic cats (excluding hybrids with ocelots or margays), farm animals, rodents, any hybrid animal that is part wild, and captive-bred species of common cage birds.

Animal, vicious: Any animal that attacks, bites, or injures human beings or domesticated animals without adequate provocation, or which because of temperament, conditioning, or training, has a known propensity to attack, bite, or injure human beings or domesticated animals.

Antennae, reception: See "reception antennae."

Aquifer: A geologic formation, group of formations or part of a formation capable of storing and yielding a significant amount of groundwater to wells or springs.

Arcade, Game or Video: The use of a building or a portion of a building for the location, operation, and placement of five or more mechanical amusement devices. Mechanical amusement devices shall mean any device, apparatus, mechanical equipment or machine operated as amusement for required compensation. The term does not include vending machines used to dispense foodstuffs, toys, or other products for use and consumption.

Architectural feature, significant: Any building, structure, or portion thereof, that is sufficiently distinctive or unusual in design or construction as to warrant the preservation and minimal alteration of its original form.

Arterial street: A street defined in the master plan or city's Act 51 plan as "major traffic routes" and/or as an arterial or major street by the state department of transportation where the movement of through traffic is the primary function, with service to adjacent land uses a secondary function.

As-built plans: Construction plans in accordance with all approved field changes.

Auto (automobile): Any motorized vehicle intended to be driven on roads or trails, such as cars, trucks, vans, and motorcycles.

Automobile gasoline station: An establishment which includes buildings and premises for the primary purpose of retail sales of gasoline. An automobile gasoline service station may also include an area devoted to sales of automotive items and convenience goods (mini-mart) primarily sold to patrons purchasing gasoline. An establishment which provides vehicle maintenance or repair is not included within this definition.

Automobile or Vehicle Dealership: A building or premises used primarily for the sale of new and used automobiles and other motor vehicles such as motorcycles, boats, and recreational vehicles. Such a dealership may include outdoor display and accessory indoor maintenance and repair.

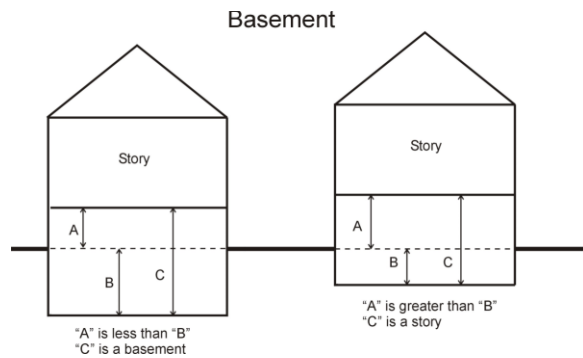
Automobile repair establishment (major repair): An automotive repair establishment which may conduct, in addition to activities defined below as "minor repairs," one or more of the following: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service, such as body, frame, or fender straightening and repair; overall painting and undercoating of automobiles, major overhauling of engine requiring removal of cylinder-head or crank case pan, recapping or retreading of tires, steam cleaning and similar activities.

Automobile Service Establishments (Routine Maintenance and Minor Repair): A building or premises used primarily to provide general maintenance on automobiles such as oil changes and lubrication; servicing and repair of spark plugs, batteries, pumps, belts, hoses, air filters, windshield wipers and

distributors; replacement of mufflers and exhaust systems, brakes and shock absorbers; radiator cleaning and flushing; sale and installation of automobile accessories such as tires, radios and air conditioners; wheel alignment, balancing and undercoating; but excluding tire recapping or grooving or any major mechanical repairs, collision work, or painting. An automobile maintenance/service establishment may also sell gasoline, but is distinct from an automobile gasoline station.

Automobile wash: Any building or structure or portion thereof containing facilities for washing motor vehicles using production line methods with a conveyor, blower, steam cleaning device or other mechanical washing devices; and shall also include coin and attendant operated drive-through, automatic self-serve, track mounted units and similar high volume washing establishments, but shall not include hand washing operation.

Base flood: A flood event having a one percent chance of being equaled or exceeded in any one given year.



Basement: The 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.

Bed and Breakfast Inn: Any dwelling in which overnight accommodations are provided or offered for transient guests for compensation. A bed and breakfast is distinguished from a motel in that a bed and breakfast establishment shall have only one set of kitchen facilities and be architecturally consistent with surrounding homes.

Berm: A mound of earth graded, shaped and improved with landscaping in such a fashion as to be used for visual and/or audible screening purposes.

Block: The property abutting one side of a street and lying between the two nearest intersecting streets, or between the nearest such street and railroad right-of-way, unsubdivided acreage, lake, river or live stream; or between any of the foregoing and any other barrier to the continuity of development.

Brewpub: A restaurant or drinking establishment which includes the brewing of beer as an accessory use.

Buffer zone: A strip of land often required between certain zoning districts reserved for plant material, berms, walls, or fencing singularly or in combination to serve as a visual and noise barrier.

Building: Any structure, either temporary or permanent, having a roof and walls, and intended for the shelter or enclosure of persons, animals, chattels or property of any kind. A building shall include tents, mobile homes, manufactured housing, storage sheds, garages, greenhouses, pole barns, semi-trailers, vehicles situated on a parcel and used for the purposes of a building and similar structures. A building shall not include such structures as signs, fences, smokestacks, canopies, or overhangs but shall include structures such as storage tanks, produce silos, coal bunkers, oil cracking towers, or similar structures.

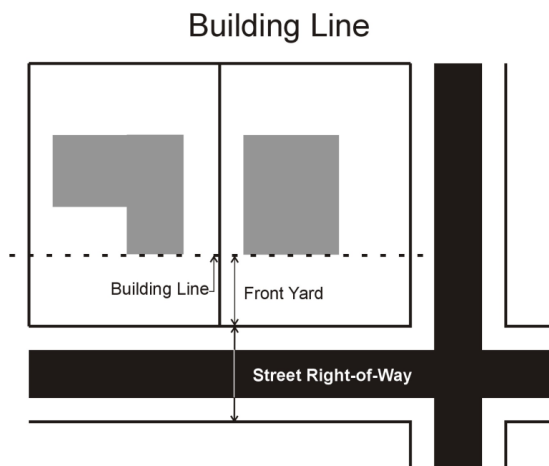
Building coverage: The percentage of the lot area that is covered by building area, which includes the total horizontal area when viewed in plan.

Building official: An individual or company appointed by the city council delegated to administer the city building code and city zoning ordinance.

Building department: The department charged with enforcing this chapter. The term "building department" shall also include "planner," "planning consultant," "engineer," "engineering consultant," "building administrator" "building official," "building inspector," "director of community & economic development" or "zoning administrator."

Building envelope: The ground area of a lot which is defined by the minimum setback and spacing requirements within which construction of a principal building and any attached accessory structures (such as a garage) is permitted by this chapter. For condominium developments, the building envelope shall be illustrated on a site plan.

Building height: The vertical distance measured from the finished grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip and gambrel roofs. Where a building is located on sloping terrain, the height shall be measured from the average grade.



Building line: A horizontal line generally parallel to a front, rear, or side lot line which is located at the point of the foundation of a principal building nearest to the front, rear, or side lot line.

Building permit: An authorization issued by the building official to move, erect or alter a structure within the city.

Building, principal: A building in which is conducted the principal uses of the lot on which such building is located.

Business service establishment: A business which provides business type services to patrons including but not limited to copy centers, postal centers, data centers and computer repair establishments.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-11. - Definitions C—D.

Caliper: The diameter of a trunk measured as follows:

- (1) Existing trees are measured at 4.5 feet above the average surrounding grade; and,
- (2) Trees which are to be planted shall be measured 12 inches above the average surrounding grade if the tree caliper is more than four inches, or if the tree caliper is less than four inches, it shall be measured at six inches above the average surrounding grade.

Canopy tree: A deciduous tree whose mature height and branch structure provide foliage primarily on the upper half of the tree. The purposes of a canopy tree are to provide shade to adjacent ground areas and to enhance aesthetics.

Caretaker (living quarters): An independent residential dwelling unit or living area designed for and occupied by no more than two persons, where at least one is employed to provide services or to look after goods, buildings, or property on the parcel on which the living quarters are located.

Carport: A shelter for vehicles consisting of a roof extended from a wall of a building or a partially open structure consisting of a roof and possibly walls.

Cemetery: Land used or intended to be used for burial of the human dead and dedicated for such purposes. Cemeteries include accessory columbaria and mausoleums, but exclude crematories.

Certificate of Zoning Compliance: A document signed by the director of community and economic development as a condition precedent to the commencement of a use or the construction/reconstruction of a structure or building which acknowledges that such use, structure or building complies with the provisions of this chapter.

Child care organization: A facility for the care of children under 18 years of age, as licensed and regulated by the state under Act No. 116 of the Public Acts of 1973 and the associated rules promulgated by the state department of social services. Such care organizations are classified below:

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

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

- (2) *Child caring institution:* A child care facility which is organized for the purpose of receiving minor children for care, maintenance, and supervision, usually on a 24-hour basis, in a building maintained for that purpose, and operates throughout the year. It includes a maternity home for the care of unmarried mothers who are minors, an agency group home, and institutions for mentally retarded or emotionally disturbed minor children. It does not include hospitals, nursing homes, boarding schools, or an adult foster care facility in which a child has been placed.
- (3) *Foster family home:* A private home in which at least one but not more than four minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.
- (4) *Foster family group home:* A private home in which more than four but less than seven children, who are not related to an adult member of the household by blood, marriage, or adoption, are provided care for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.
- (5) *Family day-care home:* 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, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. It includes a home that gives care to an unrelated child for more than four weeks during a calendar year.
- (6) *Group day-care home:* A private home in which more than six but not more than 12 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. It includes a home that gives care to an unrelated child for more than four weeks during a calendar year.

Church or Temple: A building, the primary use of which is regular assembly of persons for religious worship or services, together with accessory uses.

City attorney: The duly licensed person or firm employed by the city council and representing the city in legal matters.

City council: The City of Vassar City Council.

City engineer: The duly licensed person or firm employed by the city council and representing the city in engineering matters such as drainage, grading, paving, storm water management and control, utilities, and other related site engineering and civil engineering issues.

City planner: The person or firm employed by the city council and representing the city in planning, zoning and development related matters.

Clerk: The Clerk of the City of Vassar.

Clinic, Medical or Dental: An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists, or similar professionals. A medical clinic may incorporate customary laboratories and pharmacies incidental to or necessary for its operation or to the service of its patients, but may not include facilities for overnight patient care or major surgery.

Club or Fraternal Organization: An organization of persons for special purposes or for the promulgation of sports, arts, science, agriculture, literature, politics, or similar activities, but not operated for profit or to espouse beliefs or further activity that is not in conformance with the constitution of the United States or any laws or ordinances. The facilities owned or used by such organization may be referred to as a "club" in this chapter.

Co-location: Location by two or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, to reduce the overall number of structures required to support wireless communication antennas within the city.

Commercial use: An occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee for more than seven days during a calendar year.

Commercial vehicle: Any vehicle bearing or required to bear commercial license plates and which falls into one or more of the categories listed below:

- (1) Truck tractor.
- (2) Semi-trailer, which shall include flat beds, stake beds, roll-off containers, tanker bodies, dump bodies and full or partial box-type enclosures.
- (3) Vehicles of a type that are commonly used for the delivery of ice cream, milk, bread, fruit or similar vending supply or delivery trucks. This category shall include vehicles of a similar nature which are also of a type commonly used by electrical, plumbing, heating and cooling, and other construction oriented contractors.
- (4) Tow trucks.
- (5) Commercial hauling trucks.
- (6) Vehicle repair service trucks.
- (7) Snow plowing trucks.
- (8) Any other vehicle with a commercial license plate having a gross vehicle weight in excess of 10,000 pounds or a total length in excess of 22 feet.

Common elements: The portions of the condominium project other than the condominium units are defined as follows:

- (1) *General common elements* means and includes:
 - a. The land in the condominium project.

- b. The foundations, main walls, roofs, halls, lobbies, stairways entrances, exits, or communication ways.
 - c. The basements, flat roofs, yards and gardens, except as otherwise provided or stipulated;
 - d. The premises for the use of janitors or persons in charge of the condominium project, including lodging, except as otherwise provided or stipulated.
 - e. The compartments or installations of central services such as heating, power, light, gas, cold and hot water, refrigeration, air conditioning, reservoirs, water tanks, and pumps and the like.
 - f. The elevators, incinerators and, in general, all devices or installations existing for common use.
 - g. All other elements of the condominium project owned in common and intended for common use or necessary to the existence, upkeep and safety of the project.
- (2) *Limited common elements* means and includes those common elements which are reserved in the master deed for the exclusive uses of less than all of the co-owners.

Common land: A parcel or parcels of land with the improvements thereon, the use, maintenance and enjoyment of which are intended to be shared by the owners and/or occupants of individual building units in a subdivision or a planned unit development.

Common open space: An unoccupied area within a planned unit development which is reserved primarily for the leisure and recreational use of all the planned unit development residents, owners and occupants, and generally owned and maintained in common by them, often through a homeowners association.

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

Condominium act: Michigan Act 59 of 1978, as amended.

Condominium, consolidating master deed: The final amended master deed for a contractible condominium project, an expandable condominium project, or a condominium project containing convertible land or convertible space, which final amended master deed fully describes the condominium project as completed. See also "Condominium, master deed."

Condominium, contractible: A condominium project from which any portion of the submitted land or building may be withdrawn in pursuant to express provisions in the condominium documents and in accordance with the Vassar Code of Ordinances and the Condominium Act, Act 59 of the Public Acts of 1978, as amended.

Condominium, conversion: A condominium project containing condominium units, some or all of which were occupied before the establishment of the condominium project.

Condominium, convertible area: A unit or a portion of the condominium referred to in the condominium documents within which additional condominium units or general or limited common elements may be created pursuant to express provisions in the condominium documents and in accordance with the Vassar Code of Ordinances and the Condominium Act.

Condominium, expandable: A condominium project to which additional land may be added pursuant to express provision in the condominium documents and in accordance with the Vassar Code of Ordinances and the Condominium Act.

Condominium, general common element: The common elements other than the limited common elements. See also "Common Elements."

Condominium, limited common element: A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners. See also "Common Elements."

Condominium, master deed: The condominium document recording the condominium project as approved by the zoning administrator to which is attached as exhibits and incorporated by reference the approved bylaws for the project and the approved condominium subdivision plan for the project. See also "Condominium, Consolidating Master Deed."

Condominium, project: The equivalent to "subdivision," as used in this chapter and the subdivision regulations.

Condominium project, mobile home: A condominium project in which mobile or manufactured homes are intended to be located upon separate sites which constitute individual condominium units.

Condominium setbacks: Setbacks shall be measured as follows:

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

Condominium, site condominium project: A condominium project designed to function in a similar manner, or as an alternative to, a platted subdivision. A residential site condominium project shall be considered equivalent to a platted subdivision for purposes of regulation of this chapter.

Condominium subdivision plan: The site, survey and utility plans, and sections as appropriate showing the existing and proposed structures and improvements including the location thereof on the land. The condominium subdivision plan shall show the size, location, area, vertical boundaries, and volume for each unit comprised of enclosed air space. A number shall be assigned to each condominium unit. The condominium subdivision plan shall include the nature, location, and approximate size of common elements and any other information required by section 66 of Michigan Public Act 59 of 1978, as amended.

Condominium unit: That portion of the condominium project designed and intended for separate ownership as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use.

Condominium unit site: The area designating the perimeter within which the condominium unit must be built. After construction of the condominium unit, the balance of the condominium unit site shall become a limited common element. The term "condominium unit site" shall be equivalent to the term "lot," for purposes of determining compliance of a site condominium subdivision with provisions of this chapter pertaining to minimum lot size, minimum lot width, maximum lot coverage and maximum floor area ratio.

Contractor yard: A site on which a building or construction contractor stores equipment, tools, vehicles, building materials, and other appurtenances used in or associate with building or construction. A contractor's yard may include outdoor storage, or a combination of both.

Convalescent Home or Nursing Home: A nursing care facility, including a county medical care facility, but excluding a hospital or a facility created by Act No. 152 of the Public Acts of 1985, as amended, being sections 36.1 to 36.12 of the Michigan Compiled Laws, which provides organized nursing care and medical treatment to seven or more unrelated individuals suffering or recovering from illness, injury, or infirmity. See also "Housing for the elderly."

Convenience store: A one-story, retail store that is designed and primarily stocked to sell food, beverages, and other household supplies to customers who purchase only a relatively few items (in

contrast to a "supermarket"). Convenience stores are designed to attract greater volumes of stop-and-go traffic.

Convenience Store with Gasoline Sales: An establishment meeting the above definition of convenience store that also includes the sale of gasoline.

County drain commission: The Tuscola County Drain Commission.

County health department: The Tuscola County Health Department.

County road commission: The Road Commission of Tuscola County.

Court: An open space bounded on two or more sides by a building or buildings.

Cul-de-sac: A dead-end public or private street, generally short in distance, which terminates in a circular or semicircular section of street which allows for vehicle turnaround.

Curb cut: The entrance to or exit from a property provided for vehicular traffic to or from a public or private thoroughfare.

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

Day-care center: See "Child care organization."

Deceleration lane: An added roadway lane that permits vehicles to slow down and leave the main vehicle stream before turning.

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

Dedication: The intentional appropriation of land by the owner to public use.

Density: The number of dwelling units situated on or to be developed per net or gross acre of land. For purposes of calculating maximum density, only 25 percent of the acreage determined to be wetlands protected by the Goemaere-Anderson Wetland Protection Act, PA 203 of 1979, shall be calculated toward the total site acreage. All open bodies of water, land within the 100-year floodplain elevation, public rights-of-way and areas within overhead utility line easements are excluded from this calculation. Actual density shall also be determined by compliance with all setbacks, parking, open space and other site design requirements.

Detention Basin or Facility: A man-made or natural water collector facility designed to collect surface water in order to impede its flow and to release the water gradually at a rate not greater than that prior to the development of the property, onto natural or man-made outlets.

Development: Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations. A development may include a site plan, a plot (building) plan, a condominium plan, a plat or a manufactured housing community.

Diameter at Breast Height (dbh): The diameter measured at a height of 4.5 feet above the natural grade.

District, zoning: An area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements and height regulations, and other appropriate regulations.

Drainageways and Streams: Existing permanent or intermittent watercourses.

Drive-in: A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure, including customer communication facilities for

banks or other uses. A drive-in restaurant is distinct from a drive-through restaurant in that the majority of drive-in patrons consume food and beverages while in the vehicle and parked on the premises.

Drive-through Window Facilities: A business establishment in which all or at least ten percent of the business consists of providing goods and services from a drive-through window to patrons in motor vehicles.

Dumpster or Waste Receptacle: Any accessory exterior container used for the temporary storage of rubbish, pending collection, having the capacity of at least one cubic yard. Recycling stations and exterior compactors shall be considered to be dumpsters or waste receptacles.

Dwelling unit: A building, or enclosed portion thereof, designed for occupancy by one family for residential purposes and having independent living, eating, sleeping, cooking, and sanitary facilities. A dwelling unit shall include both manufactured units (mobile homes and modular homes) and site built units.

- (1) *Dwelling unit, attached:* A dwelling unit attached to one or more dwelling units by common major structural elements.
- (2) *Dwelling unit, detached:* A dwelling unit which is not attached to any other dwelling unit by any means.
- (3) *Dwelling unit, efficiency apartment:* A dwelling unit of not more than one room in addition to a kitchen and a bathroom.
- (4) *Dwelling unit, manufactured:* A dwelling unit which is substantially built, constructed, assembled, and finished off the premises upon which it is intended to be located.
- (5) *Dwelling unit, multiple-family:* A building designed exclusively for, and containing three or more dwelling units.
- (6) *Dwelling unit, single-family:* A detached building designed exclusively for, and containing one dwelling unit only.
- (7) *Dwelling unit, 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 include dwelling units constructed of precut materials and panelized wall, roof and floor sections when such sections require substantial assembly and finishing on the premises which are intended to serve as its final location.
- (8) *Dwelling unit, two-family or duplex:* A detached building designed exclusively for, and containing two dwelling units only.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-12. - Definitions E—F.

Easement: A right-of-way granted, but not dedicated, for limited use of private land for private, public or quasi-public purpose, such as for franchised utilities, a conservation easement or an access easement for a private road or service drive, and within which no permanent structures may be erected.

- (1) Easement, access;
- (2) Easement, maintenance;
- (3) Easement, private.

Endangered species habitat: An area where a plant or animal listed as an endangered species by state or federal agencies naturally grows or lives, or identified habitat sites designated on the Michigan Natural Features Inventory.

Entertainment facilities: An establishment which provides for activities such as but not limited to: bowling alleys, billiard and pool halls, game and video arcades, and tag games. This definition does not include those uses defined in section 86-287, special land use specific requirements.

Environmental contamination: The presence or release of a hazardous substance or other substance in a quantity that is or may become injurious to the environment or to the public health, safety, or welfare.

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

Essential public services: The erection, construction, alteration or maintenance by the public utilities or municipal department of underground, surface or overhead gas, electrical, cable television, steam, fuel or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, transformers, splice boxes, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith, but not including buildings or storage yards, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health safety or welfare. Essential services shall not include cellular telephone towers, commercial reception towers, air quality monitoring stations, school bus parking yards, sales or business offices, or commercial buildings or activities. Radio and television towers and cellular phone antennas are defined under "wireless communication facilities."

Essential public service building: A building or structure principal to an essential public service, such as a drop-off stations for residential recyclables, vehicle garages, telephone exchange buildings, electricity transformer stations or substations, gas regulator stations.

Essential public service building storage yard: An outdoor storage area used as a principal or accessory use for an essential public service.

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

Existing use: The use of a lot, parcel, or structure at the time of the enactment of the ordinance.

Facade: The exterior wall of a building exposed to public view.

Family: "Family" means either of the following:

- (1) A domestic family which is one or more persons living together and related by the bonds of blood, marriage or adoption, together with caretaker of the principal occupants and not more than one additional unrelated person, with all of such individuals being domiciled together as a single, domestic housekeeping unit in a dwelling, or
- (2) The functional equivalent of the domestic family which is persons living together in a dwelling unit whose relationship is of a permanent and distinct character with a demonstrable and recognizable bond which render the persons a cohesive unit. All persons must be cooking and otherwise operating as a single housekeeping unit.
- (3) This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization or group where the common living arrangement and/or the basis for the establishment of the functional equivalency of the domestic family is likely or contemplated to exist for a limited or temporary duration.
- (4) There shall be a rebuttable presumption enforceable by the building official/zoning administrator in the first instance that the number of persons who may reside as a functional equivalent family shall be limited to six. Such presumption may be rebutted by application for a special land use based upon the applicable standards in this chapter.

Family day-care home: See "child care organization" or "adult foster care facility."

Family foster care home: See "adult foster care facility" or "child care organization."

Farm: All of the contiguous neighboring or associated land operated as a single unit on which bona fide farming with acceptable farming practices is carried on directly by the owner-operator, manager or tenant farmer, by his own labor or with the assistance of members of his household or hired employees;

provided, however, that land to be considered a farm hereunder shall include a continuous parcel of five acres or more in area; provided further, farms may be considered as including establishments operated as bona fide greenhouses, nurseries, orchards, chicken hatcheries, poultry farms and apiaries; but establishments keeping or operating fur-bearing animals, public or private stables, commercial kennels, stone quarries or gravel or sand pits, shall not be considered farms hereunder unless combined with bona fide farm operations on the same continuous tract of land of not less than twenty acres. No farms shall be operated as piggeries, or for the disposal of garbage, public sewage, or rubbish, or as rendering plants, or for the slaughtering of animals except animals raised on the premises or maintained on the premises for at least one year for the consumption by persons residing on the premises. Under no circumstances shall wild, vicious or exotic animals be considered farm animals or products.

Farm building: Any structure or building other than a dwelling used or built on a farm.

Fence: An accessory structure constructed of wood, masonry, stone, wire, metal or any other material or combination of materials approved by the building department, intended for use as a barrier to property ingress or egress, a screen from objectionable vista, noise, and/or for decorative use.

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

Filling station: Bulk storage tanks of flammable and combustible liquids, compressed gases or liquefied petroleum gas (LP gas) for business use, retail use, wholesale, or wholesale distribution.

Financial services: Establishments such as banks, savings and loan institutions, credit unions, brokerage houses, and similar establishments.

Fitness center or health club: A facility which provides indoor exercise facilities, such as exercise machines and weight-lifting equipment, usually in a structured physical activity program supervised by professional physical fitness instructors or specialists in sports medicine. As defined herein, "personal fitness center" shall not include spectator seating for sports events. A personal fitness center may or may not be enclosed within a gym.

Flood or flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters or the unusual and rapid accumulation or runoff of surface waters from any source.

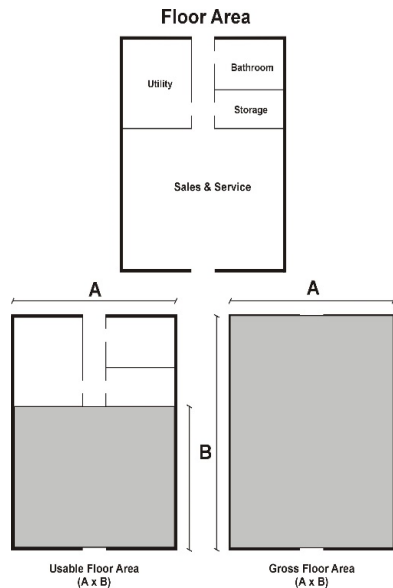
Flood hazard area: Land which on the basis of available floodplain information is subject to a one percent or greater chance of flooding in any given year.

Flood insurance rate map (firm): An official map of a community, on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood insurance study: The official report provided by the Federal Insurance Administration. The report contains flood profiles, the water surface elevation of the base flood, and may include a flood hazard boundary-floodway map.

Floodplain: Land at a specified elevation subject to periodic flooding that have been defined by the Federal Emergency Management Agency (FEMA) as flood hazard areas (i.e., lands within the 100-year flood boundary) in the flood insurance study for the city.

Floodway: The channel of a river or other watercourse and the adjacent land areas which must be reserved in order to discharge the base flood.



Floor area, gross or total: The sum of all gross horizontal areas of all floors of a building or buildings, measured from the outside dimensions of the outside face of the outside wall. Unenclosed porches, courtyards, or patios shall not be considered as part of the gross area except where they are utilized for commercial purposes such as the outdoor sale of merchandise.

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

Floor area, useable: For the purposes of computing parking requirements, the useable floor area shall be considered as that area to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, stairways, and elevator shafts, or for utilities for sanitary facilities, shall be excluded from this computation of useable floor area. Useable floor area shall be measured from the interior faces of the exterior walls, and total useable floor area for a building shall include the sum of the useable floor area for all floors.

Foot candle: A unit of illuminance or illumination, equivalent to the illumination produced by a source of one candle at a distance of one foot and equal to one lumen incident per square foot.

Foster family home and foster family group home: See "child care organization" or "adult foster care facility."

Frontage: The linear dimension measured along the public street right-of-way line or along the private road access easement.

Frontage road: A public or private drive which generally parallels a public street between the right-of-way and the front building setback line. Frontage roads can be one-way or bidirectional in design. The frontage road provides specific access points to private properties while maintaining separation between the arterial street and adjacent land uses. A road which allows parking or is used as a maneuvering aisle within a parking area is generally not considered a frontage road.

Funeral home or mortuary establishment: An establishment where the dead are prepared for burial or cremation and where wakes or funerals may be held. A funeral home or mortuary establishment shall not include crematoria.

Sec. 86-13. - Definitions G—H.

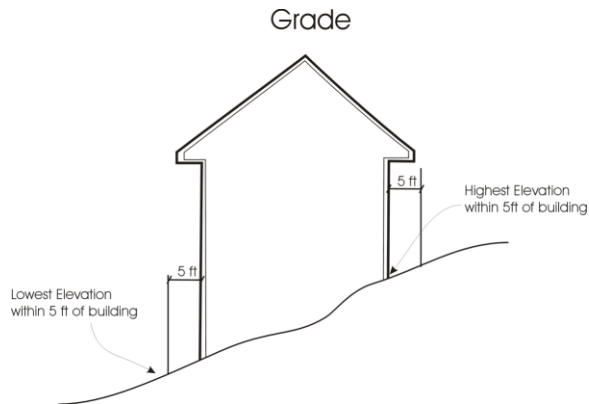
Garage, private or public: An accessory building or portion of a principal building designed or use solely for the storage of motor vehicles, boats, and similar vehicles owned and used by the occupants of the building to which it is accessory.

- (1) Garage, attached;
- (2) Garage, detached.

Garden center: An establishment with retail sales of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment and other home garden supplies and equipment.

Glare: The effect produced at the lot line by brightness sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

Golf course: A public or private open area of fairways, greens and rough and may include a clubhouse and related accessory uses provided that all structures and activities shall be an integral part of the intended main recreational land use. Further, all clubhouses, restaurants, pro shop facilities, etc., shall be secondary in nature to the golf course and may not be continued if the principal golf course activity shall cease or become the minor activity of the facility.



Grade, average: The arithmetic average of the lowest and highest grade elevations in an area within five feet of the foundation line of a building or structure.

Grade, finished: The lowest point of elevation between the exterior wall of the structure and a line five feet from the exterior wall of the structure.

Grade, natural: The elevation of the ground surface in its natural state, before construction begins.

Greenbelt: A landscaped area between the property line and the front yard building or parking setback line, this area also includes a front yard parking lot setback area.

Ground cover: The herbaceous plants that grows over an area of ground.

Group day-care home: See "child care organization" or "adult foster care facility."

Group foster care home: See "child care organizations" or "adult foster care facility."

Hard surface: For a single-family home, hard-surface consists of MDOT 22A or 23A gravel, brick, asphalt or concrete meeting the construction specifications of the city.

Harmful increase: An unnaturally high stage on a river, stream, or lake which causes, or may cause damage to property, threat to life, personal injury, or damage to land or water resources.

Hazardous substance: A chemical or other material that is or may become injurious to the public health, safety, or welfare, or to the environment. The term "hazardous substance" includes, but is not limited to, any of the following:

- (1) Hazardous substances as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law 96.510, 94 State. 2767.
- (2) Hazardous waste as defined in Part 111 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended.
- (3) Regulated substance as defined in Part 213 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended.
- (4) Hazardous substance as defined in Part 201 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended.
- (5) Used oil.
- (6) Animal waste or byproducts, or carcasses.

Hazardous uses and materials: Any uses which involve the storage, sale, manufacture, or processing of materials which are dangerous, combustible and/or produce either poisonous fumes or explosions in the event of fire. These uses include all high hazard uses listed in section 306 of the Basic Building Code/1990 edition, as amended or updated, prepared by the Building Officials & Code Administrators International, Inc.

Hazardous or toxic waste: Waste or a combination of waste and other discarded material (including but not limited to solid, liquid, semisolid, or contained gaseous material) which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to the following if improperly treated, stored, transported, disposed of, or otherwise managed: an increase in mortality, or an increase in serious irreversible illness, or serious incapacitating but reversible illness, or substantial present or potential hazard to human health or the environment.

Health care facility: A facility or institution, public or private, principally engaged in providing services for health maintenance, diagnosis and treatment of human disease, pain, injury, deformity, or physical condition including, but not limited to, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, tuberculosis hospital, out-patient clinic, dispensary, home health care agency, and bioanalytical laboratory or central services facility serving one or more such institutions, but excluding religious or other institutions that do not provide medical services.

Historical feature, significant: Any site or structure which is located in a designated local historic district or listed in the state or national register of historic places.

Home occupation: An occupation for gain or support conducted within a residence solely by members of a family residing on the premises and conducted entirely within the dwelling; provided that no article is sold or offered for sale except such as may be produced by members of the immediate family residing on the premises.

Hotel: A series of attached, semidetached, or detached rental units which provide lodging on a temporary basis, and are offered to the public for compensation. The term "hotel" shall include tourists cabins and homes, motor courts, and motels. A hotel shall not be considered or construed to be a multiple-family dwelling.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-14. - Definitions I—J.

Incinerator facilities: A facility that uses thermal combustion processes to destroy or alter the character or composition of medical waste, sludge, soil or municipal solid waste, not including animal or human remains.

Impact assessment: An assessment of the ecological, social, economic, and physical impacts of a project on and surrounding the development site.

Impervious surface: A man-made material which covers the surface of land and substantially reduces the infiltration of storm water to a rate of five percent or less. Impervious surface shall include, but not limited to: pavement, buildings, structures, decks, patios, gazebos, and pools.

Industrial, heavy: The basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

Industrial, light: The manufacture, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

Industrial park: A planned, coordinated development of a tract of land with two or more separate industrial buildings. Such development is planned, designed, constructed, and managed on an integrated and coordinated basis with special attention given to on-site vehicular circulation, parking, utility needs, building design and orientation, and open space.

In-home office: Meeting the same conditions as a home occupation, an office utilized by members of a family residing on the premises, and conducted entirely within the dwelling, for an occupation where no customers or clients are seen at the office.

Junk: Any motor vehicles, machinery, appliances, products or merchandise with parts missing, or other scrap materials that are damaged, deteriorated, or are in a condition which prevents their use for the purpose for which the product was manufactured.

Junkyard: See "salvage yard."

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-15. - Definitions K—L.

Kennel, commercial: Any lot or premises on which more than three pets (but not including wild, vicious or exotic animals), four months of age or older, are kept, either permanently or temporarily, for the purposes of breeding, boarding, training, sale, protection, hobby, pets or transfer.

Laboratory: An establishment devoted to research and experimental studies, including testing and analyzing, but not including manufacturing of any nature.

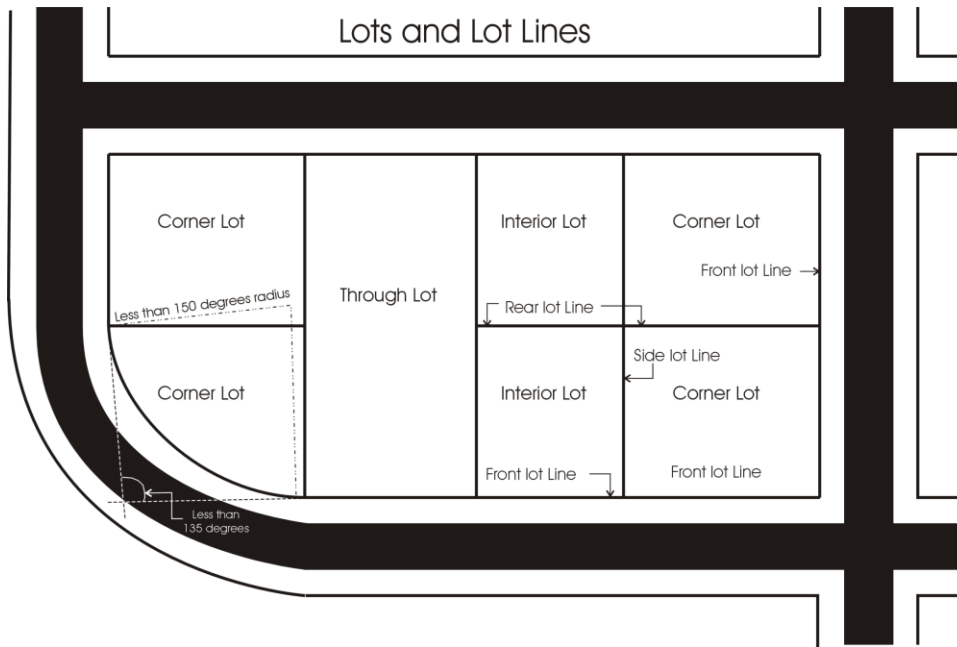
Landfill: A tract of land that is used to collect and dispose of "solid waste" as defined and regulated in Michigan Public Act 641 of 1979, as amended.

Livestock: Horses, cattle, sheep, goats, and other domestic animals normally kept or raised on a farm. Wild, vicious or exotic animals shall not be considered livestock.

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

Lodging house: See "boarding house."

Lot: A parcel of land occupied, or intended to be occupied, by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such yards and open spaces as are required under the provisions of this chapter. A lot may or may not be specifically designated as such on public records. For purposes of meeting the dimensional standards of this chapter, a lot does not include public rights-of-way or private road easements, but does include access easements for a service drive. A lot may be a single lot of record, a portion of a lot of record, a combination of contiguous lots of record, contiguous portions of lots of record, a parcel of land described by metes and bounds or a condominium lot. Note: A separate definition is provided for site condominiums.



Lot area, gross: The area contained within the lot lines or property boundary including street right-of-way if so included.

Lot area, net: The total area of a horizontal plane within the lot lines of a lot, exclusive of any public street rights-of-way or private road easements, or the area of any lake. The lot area shall be used in determining compliance with minimum lot area standards. See definition for "density."

Lot area, net buildable: The net lot area less areas devoted to floodplains or surface water bodies; water bodies being defined as areas greater than five acres in size (either before or after project implementation) which are periodically or permanently covered with water.

Lot, corner: Any lot having at least two contiguous sides abutting upon one or more streets, provided that the interior angle at the intersection of such two sides is less than 135 degrees. A lot abutting a curved street(s) shall be a corner lot if the arc has a radius less than 150 feet.

Lot, coverage: The part or percent of a lot occupied by buildings and accessory buildings.

Lot, depth: The horizontal distance between the front and rear lot lines, measured along the midpoint between side lot lines.

Lot, flag: A lot which is located behind other parcels or lots fronting on a public road, but which has a narrow extension to provide access to the public road.

Lot frontage: The length of the front lot line.

Lot, interior: A lot other than a corner lot which, with the exception of a "through lot," has only one lot line fronting on a street.

Lot line: A line bounding a lot, parcel, or general common element if there is no limited common element, which separates the lot, parcel, or general common element if there is no limited common element, from another lot, parcel, general common element if there is no limited common element, existing street right-of-way, approved private road easement, or ordinary high water mark.

Lot line, front: The lot line which separates the lot from the existing street right-of-way or approved private road easement that provides access to the lot.

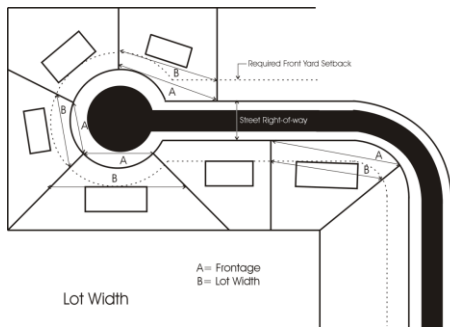
Lot line, rear: The lot line opposite and most distant from the front lot line. In the case of a triangular or otherwise irregularly shaped lot or parcel, it means an imaginary line ten feet in length entirely within the lot or parcel, parallel to and at a maximum distance from the front lot line.

Lot line, side: Any lot line other than a front or rear lot line.

Lot, nonconforming: A lot of record which does not meet the dimensional requirements of this chapter.

Lot of record: A tract of land which is part of a subdivision shown on a plat or map which has been recorded in the office of the register of deeds for Tuscola County, Michigan; or a tract of land described by metes and bounds which is the subject of a deed or land contract which is likewise recorded in the office of the register of deeds. When two lots in a recorded plat have been combined into a single building site, said lots shall be deemed a single lot of record for the purposes of this chapter.

Lot, through (also called a double frontage lot): An interior lot having frontage on two more or less parallel streets. In the case of a row of double frontage lots, all yards of said lots adjacent to streets shall be considered frontage, and front yard setbacks shall be provided as required.



Lot width: The horizontal distance between side lot lines measured parallel to the front lot line at the minimum required front setback line.

Lot, zoning: A single tract of land, located within a single block, which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. A zoning lot shall satisfy this chapter with respect to area, size, dimensions, and frontage as required in the district in which the zoning lot is located. A zoning lot, therefore, may not coincide with a lot of record as filed with the county register of deeds, but may include one or more lots of record, or portions thereof.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-16. - Definitions M—N.

Manufactured housing: A dwelling unit which is designed for long-term residential use and is wholly or substantially constructed at an off-site location. Manufactured housing includes mobile homes and modular housing units.

Manufactured Housing or Mobile Home Park: A parcel or tract of land under the control of a person, group or firm upon which three or more mobile homes are located on a continual nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made, 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 a temporary trailer park.

Marina: A public or private facility that is owned or operated by a person, extends into or over an inland lake or stream, and offers service to the public or members of the marina for docking, loading, or other servicing of recreational watercraft.

Master Deed and Consolidating Master Deed: See "condominium, master deed."

Master plan: The City of Vassar Master 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, as adopted by the city planning commission and council.

Mezzanine: An intermediate floor in any story occupying not to exceed 1/3 of the floor area of such story.

Microbrewery or Microbrewer: A brewery that produces beer and ale for on-site consumption and retail and wholesale distribution. A microbrewery may be permitted as an accessory use to a restaurant or a bar, tavern or lounge. See "restaurant" and "bar, tavern, lounge."

Mini- or self-storage warehouse or facility: A building or group of buildings in a controlled-access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled-access stalls or lockers for the storage of customer's goods or wares.

Mobile home: A structure, transportable in one or more sections, which is built on a chassis and designed to be used with or without a permanent foundation as a dwelling when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. A mobile home shall not include modular homes, motor homes, or travel trailers.

Modular home: A dwelling which consists of prefabricated units transported to the site on a removable undercarriage or flat-bed and assembled for permanent location on the lot.

Motel: A series of attached, semi-detached, or detached rental units containing a bedroom, bathroom and closet space which provide for overnight lodging and are offered to the public for compensation and cater primarily to the public traveling by motor vehicle. A motel may include a restaurant or cocktail lounge, public banquet halls, ballrooms or meeting rooms.

Natural features: Features including soils, wetlands, floodplain, water bodies, topography, vegetative cover, and geological formations.

Non-conforming building or structure: A building or portion thereof, existing at the effective date of this chapter, as amended, and that does not conform to the provisions of this chapter in the district in which it is located.

Non-conforming lot: A lot lawfully existing at the effective date of this chapter, or amendments thereto, that does not conform to the dimensional standards for the district in which it is located.

Non-conforming use: A use which lawfully occupied a building or land at the effective date of this chapter, as amended, and that does not conform to the use regulations of the district in which it is located.

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

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

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-17. - Definitions O—P.

Obscuring screen: A visual barrier between adjacent areas or uses. The screen may consist of structures, such as a wall or fence, or living plant material.

Occupancy, change of: A discontinuance of an existing use and the substitution of a use of a similar or different kind or class, or the expansion of a use.

Occupied: Used in any manner at the time in question.

Office: A building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations.

Offset: The distance between the centerlines of driveways or streets across the street from one another.

Off-street parking lot: A facility providing vehicular parking spaces along with adequate drives and aisles, for maneuvering, so as to provide access for entrance and exit for the parking of more than two vehicles.

Open front store or restaurant window: 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, such as ice cream and yogurt restaurants serving to patrons through a walk-up window. The term "open front store" shall not include automobile repair establishments or automobile service stations. See also "restaurant."

Open space: An area that is intended to provide light and air, and is designed for either environmental, scenic, or recreational purposes. Open space may include, lawns, decorative planting, walkways, gazebos, active and passive recreation areas, playgrounds, fountains, swimming pools, woodlands, wetlands and water courses. Open space shall not be deemed to include driveways, parking lots or other surfaces designed or intended for vehicular travel, but may include a recreational clubhouse or recreation center.

Ordinary high water mark: The line between upland and bottomland which persists through successive changes in water levels below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface soil, and the vegetation.

Outdoor display, sales, or storage: Outdoor display, sales, or storage that is accessory to a permitted commercial use or a business operated substantially outside of any building, including: retail sales of garden supplies and equipment (including but not limited to, trees, shrubbery, plants, flowers, seed, topsoil, trellises, and lawn furniture); sale of building and lumber supplies; automobiles, recreational vehicles, boats, mobile homes, garages, swimming pools, playground equipment, mowing equipment, farm implements, construction equipment and similar materials or equipment; rental and leasing establishments; and year-round flea markets farmer's markets, roadside stands, and auctions.

Parapet wall: An extension of a building wall above the roof which may serve to screen roof-mounted mechanical equipment.

Parcel or tract: A continuous area of acreage of land which can be described as provided for in the Michigan Land Division Act.

Parking lot, off-street: A facility providing vehicular parking spaces, along with adequate drives and aisles for maneuvering to provide access for entrance and exit for the parking of more than three vehicles.

Parking space: An area of definite length and width, said area shall be exclusive of drives, aisles or entrances giving access thereto, and which is accessible for the parking of permitted vehicles.

Pawnshop: Any business that loans money on deposit of personal property or deals in the purchase or possession of personal property on condition of selling the same back again to the pledger or depositor, or loads or advances money on personal property by taking chattel mortgage security thereon, and takes or receives such personal property.

Performance guarantee: A financial guarantee to ensure that all improvements, facilities, or work required by this chapter will be completed in compliance with this chapter, regulations and the approved plans and specifications of a development.

Person: Any individual, partnership, corporation, trust, firm, joint stock corporation, association or other organization; any governmental body including federal, state, county or local agencies.

Personal services establishment: A business providing personal services to patrons including but not limited to: small electronics and appliance repair shops; shoe repair; dressmakers and tailors; hair styling, piercing, and tanning salons; licensed massage and tattoo parlors; travel agencies; and decorating and upholstery shops.

Pet: A domesticated dog, cat, bird, gerbil, hamster, guinea pig, turtle, fish, rabbit, or other similar animal that is commonly available and customarily kept for pleasure or companionship.

Pet boarding facility: A facility for the daily observation and care of dogs, cats, or other household pets, but not including farm animals or livestock, which may provide ancillary services such as grooming and training, adoption and rescue, but not breeding. The facility may be operated for profit and may offer overnight stays but does not include the long-term raising of animals more commonly associated with a kennel.

Petitioner, applicant or developer: A person, as defined herein, who may hold any recorded or unrecorded ownership or leasehold interest in land. This definition shall be construed to include any agent of the person.

Planned unit development: A form of land development comprehensively planned as a single development which permits flexibility in building, siting, useable open spaces, and the preservation of significant natural features. A PUD may contain a mix of housing types and non-residential uses.

Planning commission: The City of Vassar Planning Commission, as duly created under the Michigan Planning Enabling Act, Act 33 of 2008.

Plat: A map or chart of a subdivision of land which has been approved with the Michigan Land Division Act, Michigan Public Act 288 of 1967, as amended.

Playscape: A set of playground equipment that is designed in an integrated pattern.

Pool or billiard hall: An establishment wherein the substantial or significant portion of all useable floor area is devoted to the use of pool or billiard tables. See "recreation facility (indoor)."

Ponds and lakes: Natural or artificial impoundments that retain water year round.

Primary containment facility: A tank, pit, container, pipe, or vessel for first containment of a hazardous substance.

Principal building or structure: A building or structure in which is conducted the primary use of the lot upon which it is situated.

Principal use: The primary use to which the premises are devoted and the purpose for which the premises exist.

Public and quasi-public institutional buildings, structures, and uses: Buildings, structures, and uses of governmental agencies and nonprofit organizations including, but not limited to, office buildings, police stations, fire stations, municipal parking lots, post offices, libraries, museums, and community centers.

Public park: Any developed land intended for active recreational pursuits, within the jurisdiction and control of a governmental agency.

Public open space: Any primarily undeveloped land, intended for passive recreational pursuits, within the jurisdiction and control of a governmental agency.

Public utility: Any person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under federal, state or municipal regulations to the public: gas, steam, electricity, sewage disposal, public water, telephone lines, cable television services, communication, telegraph, and construction and maintenance of streets.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-18. - Definitions Q—R.

Reception antenna: An exterior apparatus capable of receiving communications for radio or television purposes including satellite dishes and other satellite reception antennae but excluding facilities considered to be essential public services or those preempted from city regulation by applicable state, Federal Communication Commission (FCC), or federal laws or regulations.

Recognizable and substantial benefit: A clear benefit, both to the ultimate users of the property in question and to the community, which would reasonably be expected to accrue, taking into consideration the reasonably foreseeable detriments of the proposed development and uses(s). Such benefits may include: long-term protection or preservation of natural resources and natural features, historical features, or architectural features; and elimination of or reduction in the degree of nonconformity of a non-conforming use or structure.

Recreational equipment and vehicles: Portable structures, machines or devices, self propelled or towable by another vehicle, capable of moving upon the highways without special movement permits; primarily designed, constructed or modified to provide temporary living quarters or for recreational camping, or travel use and such trailers and other devices as shall be primarily intended for such transporting of all such structures, machines, or devices. Motorcycles, bicycles, minibikes and such vehicles as jeeps, four-wheel drives and pickup trucks with attached cabs which do not exceed the roofline of the vehicle are specifically excluded from the provisions of this chapter. This does not include a temporary building, structure or use, permitted to exist during periods of construction of the principal building, structure or use. Recreational equipment and vehicles include but are not limited to:

- (1) *Travel trailer:* A portable vehicle on a chassis, which is designed to be used as a temporary dwelling during travel, recreational, and vacation uses, and which may be identified as a "travel trailer" or a "fifth wheel" by the manufacturer. Travel trailers generally include self-contained sanitary, water, and electrical facilities. On an industry-wide basis, this type of recreational vehicle is classified as a non-motorized recreational vehicle.
- (2) *Pickup camper:* A structure designed to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling during the process of travel, recreational, and vacation uses. On an industry-wide basis, this type of recreational vehicle is classified as a non-motorized recreational vehicle.
- (3) *Motor home:* A recreational vehicle intended for temporary human habitation, sleeping, and/or eating, mounted upon a chassis with wheels and capable of being moved from place to place under its own power. Motor homes generally contain sanitary, water, and electrical facilities. On an industry-wide basis, this type of recreational vehicle is classified as either a class A or class B recreational vehicle. A class A or bus type recreational vehicle has the luggage compartment below the living quarter. The class C recreational vehicle is a van with the bed over the cab and is much larger than a passenger van due to the bed over the cab.
- (4) *Van/camper:* A recreational vehicle intended for temporary human habitation, sleeping and/or eating. This class of recreational vehicles includes conversion vans and camper vans which may contain refrigerator as well as water and electrical facilities. This class closely resembles passenger vans, but some models may be taller to allow for extra head room. On an industry-wide basis, this type of recreational vehicle is classified as a class B recreational vehicle.
- (5) *Folding tent trailer:* A folding structure, mounted on wheels and designed for travel and vacation use.
- (6) *Boats and boat trailers:* Boats, floats, rafts, canoes, plus the normal equipment to transport them on the highway.
- (7) *Other recreational equipment:* Includes snowmobiles, jet skis, all terrain or special terrain vehicles, utility trailers, plus the normal equipment used to transport them on the highway.

Recreation facility (indoor): An establishment which provides indoor exercise facilities and/or indoor court and field sports facilities, and which may include spectator seating in conjunction with the sports

facilities such as skating rinks, swimming pools, indoor golf facilities and bowling alleys. Auditoriums and stadiums are not included.

Recreation facility (outdoor): A publicly or privately owned facility designed and equipped for the conduct of sports activities and other customary recreational activities outside of an enclosed building such as, but not limited to tennis courts, swimming pools, archery ranges, golf courses, miniature golf courses, golf driving ranges, skating rinks, baseball fields, batting cages, soccer fields, and campgrounds.

Recreational vehicle park: A campground designed to accommodate those recreational vehicles which are used as a temporary dwelling and are not parked more than six consecutive months in any one recreational vehicle park.

Recycling center: A building in which used material is separated and processed prior to shipment to for use in the manufacturing of new products. A recycling center is distinct from a junkyard or a salvage yard.

Refuse collection station: Any exterior space which is not a principal use for containers, structures, or other receptacle intended for temporary storage of solid waste materials.

Restaurant: Any establishment whose principal business is the sale of food and beverages to the customer in a ready-to-consume state, and whose method of operation is characteristic of a carry-out, drive-in, drive-through, fast food, standard restaurant, or bar/lounge, or combination thereof, as defined below:

- (1) *Restaurant, carry-out:* A business establishment whose method of operation involves sale of food, beverages, and/or frozen desserts in disposable or edible containers or wrappers in a ready-to-consume state for consumption primarily off the premises.
- (2) *Delicatessen:* A restaurant typically offering both carry-out and seating [for the serving] of sandwiches and other foods and beverages. A delicatessen also typically offers meats, cheese and prepared foods on a retail basis.
- (3) *Restaurant, drive-in:* A business establishment whose method of operation involves delivery of prepared food so as to allow its consumption in a motor vehicle or elsewhere on the premises, but outside of an enclosed building. A drive-in restaurant may also have interior seating.
- (4) *Restaurant, drive-through:* A business establishment whose method of operation involves the delivery of the prepared food to the customer in a motor vehicle, typically through a drive-through window, for consumption off the premises.
- (5) *Restaurant, fast-food:* A business establishment whose method of operation involves minimum waiting for delivery of ready-to-consume food to the customer at a counter or cafeteria line for consumption at the counter where it is served, or at tables, booths, or stands inside the structure or out, or for consumption off the premises, but not in a motor vehicle at the site.
- (6) *Restaurant, open front window:* See "Open front store or restaurant."
- (7) *Restaurant, standard:* A business establishment whose method of operation involves either the delivery of prepared food by waiters and waitresses to customers seated at tables within a completely enclosed building or the prepared food is acquired by customers at a cafeteria line and is subsequently consumed by the customers at tables within a completely enclosed building.
- (8) *Bar/lounge/tavern:* A type of restaurant which is operated primarily for the dispensing of alcoholic beverages, although the sale of prepared food or snacks may also be permitted. If a bar or lounge is part of a larger dining facility, it shall be defined as that part of the structure so designated or operated. The hours of operation may extend beyond 11:00 p.m.; thereby differentiating it from a standard restaurant. A brewpub or microbrewery that operates beyond 11:00 p.m. is considered a bar, tavern or lounge.

Retail businesses with adult novelty items: An establishment having less than ten percent of all usable interior, retail, wholesale, or warehouse space dedicated to the distribution, display, or storage of books, magazines, and other periodicals and/or photographs, drawings, slides, films, video tapes, recording tapes, and/or novelty items, including adult novelty items as defined in subsection 86-287(19),

which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined and regulated under subsection 86-287(1), adult entertainment regulated uses. If an establishment has ten percent or more of all usable interior, retail, wholesale, or warehouse space dedicated as provided above, such use is subject to the regulations in subsection 86-287(1).

Retail store: Any building or structure in which goods, wares, or merchandise are sold to the consumer for direct consumption and not for resale.

Retention basin: A pond, pool, or basin used for the permanent storage of storm water runoff.

Right-of-way: A street, alley or other thoroughfare or easement intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or other facility or use, permanently established for passage of persons or vehicles and under the legal authority of the agency having jurisdiction over the right-of-way.

Riparian: Relating to or living or located on the bank of a natural watercourse, such as a river or lake.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-19. - Definitions S—T.

Salvage: Material to be used for further use, recycling, or sale.

Salvage yard or junk yard: Any principal or accessory use where salvage or its component parts are bought and sold, exchanged, stored, baled, packed, disassembled, separated, or handled, including but not limited to: scrap iron and other metals, paper, rags, rubber tires and bottles. A "salvage yard" includes automobile wrecking yards and includes any area of more than 200 square feet for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings. The term "salvage yard" does not include drop-off stations for residential recyclables.

Satellite dish antenna: A device incorporating a reflective surface that is solid, open mesh, or bar configured; is in the shape of a shallow dish, parabola, cone or horn. Such a device shall be used to transmit and/or receive television, radio, or other electromagnetic communication signals between terrestrially and/or extra terrestrially based sources. This definition includes, but is not limited to, what are commonly referred to as satellite earth stations, TVROs (television reception only satellite antennas), and satellite microwave antennas.

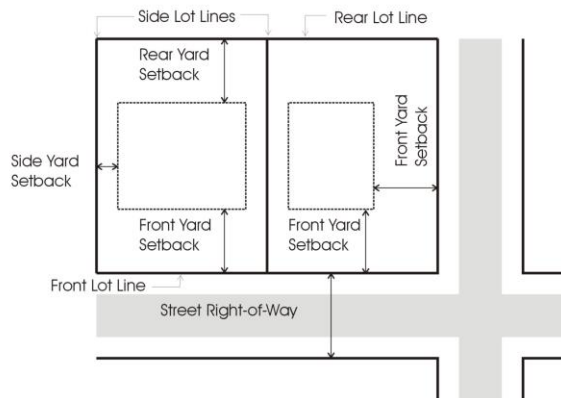
Screening: The method by which a view of one site from an adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms, or other features.

Secondary containment facility: A second tank, catch basin, pit, or vessel that limits and contains a liquid or hazardous substance leaking or leaching from a primary containment area. Containment systems shall be constructed of materials of sufficient thickness, density and composition to prevent future environmental contamination of land, ground water or surface water.

Senior housing: Housing constructed for the exclusive use of an individual 55 years of age or older, or for a couple where at least one of the individuals is over the age of 55. Housing for the elderly may include the types of facilities listed below.

- (1) *Senior Apartments (independent care):* Multiple-family dwelling units where occupancy is restricted to persons 55 years of age or older.
- (2) *Congregate care facilities or assisted living housing:* A semi-independent, assisted living, housing facility containing congregate kitchen, dining, and living areas, but with separate sleeping rooms. Such facilities typically provide special support services, such as transportation and limited medical care.
- (3) *Dependent housing facilities:* Facilities such as convalescent homes and nursing homes which are designed for older persons who need a wide range of health and support services, including personal nursing care.

Service drive: A drive which generally parallels the public right-of-way but runs along the back of a land use which fronts on the public street. A service drive may provide access to properties on both sides, and vary in width and design.



Setback, required: The required minimum horizontal distance between a front, rear, or side lot line and a building line, for the purpose of defining limits within which no building or structure, or any part thereof, shall be erected or permanently maintained. Separate definitions for condominium projects are listed under "condominium, setbacks."

Setback, parking lot: The minimum horizontal distance between the street right-of-way or property line and the near edge of a parking lot, excluding necessary and/or approved driveways, frontage roads and landscaping areas. This setback shall remain as open space as defined herein, unless otherwise provided for in this chapter.

Sewer: A public sanitary sewage disposal system approved by the state department of public health.

Shopping center: A grouping of two or more business establishments developed in accordance to an overall plan and designed and built as an interrelated project. Buildings constructed on outlots shall not be considered part of the shopping center unless access and parking easements are provided. See also "supercenter" and "supermarket."

Shoreline: The edge of a body of water measured at the ordinary high water mark.

Significant natural, historical, and architectural features: Significant architectural features, drainageways and streams, endangered species habitat, floodplains, hedgerows, significant historical features, landmark trees, ponds and lakes, steep slopes, wetlands, and woodlots.

Sight distance: The length of roadway visible to the driver. Generally related to the distance or time (perception/reaction time) sufficient for the driver to execute a maneuver (turn from driveway or side street, stop or pass) without striking another vehicle or object in the roadway. Required sight distance shall be based on the standards of the county road commission.

Sign: See definitions in article IV, division 4, signs.

Site condominium: See "Condominium, site condominium project."

Site plan: A scaled drawing(s) illustrating existing conditions and containing the elements required herein as applicable to the proposed development to ensure compliance with zoning provisions.

Small scale production establishment: An establishment where shared or individual tools, equipment, machinery are used to make or grow products on a small scale, including design, production, processing, printing, assembly, treatment, testing, repair, packaging as well as incidental storage, retail or wholesale sales and distribution of products. Included, but not limited to: vegetable farming, making of electronics, food products, prints, leather products, jewelry, clothing/apparel, metal work, furniture, glass, ceramic, and craft beverages. Small scale establishments must have an accessory use, such as retail sales, wholesale trade, and training or education.

Solar panels: An energy system which converts solar energy to usable thermal, mechanical, chemical or electrical energy to meet all or a significant part of a structures energy requirements.

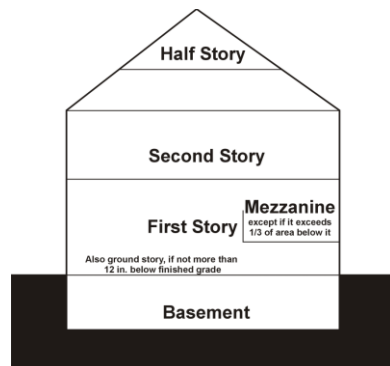
Special land use: A use of land for an activity which, under usual circumstances, could be detrimental to other land uses permitted within the same district but which may be permitted because of circumstances unique to the location of the particular use and which use can be conditionally permitted without jeopardy to uses permitted within such district. A special land use requires that a special land use approval be obtained.

Stable, private: A stable for the keeping of horses for the use of the residents of the principal use and shall not include the keeping of horses for others, or for commercial boarding, and with a capacity for not more than two horses; provided, however, that the capacity of a private stable may be increased if the lot whereon such stable is located contains at least one acre of land for each additional horse stabled thereon.

Stable, public or commercial: A stable other than a private stable, with a capacity for more than two animals, and carried on within an unplatted tract of land of not less than forty (40) acres for the purposes of rearing and housing horses, mules, ponies or for riding and training academies.

State-licensed adult and child residential care facility: See "adult care facility" or "child care organization."

Steep slopes: Slopes with a grade of 12 percent or more.



Story: That part of a building, except a mezzanine as defined herein, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. A story thus defined shall not be counted as a story when more than 50 percent, by cubic content, is below the height level of the adjoining ground. A basement shall not be counted as a story.

Street: Any public or private thoroughfare or right-of-way, other than a public or private alley, dedicated to or designed for travel and access to any land, lot or parcel, whether designated as a road, avenue, highway, boulevard, drive, lane, place, court, or any similar designation. Various types of streets are defined below.

- (1) **Arterial street or roadway:** A street or roadway which carries high volumes of traffic at relatively high speeds, and serves as an avenue for circulation of traffic onto, out of, or around the Vassar area. An arterial roadway may also be defined as a major thoroughfare, major arterial or minor arterial roadway. Since the primary function of the regional arterial roadway is to provide mobility, access to adjacent land uses may be controlled to optimize capacity along the roadway. Arterial roadways are listed in the city master plan.
- (2) **Collector street:** A street or road whose principal function is to carry traffic between minor and local roads and arterial roadways but may also provide direct access to abutting properties. Collector streets are classified in the city master plan.
- (3) **Cul-de-Sac:** A street or road that terminates in a vehicular turnaround.

- (4) *Expressways*: Limited access interregional arterial routes, including US- 23, designed exclusively for unrestricted movement, have not private access, and intersect only with selected arterial roadways or major streets by means of interchanges engineered for free-flowing movement.
- (5) *Highways*: Streets and roadways which are under the jurisdiction of the state department of transportation. Highways may also be classified as expressways or arterial roadways.
- (6) *Local or minor street*: A street or road whose principal function is to provide access to abutting properties and is designed to be used or is used to connect minor and local roads with collector or arterial roadways. Local streets are designed for low volumes and speeds of 25 mph or less, with numerous curb cuts and on-street parking permitted.
- (7) *Private road*: Any road or thoroughfare for vehicular traffic which is to be privately owned and maintained and has not been accepted for maintenance by the city, the county, the state or the federal government, but which meets the requirements of this chapter or has been approved as a private road by the city under any prior ordinance.
- (8) *Public street*: Any road or portion of a road which has been dedicated to and accepted for maintenance by the city, the county, state, or the federal government.

Structure: Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

Structural addition: Any alteration that changes the location of the exterior walls or area of a building.

Subdivision: A subdivision as defined in the city subdivision control ordinance.

Subdivision plat: The division of a tract of land for the purpose of sale or building development, in accordance with the Subdivision Control Act, Michigan Public Act 288 of 1967, as amended.

Substantial improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either, (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the national register of historic places or the state inventory of historic places.

Supercenter: A retail establishment selling supermarket items as well as those items typically found in a department or discount store.

Supermarket: A retail establishment selling groceries, dry goods, frozen foods and similar items typically within a building of over 5,000 square feet.

Swimming pool: Any permanent, non-portable structure or container located either above or below grade designed to allow holding of water to a depth of greater than 24 inches, intended for swimming, bathing or relaxation. The definition of swimming pool includes spa, hot tubs and similar devices. A swimming pool shall be considered an accessory structure for purposes of computing lot coverage.

Temporary building, structure, or use for construction: A building, structure or use permitted to exist for a specified period during periods of construction or renovations on the principal building, structure or use.

Temporary uses and seasonal events: Seasonal outdoor events intended for a limited duration within any zoning district. Such a temporary use shall not be interpreted to be a continuance of a nonconforming use. Temporary uses and seasonal sales events may include carnivals, circuses, farmers market, art fairs, craft shows, sidewalk sales, antique sales, Christmas tree sales, flower sales, flea markets and similar events, and may also include temporary residential uses.

Theater: An enclosed building used for presenting performances or motion pictures which are observed by paying patrons from seats situated within the building. ("Theater" is distinct from adult theater defined separately under adult regulated uses).

Therapeutic massage: The application of various techniques to the muscular structure and soft tissues of the human body performed by a massage practitioner. A massage practitioner must satisfy two or more of the following requirements:

- (1) The person is a member of the current Professional Level in the American Massage Therapy Association (AMTA), Associated Bodywork and Massage Professionals (ABMP), International Myomassethics Federation (IMF) or other recognized massage association with equivalent professional membership standards consisting of at least 500 hours of training including: theory, practice and techniques of massage (minimum 300 hours); human anatomy and physiology (minimum 100 hours); and professionalism (minimum 100 hours). Instruction in this area shall include training in contraindications, benefits, ethics and legalities of massage, building and marketing a practice and other electives as appropriate.
- (2) The person is a graduate of a school of massage licensed by the state or holder of a current license from another state which requires, at a minimum, the training set forth in paragraph (1) above.
- (3) The person has completed a massage training program at a community college, college, university or technical school located in the United States, where such program requires at a minimum, the training set forth in (1) above.
- (4) The person has passed the National Certification Exam for Massage and Bodywork Practitioners.

Topographical map: A map showing existing physical characteristics, with contour lines at sufficient intervals to permit determination of proposed grades and drainage.

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

Traffic impact study: The analysis of the potential traffic impacts generated by a proposed project. This type of study and level of analysis will vary dependent upon the type and size of the project.

- (1) *Rezoning traffic impact study:* A traffic impact study which contrasts typical uses permitted under the current and requested zoning or land use classification. This study usually includes a trip generation analysis and a summary of potential impacts on the street system.
- (2) *Traffic impact assessment:* A traffic impact study for land uses which are not expected to have a significant impact on the overall transportation system but will have traffic impacts near the site. This type of study focuses on the expected impacts of a development at site access points and adjacent driveways.
- (3) *Traffic impact statement:* A traffic impact study which evaluates the expected impacts at site access points and intersections in the vicinity.
- (4) *Regional traffic impact study:* A comprehensive traffic impact study for land uses expected to have a significant long term impact on the street system. Such a study evaluates the impacts over a long period and may involve analyses of alternate routes. This type of study is typically prepared using a computer model which simulates traffic patterns.

Truck terminal: A structure to which goods, except raw or unprocessed agricultural products, natural minerals, or other natural resources, are delivered for immediate distribution to other parts of the city, for delivery to other intrastate or interstate destinations, or for distribution involving transfer to other modes of transportation.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-20. - Definitions U—V.

Underground storage tank system: A tank or combination of tanks, including underground pipes connected to the tank or tanks, which is, was, or may have been used to contain an accumulation of hazardous substances, as defined in Part 213 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended.

Urgent care center or emergency medical station: A facility offering immediate or emergency health care treatment and can be considered either a principal or accessory use.

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

Used oil: Any oil that had been refined from crude oil, used, and as a result of such use contaminated by physical or chemical impurities.

Variance: A relaxation or modification of the requirements of this chapter as authorized by the ZBA under the provisions of this chapter and Act 207 of the Public Acts of 1921, as amended.

Veterinary clinic, office or hospital: A facility which provides diagnosis, treatment, surgery and other veterinary care for domestic animals, horses and livestock provided that all activities are conducted within a completely enclosed building.

(Ord. No. [2019-06](#), 1-6-20).

Sec. 86-21. - Definitions W—Z.

Wall: A structure constructed of masonry or brick of definite height and location to serve as an obscuring screen in carrying out the requirements of this chapter.

Warehouse: A building used primarily for storage of goods and materials.

Well: A permanent or temporary opening in the surface of the earth for the purpose of removing fresh water, testing water quality, measuring water characteristics, liquid recharge, waste disposal, or dewatering purposes during construction, as defined in the Michigan Water Well Construction and Pump Installation Code, Part 127, Act 368 of the Public Acts of 1978, as amended, and the rules promulgated pursuant thereto.

Wellhead protection area (WHPA): The area around and upgradient from the public water supply wells delineated by the ten-year travel time contour capture boundary.

Wellhead protection overlay zone: The area outlined on the wellhead protection overlay zone map.

Wetland: Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh. Locations of wetlands are generally shown on the natural features map of the master plan.

Wetland, regulated: Certain wetlands regulated by the Michigan Department of Environmental Quality (MDEQ) under the provisions of Act 203 of the Public Acts of 1979, as amended, and generally defined as land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh and which is any of the following:

- (1) Contiguous to an inland lake or pond, or a river or stream.
- (2) Not contiguous to an inland lake, pond, river or stream, and more than five acres in size.
- (3) Not contiguous to an inland lake or pond, or a river or stream; and five acres or less in size if the MDEQ determines that protection of the area is essential to the preservation of the natural

resources of the state from pollution, impairment, or destruction and the department has so notified the property owner.

Wholesale sales: The sale of goods generally in large quantities and primarily to customers engaged in the business of reselling the goods.

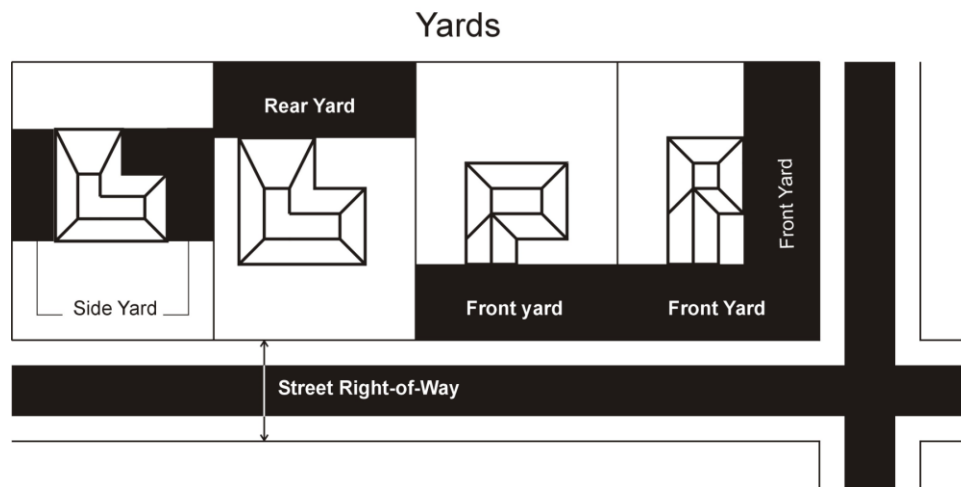
Wind energy system, large: A tower mounted wind energy system that converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system.

Wind energy system, medium: A tower mounted wind energy system that converts wind energy into electricity through the use of equipment which includes any includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system and does not exceed 250 kilowatts. The total height does not exceed 150 feet.

Wind energy system, small: A tower mounted wind energy system that converts wind energy into electricity through the use of equipment which includes any includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. It does not exceed 30 kilowatts. The total height does not exceed 120 feet.

Wireless communication facilities: All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices, personal communication transmission equipment and exchanges, microwave relay towers, telephone transmission equipment building and commercial mobile radio service facilities. This definition does not include "reception antenna" for an individual lot as otherwise defined and regulated in this chapter.

Woodlot: An area of 1/4 acre or more containing eight or more trees per 1/4 acre, such trees having a four-inch or greater diameter at a four-foot height.



Yard, required: A required open space on the same lot with a principal building, unoccupied and unobstructed by any building or structure or portion thereof from the ground upward, except as otherwise provided in this chapter.

Yard, front: A required front yard is an open space extending the full width of the lot, the uniform depth of which is the minimum prescribed horizontal setback distance measured at right angles to the front lot line and is unoccupied space between the front lot line and the nearest line of the principal building, excepting steps and unenclosed porches.

Yard, rear: A required rear yard is an open area extending across the full width of the lot, the uniform depth of which is the minimum prescribed horizontal setback distance measured at right angles to the rear lot line, describing an unoccupied space between the rear lot line and the nearest line of the principal

building. In the case of a corner lot, the rear yard may be opposite either street frontage, but there shall be only one rear yard.

Yard, side: A required side yard is an open unoccupied area between a principal building and the side lot lines, extending from the front yard area to the rear yard area. The width of the required side yard shall be measured from the center of the nearest wall of the building or structure to the nearest point of the side lot line.

Zero lot line: The location of a building on a lot in such a manner that one or more of the buildings sides rests directly on the lot line.

Zoning Act: The Michigan Zoning Enabling Act, Public Act 110 of 2006.

Zoning board of appeals (ZBA): The City of Vassar Zoning Board of Appeals created under The Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

Zoning district: A portion of the incorporated area of the municipality within which certain regulations and requirements or various combinations thereof apply under the provisions of this chapter.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-22. - Rules of measurement.

(a) *Height.*

(1) *Measuring height.*

- a. The minimum height shall be satisfied from the build-to line back to a depth of at least 30 feet for the specified build-to percentage of frontage.
- b. Sill height shall be measured from the average fronting sidewalk grade to the top of the ground floor window sill.

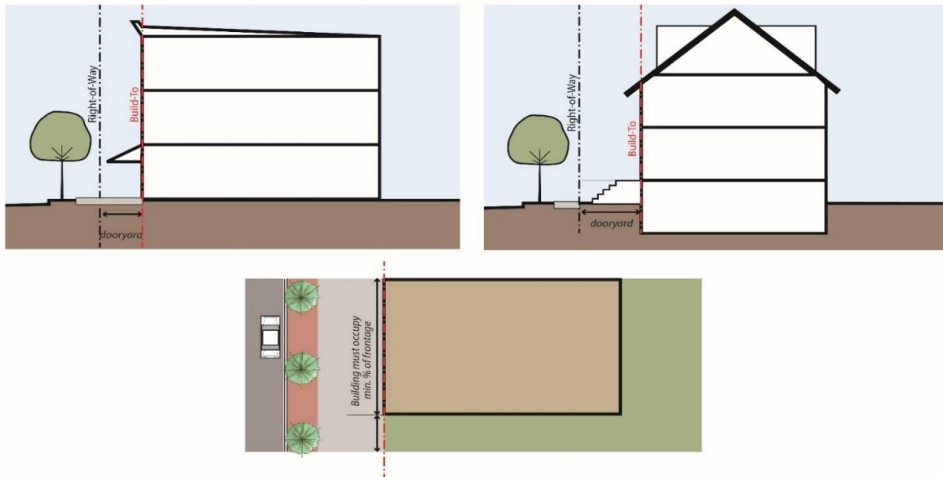
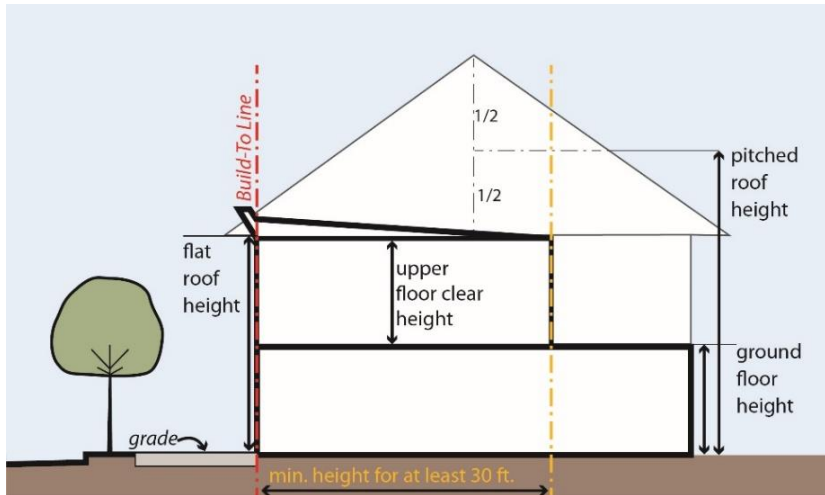
(b) *Siting.*

(1) *Frontage designation.*

- a. Primary frontage is located along the front lot line.
- b. Corner lots, through lots, or any lot with more than one street frontage shall have a secondary frontage on every lot line abutting a street other than the front lot line.

(2) *Build-to and dooryard.*

- a. The required build-to line is based on the sub-district and frontage type.
- b. The area between the right-of-way and the build-to line is the dooryard and is intended as a transitional area between the public and private realms for pedestrian-oriented amenities.
- c. The dooryard shall accommodate entrances, outdoor seating, and projections such as awnings, balconies, bay windows, stoops and porches.
- d. The dooryard shall contain urban-style landscape (concrete pavement, brick pavers, planters, street furniture) as described in the streetscape standards. Lawns are only permitted in the dooryard of residential buildings with a stoop frontage type.



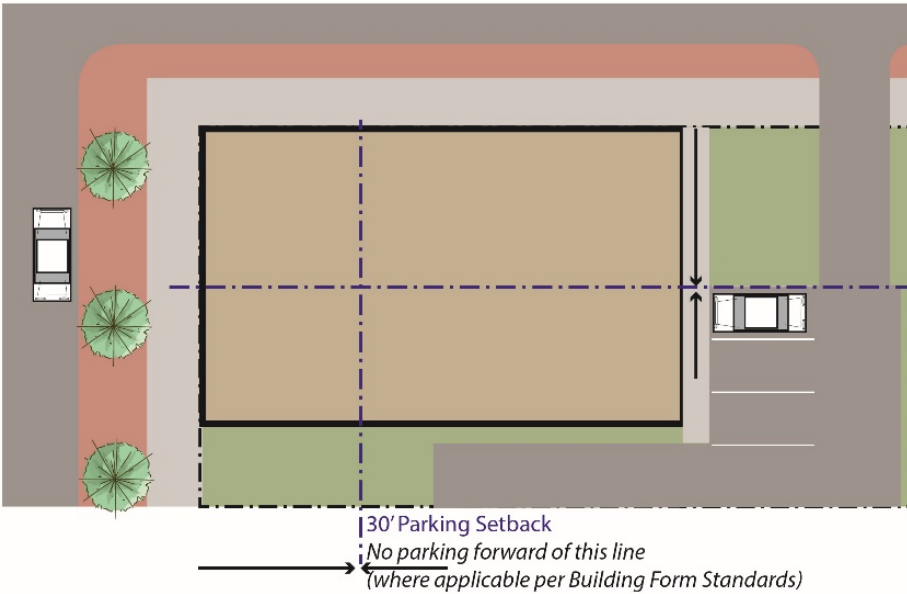
(c) *Building depth.*

(1) The horizontal distance at the ground floor measured perpendicular from the exterior of the street facing building wall at the build-to line to the opposite exterior wall enclosing the permitted street level active uses.

a. Active street level uses.

1. Retail sales and services;
2. Offices;
3. Restaurant/bar/lounge; and
4. Residential and lodging support functions such as lobbies, rental office, club rooms.

(d) *Parking setback.*



- (1) Surface parking is not allowed directly between a building façade and a street frontage.
 - (2) Surface and structured parking and loading spaces are not permitted within a parking setback on the ground level.
- (e) *Architectural elements.*
- (1) *Articulation.*
 - a. Purpose and intent.
 1. Buildings shall possess a unified and cohesive design intent demonstrated through the basic attributes of form, symmetry, proportion, height, scale, and repetition. Building additions should be compatible to the attributes of the existing building.
 2. Building components and architectural details, including roof form, entrances, balconies, fenestration, projections, recesses, and ornamentation, shall be compatible with the building attributes and overall design intent.
 - i. Additions to existing buildings must complement the current building design with regard to height, proportions, scale, materials, and rhythm of openings.
 - (2) *Configurations and techniques.*
 - a. Vertical articulation.
 1. Buildings greater than two stories or taller than 30 feet shall be designed to reduce apparent mass by including a clearly identifiable base, body, and top, with horizontal elements separating these components.
 2. Buildings shall be designed to create a distinct and separated ground floor area using a horizontal expression line, such as a string course, change in material or textures, awnings or canopies, or sign band between the first and second stories.
 3. Storefronts shall be designed to create a picture frame around the storefront windows, with vertical elements reading clearly from top to base.
 - b. *Horizontal articulation.* Buildings shall be designed to reduce apparent mass by dividing facades into a series of smaller components. No individual component shall have a length of more than 60 feet. Components shall be distinguished from one another through a combination of the following:

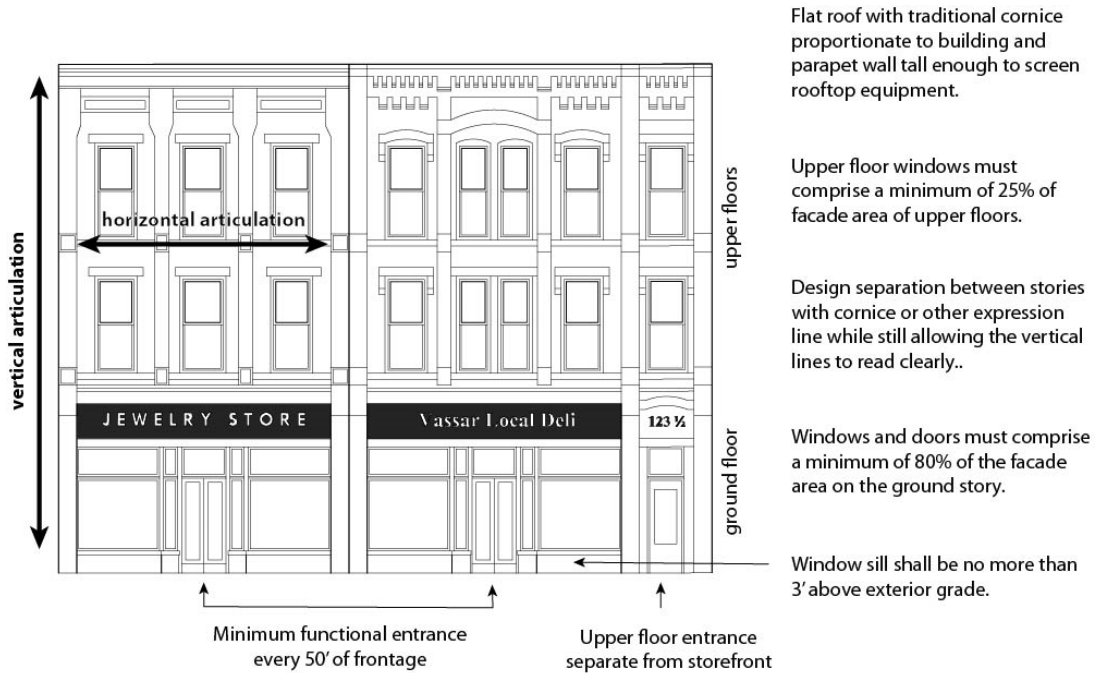
1. Variations in roof form;
2. Change in parapet height, minimum of three feet;
3. Pronounced recesses and projections, minimum of three feet;
4. Distinct changes in texture and color of wall surfaces;
5. Ground level arcades and second floor galleries/balconies; and
6. Vertical accents or focal points.

(3) *Windows and doors.*

- a. *Purpose and intent.* The placement, type, and size of windows and doors on the facade largely establish the scale and character of the pedestrian realm.
- b. *Configurations and techniques.*
 1. *All windows.*
 - i. Fenestration shall be measured as a percentage of openings per total wall area.
 - ii. Blank walls exceeding 25 linear feet are prohibited on all facades fronting the right-of-way.
 - iii. The horizontal dimension of the opening shall not exceed the vertical dimension except for transom windows.
 - iv. Windows may be grouped horizontally if each grouping is separated by a mullion, column, pier or wall section.
 - v. Exterior shutters, if applied, shall be sized and mounted appropriately for the window (one-half the width), even if inoperable.
 - vi. For corner lots within the Downtown Core, one entrance shall be located on a 45 degree angle.
 - vii. Window area shall make up at least 20 percent or more of the exterior wall area facing the principal street(s) from which access is gained.
 2. *Upper-story windows.*
 - i. Upper level windows shall be oriented vertically.
 - ii. Windows may be triple-hung, double-hung, single-hung, hopper, awning or casement windows.
 - iii. Fixed windows are permitted only as part of a window grouping that includes an operable window.
 - iv. Egress windows may be installed as required by the applicable building code.
 3. *Doors.*
 - i. Storefront entries shall be recessed to accommodate door swing.
 - ii. Overhead doors shall not face a public street or residential district. The planning commission can modify this requirement upon a determination that there is no reasonable alternative and the visual impact will be moderated through use of building materials, architectural features and landscaping beyond that required in article IV, division 3, landscape standards and tree replacement.
 - iii. Double-height entryways are prohibited.
 - iv. Clearly defined, highly visible customer entrances may be included in the design. Features such as canopies, porticos, arcades, arches, wing walls, and integral

planters are highly encouraged to identify such entrances. In the business districts, entrances facing the street must be functional.

- v. An entrance is a functional door that remains unlocked and unobstructed during business hours. The entrance shall be a door parallel to a street frontage within 15 feet of the building face; or a door at approximately a 45-degree angle to the intersecting streets of a corner lot.
- vi. There shall be a minimum of one functional entrance located 50 feet on center along each lot containing a storefront frontage type.



(f) *Projections.*

(1) *Stoop.*

- a. A stoop is a small staircase ending in a platform and leading to the entrance of the building.
- b. Stoop depth shall be measured perpendicular from the building façade to the opposite edge of the platform. Steps shall not be included in the measurement.
- c. The platform of the stoop may not encroach past the build-to. Stairs leading to the stoop may encroach past the build-to.

- (2) *Balconies.* Balconies shall not be located within five feet of any common lot line and shall not encroach into the public right-of-way without prior approval from road agency. The balcony support structure shall be integrated with the building façade. False balconies consist of a rail and door, and any outdoor platform less than 18 inches in depth.



(3) *Awnings.*

- a. Awnings may project over a sidewalk; however, there must be a minimum of eight-foot clearance provided from the sidewalk.
- b. Awnings shall be positioned immediately above the ground floor window and have a straight shed that projects from the building at a straight angle.
- c. Awnings shall not be internally illuminated and any signs shall be illuminated by fixtures located above the awning and directed downward.
- d. Awnings shall not interfere with street trees.
- e. Awnings shall be constructed of durable materials such as canvas or metal that will not fade or tear easily. Plasticized, rigid, cubed or curved awnings or mansard style canopies are prohibited.

(Ord. No. [2019-06](#), 1-6-20)

Secs. 86-23—86-29. - Reserved.

ARTICLE II. - ZONING DISTRICTS

DIVISION 1. - ZONING DISTRICTS IN GENERAL

Sec. 86-30. - Districts established.

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

Residential

RA-1 One-Family Residential District

RA-2 Two-Family Residential District

RM-1 Multiple-Family Residential District

RM-2 Multiple-Family Residential District

MH Manufactured Housing District

Commercial

B-1 Central Business District

B-2 General Business District

Industrial

I-1 Industrial District

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-31. - Zoning map.

A map showing the various districts into which the city is divided shall be entitled "City of Vassar Zoning Map" and shall bear the date adopted or amended, and it shall be the duty of the city council to adopt said map by reference. The map is hereby made a part of this chapter.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-32. - Interpretation of district boundaries.

Where uncertainty exists with respect to the boundaries of any of the districts established in this chapter as shown on the zoning map, the following rules shall be applied:

- (1) Where district boundaries are indicated as approximately following the center lines of street or highway rights-of-way or street lines, such center lines, street lines, or highway right-of-way lines shall be construed to be such boundaries.
- (2) Where district boundaries are so indicated that they are approximately parallel to the center lines of street or highway rights-of-way, such district boundaries shall be construed as being parallel thereto and at such distances as indicated on the zoning map. If no such distance is given, such dimension shall be determined by the use of the scale shown on the zoning map.
- (3) Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be such boundaries.
- (4) Where the boundary of a district follows or terminates at a railroad line, such boundaries shall be deemed to be located or terminated at the rail right-of-way center line.
- (5) Where the boundary of a district follows, or terminates at, a stream, lake, or other body of water, the boundary line shall be deemed to be at, or terminated at, the limit of the jurisdiction of the city unless otherwise indicated.
- (6) Where the boundary of a district follows a subdivision boundary line, such boundary line shall be construed to be the district boundary line.
- (7) The zoning board of appeals shall make a determination, upon written application, or upon its own motion, in those situations where, due to the scale, lack of detail, or illegibility of the zoning map there is any uncertainty, contradiction, or conflict as to the intended location of any district boundaries shown thereon or interpretation concerning the exact location of district boundary lines.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-33. - Zoning of vacated public rights-of-way.

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 zoned consistent with the zoning of the adjacent property or properties, measured from the center line.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-34. - Zoning of annexed areas.

Any unzoned area annexed to the city shall, immediately upon such annexation, be automatically classified as RA-1 One-Family Residential District until a zoning map for the area has been adopted by the city council. The planning commission shall recommend a zoning district for such area within three months after the matter is referred to it by the city council.

(Ord. No. [2019-06](#), 1-6-20)

Secs. 86-35—86-39. - Reserved.

DIVISION 2. - RESIDENTIAL DISTRICTS

Sec. 86-40. - Permitted uses.

In the residential districts, land, buildings, and other structures shall be used only for one or more of the uses specified in the table below. Uses denoted by a "P" are permitted by right, whereas uses denoted by "C" are considered conditional land uses and uses denoted by a "S" are considered special land uses and may be approved by the planning commission subject to the applicable general and specific standards in article V, division 3, special land uses. A notation of "—" indicates that the use is not permitted within the district.

	RA-1	RA-2	RM-1	RM-2	MH
Residential					
Single-family detached dwellings	P	P		P	
Two-family attached dwellings	S	S	P	P	
Attached dwellings			P		
Accessory dwelling unit (ADU)	P	P			
Granny flat	P	P			
Home occupations (in accordance with section 86-143)	P	P	—	—	P

In-home office	P	P	P	P	P
Independent living/senior housing			P	P	
Congregate care/assisted living facility	S	S	S	S	
Skilled nursing residential living	S	S	S	S	
Manufactured housing communities (which conform to the requirements of this article and the Department of Housing and Urban Development (HUD) standards, or American National Standards Institute (A.N.S.I) standards)					P
Care facilities					
Foster family homes, foster group homes, family day care home	P	P	P	P	P
Child day care group home	S	S	S	S	S
Entertainment and Recreational					
Golf courses	S	S			S
Private parks and recreation facilities, owned and operated by homeowner or condo associations	S	S	S	S	S
Recreation facilities, private			S	S	
Recreation facilities public	S	S	S	S	S
Service and retail trade					
Bed and breakfast inns	S	S		S	
Public, institutional, and utilities					
Cemeteries, lawfully occupied at the adoption of ordinance	P	P	P	P	
Churches, temples, and other places of worship or public assembly w max. seating of 750 persons	S	S	S	S	

Colleges and universities	S	S	S	S	
Essential public services	P	P	S	S	
Public and quasi-public institutional buildings, structures and uses	S	S	S	S	
Schools, including public, private and parochial elementary, middle and high	S	S	S	S	
Accessory					
Accessory buildings, structures and uses, customarily incidental to any of the above principal uses	P	P	P	P	P
Accessory buildings, structures and uses customarily incidental to any of the above special land uses	S	S	S	S	S

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-41. - Site development requirements.

All principal uses, conditional land uses, and special land uses are subject to the following site development requirements:

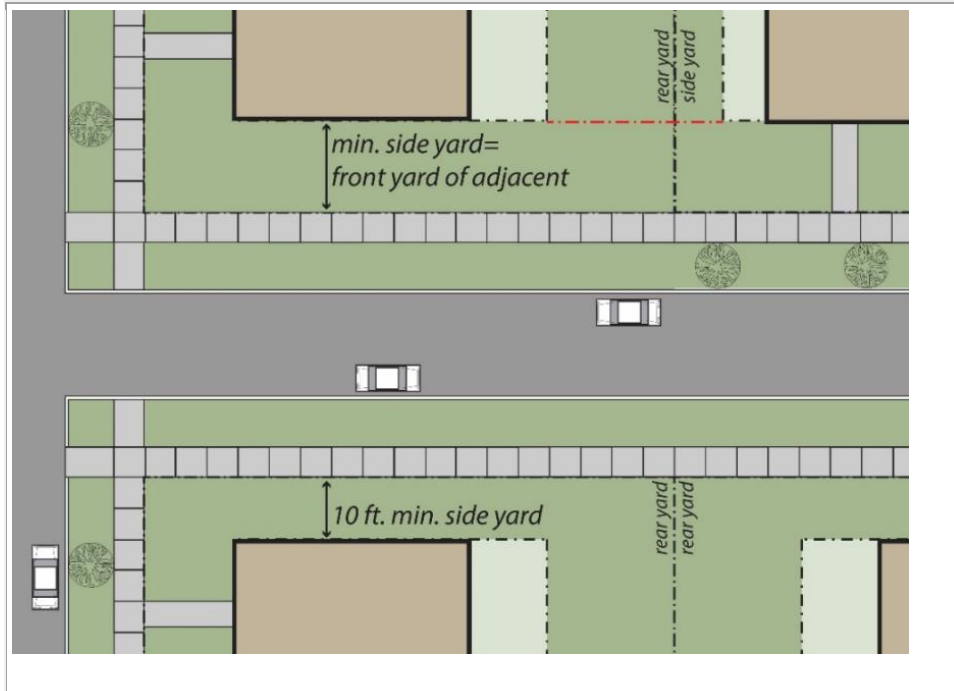
- (1) Article III, general provisions;
- (2) Article IV, division 1, off-street parking and loading standards;
- (3) Article IV, division 2, access management and driveway standards;
- (4) Article IV, division 3, landscape standards and tree replacement;
- (5) Article IV, division 4, signs;
- (6) Article IV, division 5, lighting standards;
- (7) Article V, division 1, site plan review.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-42. - Single-family residential districts (RA-1 and RA-2).

- (a) *Intent.* The RA-1 and RA-2 One-Family Residential Districts are designed to be the most restrictive of the residential districts. The intent is to provide for an environment of predominantly low-density, one- and two-family detached dwellings along with other residentially-related facilities which serve the residents in the district.
- (b) *Area, height, bulk, and placement regulations.*

	RA-1	RA-2
Lot Size		
Minimum area	7,200 sq. ft.	21,780 sq. ft.
Minimum width	60 ft.	100 ft.
Setbacks		
Front yard (min.)	25 ft.	
Side yard (min.)		
Least one	6 ft.	10 ft.
Total two	15 ft.	25 ft.
Rear yard (min.)	35 ft.	35 ft.
Building Height		
Stories (max.)	2.5	2.5
Feet (max.)	30 ft.	30 ft.
Building Area		
Floor area per unit (min.)	900 sq. ft.	2,000 sq. ft.



Lot Coverage		
Area of all buildings (max.)	30%	30%

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-43. - Multi-family residential (RM-1 and RM-2).

- (a) The RM-2 district is intended for limited usage in areas where a land use transition is desired, but where the existing pattern of platting is on small lots or parcels.
- (b) Area, height, bulk, and placement regulations.

	RM-1	RM-2
Lot size		
Minimum area	43,560 sq. ft.	7,200 sq. ft.
Setbacks		
Front yard (min.)	40 ft.	25 ft.

Side yard (min.)		
Least One	10 ft.	10 ft.
Total Two	25 ft.	25 ft.
Rear yard (min.)	35 ft.	35 ft.
Building Height		
Stories (max.)	3	3
Feet (max.)	35 ft.	35 ft.
Building Area		
Floor area per unit (min.)	1	1
Lot Coverage		
Area of all buildings (max.)	30%	
Area of all buildings and impervious surfaces	40%	

¹ The minimum floor area per dwelling unit shall be:

- (1) Efficiency—350 square feet
- (2) One-bedroom apartment—500 square feet
- (3) Two-bedroom apartment—700 square feet
- (4) Three-bedroom apartment—800 square feet. Plus an additional eighty (80) square feet for each additional bedroom.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-44. - Manufactured Home District (MH).

- (a) *Intent.* The intent of the Manufactured Housing District (MH) is to provide an affordable housing alternative where placement of such a development would be appropriate and consistent with the general character of the city. The standards required in this district are intended to be consistent with the adopted standards for other types of housing in the city. In addition to the standards of this chapter, all manufactured housing communities shall comply with Act No. 96 of Public Acts of 1987 as

amended, being § 125.2301 et seq. of the Michigan Compiled Laws Annotated (MCLA). However, some standards of this chapter are more stringent than the typical standards promoted by the state manufactured housing commission. These more stringent standards reflect the overall nature of the city, in contrast with some other areas of the state where the universal rules of the state manufactured housing commission may be appropriate. These adopted standards are designed to foster and encourage development which complements and protects the investment on adjacent properties and promotes preservation of important natural features.

Since the characteristics, densities, and impacts of a manufactured housing community typically simulate those of multiple-family residential developments, and because they typically are served by private streets and utility systems which intercept the local street and utility systems, manufactured housing communities are not necessarily considered to be completely compatible with other types of single-family neighborhoods. Therefore, manufactured housing communities may serve as a transitional use between residential and non-residential districts, similar to the manner and fashion in which multiple-family districts are to be utilized.

- (b) *Preliminary plan development standards.* Manufactured housing communities shall be subject to the review and approval of a preliminary site plan by the planning commission. The site plan shall consist of a manufactured housing community preliminary plan, as described in the section 11 of the Manufactured Home Act, Act No. 96 of Public Acts of 1987, as amended. Such review of the preliminary site plan is required in order to minimize the possibility of adverse effects upon adjacent property; and furthermore to find proper relationships in the development features as they relate to traffic safety, service roads, driveways, parking areas, accessory buildings and uses, and planned open space.
- (c) *Design standards for overall development.*
 - (1) *Minimum development size.* Manufactured housing communities shall be at least 15 acres in area, excluding adjacent parcels which may be proposed for expansion.
 - (2) *Access.*
 - a. The main entrance to the development shall have access to a public thoroughfare or shall be connected to an asphalt or concrete collector or arterial road by a hard surfaced road in a permanent easement which shall be recorded by the developers. Sole access to the development via an alley is prohibited.
 - b. Entranceway structures, including but not limited to, walls, columns, and gates marking the entrance to a manufactured housing community, may be permitted, and may be located in a required yard, except as provided in this article. Such entranceway structures shall be subject to the requirements of section 86-26, intersection visibility, to permit unobstructed access by all emergency equipment, and such allowance for "clear vision" shall otherwise comply with all codes and ordinances of the city and the county. Sight distance from points of ingress and egress shall be approved by the county road commission. The structure location shall also be approved by the city.
 - (3) *Perimeter setbacks.* Manufactured homes shall be set back at least 50 feet from any public street right-of-way line and ten feet from any other exterior property line. This setback shall include a minimum 20 foot wide greenbelt, which includes minimum screening, as outlined below.
 - (4) *Landscape and screening.* A landscape and screening plan shall be incorporated in the plans submitted for preliminary site plan review to the planning commission. The plan shall indicate the type and size of landscape planting and screening improvements to be completed in the proposed manufactured housing community. Manufactured housing communities shall be landscaped and screened as follows:
 - a. *Ground surfaces.* Exposed ground surfaces in all parts of the manufactured housing community shall be paved or covered with stone or other solid material or protected with grass, trees, or shrubs that are capable of preventing soil erosion. The ground surface in all

parts of every manufactured housing community shall be graded and equipped to drain all surface water in a safe, efficient manner.

- b. *Perimeter screening.* All manufactured housing communities shall be screened from an abutting a public right-of-way and existing adjacent residences. The required screening shall consist of evergreen trees or shrubs at least three feet in height, which are spaced so they provide a continuous screen at maturity. Alternative screening devices may be utilized if they conceal the manufactured home development as effectively as the required landscaping described above.
- (5) *Right-of-way greenbelt.* A landscaped berm measuring two and one-half to three feet in height shall be constructed along the public roads on which the manufactured housing community fronts. The berm shall be constructed with slopes no steeper than one foot vertical rise for each four feet horizontal run. A minimum of one deciduous shade tree, one evergreen tree and four shrubs shall be planted for each 30 lineal feet, or portion thereof, of required greenbelt length. At time of planting, canopy trees shall have a minimum size of three-inch caliper and evergreen trees shall have a minimum height of six feet. Trees may be planted at uniform intervals, at random, or in groupings. All existing trees four inches or greater in diameter (dbh) within the greenbelt shall be preserved, except where their removal is necessary to install access points.
 - (6) *Site landscaping.* A minimum of one deciduous or evergreen tree shall be planted per two manufactured home sites.
 - (7) *Parking lot landscaping.* Off-street parking lots containing more than 15 spaces shall be provided with at least ten square feet of interior parking lot landscaping per space. Such areas shall measure at least 150 square feet and shall be covered by grass, ground cover, shrubs, or other live plant material. At least one deciduous tree shall be planted per parking lot landscaped area.
 - (8) *Perpetual maintenance.* Dead, damaged, and/or diseased screening shall be replaced, within a reasonable time frame, so as to maintain the approved and/or allowed screening technique originally put in place.
- (e) *Required open space.* For developments with 50 or more sites, a minimum of two percent of the development's gross acreage shall be dedicated to well drained, useable open space. A minimum of 25,000 square feet of open space shall be provided. Open space shall be maintained by the manufactured housing community management, and shall be relatively accessible to all areas of the development.
 - (f) *Streets.*
 - (1) *Street layout.* Maximum cul-de-sac length shall be 1,000 feet. A dead-end road shall terminate with a 50-foot in diameter cul-de-sac; a blunt-end road is prohibited. Adequate sight distance shall be provided at all intersections, in accordance with clear vision standards applicable to all areas of the city.
 - (2) *Street width.* Minimum street widths within the manufactured home park shall be accordance with the following schedule:

Street Width Requirements	
Parking	Minimum Street Width
No on-street parking	21 feet
Parallel parking one side	31 feet

Parallel parking both sides	41 feet
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- (3) *Street names/signs.* All streets and roads shall be clearly marked with appropriate identification and traffic control signs. For the protection of the public safety, an orderly street name system and numbering system shall be established by the manufactured housing community owner and a plan of this system shall be verified and approved by the city fire department. Manufactured home space numbers shall be located uniformly on each space, manufactured home unit or identification marker, throughout the manufactured housing community and street names shall be adequately marked.
- (4) *Street geometry.* The alignment and gradient of a street shall be graded for its full width to drain surface water. Specific standards promulgated by the Michigan Department of Environmental Quality (MDEQ) for the manufactured housing commission shall be strictly adhered to.
- (5) *Street materials.* All streets and drives shall be constructed with materials suitable for sub grades and hard surface in compliance with the standards of the American Association of State Highway and Transportation Officials, adopted herein by reference. Curbing may be installed on service drives and must meet the city street and private road design specifications.
- (6) *Sidewalks.* A five-foot wide concrete sidewalk shall be constructed along the public road(s) on which the manufactured housing community fronts. Such sidewalk shall be located within the road right-of-way or easement, beginning one foot inside the right-of-way or easement line. Additionally, should the developer choose to employ internal sidewalk systems, such sidewalk systems shall conform to the manufactured housing commission standards, as promulgated.
- (g) *Accessory buildings and facilities.* Any accessory buildings and facilities constructed within the manufactured housing community shall be designated and serviced consistent with the following requirements:
 - (1) Accessory buildings and structures, including development management offices and public works facilities, storage building, laundry facilities, recreation or community facilities, and other accessory facilities, shall be designed and operated for use by only residents, guests, and employees of the manufactured housing community.
 - (2) Site-built buildings within a manufactured housing community shall be constructed in compliance with the manufactured home construction and safety standards. Site plan approval shall be required prior to construction of any on-site building within a manufactured home development, except for storage sheds or garages for individual manufactured homes. Storage sheds and garages shall require a building permit from the city prior to construction.
 - (3) Each manufactured home shall be permitted one storage shed and one garage. The installation of any such shed or garage shall comply with codes and ordinances of the city and shall require a building permit. Storage underneath a manufactured home or unscreened outdoor storage area on any manufactured home site is prohibited. Storage sheds need not be supplied by the owner of the manufactured housing community. A storage shed shall not exceed a floor area greater than 144 square feet. A carport or garage shall not exceed 576 square feet.
 - (4) Maximum height of any community accessory buildings and structures shall be 35 feet, or two stories, whichever is less. Storage or service buildings shall not exceed 15 feet, or one story in height.
- (h) *Storage.* If the owner of the manufactured housing community shall permit storage of boats, motorcycles, recreation vehicles, and similar equipment in the manufactured housing community, common areas for the storage of that equipment shall be provided by the owner within the development. Such storage shall be limited to use only by residents of the manufactured housing community. If proposed, the location of such storage areas shall be shown on the preliminary site plan.

No part of any such storage area shall be located in a required yard on the perimeter of the manufactured housing community. Such storage area shall be screened from view from existing residences adjacent to the manufactured housing community, in accordance with the perimeter screening provisions described above. Manufactured housing community owners who prohibit storage of boats, off-the-road motorcycles, recreation vehicles, and similar equipment are not required to construct common areas for storage.

- (i) *Drainage.* The manufactured housing community shall provide sufficient stormwater facilities, independent of sanitary sewers, to prevent flooding of streets, lot, or recreation areas. On-site stormwater detention facilities, if provided, may be required to be fenced for safety reasons. The street drainage system shall be designed in such a way so as to minimize ponding and icing conditions. All stormwater drainage improvements shall be subject to review and approval by the county drain commissioner, and the MDEQ, in accordance with MDEQ manufactured home park standards, pursuant to 1987 P.A. 96, as amended.
- (j) *Waste receptacles.* Waste receptacles shall be provided unless curb side pick-up is provided. An on-site recycling station for residents may be provided at a location approved by the planning commission and the MDEQ. Adequate screening shall be provided, as required for the placement of outdoor storage areas.
- (k) *Underground wiring.* All local distribution lines for franchised utilities (telephones, electric service, and cable television) shall be placed entirely underground throughout the manufactured housing community area. Mainlines and perimeter feed lines located on a section or quarter section line may be above ground if they are configured or installed within the state electrical code guidelines. Conduits or cables shall be placed within private easements provided to the service companies by the proprietor and/or developer or within public ways. Those telephones and electrical facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All telephones and electrical facilities shall be constructed in accordance with standards of construction approved by the state public service commission.
- (l) *Mailbox clusters.* If mail box clusters are required by the U.S. Postal Service, they shall be located at least 200 feet from any intersection of a manufactured housing community road with a public road.
- (m) *Design standards for individual lots/dwelling units.* No manufactured home shall be permitted to occupy any site or lot in the manufactured housing community if the home is either longer or wider than would permit compliance with the following requirements:
 - (1) *Site size.* The manufactured home development shall be developed with sites averaging 5,500 square feet per manufactured home unit. These 5,500 square feet for any one site may be reduced by up to 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. This open space shall be in addition to that required under R125.1946, Rule 946 and R125.1941 and R125.1944, Rules 941 and 944 of the Michigan Administrative Code and this article.
 - (2) *Setbacks and spacing.* Each manufactured home site shall have the following minimum yard requirements:
 - a. *Home not sited parallel to an internal road.* Twenty feet from any part of an attached structure of an adjacent home that is used for living purposes for the entire year.
 - b. *Home sited parallel to an internal road.* Fifteen feet from any part of an attached structure of an adjacent home that is used for living purposes for the entire year if the adjacent home is sited next to a home on and parallel to the same internal road or an intersecting internal road.

(Ord. No. [2019-06](#), 1-6-20)

Secs. 86-45—86-49. - Reserved.

DIVISION 3. - COMMERCIAL/MIXED-USE DISTRICTS

Sec. 86-50. - Permitted uses.

In the commercial/mixed-use districts, land, buildings, and other structures shall be used only for one or more of the uses specified in the table below. Uses denoted by a "P" are permitted by right, whereas uses denoted by "C" are considered conditional land uses and may be approved administratively while uses denoted by "S" are considered special land uses and may be approved by the planning commission subject to the applicable general and specific standards in article V, division 3, special land uses. Any use requiring planning commission approval must be reviewed by a planning consultant and any other applicable consultants for compliance with zoning regulation and district intent.

Permitted Uses in the Central Business District	Central Business District		General Business District
	Downtown Core *non-retail and office type uses are not permitted on the first/ground floor	Downtown Transitional	
Residential			
Attached residential (ground floor)		P	
Attached residential (upper floor)	P	P	
Home occupations (in accordance with section 86-143)	C	C	
In-home office	P	P	
Nursing and convalescent homes	S	S	P
Senior housing, not including nursing and convalescent homes	S	S	P
Single-family detached (only existing)		P	P
Care facilities			
Adult and child residential care facilities in accordance with section 86-132, adult and child care facilities.	C	C	C

Entertainment and recreational

Amusement parks, carnivals, fairgrounds, fairs, and other types of outdoor entertainment facilities			S
Banquet, conference, dance, lodge and union halls, and private clubs	S	S	S
Entertainment establishments such as video arcades, bowling alleys, billiard halls and similar uses in an enclosed building	P	P	S
Golf courses			S
Golf driving ranges and miniature golf courses			S
Health clubs and fitness centers	S	S	P
Recreation facilities, public	P	P	P
Recreation facilities, private	S	S	S
Theaters, cinemas and similar assembly buildings	S	S	S

Finance, medical and professional office and research and development

Animal grooming establishments	P	P	P
Banking centers, including drive-through ATMs which are separate from a financial institution			S
Banking centers, including walk-up ATMs which are separate from a financial institution	P	P	P
Banks, S and L, credit unions and similar with drive-throughs at rear of site	S	S	S
Banks, S and L, credit unions and similar with no drive-throughs	P	P	P

Hospitals			S
Medical offices and clinics including chiropractors, osteopaths, optometrists, and similar or allied professions	P	P	P
Offices	P	P	P
Professional services	P	P	P
Urgent care centers, emergency medical stations and similar uses			P
Veterinary hospitals			C
Veterinary offices/clinics	P	P	P
Service and retail trade			
Automobile gasoline stations			S
Automobile or vehicle dealerships			C
Automobile service establishments (routine maintenance and minor repair)			S
Automobile washes, automatic or self-service			C
Bars, taverns, lounges, microbreweries (accessory only) and brewpubs	C	C	C
Bed and breakfast inns	C	C	C
Bus and rail passenger stations	S	S	S
Commercial printers			P
Convenience stores without gasoline service	P	P	P

Drive-through window facilities restaurants or other permitted uses			S
Dry cleaners, retail outlet	P	P	P
Funeral homes and mortuaries, not including crematoriums	C	C	C
Garden centers	S	S	S
General retail uses	P	P	
Hotels and motels	P	P	P
Hotels and motels including accessory convention/meeting facilities and restaurants	S	S	S
Laundromats			P
Outdoor display	C	C	C
Outdoor sales and storage	S	S	S
Parking lots and parking garages	S	S	S
Personal service establishments	P	P	P
Restaurants with open front restaurant windows	C	C	
Restaurants, including carry-out, delicatessens, fast-food and standard restaurants	P	P	P
Retail businesses and centers up to 50,000 sq. ft. GLA			P
Retail businesses and retail centers exceeding 50,000 sq. ft. GLA			S
Retail businesses with drop-off areas			S

Small manufacturing establishment	C	C	C
Storage on upper levels, provided no storage shall be allowed on a floor having residential dwellings, and all storage shall be related to a principal use within the structure	S	S	
Studios of art, photography, music, dance and similar uses	P	P	P
Public, institutional, and utilities			
Business, research, vocational and technical training schools			S
Churches, temples, and other places of worship or public assembly	S	S	S
Colleges, universities, and other institutions of higher learning			S
Essential public service buildings			S
Essential public services	P	P	P
Public and quasi-public institutional buildings, structures and uses	P	P	P
Accessory			
Accessory buildings, structures and uses, customarily incidental to any of the above principal uses	P	P	P
Accessory buildings, structures and uses customarily incidental to any of the above special land uses	S	S	S

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-51. - Site development requirements.

All principal uses, special land uses, and conditional land uses are subject to the following site development requirements:

- (1) Article III, general provisions;
- (2) Article IV, division 1, off-street parking and loading standards;
- (3) Article IV, division 2, access management and driveway standards;
- (4) Article IV, division 3, landscape standards and tree replacement;
- (5) Article IV, division 4, signs;
- (6) Article IV, division 5, lighting standards;
- (7) Article V, division 1, site plan review.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-52. - Central Business District (B-1).

(a) *Introduction.*

- (1) The Central Business District (B-1) is intended to provide for a traditional mixture of small office buildings, specialty retail stores, entertainment, public spaces, and related activities that are mutually supporting and serve the needs of both the city and surrounding communities.
- (2) The goal of these district regulations is the creation of a vital and coherent public realm for the district. While the form and function controls on building frontages are applied at the parcel level, they work together to frame the public realm for the entire district. These district regulations establish requirements related to form, character and design that will promote compatible infill and redevelopment and contribute to a greater sense of place.
- (3) Because this is a form-based district, the organization, procedures and standards of this chapter are more integrated and holistic than those in conventional zoning districts, with the intent that separate parcels and/or development projects will work together in conjunction with the public realm to create the type of place envisioned by the city.
- (4) Rules of measurement and definitions to aid in use of this chapter are in article I, division 2, definitions.

(b) *Applicability.*

- (1) The Central Business District (B-1) is established and applied to property as set forth on the zoning map.
- (2) All provisions of the zoning ordinance not addressed by the provisions of the Central Business District shall be applicable.
- (3) The provisions of the Central Business District, when in conflict with other articles of the zoning ordinance, shall take precedence.

(c) *Utilizing the Central Business District regulations.* The Central Business District is organized by sub-districts and frontage types, as identified on the regulating plan in subsection 86-52(e). Frontage types define the transition and interaction of the building face with the street. To determine specific standards that apply to a property:

- (1) On the regulating plan, determine the sub-district in which the property is located.

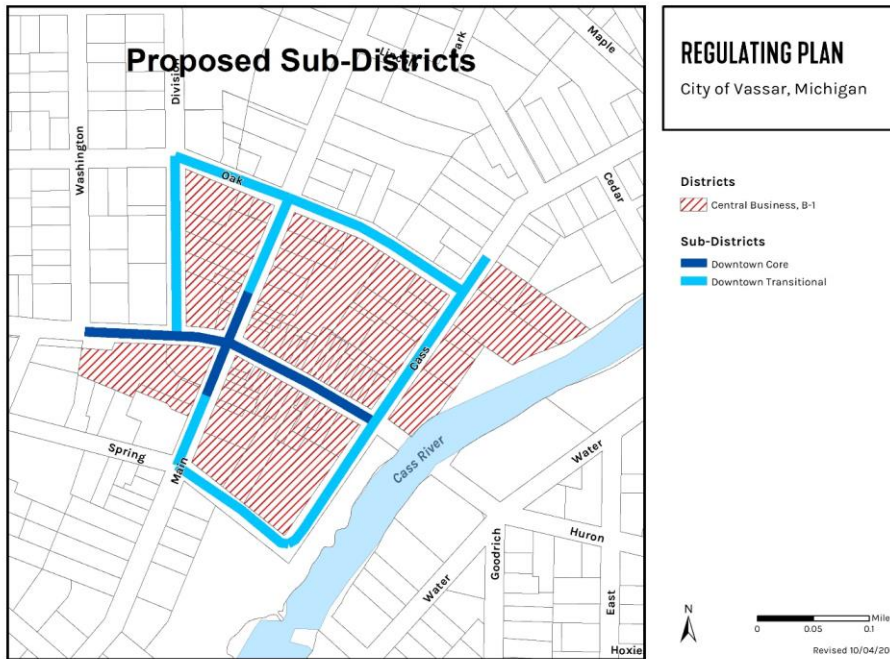
- (2) Determine the building regulations for the sub-district. Each sub-district's regulations are divided by permitted frontage types. The applicant may choose which frontage type shall be applied to the property.
- (3) Building and siting shall comply with the subdistrict standards of subsection 86-52(f) and the site development standards included outside this division per section 86-51.

(d) *Administration.*

- (1) *Plan review and administrative approval.* Development in the Central Business District requiring site plan review shall follow the site plan review process set forth in article V, division 1, site plan review. Site plan review for permitted and conditional land uses within the Central Business District will be reviewed administratively.
- (2) *Modifications requiring approval.* Modifications to the architectural standards of section 86-52 may be approved by the city. A modification shall require an application that includes a site plan and a front elevation drawing of the proposed building per article V, division 1, site plan review. The application shall be based upon the following criteria:
 - a. The design of the building shall be in keeping with the architectural character of downtown Vassar, as articulated in the master plan. This shall not prevent innovation and creativity in design that is in keeping with the master plan.
 - b. The building shall be oriented toward the front sidewalk, have a functioning entrance and enhance the continuity of the pedestrian-oriented environment. A modification shall not result in increasing the dominance of vehicular parking or garage doors along the front of the building.
 - c. The design of the roof shall be compatible with character of other buildings along the block and shall meet district height requirements.
 - d. The exterior finish material shall be of equal or better quality, in terms of durability and appearance/texture similar to brick, stone, or wood, as those permitted in the district. The intent is to accommodate new technologies and building materials while maintaining the desired character of downtown Vassar, as defined in paragraph a, above.
 - e. Ground floor windows shall be provided along the front sidewalk to maintain the pedestrian-orientation of the streetscape and upper story windows and shall not be incompatible with the rhythm and proportion of windows on other buildings along the block.

(e) *Regulating plan.*

- (1) A regulating plan is the controlling document and principal tool for implementing the form district. It is a subset of the zoning map.
- (2) Comparable to the zoning map, the regulating plan provides specific information on the development parameters for parcels within each sub-district.



(f) Sub-district standards: Frontage types.

Frontage Type	Intent	Sub-District	
		Downtown Core	Mixed Use Transition
Storefront	The intent of the Storefront frontage type is to preserve the traditional downtown character by establishing standards for appropriately designed mixed-use buildings that provide ground floor active uses with large windows with transparent views into the building interior. Buildings within the Downtown Core have two storefront frontages; one frontage that faces Huron Avenue and Main Street and one frontage that faces an alley or rear access/parking area of the building.	P	P
Stoop	The intent of the stoop frontage type is to accommodate a flexible variety of uses and scales; preserve historic detached houses; integrate context-sensitive mixed-uses; establish standards for appropriately designed multi-unit dwelling development; and	NP	P

	serve as a transition from the storefront frontage types to the surrounding residential neighborhoods.		
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P = Permitted, NP = Not Permitted

- (g) *Downtown Core.* As the core of the Central Business District, the lots in the Downtown Core sub-district face Huron Avenue and Main Street. The sub-district establishes a continuous building facade at the street frontage that maximizes ground floor fenestration to encourage an active interface between the public street and the ground floor. The second frontage/façade faces alleyways, rear yard parking, and provides public access via an alley, easement, or parking area and must also establish a continuous building façade that maximizes ground floor fenestration.

Downtown Core Frontage Type	Storefront
Height	
Minimum	2 stories/24 feet
Maximum	3 stories/42 feet
Siting	
Build-to	
Primary frontage (min. % of lot width/build-to max.)	80%/0 feet
Secondary frontage	—
Setbacks	
Side, adjacent to residential district (min.)	10 feet
Rear, adjacent to residential district (min.)	10 feet
Parking	
Surface parking between building and frontage	Not allowed
Parking setback (min.)	30 feet

Design elements	
Building elements heights	
Ground floor elevation (min./max.)	0 feet/1 foot
Ground floor clear height (min.)	14 feet
Ground floor sill height (max.)	2 feet
Ground floor fenestration	
Primary frontage (min.)	80%
Secondary frontage (min.)	80%
Pedestrian access	
Primary frontage	Entrance per 50 feet
Secondary frontage	Entrance per 50 feet

(h) *Downtown Transitional.* The Downtown Transitional District is located along the edges of the Central Business District and serves as a transition to the adjacent zone districts and urban patterns. The subdistrict is characterized by a mix of uses, which include retail, offices, residential and civic uses. The frontage types will allow a flexible build-to and moderate fenestration requirements at the ground floor.

Downtown Transitional Frontage Type	Storefront	Stoop
Height		
Minimum	1 story	2 stories
Maximum	3 stories	3 stories
Siting		
Build-to		

Primary frontage (min. % of lot width/min.—max. build-to)	80%/0—10 feet	80%/5—10 feet
Secondary frontage (min. % of lot width/min.-max. build-to)	60%/0—10 feet	—
Setbacks		
Side, adjacent to residential district (min.)	6 feet	6 feet
Rear, adjacent to residential district (min.)	20 feet	20 feet
Parking		
Surface parking between building and frontage	Not allowed	Not allowed
Design Elements		
Building elements heights		
Ground floor elevation (min./max.)	0 feet/1 foot	2 feet/5 feet
Ground floor clear height (min.)	14 feet	—
Upper story clear height (min.)	9 feet	9 feet
Ground floor sill height (max.)	2 feet	—
Ground floor fenestration		
Primary frontage (min.)	70%	40%
Secondary frontage (min.)	40%	—
Pedestrian access		
Primary frontage	Entrance per 50 feet	Stoop
Stoop depth (min.)	-	5 feet

(i) *General standards.* In addition to the general provisions and site design standards included in articles III and IV, the following additional standards apply to parcels within the CBD.

(1) *Building materials.* Building materials shall comply with the following additional standards apply to each B-1 subdistrict:

Wall Materials Visible from Right-of Way	Primary Building Material (min.)	Secondary Building Material and Trim
First and second floor elevations	75%	25%
Above second floor	50%	50%

	Primary Building Material		Secondary Building Material	Trim material and accents
	Storefront	Stoop		
Brick (include veneer)	P	P	P	P
Native stone/ synthetic		P	P	P
Wood lap siding		P	P	P
Fiber cement siding		P	P	P
Stucco		P	P	P
Split-faced block			P	P
Gypsum reinforced fiber concrete				P
Metal		P	P	P
Molded polyurethane trim				P
EIPS (above first floor only)				P

(2) *Roofs and parapets.*

a. *Permitted roof types.*

	Frontage Types	
	Storefront	Stoop
Flat roof with parapet	P	P
Flat roof with projecting cornice	P	P
Pitched roof		P
Overhanging eave		P

b. *Materials.*

1. Only the following roofing materials are permitted:

- i. Tile;
- ii. Slate;
- iii. Metal (standing seam, equivalent or better);
- iv. Dimensional architectural grade composition shingles; or
- v. Wood shingles.

2. Additional permitted roof elements include:

- i. Skylights and solar panel;
- ii. Cornices and soffits may be TBD;
- iii. Gutters and downspouts may be vinyl, and/or metal, in accordance with industry standards.

3. Parapet wall material shall match the building wall.

c. *Other elements.* Roof vents or other roof-oriented equipment are permitted only on the roof plane opposite primary frontage or when shielded from view by the building's parapet wall.

(j) *Integrated parking design.*

(1) *Intent.* To minimize the visual impact of surface parking lots and structured parking decks on the public realm, mitigate nuisances including noise and light, and design parking to be visually compatible with the surrounding character and development.

(2) *Configurations and techniques.* Parking decks exposed to view shall be subject to the same standards as buildings in terms of massing, form, and building character.

- a. For all exposed, above-grade parking structures, at least 50 percent of the ground floor level must be covered by an architectural screen.
- b. Spandrel panels or opaque architectural wall systems, a minimum of 42 inches high, shall be required to screen the view of parked cars and car headlights from the opposite side of the street.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-53. - General Business District (B-2).

(a) *Intent.* The General Business District (B-2) is intended to accommodate commercial establishments that serve community-wide shopping and service needs, including motorists using Goodrich, Huron, and Main Streets. This district is intended to create cohesive commercial areas that take advantage of access provided by the city's roadway system but also provide convenient vehicular access between businesses in attractive settings, thereby ensuring the safety and discouraging undesirable commercial development.

(b) *Area, height, bulk, and placement regulations.*

	B-2
Setbacks	
Front yard (min.) ⁽¹⁾	25 ft. or height of building, whichever is greater
Side yard (min.) ⁽²⁾	0 ft.
Adjacent to residential ⁽⁴⁾	10 ft.
Adjacent to residential (lots 3 acres or more)	60 ft.
Rear yard (min.)	
Adjacent to residential ⁽⁴⁾ (lots 3 acres or more)	60 ft.
Building Height	
Stories (max.)	2.5
Feet (max.)	35 ft.
Lot Coverage	
Area of all buildings (max.)	(3)

¹ Parking shall be permitted in the front yard after approval of the parking plan layout and points of access by the zoning administrator. The setback shall be measured from the nearest side of existing and/or proposed right-of-way lines, whichever is greater.

² If walls of structures, facing such interior side lot lines, contain windows, or other openings, side yards of not less than ten feet shall be provided.

³ The maximum percentage of coverage shall be determined by the use and the provisions of required off-street parking, loading and unloading, and required yards.

⁴ A four-foot obscuring wall, fence or greenbelt strip shall be provided on those sides of the property abutting land zoned for residential use.

(Ord. No. [2019-06](#), 1-6-20)

Secs. 86-54—86-59. - Reserved.

DIVISION 4. - INDUSTRIAL DISTRICT

Sec. 86-60. - Permitted uses.

In the I-1 District, land, buildings, and other structures shall be used only for one or more of the uses specified in the table below. Uses denoted by a "P" are permitted by right, whereas uses denoted by "C" are considered conditional land uses and uses denoted by "S" are considered special land uses and may be approved by the planning commission subject to the applicable general and specific standards in article V, division 3, special land uses.

Permitted Uses in the Industrial District	
	I-1
Care facilities	
Adult and child residential care facilities in accordance with section 86-132, adult and child care facilities.	S
Entertainment and recreational	
Adult entertainment regulated uses	S
Commercial recreation facilities, private	P
Social clubs	P

Finance, medical and professional office and research and development

Basic design, research, design and pilot and/or experimental product development service, and retail trade	P
Data processing and computer centers, including service and maintenance of electronic data and processing centers	P
Medical laboratories	P
Professional and corporate offices	P
Veterinary hospital	C
Animal grooming establishment	C

Commercial, retail and service

Automobile repair establishment (major repair)	P
Billboards and off-premise signs	S
Business centers, combining small-scale office, and industrial space	P
Commercial parking lots	S
Central dry cleaning plants and laundries	P
Health clubs and related uses including martial arts instruction and gyms	P
Kennels	C
Mini- or self-storage warehouses	C
Outdoor display	C
Outdoor storage	S
Pet boarding facilities	C

Radio and television studios and stations	S
Public, institutional, and utilities	
Business, research, vocational, and technical training schools	P
Essential public services	P
Essential public service buildings and storage yards	S
Governmental offices or other governmental uses, post offices, public utility offices, exchanges, and transformer stations	P
Public and quasi-public institutional buildings, structures and uses	P
Wireless communications facilities	S
Industrial	
Airports, landing fields, hangars and similar uses	S
Assembly, manufacture, compounding, processing, packaging, or treatment from previously prepared materials, or repair, of such products as, but not limited to food products, excluding bakery goods and candy and plastics	P
Assembly, manufacture, compounding, processing, packaging, or treatment from previously prepared materials, or repair, of such products as, but not limited to: bakery goods and candy; cosmetics, pharmaceuticals, and toiletries; hardware and cutlery; pottery and figurines or other similar ceramic products using only previously pulverized clay and kilns fired only by electricity or gas; musical instruments, toys, sporting goods, and novelties; small molded rubber products; electrical appliances, electronic instruments and devices, electronic consumer products, and photographic equipment; electric or neon signs; light sheet metal products, including heating and ventilating equipment, siding, cornices, eaves, and the like; textile goods; apparel, jewelry, and leather goods; and furniture and fixtures	P
Assembly, manufacture, fabrication, processing, packaging, or treatment of products indoors from previously prepared material including bone, canvas, cellophane, cloth, cork, elastomers, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, rubber, precious or semiprecious metals or stones, shell, textiles, tobacco, wax, wire, wood (planing mills shall not be permitted), and yarns	P

Breweries, distilleries and wineries	P
Concrete and asphalt batch plants	S
Experimental, film, or testing laboratories	P
Extractive uses (commercial mining of sand, gravel, stone, and similar)	S
Filling stations (flammable and combustible liquids or gases)	S
Heat treatment plants	S
Incinerators, cogeneration plants, recycling centers, and composting facilities	S
Laboratories—Experimental, film, or testing	P
Lumber and planing mills	S
Metal plating, buffing, and polishing	P
Painting and varnishing shops	P
Printing, lithography, blueprinting, publishing, and similar uses	P
Railroad transfer and storage yards	S
Retail sales of goods assembled, manufactured, compounded, processed, packaged, or treated from previously prepared materials, or repaired or stored, on the premises, provided the building floor area devoted to retail sales comprises no more than 25% of principal building floor area and the outdoor sales area comprises no more than 25% of the minimum required lot area	P
Salvage yards	S
Stamping plants	P
Tool, die, gauge and machine shops	P
Truck terminals, truck stops, and truck service facilities	S
Warehousing and wholesale establishments, material distribution facilities	P

Water filtration and wastewater treatment plants, reservoirs, and sewage treatment facilities	S
Accessory	
Accessory buildings, structures and uses, customarily incidental to any of the above principal uses	P
Accessory buildings, structures and uses customarily incidental to any of the above special land uses	S

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-61. - Site development requirements.

All principal uses, conditional land uses, and special land uses are subject to the following site development requirements:

- (1) Article III, general provisions;
- (2) Article IV, division 1, off-street parking and loading standards;
- (3) Article IV, division 2, access management and driveway standards;
- (4) Article IV, division 3, landscape standards and tree replacement;
- (5) Article IV, division 4, signs;
- (6) Article IV, division 5, lighting standards;
- (7) Article V, division 1, site plan review.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-62. - Industrial District, I-1.

- (a) The I-1, Industrial District is intended to primarily accommodate wholesale activities, warehouses, and industrial operations whose external, physical effects are restricted to the area of the district and in no manner 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, or treatment of finished or semi-finished products from previously prepared material. Since available industrial land in the city is limited, this district is also intended to accommodate uses that are office- or research-type, along with "business center" buildings that combine office and flexible industrial space. It is further intended that the processing of raw material for shipment of bulk form, to be used in an industrial operation at another location, not be permitted.
- (b) Area, height, bulk, and placement regulations.

	I-1
Lot size	

Minimum area	—
Minimum width	—
Setbacks	
Front yard (min.)	20 ft.
Side yard (min)	
Least One	20 ft.
Total Two	40 ft.
Rear yard (min.)	20 ft.
Building height	
Stories (max.)	—
Feet (max.)	35 ft.
Building area	
Floor area per unit (min.)	-

(Ord. No. [2019-06](#), 1-6-20)

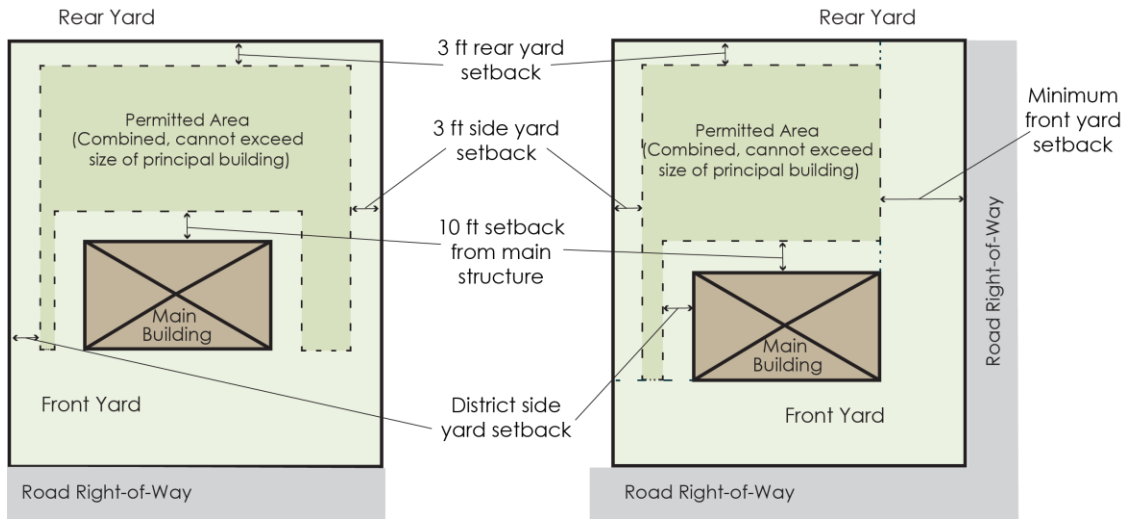
Secs. 86-63—86-129. - Reserved.

ARTICLE III. - GENERAL PROVISIONS

Sec. 86-130. - Accessory buildings, structures, and uses.

(See figure 3.1, accessory buildings and structures location standards)

Figure 3.1
Typical Lots



Accessory buildings, except as otherwise permitted in this title, shall be subject to the following regulations.

(1) *Relation to principal building.*

- a. Accessory buildings, structures, and uses are permitted only in connection with, incidental to and on the same lot with, a principal building that is occupied by a use permitted in the particular zoning district.
- b. No accessory building, structure, or use shall be occupied or utilized unless the principal structure to which it is accessory is occupied or utilized.
- c. Detached accessory buildings shall be set back a minimum of ten (10) feet from the principal building.

(2) *Locations for detached accessory buildings.*

- a. Detached accessory buildings and structures shall only be located in the yards listed in table 3.1.
- b. Accessory buildings shall not be located within a dedicated easement or right-of-way.

Locations Permitted	Minimum Setback from Lot Line
Front Yard	Not permitted
Side Yard	District setback

Rear Yard	3 feet from rear lot line 3 feet from side lot line 1 foot from alley
Corner lot side-street yard	Front yard setback of zoning district

- (3) *Rear yard lot coverage limit.* A total of the combined buildings accessory to a residential building shall not exceed the ground floor area of the principal building. The total area of all structures on the lot shall not exceed the lot coverage limits of the district.
- (4) *Height limitations.* The maximum height of detached accessory buildings shall be one story but not to exceed 14 feet.
- (5) *Use.* Accessory buildings shall not be occupied for dwelling purposes unless otherwise provided in this chapter. Accessory buildings shall not be used for a home occupation.
- (6) *Appearance.* The design and building materials of any accessory building shall generally be consistent with the character of the principal building on the property (e.g., material, color), as determined by the zoning official.
- (7) *Attached garages.* Garages that are structurally attached to a principal building by connection of walls or a roof shall be subject to, and must conform to, all regulations of this chapter applicable to the principal building, including setbacks and lot coverage, and not the regulations of this section. Attached garages shall not exceed the height of the living portion of the dwelling.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-131. - Accessory dwelling unit.

- (a) *Purpose.* Accessory dwelling units are allowed in certain situations to:
 - (1) Create new housing units while respecting the look and scale of single-dwelling development;
 - (2) Support more efficient use of existing housing stock and infrastructure;
 - (3) Offer environmentally friendly housing choices with less average space per person and smaller associated carbon footprints;
 - (4) Provide housing that responds to changing family needs, smaller households, and increasing housing costs; and
 - (5) Provide accessible housing for seniors and persons with disabilities.
- (b) *Definition.* An accessory dwelling unit (ADU) is a smaller, secondary home on the same lot as a primary dwelling. ADUs are independently habitable and provide the basic requirements of shelter, heating, cooking, and sanitation. There are two types of ADUs:
 - (1) Garden cottages are detached structures. Examples include converted garages or new construction.
 - (2) Accessory suites are attached to or part of the primary dwelling. Examples include converted living space, attached garages, basements or attics; additions; or a combination thereof.
- (c) *Eligibility.* An ADU may be added to a house on any residentially zoned lot.

- (d) *Utilities.* Utilities for ADU must be connected to the house on the parcel and may not have a separate meter or be billed separately.
- (e) *Number.* One ADU is permitted per residentially zoned lot.
- (f) *Creation.* An ADU may be created through new construction, conversion of an existing structure, addition to an existing structure, or conversion of a qualifying existing house to a garden cottage while simultaneously constructing a new primary dwelling on the site.
- (g) *Density.* ADUs are exempt from the residential density standards of this code.
- (h) *Approval.* Applications for ADUs must meet the following criteria.
 - (1) The applicant must demonstrate that the ADU complies with all development and design standards of this section.
 - (2) The applicant must demonstrate that the proposed modifications comply with applicable building and fire safety codes
- (i) *Occupancy and use.* Occupancy and use standards for an ADU shall be the same as those applicable to a primary dwelling on the same site.
- (j) *Design.* Design standards for ADUs are stated in this section. If not addressed in this section, base zone development standards apply.
 - (1) All ADUs (accessory suites and garden cottages) must meet the following requirements:
 - a. *Size.* An ADU may be no more than 600 square feet or the size of the primary dwelling, whichever is less.
- (k) *Parking.* No additional parking is required for an ADU. Existing required parking for the primary dwelling must be maintained or replaced on-site.
- (l) *Exterior finish materials.* Exterior finish materials must visually match in type, size and placement, the exterior finish materials of the primary dwelling.
- (m) *Roof pitch.* The roof pitch must be the same as the predominant roof pitch of the primary dwelling.
- (n) *Windows.* If the street-facing façade of the ADU is visible from the street, its windows must match, in proportion and orientation, the windows of the primary dwelling.
- (o) *Eaves.* If the primary dwelling has eaves, the ADU must have eaves that project the same distance from the building. If the primary dwelling does not have eaves, no eaves are required for the ADU.
- (p) Accessory suites must meet the following additional requirements:
 - (1) *Location of entrances.* Only one entrance may be located on the facade of the primary dwelling facing the street, unless the primary dwelling contained additional entrances before the accessory suite was created. An exception to this regulation is entrances that do not have access from the ground such as entrances from balconies or decks.
 - (2) *Exterior stairs.* Fire escapes or exterior stairs for access to an upper level accessory suite shall not be located on the front of the primary dwelling.
 - (3) Garden cottages must meet the following additional requirements:
 - a. *Height.* The maximum height allowed for a garden cottage is the lesser of 20 to 25 feet or the height of the primary dwelling.
- (q) *Setbacks.* Garden cottages must be located at least six feet behind the primary dwelling, unless the garden cottage is in an existing detached structure that does not meet this standard.
- (r) *Building coverage.* The building coverage of a garden cottage may not be larger than the building coverage of the primary dwelling.

- (s) *Yard setbacks.* No portion of an existing building that encroaches within a required yard setback may be converted to or used as a garden cottage unless the building complies with setback exemptions (i.e.. for garages, properties abutting alleys...) available elsewhere in the code.
- (t) *Exemptions.* Garden cottages are eligible for either of the following exemptions:
 - (1) *Design compatibility.* Exceptions may be granted for garden cottages that:
 - a. Are under 500 square feet and under 18 feet average height, or
 - b. Meet community design standards, defined elsewhere in the Code.
- (u) *Alteration.* If a garden cottage is proposed for an existing detached accessory structure that does not meet one or more of the above standards, the structure is exempt from the standard(s) it does not meet. Alterations that would move the structure out of conformance with standards it does meet are not allowed. If any floor area is added to a detached accessory structure, the entire structure must meet the standards of sections (h) through (t) above.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-132. - Adult and child care facilities.

- (a) Adult and child care facilities, as defined in article I, division 2, definitions, are allowed only as provided for in the following table. Applicable conditions are listed as footnotes to the table.

Adult and Child Care Facilities Regulations				
Type of Facility	Zoning District			
	R-1A, RA-2, RA-3	RM-1, RM-2	B-1, B-2, O	I
Adult daycare facilities	SLU as accessory	SLU	SLU	SLU
Adult foster care family home (6 or fewer adults 24 hours per day) (1)(2)(3)(4)(5)	P	P	NA	NA
Adult foster care small group home (12 or fewer adults 24 hours per day) (1)(2)(3)(4)(5)(9)	SLU	SLU	NA	NA
Adult foster care large group home (13 to 20 adults 24 hours per day) (1)(2)(3)(4)(5)(9)	NA	SLU	NA	NA
Congregate facility (more than 20 adults 24 hours per day) (1)(2)(3)(4)(5)(9)	NA	SLU	NA	NA
Foster family home (4 or fewer children 24 hours per day)	P	P	NA	NA
Foster family group home (5 to 6 children 24 hours per day) (1)(2)(3)(4)(5)	P	P	NA	NA
Family day-care home (6 or fewer children less than 24 hrs. per day) (1)(2)(3)(4)(5)(6)(7)(8)(9)(10)	P	P	NA	NA

Group day-care home (7 to 12 children less than 24 hours per day) (1)(2)(3)(4)(5)(6)(7)(8)(9)(10)	SLU	SLU	NA	NA
Child care center or day-care center (more than 6 children less than 24 hours per day) (1)(2)(3)(4)(5)(6)(7)(8)(9)	SLU as accessory	SLU	SLU	SLU
Child caring institution (1)(2)(3)(4)(5)(6)(7)(8)(9)	NA	SLU	SLU	SLU
<p>P: Permitted use</p> <p>SLU: May be allowed upon review and approval of a special land use, in accordance with the general standards in article V, division 3, special land uses</p> <p>SLU as accessory: May be allowed as an accessory to an approved use, such as a church, school, office, or other place of employment, upon review and approval of a special land use</p> <p>NA: Not allowed in zoning district.</p>				

Footnotes:

- (1) The use shall be registered with the city clerk's office and shall continually have on file with the city documentation of a valid license as required by the state.
 - (2) Since the state law preempts in this area, the facility shall be brought into compliance with all state building and fire codes pursuant to state licensing rules R400.1831—R400.1835. Documentation of such compliance with state requirements shall be provided.
 - (3) The site shall comply with the sign provisions of article IV, division 4, signs.
 - (4) Off-street parking shall be provided for the maximum number of employees on-site at any one time.
 - (5) The building shall have an appearance which is non-intrusive and consistent in color, materials, roof-line, and architecture with the single-family or multiple-family residential district in which it is located, as determined by the planning commission.
 - (6) Documentation of sufficient indoor classroom, crib, or play area meeting state requirements shall be provided. Documentation of approved areas, as licensed by the state, shall be provided.
 - (7) There shall be sufficient outdoor play area to meet state regulations. All required outdoor play areas shall be fenced with a four-foot tall fence, provided that no fenced outdoor play area shall be located in a front yard.
 - (8) There shall be sufficient drop-off parking spaces to allow maneuvers without creating a hazard to traffic flow.
 - (9) The lot shall be at least 1,500 feet from another group day care home or similar facility. This may be reduced by the planning commission upon a finding by the planning commission that the proposed facility will not contribute to an excessive concentration of state licensed residential care facilities in the area.
 - (10) The facility shall operate not more than 16 hours per day.
- (b) A state-licensed residential adult or child care facility existing prior to the effective date of this chapter (January 18, 2020), that has been operating under a valid state license and is registered with the city no later than 60 days following the effective date of this chapter (January 18, 2020), shall be considered an approved special land use, provided such use conforms with the conditions of this section. Any change in class of the use to a larger care facility shall require approval in accordance with the

requirements of this chapter. Any modification to the use shall require approval following the standards of article V, division 1, site plan review as applicable.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-133. - Antennas and towers.

Radio or television antennas or towers, or similar devices, including satellite dish antennas and transmission or reception antennas (hereinafter referred to as "regulated reception antenna"), may be erected or installed in any zoning district as an accessory structure to a permitted use, and shall comply with the following requirements. Wireless communication facilities, such as cellular antenna, wireless internet antenna, and commercial broadcasting antenna, shall be subject to the requirements of article V, division 3, special land uses, wireless communication facilities.

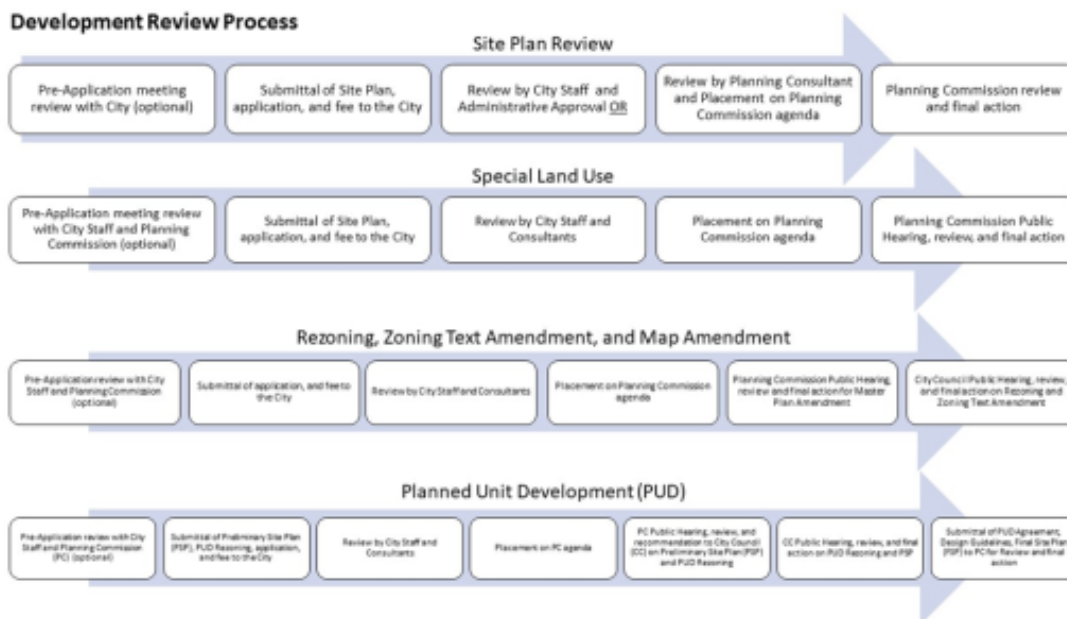
- (1) *Ground-mounted antennae.* Regulated reception antenna exceeding one meter (3.28 feet) in diameter in residential districts and three meters (9.84 feet) in non-residential districts, are permitted in all zoning districts subject to the following conditions:
 - a. Regulated reception antenna shall be located only in a rear yard and shall not be within the required side yard setback. A satellite dish antenna shall be located only in a rear yard.
 - b. No portion of an antenna, including a satellite dish antenna, shall be located closer than six feet, measured on a horizontal plane, from any side or rear lot line, or placed on any easement.
 - c. The site must be approved by the planning commission, which shall require a sketch plan in accordance with article V, division 1, site plan review, indicating the location of the satellite dish and buildings, paved areas and other appropriate site features within 100 feet of the proposed location.
 - d. The height of regulated reception antenna, with the exception of a satellite dish antenna, shall not exceed 50 feet above mean grade or ten feet above the peak of the roofline, in any residential district, and shall not exceed 100 feet above mean grade in any other zoning district.
 - e. The height of a satellite dish antenna, including any platform or structure upon which the antenna is mounted, shall not exceed 15 feet in height at its maximum point above mean grade.
 - f. The diameter of a regulated reception antenna shall not 12 feet.
- (2) *Building-mounted antennae.* Regulated reception antenna having a diameter of one meter (3.28 feet) or less in residential districts and two meters (6.56 feet) in non-residential districts may be attached to the roof of a building, provided that no portion of the satellite dish antenna extends more than 36 inches above the highest point of the roof.
- (3) *Roof-mounted.* Roof-mounted regulated reception antenna over two meters (6.56 feet) in diameter are permitted in non-residential districts only, provided that the antenna complies with the height requirements of the district in which they are located. Roof-mounted regulated reception antenna shall not be placed on the front of any primary structure.
- (4) *General.*
 - a. No advertising or identification display shall be placed on any portion of an antenna or tower, including a satellite dish antenna, except for the name of the manufacturer and serial number.
 - b. No more than two antennas, including a maximum of one satellite dish antenna, shall be located on the same lot as a principal building. Antennae are permitted only in connection with, incidental to, and on the same lot as a principal building, structure, or use.

- c. The color of the antennae shall be of tones similar to the surroundings.
- d. All electrical and antenna wiring shall be placed underground where applicable.
- e. Antennas shall be securely mounted and anchored in accordance with manufacturer's specifications and building code requirements.
- f. The antenna shall be located and designed to meet the manufacturer's specifications to withstand a wind force of 100 miles per hour.
- g. The installation of an antenna, including a satellite dish antenna, shall require issuance of a building permit by the zoning official prior to erection.
- h. If a usable signal cannot be obtained by locating the ground-mounted antenna in the rear yard, the antenna may be located in the side yard of the property subject to the submission of a written affidavit and approval of the zoning board of appeals (ZBA) provided the placing of an antenna in a side yard shall remain subject to all other conditions set forth in this section.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-134. - Application procedures in general.

- (a) The process for application and review by the city for site plan review, special land use approvals, conditional land use approvals, planned unit developments (PUDs), condominium developments, text amendments to this chapter, and rezonings of land is shown on development review process. Submittal dates, application forms, and information on fee requirements are available at the city offices.
- (b) The planning commission, zoning board of appeals (ZBA), or city council may withhold granting approval of any use, site plan, PUD plan, or other approval required by this zoning ordinance pending approvals which may be required by county, state, or federal agencies or departments.



(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-135. - Building grades.

All new buildings and structures constructed on vacant lots adjacent to and in between existing buildings shall be constructed at the elevation of the average grade unless otherwise approved by the planning commission or zoning official. New grades shall not be established that would permit an increase in the runoff or surface water onto adjacent properties.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-136. - Determination of similar use.

- (a) Since every type of potential use cannot be addressed in this chapter, each district provides for similar uses, referencing this section. All applications for a use not specifically addressed in any zoning district shall be submitted to the zoning official for review and decision, based on the following standards. The zoning official may refer the review and decision to the planning commission.
- (1) A finding is made that the proposed use is not listed as a named permitted or special land use in any zoning district.
 - (2) If the use is not addressed in this chapter, the zoning official or planning commission may attempt to select a named use listed in this chapter which most closely resembles the proposed use. Such named use shall be determined using criteria such as potential impact on property values, nature of use, traffic generated, aesthetics, noise, vibration, dust, smoke, odor, glare, and other objectionable impacts on the health, safety, and welfare in the city.
 - (3) If a use is determined to be similar to a named use, the proposed use shall comply with any special land use standards or other ordinance requirements that apply to the named use.
 - (4) Where the zoning official or planning commission determines a proposed use is not similar to any named use addressed in this chapter, the applicant may petition for an amendment to this chapter.
- (b) The determination as to whether a proposed use is similar in nature and class to another named permitted or special land use within a district shall be considered as an interpretation of the use regulations, and not as a use variance. Any use determined by the zoning official planning commission to be similar shall thereafter be deemed to be included in the enumeration of the uses.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-137. - Donation boxes.

In all nonresidential districts, donation boxes shall be allowed with the following conditions:

- (1) Approval must be obtained from the zoning administrator or other official designated by the city.
- (2) Donation boxes can only be located to the rear of a building.
- (3) They cannot cause the elimination of required parking spaces.
- (4) They cannot impede the orderly flow of traffic in the site.
- (5) In those instances where donation boxes cannot be located in the rear of the building, a location in the side yard may be allowed but cannot be highly visible to any abutting residential district or from a public street.
- (6) There must be proof that unique circumstances exist that make compliance with items (1) through (4) above impractical.

(Ord. No. [2019-06](#), 1-6-20)

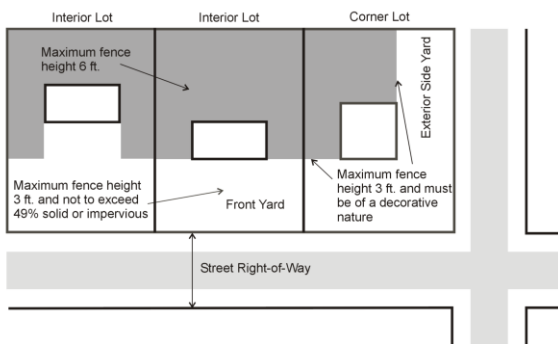
Sec. 86-138. - Fences and walls.

(a) *All districts.*

- (1) Unless specifically authorized elsewhere in this chapter, fences and walls located within the side yard or rear yard in any district shall not exceed a height of six feet.
- (2) Fences and walls shall not be erected within any public right-of-way or easement.
- (3) Fences or walls shall not be erected or maintained in such a way as to obstruct the vision of motorists exiting driveways.
- (4) Chain link fences shall not be erected in any non-residential front or exterior side yard, except the Industrial District, unless enclosing a retention pond approved by the zoning official or planning commission. The chain link fence must be black vinyl coated.
- (5) Electronic fences buried beneath the ground are permitted in all districts.
- (6) All supporting posts, cross members and protruding bolts, screws and/or hardware of all fences shall be inside the lot and faced toward the interior lot or be centered between the two vertical exterior surfaces of the fence.

(b) *Residential districts.*

Fences in Residential Districts



- (1) Unless specifically authorized elsewhere in this chapter, fences may be located within the required exterior side yard for corner lots but shall not exceed four feet in height, be in excess of 49 percent solid or impervious, and shall be tubular aluminum, black vinyl-coated chain link fence, or similar, as determined by the zoning administrator. It must also be determined that the fence will not be detrimental to the property or its surroundings including neighboring properties, streetscape, or intersection visibility.
- (2) Any fence in the required front yard shall be:
 - a. No more than three feet in height or be in excess of 49 percent solid or impervious;
 - b. Constructed of wrought iron (tubular aluminum), wood or vinyl "picket", or similar as determined by the zoning administrator, per the adopted design guidelines.

(c) *Non-residential districts.*

- (1) Any fence in a front yard in a non-residential district shall be of a decorative nature as determined by the zoning administrator or planning commission. The zoning administrator or planning commission may require landscaping to obscure the visual impact of the fencing in such situations as noted above.
- (2) A security fence for a permitted non-residential use may include a maximum of one additional foot of height to accommodate the barbed wire.
- (3) A four-foot obscuring wall, fence or greenbelt strip shall be provided on those sides of the property abutting land zoned for residential use.

(Ord. No. [2019-06](#), 1-6-20)

Cross reference— Landscape standards and tree replacement, article IV, division 3, § 86-180 et seq.

Sec. 86-139. - Flagpoles.

- (a) The maximum height of flagpoles shall not exceed 40 feet, except in residential district where the maximum height shall not exceed 20 feet, measured from the average surrounding grade.
- (b) A maximum of one flagpole per property is allowed in single-family residential districts and two flagpoles are allowed per site in all other zoning districts.
- (c) Flagpoles shall be set back a minimum of ten feet from any public right-of-way, private road access easement, access drive, or property line.
- (d) A maximum of two flags per flagpole shall be permitted.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-140. - Front yard requirements.

- (a) Front yard requirements along rights-of-way shall be measured from the public road right-of-way line, private road access easement line, or the curb of any access road, drive, or internal driveway where no right-of-way or easement exists.
- (b) Front yard setback reductions are permitted as regulated by this chapter.
- (c) Corner lots and through lots in all zoning districts must provide the required front yard setback on each side of the lot which abuts a public street, private road, or access drive.
- (d) All references to front yard requirements include the exterior side yard of corner lots unless otherwise noted.
- (e) On curvilinear streets, the minimum front yard setback is measured along a curve parallel to the front lot line.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-141. - Grading, excavation, filling, soil removal, creation of ponds, and clearing of trees.

- (a) The grading, excavation, filling, soil removal, creation of ponds, or clearing of trees within an area of less than 100 square feet, shall be permitted activities on any lot provided such activity is incidental to the uses on the lot and in accordance with applicable county and state regulations. Properties within the floodplain zone must permission from the state to conduct any construction on a property in the floodplain zone.
- (b) Grading, excavation, filling, soil removal, creation of ponds, or tree clearing within an area over 100 square feet, on a one-time basis, on properties not in the floodplain zone, may be permitted after review and approval of a sketch plan by the zoning official in accordance with article V, division 1, site plan review and with applicable county and state regulations.
- (c) Excavation and site preparation for building foundations is excepted from the excavating provisions of this chapter provided that such work is considered incidental to building construction and all necessary permits have been obtained.

- (d) Excavation required for swimming pools is excepted from excavating provisions of this chapter provided that all necessary permits are obtained and the pool is completely constructed within six months of the excavation.
- (e) Any clearing of trees on lots of over 100 square feet prior to site plan approval in accordance with article V, division 1, site plan review shall be prohibited.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-142. - Height exceptions and limitations.

The building height restrictions of all zoning districts shall not apply to the following: parapet walls and cornices not exceeding four feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, gas tanks, grain elevators, silos, stacks, stage towers and scenery lofts, water tanks, public monuments, church spires, belfries, cupolas, domes, ornamental towers, and penthouses or roof structures housing necessary mechanical appurtenances.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-143. - Home occupations.

All home occupations must comply, and remain in continuous compliance with, the following standards:

- (1) A home occupation permit must be obtained from the city and include a floor plan indicating the area(s) within the house where the home occupation will be conducted.
- (2) No person, other than members of the family residing in the dwelling, shall be engaged in the conduct of the home occupation.
- (3) The use of the dwelling for the home occupation shall be clearly accessory, incidental, and subordinate to its use for residential purposes, and not more than twenty percent (25%) of the gross floor area of the dwelling shall be used for the conduct of the home occupation.
- (4) There shall be no change in the outside appearance of the dwelling or any other visible evidence of the conduct of the home occupation.
- (5) There shall be no signs on any structure, in the windows or anywhere on the property.
- (6) Traffic generated by the home occupation shall not be greater than would normally be expected in a residential neighborhood, or no more than an average of ten vehicular trips per day.
- (7) The home occupation shall be conducted entirely within the confines of the dwelling and shall not take place in a garage or accessory structure.
- (8) There shall be no sale of products or service on the premises where the home occupation is located. A retail showroom, sales area, outlet, or similar facility is prohibited as is outdoor display of goods.
- (9) Any necessary parking spaces for vehicles generated by the conduct of the home occupation shall be provided on the site in a normal driveway, but not within any required yard.
- (10) No equipment or process shall be used in the home occupation which creates noise, vibration, glare, fumes, or odors detectable to the normal senses off the premises on which the home occupation is located. In addition, no equipment or process shall be used in the home occupation which causes visual or audible interference in any radio or television receivers off the premises or causes fluctuation in the line voltage off the premises.

(Ord. No. [2019-06](#), 1-6-20)

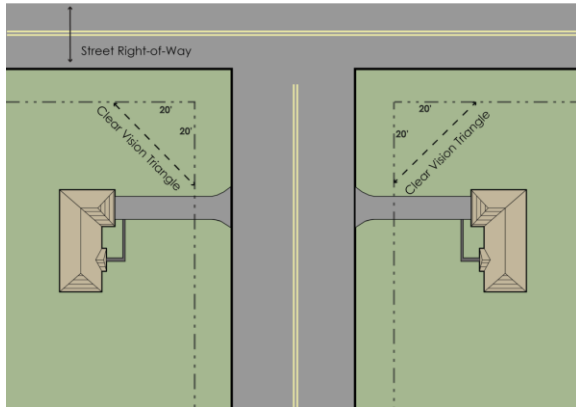
Sec. 86-144. - In-home office.

An in-home office is permitted by-right in any residential zoning district when in compliance with the following standards:

- (1) Clients or customers shall not make visits to the office.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-145. - Intersection visibility.



- (a) No fence, wall, sign, hedge, screen, or any planting shall be erected or maintained to obstruct vision between a height of three feet and eight feet within the triangular area formed by the intersection of the street right-of-way lines and a line connecting two points which are located on those intersecting right-of-way lines 20 feet from the point of intersection of the right-of-way lines. If the road is an access drive, these dimensions shall be measured from the pavement edge.
- (b) The three-foot and eight-foot height limit shall be measured from the lowest elevation of the segment of the intersecting roads centerline which lies between the point of the intersection of the other centerline and the extension of the line drawn through the points 20 feet from the intersection of the right-of-way lines.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-146. - Keeping of animals.

- (a) The keeping of household pets, including dogs, cats, rabbits, fish, birds, hamsters, and other animals generally regarded as household pets is permitted as an accessory use in any residential district. However, no more than three dogs or cats, four months of age or older, in any combination, nor more than a total of five animals, shall be kept or housed in or at one dwelling unit.
- (b) The keeping of more than three dogs on one premises shall be deemed to be a kennel and must follow the regulations set forth in article V, division 3, special land uses.
- (c) The keeping of animals not normally considered domesticated including, but not limited to, pigs, horses, sheep, cattle, poultry, reptiles, and wild, vicious, and exotic animals, is prohibited in all zoning districts.

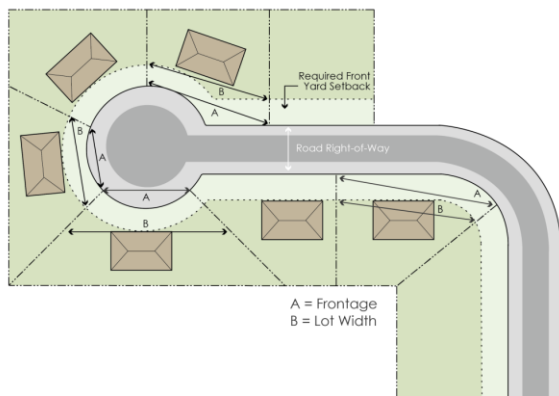
(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-147. - Lot area allocation.

- (a) No portion of a lot can be used more than once for determining compliance with the provisions for lot area and yard dimensions for construction or alteration of buildings.
- (b) No lot, adjacent lots in common ownership, required yard, parking area, or other required open space shall be created, divided, or reduced in dimensions or area below the minimum requirements of this chapter. If already less than the minimum requirements of this chapter, a lot, adjacent lots in common ownership, required yard, parking area, or other open space shall not be divided or reduced in dimensions or area so as to increase its noncompliance with the minimum requirements of this chapter. Lots or yards created after the effective date of this chapter shall comply with the requirements of this chapter.
- (c) In calculating the area of a lot that adjoins a dedicated alley or lane, for the purpose of applying lot area requirements of this chapter, 1/2 the width of such alley abutting the lot shall be considered as part of the lot.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-148. - Lot width/depth ratio.



Lots created after the effective date of this chapter having a lot area of less than ten acres shall have a lot width which is equal to, or greater than, 1/4 the depth of the lot.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-149. - Mechanical equipment and utilities.

- (a) Ground mounted mechanical equipment, such as blowers, ventilating fans, and air conditioning units are permitted only in non-required side yards and in any rear yard, as determined by the zoning official.
- (b) Mechanical equipment shall be placed no closer than three feet to any lot line in the CBD.
- (c) Any ground, building, or roof mounted mechanical equipment or utilities, including water and gas meters, utility boxes, transformers, elevator housings, stairways, tanks, heating, ventilation and air conditioning equipment (HVAC), and other similar equipment, shall comply with the following standards:
 - (1) All such equipment shall be screened by a solid wall, fence, landscaping, and/or architectural features that are compatible in appearance with the principal building.
 - (2) For all commercial and industrial buildings, roof-mounted equipment shall not exceed a height of ten feet above the surrounding roof surface, and shall occupy no more than 15 percent of the total roof area. All roof-mounted mechanical units must be screened so they are not visible from ground level, even if not specifically addressed as part of site plan review.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-150. - Medical marihuana.

- (a) *Findings.* The city adopts this section based on the following findings of fact:
- (1) Voters in the state approved a ballot initiative authorizing the use and cultivation of marihuana by and for persons with certain medical conditions.
 - (2) The intent of the initiative was to enable certain specified persons who comply with the registration provisions of the law to obtain, possess, cultivate, use and distribute marihuana and to assist specifically registered individuals identified in the statute without fear of criminal prosecution under limited, specific circumstances.
 - (3) Despite the specifics of the state legislation and the protections set forth therein, marihuana remains a controlled substance under state law and the obtaining, possession, cultivation, use and distribution of marihuana has a potential for abuse that should be closely monitored and to the extent permissible regulated by the local authorities.
 - (4) If not closely monitored or regulated, the presence of marihuana even for the purposes permitted by the legislation can increase the potential for illegal conduct and/or activity or other adverse conditions and this threat affects the health, safety and welfare of the residents of the city.
 - (5) It is the intent of the city that nothing in this article be construed to allow persons to engage in conduct that endangers others or causes a public nuisance, or to allow use, possession or control of marihuana for non-medical purposes or allow activity relating to cultivation, distribution or consumption of marihuana that is otherwise illegal.
- (b) *Purpose.* It is the purpose of this section to impose specific requirements on those individuals registering with the state as a "qualifying patient" or a "primary caregiver" and to regulate the conduct of activity pursuant thereto in the city so as to protect the health, safety and welfare of the general public.
- (c) *Definition.*
- (1) "MMMA" means the Michigan Medical Marihuana Act, MCL 333.26421 et seq. and the Michigan Medical Marihuana rules, Michigan Administrative Code R 333.1 et seq., as amended from time to time.
 - (2) The terms "enclosed, locked facility," "marihuana," "medical use," "primary caregiver," "qualifying patient" and "usable marihuana" shall have the same meanings given to them in the MMMA.
 - (3) "Dispensary" means any location, lot, building or premises used by more than one primary caregiver for medical use of marihuana, where marihuana is cultivated for distribution to a primary caregiver who does not have his or her primary residence at that location, lot, building or premises, or where there is medical use of marihuana for more than five qualifying patients.
- (d) *Possession and use of medical marihuana.* Marihuana can be possessed and used in the city only in accordance with and pursuant to the MMMA.
- (1) *Dispensaries of marihuana prohibited.* Dispensaries are prohibited in the city.
 - (2) *Marihuana primary caregivers.* Assistance of a qualifying patient with the medical use of marihuana by a primary caregiver:
 - a. Is permitted only as a home occupation in RA-1, RA-2, RA-3 one-family and two-family residential districts;
 - b. Is prohibited in all other districts and for other than as a home occupation; and
 - c. Is subject to the following conditions:

1. Compliance with all home occupation requirements set forth in section 86-143 of this Code.
2. The use and cultivation of marihuana shall at all times comply with the MMMA.
3. The primary caregiver shall operate the home occupation only at a single-family dwelling or two-family dwelling that is his or her primary residence.
4. The home occupation location from which a primary caregiver provides assistance to a qualifying patient shall not be within a 1,000-foot radius from any parcel with a school, church or public library located on it. Measurement of the 1,000-foot radius shall be made from the lot line of the lot upon which the proposed home occupation will be situated to the lot line of the lot upon which the school or public library is situated and shall be the shortest distance between the respective lot lines.
5. No more than one primary caregiver shall assist qualifying patients on any single lot.
6. A maximum of one visit to a primary caregiver home occupation location per day, per qualifying patient, is permitted and shall be permissible only between the hours of 8:00 a.m. and 8:00 p.m.
7. All usable marihuana and marihuana plants under cultivation shall be contained within the primary structure of the home occupation lot, in an enclosed, locked facility inaccessible from the exterior of the structure and secured with devices which limit access to only the primary caregiver.
8. The outdoor cultivation of marihuana plants is prohibited.
9. If a room or area with windows is utilized as an enclosed, locked facility, the primary caregiver shall employ shielding methods which do not involve alteration to the exterior of the structure, and which prevent ambient light illumination of adjacent residential properties.
10. A primary caregiver home occupation shall not be permitted in connection with or at a location at which any other home occupation is operated.
11. No consumption of marihuana shall be permitted at a primary caregiver's home occupation location, except if the consumption is by a resident of the home occupation location who is also a qualifying patient.
12. A primary caregiver who has been designated by a qualifying patient as that qualifying patient's primary caregiver is the only person permitted to assist that qualifying patient with that qualifying patient's medical use of marihuana, and may cultivate marihuana for that qualifying patient only if the primary caregiver is designated on the state registry as being allowed to possess marihuana plants for that qualifying patient's medical use.
13. The owner of the home occupation location shall obtain an occupancy permit and otherwise satisfy all requirements of section 86-143 prior to commencement of the home occupation activity by a primary caregiver and shall, if applicable, obtain a building permit for any alterations to the structure and comply with all related Code provisions. Under no circumstances shall the building inspector, zoning administrator or any other city official require the applicant to provide any information during the permitting process on whether or not the applicant is a primary caregiver or a qualifying patient, in recognition of the confidentiality requirements of the MMMA, provided however that this prohibition shall not have any effect on law enforcement activities by police authorities.
14. A special use exception under former subsection 86-128(5) shall not apply and is not permitted.
15. A primary caregiver engaged in a home occupation complying with this section is hereby exempted from any otherwise effective requirement to obtain a license.

16. All home occupations complying with this section are subject to inspection at reasonable times for the purpose of personal property tax assessment, building occupation and occupancy permit reasons, for ascertaining conformity to any zoning requirements, for effective police and fire services or for purposes of ascertaining whether the home occupation must be accounted for in any fire department plan for dealing with toxic materials in conformity with Act No. 154 of the Public Acts of Michigan of 1974 (MCL 408.1001 et seq.), as amended, with regard to hazardous chemicals. Inspection will be done by a properly identified appropriate official or his designee, i.e., fire chief, health officer or building official. Such inspection shall be conducted as may be deemed appropriate by the officer or employee named and shall indicate a determination of whether the requirements following the official's or employee's title have been complied with:
- i. *Fire chief:* The provisions of the fire code and all other applicable regulations and requirements of the city and the state relative to fire safety have been complied with.
 - ii. *Health officer:* All applicable health and sanitary requirements of the city, county and state have been complied with.
 - iii. *Building official:* The building requirements of this Code and of the state have been complied with and the zoning and other land use provisions of this Code will permit the home occupation at its proposed location.
- d. *Civil forfeiture.* In addition to all other available penalties and remedies available under applicable laws any marihuana sold or possessed with the intent to sell in violation of this section may be seized, forfeited and disposed of by the police agencies serving the city.
- e. *Penalty.* Any violation of this article shall constitute a municipal civil infraction the penalty for which shall not exceed \$100.00, plus costs and other sanctions for each violation. Each day that a violation occurs shall be considered a separate offense. The city may in addition seek injunctive relief.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-151. - Performance standards.

No land use otherwise allowed shall be permitted within a zoning district that does not conform to the following standards of use, occupancy, and operation. These performance standards are hereby established as the minimum requirements to be maintained.

- (1) *Smoke.*
 - a. *Generally.* It shall be unlawful for any person to permit the emission of any smoke from any source, excepting smoke from a chimney for a fireplace or wood/coal burning stove in a residential structure, to a density greater than that density described as No. 1 of the Ringelmann 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 Ringelmann Chart, for a period, or periods, aggregating four minutes in any 30-minute period.
 - b. *Method of measurement.* For the purpose of grading the density of smoke, the Ringelmann Chart, as now published and used by the United States Bureau of Mines, which is hereby made a part of this chapter, shall be the standard. However, the umbra scope readings of smoke densities may be used when correlated with the Ringelmann's Chart.
- (2) *Radioactive, toxic and hazardous materials.* Radioactive materials and wastes, including electromagnetic radiation such as X-ray machine operation, shall not be emitted in excess of quantities established as safe by the American National Standards Institute, when measured at

the property line. All transportation, including by rail, of radioactive materials, hazardous waste, and toxic waste shall be within permissible standards set by the Federal government.

- (3) *Noise.* Operations or activities which exceed the maximum sound intensity levels defined below shall be prohibited. A sound level meter and an octave band analyzer shall be used to measure the intensity and frequency of the sound or noise levels. Sounds with very short duration, which cannot be accurately measured with a sound level meter, shall be measured by an impact noise analyzer; and the maximum levels indicated in the following table may be exceeded by no more than five decibels. Where questions on noise arise, the current standards recognized by the American National Standards Institute shall apply.

Maximum Permitted Sound Intensity Levels		
Center Frequency (Cycles per Second)	Sound Pressure Level in Decibels (0.0002 dyne/cm ²)	
	Residential Districts	Non-Residential Districts
31.5	72	77
63	71	76
125	65	70
250	57	62
500	51	56
1,000	45	50
2,000	39	44
4,000	34	39
8,000	32	37

Source: American National Standards Institute

- a. The following sources of noise are exempt:
1. Transportation vehicles not under the control of an on-site use.
 2. Occasionally used safety signals, warning devices and emergency pressure-relief valves.

3. Temporary construction activity between 6:00 a.m. and 7:00 p.m.
 4. Warning or alarm devices that have the purpose of signaling unsafe or dangerous situations or calling for police.
 5. Noises resulting from authorized public activities such as parades, fireworks displays, sports events, musical productions, and other activities that have the approval of the city council or its designee.
- (4) *Dust, dirt, and fly ash.*
- a. *Generally.* No person, firm, or corporation shall operate or maintain any process, furnace, or combustion device for the burning of coal or other fuels, unless such processes or devices are equipped with recognized and approved equipment, methods, or technology to effectively reduce the quantity of gas-borne or airborne solids or fumes emitted into the open air, which is operated in conjunction with the process, furnace, or combustion device so that the quantity of gas-borne or air-borne solids shall not exceed 0.20 grains per cubic foot of carrying medium at a temperature of 500 degrees Fahrenheit. These standards are not intended to apply to residential uses, such as chimneys for a fireplace or wood/coal burning stove.
 - 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 A.S.M.E. 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 zoning administrator 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.
- (5) *Fire and explosive hazards.* The storage, utilization, or manufacture of materials, goods, or products ranging from free or active burning to intense burning, as determined by the fire chief, is permitted subject to compliance with these performance standards and all other standards of this chapter, and providing that the following conditions are met:
- a. Such materials or products shall be stored, utilized, or produced within completely enclosed buildings or structures having incombustible exterior walls, which meet the requirements of the building code.
 - b. All such buildings or structures shall be set back at least 40 feet from lot lines and all buildings or structures shall be protected throughout by an automatic sprinkler system complying with installation standards prescribed by NFPA prevention codes.
 - c. The storage and handling of flammable liquids, liquefied petroleum, gases, and explosives shall comply with the state rules and regulations as established by the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended, and the NFPA.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-152. - Principal buildings, structures, and uses.

- (a) No lot may contain more than one principal building, structure, or use.
- (b) Groups of multiple-family dwellings, site condominiums, retail business buildings, or other groups of buildings contained within a single, integrated complex, sharing parking, signs, access, and other similar features which together form a unified function and appearance may be deemed a principal use collectively, by the zoning administrator.
- (c) In cases where there is more than one use, the use comprising the greatest floor area shall generally be considered the principal use, except in cases where a use comprising a secondary amount of floor

area is considered to have greater impact in terms of traffic generated, noise levels, disruption of views, and similar impacts, as determined by the zoning administrator.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-153. - Private road standards.

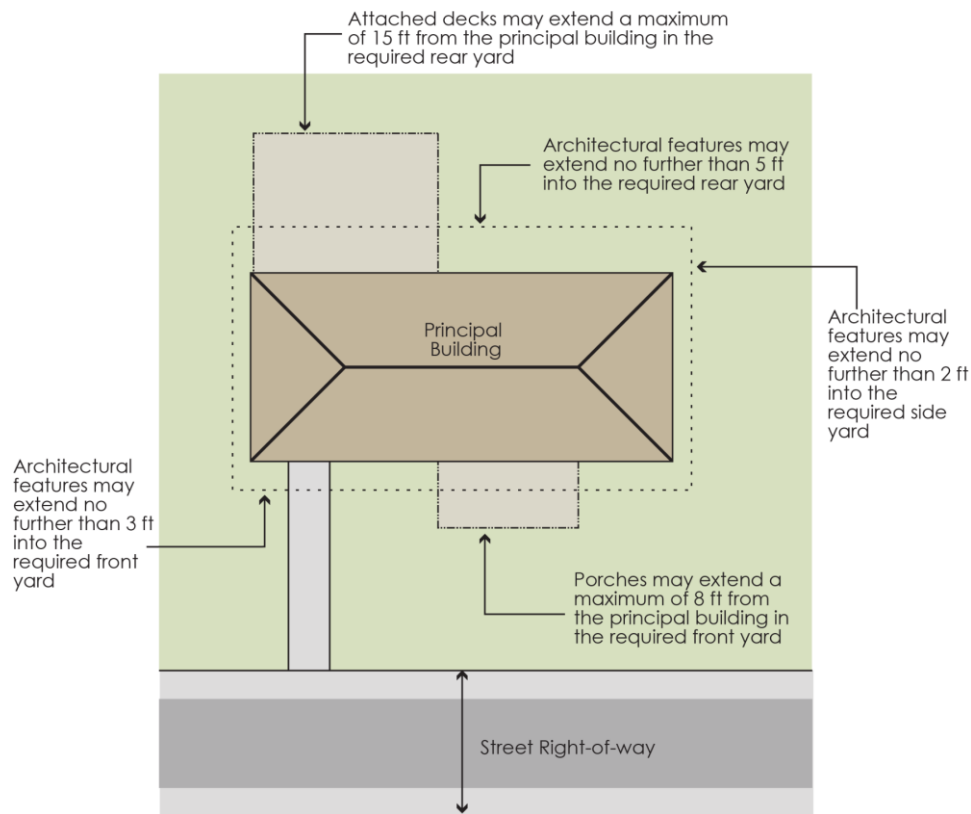
- (a) The city may allow private roads only when meeting the standards of this section. The regulations for private roads contained herein shall not apply to approved private roads within platted subdivisions regulated by the Subdivisions Code of Ordinances, as amended, or internal access drives to parking within approved site plans for multiple-family developments or commercial access drives.
- (b) Private roads are reviewed and approved by the city council after a recommendation from the planning commission. Documentation accepted by the city council, must support that the property possesses unusual configuration and/or topography which would render construction of public streets under city standards for grades, radii, width, and/or materials impractical.
- (c) An easement for private road access shall be provided of not less than 24 feet in width for roads and utilities serving two or fewer lots or single-family residential units and not less than 60 feet in width for roads serving more than two homes. This easement shall be recorded with the county register of deeds office and a copy of the recorded easement provided to the zoning administrator.
- (d) Any lot gaining access from a private road shall have at least the minimum lot frontage required herein for the zoning district in which the lot is located. The frontage for the lot shall be measured at the point between the lot lines designated by the zoning administrator as the side lot lines.
- (e) Any lot created on a private road, along with accompanying buildings, shall comply with all site development standards applicable to the zoning district in which it is located. The easement for the private road shall not be included in the minimum lot width and lot area requirements.
- (f) The maximum length of any private road cul-de-sac shall not exceed the city standard for public roads.
- (g) The minimum roadway width of any private road shall be at least 18 feet, however if such roadway is within 300 feet of a fire hydrant, such width may be reduced to 14 feet upon approval of the city fire department.
- (h) The surface and base material and construction of any private road shall be approved by the city engineer and city fire department as being sufficient to accommodate emergency vehicles.
- (i) Issuance of a building permit for the placement of buildings/structures on lots and/or parcels on a private road shall not be considered a guarantee or warranty that adequate access exists to the lot for emergency vehicles. The city assumes no responsibility for the maintenance of or improvements to private roads.
- (j) The applicant shall submit a joint maintenance agreement or master deed in recordable form that runs with the land, binds benefiting parcels, and allows the City to make any repairs or conduct any maintenance it deems necessary, and charge the property owners or homeowners association served by the private road for such service.
- (k) The applicant shall provide a recorded statement running with the land informing purchasers of lots accessed by the private road that the access road is private.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-154. - Projections into yards—Accessory buildings and structures location standards.

- (a) Certain architectural features, such as cornices, eaves, gutters, chimneys, pilasters, and similar features may project no farther than:

- (1) Three feet into a required front yard.
 - (2) Five feet into a required rear yard.
 - (3) Two feet into a required side yard.
- (b) Projection of building appurtenances such as unenclosed porches, patios, decks, balconies, stoops, window awnings, or similar features which are elevated six inches or more above grade, into a required side yard shall be prohibited. An unenclosed porch, patio, deck, stoop, balcony, or window awning may project no farther than:
- (1) Eight feet into a required front yard.
 - (2) Maximum of 33 percent into required rear yard setback.
 - (3) Five feet into the right-of-way in the B-1 if such feature is located at least eight feet above ground level.
 - (4) At-grade patios can extend into required side and rear yards but must meet the accessory structure setback.

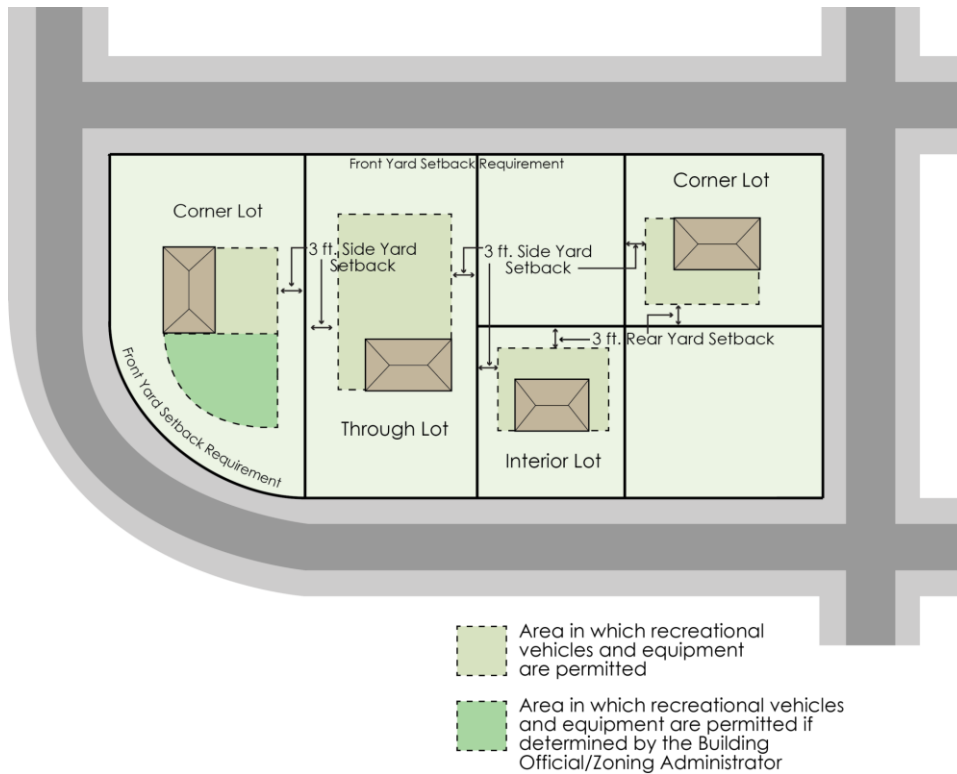


(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-155. - Recreational equipment and vehicle parking and storing.

The purpose of these standards is to regulate and control the parking and storage of recreational vehicles and equipment on private property to promote the public health, safety, and welfare and to preserve property values.

- (1) *Location standards.* See also section 86-154, accessory buildings and structures location standards.



- a. *Generally.* Recreational vehicles and/or recreational equipment shall be prohibited in the front yard unless otherwise permitted in this section. Recreational vehicles or equipment shall be placed or parked in the rear yard or side yard behind the front building line, on a hard paved surface not closer than ten feet from any structure and set back a minimum of three feet from any lot line, except as provided in paragraphs b through f below.
 - b. *Placement on lot.* Recreational vehicles and equipment are permitted to be parked or stored only on a lot with a principal building, structure, or use unless it is adjacent lot which is under the same ownership.
 - c. *Time limits.* Recreational vehicles or recreational equipment may be stored, parked, or placed within any front yard or within a public right-of-way where on-site parking is permitted for a period not exceeding 72 hours for loading and unloading or for normal maintenance and cleaning.
 - d. *Corner lots.* In the case of corner lots, as defined in this chapter, the regulations of this section shall apply to both the front yard and the exterior side yard.
 - e. *Through lots.* In the case of through lots, as defined in this chapter, parking and storage shall be permitted in the rear yard, as determined by the zoning administrator, provided the parked vehicle meets the front and side yard principal building setback requirements of the zoning district.
 - f. *Through corner lots.* In the case of through lots on a corner (i.e. lots with frontage along three streets), parking shall be allowed only in the side yard. The zoning administrator may permit parking in the rear yard, as noted in paragraph 5. above, upon determination that such parking is allowed on the adjacent lot.
- (2) *Owner or legal tenant.* The owner of any recreational vehicle or equipment placed or parked on a lot shall be the owner of the lot or the legal tenant.

- (3) *Condition and licensing requirements.* All recreational vehicles and/or recreational equipment stored or parked in any residential district shall be in an operable condition, as determined by the zoning administrator.
- (4) *Detachable camper tops.* Detachable camper tops shall not be stored in any residential district except in accordance with above guidelines. Further, camper tops that are not installed on a licensed and operable vehicle must be placed on the ground and stabilized.
- (5) *Occupation of stored recreational vehicles.* At no time, shall any stored, parked, or placed recreational vehicles and/or recreational equipment be occupied or used for living purposes. At no time shall any such recreational vehicle and/or equipment have fixed connections to water, gas, or a sanitary sewer. At no time shall any such recreational vehicles and/or equipment, other than those granted a temporary use permit in conformance with section 86-164 below.
- (6) *Permanent special exceptions.* A recreational vehicle and/or recreational equipment which is officially licensed as a vehicle for a disabled person in accordance with state law and which is used as the regular means of transportation by or for a disabled person may be parked within the required setback area. Appropriate landscaping must be provided to screen the recreational vehicle from adjacent residential structures.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-156. - Regulations applicable to manufactured single-family dwellings outside of manufactured housing developments.

Any manufactured single-family dwelling, constructed and erected on a lot outside a manufactured housing development, shall be permitted only if it complies with all of the following requirements:

- (1) If the dwelling unit is a manufactured home, it must either be:
 - a. New and certified by the manufacturer and/or appropriate inspection agency as meeting the manufactured home construction and safety standards of the U.S. Department of Housing and Urban Development, as amended, or any similar successor or replacement standards which may be promulgated.
 - b. Used and certified by the manufacturer and/or appropriate inspection agency as meeting the standards referenced in subsection a above, and found, on inspection by the zoning administrator or his designee, to be in excellent condition and safe and fit for residential occupancy.
- (2) If the dwelling unit is a manufactured home, the manufactured home shall be installed with the wheels and tongue removed.
- (3) The dwelling unit is a manufactured home, it shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the building site by an anchoring system or device complying with the rules and regulations, as amended, of the state manufactured home commission, or any similar or successor agency having regulatory responsibility for manufactured home parks or manufactured housing communities.
- (4) The dwelling unit shall comply with all applicable building, electrical, plumbing, fire, energy, and other similar codes adopted by the city, provided, that where a dwelling unit is required by law to comply with any federal or state standards or regulations for construction, and where such standards or regulations for construction are stricter than those imposed by city codes, then and such federal or state standards or regulations shall apply. Appropriate evidence of compliance with such standards or regulations shall be provided to the zoning administrator.
- (5) The dwelling unit shall comply with all restrictions and requirements of this chapter, including, without limitation, the minimum lot area, minimum lot width, minimum residential floor area, yard

requirements, lot percent coverage and maximum building height requirements of the zoning district in which it is located.

- (6) The dwelling unit shall have a minimum horizontal dimension across any side or rear elevation of 20 feet.
- (7) The dwelling unit shall be placed on the lot so that the portions nearest the principal street frontage are at least 30 feet in dimension parallel to the street.
- (8) The dwelling unit shall be firmly attached to a permanent continuous foundation constructed on the building site. Such foundation must have a wall of the same perimeter dimensions as the dwelling unit and be constructed of such materials and type as required by the building code for on-site constructed single-family dwellings. If the dwelling unit is a manufactured home, its foundation and skirting shall fully enclose the chassis, undercarriage, and towing mechanism.
- (9) A storage area within a building not less than 120 square feet in an area shall be provided. This storage area may consist of a basement, closet area, attic, or attached garage in a principal building, or in a detached accessory building which is in compliance with all other applicable provisions of this chapter pertaining to accessory buildings.
- (10) Permanently attached steps or porch areas at least three feet in width shall be provided where there is an elevation difference greater than eight inches between the first floor entry of the dwelling unit and the adjacent grade. Railings shall be provided in accordance with the city building code.
- (11) The main roof of the dwelling unit shall have a minimum pitch of four feet of rise for each 12 feet of horizontal run.
- (12) The exterior finish of the dwelling unit shall not cause glare or reflection that is greater than that from siding coated with clean, white, gloss exterior enamel.
- (13) The dwelling unit shall not contain any additions of rooms or other areas which are not permitted and constructed with similar quality workmanship and materials as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
- (14) The above standards may be modified by the zoning administrator upon determination that the proposed design is consistent with the predominant standard in the surrounding area.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-157. - Residential development regulations for infill housing for existing neighborhoods.

- (a) *Intent.* The development regulations contained herein are intended to regulate the character of new infill housing development within a 300-foot defined area of the city which contain traditional and historic exterior design elements. The purpose of these regulations is to promote harmony in neighborhoods between new housing units and the existing buildings by assuring that new construction is of suitable character in terms of site layout, building dimensions, architectural design, and building materials.
- (b) *Procedure.*
 - (1) All building permit applications for new single-family and two-family housing development located in platted subdivisions approved prior to 1967 must be submitted to the zoning administrator.
 - (2) The zoning administrator shall have final approval on any applicable infill housing development in accordance with paragraph (c) below. However, the zoning administrator may refer applications to the planning commission for final approval.
- (c) *Site design and architectural standards for single- and two-family dwellings.*

- (1) *Lot coverage.* The lot coverage of any proposed dwelling unit shall be no less than 90 percent and no more than 135 percent of the lot coverage of other single-family or two-family dwelling units within 300 feet of the subject lot, including dwelling units on both sides of the street of the same block.
- (2) *Front yard setbacks.* The front and exterior side yard setbacks of any proposed single-family or two-family dwelling unit shall be in accordance with district regulations as set forth in this chapter.
- (3) *Building appearance.* Building appearance for new single-family and two-family dwelling units shall reflect a continuity of design with surrounding buildings by maintaining the architectural styles, details, building materials, and design themes of dwelling units on both sides of the street within 300 feet of the subject lot. Similarity and compatibility with surrounding dwelling units in terms of the following features may be necessary in order to meet this requirement:
 - a. Roof and overhang style (e.g. gable, mansard, hip, A-frame, flat).
 - b. Facade appearance (door and window openings).
 - c. Building massing and height.
 - d. Exterior building materials.
 - e. Porches.
 - f. Detached garage style and design.
- (4) *Orientation.* Proposed infill residential units shall be oriented toward, and be parallel with, the right-of-way or private road.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-158. - Residential recreational area.

- (a) Any residential subdivision, condominium, or multiple-family development comprising 20 or more lots or dwelling units, either as a single development or as a group of adjacent developments offered by a single proprietor, shall provide an active recreational area which shall contain an area equal in size to 1,500 square feet for each lot or dwelling unit in the subdivision, condominium project, or multiple-family development. The planning commission may modify this requirement when it is determined that alternate recreation facilities are provided nearby.
- (b) The recreational area shall be well-drained, graded, seeded or sodded, safe from hazard, accessible to all dwellings, and the location shall be approved by the planning commission as part of the site plan review.
- (c) Preservation of the recreational area shall be achieved through deed restrictions or dedication to a subdivision homeowner's association.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-159. - Sidewalks, bikepaths, and walkways.

Any development shall provide pedestrian pathways meeting the following requirements:

- (1) *Sidewalks.*
 - a. Sidewalks shall be required on both sides of the street or road in accordance with the city Code of Ordinances.
 - b. All sidewalks shall be a minimum five feet wide and constructed of concrete to the specifications of the American Society of Highway and Transportation Officials (ASHTO).

- c. Sidewalks abutting parking areas shall be a minimum of seven feet wide to accommodate vehicle overhang.
 - d. In lieu of concrete sidewalks, the planning commission may permit asphalt, stone or wood chip paths, or wooden boardwalks in open space areas or areas with sensitive environmental features such as wetlands. The path or boardwalk shall provide direct access to all lots where the planning commission waives the requirement for concrete sidewalks.
- (2) *Bikepaths.* Bikepaths shall be at least eight feet wide and constructed of concrete or asphalt in accordance with the specifications of the ASHTO.
- (3) *Walkways from the sidewalk to building entrances.*
- a. A continuous pedestrian walkway shall be provided from any adjacent street sidewalk to building entrances.
 - b. The walkways shall incorporate a mix of landscaping, benches, drop-off bays, and bicycle facilities for at least 50 percent of the length of the walkways.
 - c. Walkways shall be connected to adjacent sites wherever practical and connect to other pedestrian systems.
- (4) *Walkways from parking areas to building entrances.*
- a. Internal pedestrian walkways shall be developed for persons who need access to the building(s) from internal parking areas. The walkways shall be located within the parking areas and shall be designed to provide safe, guided access from these areas to the entrances of the building(s).
 - b. The walkways shall be designed to separate people from moving vehicles as much as possible.
 - c. The walkways must be designed for disabled access according to the adopted building code for the city and other applicable laws.
 - d. The walkways shall be distinguished from the parking and driving areas by use of any of the following materials: special pavers, bricks, raised elevation, scored concrete, or pavement markings. Other materials may be approved by the planning commission if appropriate to the overall design of the site and building.
- (5) *General.*
- a. Unless otherwise permitted by this chapter, sidewalks, bikepaths, and walkways shall be installed by the developer or property owner within the dedicated street right-of-way or private road access easement. A special easement may be provided where grades or other factors prevent placement within the right-of-way or access easement.
 - b. Crosswalk pavement markings and signs may be required in areas of potential vehicular and pedestrian conflict.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-160. - Solar panel energy systems.

Freestanding solar panels shall be considered an accessory building and shall be subject to the following requirements for such, together with all other applicable building codes and ordinances:

- (1) Solar energy systems are a permitted use in all zoning districts except solar energy commercial operations, which are prohibited as a principal use except in the I-2 industrial district (these are systems whose main purpose is to generate energy for sale back into the energy grid system, rather than being consumed on site).
- (2) Solar energy systems are subject to the following:

- a. Roof mounted systems on the principal building shall not exceed the height limits in the district, nor be more than three feet higher than the finished roof to which it is mounted, whichever is less. In no instance shall any part of the system extend beyond the edge of the roof.
- b. Ground mounted systems and systems attached to accessory buildings shall adhere to the setback requirements in the district.
- c. Solar energy systems are prohibited in front yards, and shall not be located past the front wall of the principal building.
- d. The number of solar panels and supporting equipment shall be considered as one system.
- e. Ground mounted solar energy systems shall not be categorized as accessory buildings.
- f. If solar energy systems are attached to accessory buildings the number of accessory buildings allowed shall be regulated in accordance with the provisions set forth in section 86-130, accessory buildings, structures, and uses.
- g. The height of ground mounted solar energy systems and systems included on accessory buildings shall not exceed ten feet in height.
- h. No more than 20 percent of a lot may be covered with a solar energy system.
- i. Ground mounted systems shall be located on lots of 1/2 acre or more.
- j. Zoning and construction permits are required.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-161. - Storage and repair of vehicles.

The parking of commercial vehicles, as defined in article I, division 2, definitions, shall be prohibited in all zoning districts except commercial and industrial districts, unless otherwise permitted.

- (1) Commercial vehicles shall not be permitted in a residential district except as permitted below:
 - a. The vehicle shall be used as the principal means of transportation for a resident in the conduct of such resident's employment or profession or is the resident's sole means of motor vehicle transportation.
 - b. The vehicle shall not be a utility trailer, dump truck, stake truck, flat-bed truck, wrecker, or semi-tractor.
 - c. No part of the vehicle may exceed ten feet in overall height, measured from grade.
 - d. The vehicle shall not have more than four rear wheels.
 - e. The vehicle shall not exceed 11,000 pounds gross weight.
 - f. In any Multiple-Family Residential District, the property owner or the controlling association shall provide a designated area, approved by the planning commission, to park or store commercial vehicles. Parking spaces required to meet the parking requirements of this chapter shall not be used for the parking or storage of commercial vehicles.
 - g. The parking or storage of essential public service vehicles where the vehicle is operated by the homeowner or the occupant is exempt from these provisions.
- (2) Commercial vehicles which are employed in conjunction within a non-residential district shall be parked or stored in compliance with the following provisions:
 - a. For sites with a site plan approved subsequent to the effective date of this section, such vehicles shall be parked or stored in parking or loading spaces designated for that purpose on the site plan and per site plan approval.

- b. For situations not covered under (2)a above, commercial vehicles shall not be parked or stored in the front yard.
- (3) The parking or storage of commercial vehicles for residential, office, or storage purposes shall not be permitted.
- (4) The repair, restoration, and maintenance of vehicles in any residential district, when such work is not conducted entirely within the interior of the vehicle, shall be subject to the following limitations:
 - a. Procedures exceeding 48 hours in duration or which require the vehicle to be immobile or inoperable in excess of 48 hours shall be carried out within an enclosed building.
 - b. Inoperable vehicles and vehicle parts shall be stored inside an enclosed building.
- (5) The outdoor storage of inoperable and/or unregistered vehicles shall be prohibited, as regulated in the city Code of Ordinances.

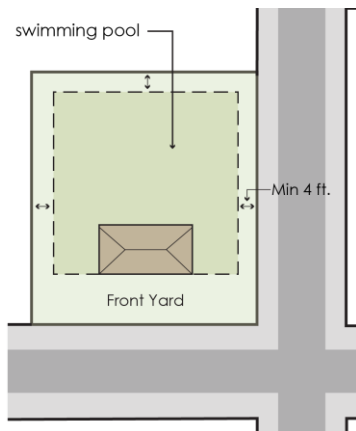
(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-162. - Street access and design.

- (a) Any lot created after the effective date of this chapter shall have frontage upon a public street right-of-way, at least 60 feet in width, unless a private road of lesser width has been approved by the city council.
- (b) A building permit shall not be issued for the construction of any principal building unless said lot has the minimum frontage required on an improved public street, at least 60 feet in width, unless a private road of lesser width has been approved by the city council.
- (c) Access driveways shall be surfaced with a durable pavement having an asphalt or cement binder and be constructed to the city standards.
- (d) All street access shall meet the standards of article IV, division 2, access management and driveway standards.
- (e) All streets shall be constructed in accordance with the city Code of Ordinances.
- (f) All streets shall be constructed with curb and gutter unless waived by the city council.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-163. - Swimming pools.



- (a) Swimming pools, spas, hot tubs, and similar devices shall be built in accordance with the Michigan Building Code.
- (b) Swimming pools, spas, hot tubs, and similar devices shall not be located in any front yard.
- (c) Swimming pools, spas, hot tubs, and similar devices shall not be located less than four feet from any lot line.
- (d) Swimming pools shall be considered in computing impervious surface calculations.
- (e) All swimming pools, spas, hot tubs, and similar devices shall be enclosed by a barrier (i.e. fence or other enclosure) where required by state law and as approved by the zoning official.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-164. - Temporary buildings, structures, seasonal/special events, and uses.

Temporary principal or accessory buildings, structures, uses and special events may be permitted, subject to the following conditions:

- (1) *Temporary construction, buildings, and structures/offices.*
 - a. With the exception of moving/storage pods, temporary buildings and construction structures may only be used for the storage of construction materials, tools, supplies and equipment, for construction management and supervision offices, and for temporary on-site sanitation, solid waste, or fuel facilities, related to construction activity on the same lot.
 - b. Moving pods are allowed without a permit for up to seven days, no more than twice during a calendar year, and must be placed upon a hard surface such as a driveway.
 - c. No temporary building or structure shall be used for dwelling purposes.
 - d. The placement of temporary buildings and structures shall be in conformance with the requirements of article V, division 1, site plan review. A building permit for such building or structure shall be issued by the zoning official prior to installation.
 - e. Temporary buildings and structures shall be removed from the lot within 15 days after an occupancy permit is issued by the zoning official for the permanent structure on such lot, or within 15 days after the expiration of a building permit issued for construction on such lot.
- (2) *Seasonal, and special events.* Seasonal or special events may be allowed in any district upon issuance of a permit by the zoning administrator, when meeting the standards listed below:
 - a. Seasonal, and special events may be allowed on any lot with a permitted principal building.
 - b. Seasonal, and specials events may be allowed on a vacant lot when providing the minimum setback for all buildings, structures, and parking required for the appropriate zoning district
 - c. The seasonal or special event must not prevent the continued use of sidewalks, rights-of-way, fire lanes, etc.
 - d. If the petitioner is not the owner of the property, the petitioner shall provide written permission of the owner of the property to allow such an event prior to beginning such seasonal or special event.
 - e. A minimum of one parking space shall be provided for each 800 square feet of gross lot area used for the activity (not including storage areas) plus additional parking space for any structure utilized for retail sales computed in accordance with the requirements for retail stores.
 - f. A sketch plan (to scale) shall be provided illustrating:
 - 1. Property lines.

2. Adjacent uses and zoning districts.
 3. Existing and proposed buildings and structures.
 4. Location of any areas for storage such as inventory not being displayed.
 5. Fire hydrants.
 6. Layout of parking.
 7. Boundaries of proposed sales areas.
 8. Location and size of any proposed sign (off-premise signs shall also be mapped).
- g. All equipment, materials, goods, poles, wires, signs, and other items associated with the seasonal or special event shall be removed from the premises within five days of the end of the event. Following the five-day period, the city shall use the escrow fee to clear such items from the property.
 - h. The length of a seasonal or special event shall not exceed four days, except seasonal sales of items such as Christmas trees, pumpkins, and seasonal road side stands which are permitted for up to 60 days.
 - i. Two permits for a seasonal or special event by a single business or property are permitted each calendar year.
- (3) *Temporary uses.* Temporary uses may be allowed in any commercial, office, or industrial district upon approval by the planning commission, when meeting the standards listed below:
- a. Temporary uses may be allowed on any lot with a permitted principal building.
 - b. Temporary uses may be allowed on a vacant lot when providing the minimum setback for all buildings, structures, and parking required for the appropriate zoning district.
 - c. In no case shall the setbacks for any buildings, structures or parking be less than ten feet except in the B-1.
 - d. The temporary use must not prevent the continued use of sidewalks, rights-of-way, fire lanes, etc.
 - e. If the petitioner is not the owner of the property, the petitioner shall provide written permission of the owner of the property to allow such an activity prior to beginning such a temporary use.
 - f. A minimum of one parking space shall be provided for each 800 square feet of gross lot area used for the activity (not including storage areas) plus additional parking space for any structure utilized for retail sales computed in accordance with the requirements for retail stores.
 - g. A sketch plan (to scale) shall be provided illustrating:
 1. Property lines.
 2. Adjacent uses and zoning districts.
 3. Existing and proposed buildings and structures.
 4. Location of any areas for storage such as inventory not being displayed.
 5. Fire hydrants.
 6. Layout of parking.
 7. Boundaries of proposed sales areas.
 8. Location and size of any proposed sign (off-premise signs shall also be mapped).

- h. All equipment, materials, goods, poles, wires, signs, and other items associated with the temporary use shall be removed from the premises within five days of the end of the activity. Following the five-day period, the city shall use the escrow fee to clear such items from the property.
 - i. The length of a temporary use shall not exceed three months.
 - j. One temporary use permit by a single business or property is permitted each year and there must be a minimum three-month gap between temporary uses on a property.
 - k. Special standards for carnivals, circuses, farmer's markets, flea markets, and similar events shall be as follows:
 - 1. Such uses shall be approved by the city council. The city council shall consider the intensity of the proposed use in relation to adjacent land uses and sufficiency of parking. The city council may require site improvements, such as fencing, increased setbacks, and restricted hours of operation to help ensure compatibility with surrounding land uses.
 - 2. The applicant shall provide information establishing that a reasonable amount of liability insurance coverage is carried, as determined by the city's insurance carrier.
 - 3. The sketch plan for the event shall include a description of traffic flow and parking management to ensure safe and efficient traffic operations without creating unreasonable congestion on city streets.
 - 4. Farmer's markets which are to occur on a regular schedule shall be permitted only in commercially zoned districts. The city council may extend the time period for the temporary use permit so that a separate permit is not required for each event within any one calendar year, provided the number of dates and a schedule are established at the time of application and that the conditions and requirements of the city council are maintained.
- (4) *Review and approval procedures, permit fees, and required escrow for temporary uses and sales events.*
- a. *Review.* Except as otherwise noted above for carnivals, circuses, farmer's markets, and similar events as defined by the zoning administrator, the zoning administrator shall review and approve requests for a temporary use or seasonal event. Where appropriate, the zoning administrator shall consult with the police chief and fire department official. If the request is denied, the zoning administrator shall state the reasons for denial in writing and provide a copy to the applicant.
 - b. *Use fee.* The applicant shall pay a nonrefundable permit fee to the city clerk. The fee shall be established and modified, from time to time, by the city council. The amount of the permit fee may vary depending upon the type of event.
 - c. *Use escrow.* The proprietor of the temporary use or seasonal event shall deposit a cash bond or similar type of escrow, in an amount established by the zoning administrator, prior to the issuance of a permit. The escrow shall be used by the city to pay the cost of returning the property to its state prior to commencement of the event or refunded to the proprietor upon compliance with the requirements of this chapter and any other applicable ordinances
 - d. *Sign fee and escrow.* The sign standards provided in article IV, division 4, signs, permits the use of temporary signs, to be reviewed concurrent with use permit.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-165. - Voting place.

The provisions of this chapter shall not be construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-166. - Waste receptacles and enclosures.

- (a) Waste receptacles, including dumpsters or compactors, shall be required for all nonresidential uses unless interior facilities are provided. Waste receptacles shall not be permitted as accessory to any single-family residential use.
- (b) All outdoor waste receptacles shall be enclosed on three sides and screened. The enclosure shall be constructed of brick or decorative concrete block material, consistent with the building materials of the principal building.
- (c) The enclosure shall also include a gate, made of wood or other high quality material, as determined by the planning commission, on the fourth side. The gates shall remain close when not being emptied and must always be maintained as approved. If the waste receptacle is a dumpster it must have an enclosing lid or cover.
- (d) The enclosure shall have a minimum height of six feet or one foot above the height of the waste receptacle, whichever is greater. The enclosure must be spaced at least three feet from the waste receptacle.
- (e) Waste receptacles and enclosures shall be located in the rear yard, not closer than three feet from the rear lot line, or non-required side yard, unless otherwise approved by the planning commission and shall be as far as practical, but in no case be less than 20 feet, from any residential district. If practical, the back side of the waste receptacle enclosure should be placed against the building. In this circumstance the wall may act as one side of the enclosure.
- (f) Waste receptacles shall be easily accessed by refuse vehicles without potential to damage automobiles parked in designated parking spaces or interfering with the normal movement of vehicles on or off the site. If possible, the opening shall not directly face the driveway.
- (g) The waste receptacle base shall be at least nine feet by six feet in area, constructed of six inches of reinforced concrete pavement. The base shall extend six feet beyond the waste receptacle pad or gate to support the front axle of a refuse vehicle.
- (h) The unloading of waste receptacles shall only occur between the hours of 7:00 a.m. and 11:00 p.m.
- (i) The shared use of receptacles shall be allowed by adjoining businesses where sharing will not create a health or safety concern and where it does not result in the accumulation of visibly excessive quantities of waste. Necessary shared use agreements are required.

(Ord. No. [2019-06](#), 1-6-20)

Secs. 86-167—86-179. - Reserved.

ARTICLE IV. - SITE DEVELOPMENT STANDARDS

DIVISION 1. - OFF-STREET PARKING AND LOADING STANDARDS

Sec. 86-180. - Purpose.

The purpose of this article is to ensure adequate and well-designed parking and loading areas are provided in all districts at the time of erection, enlargement or change in use, of any principal building or lot. Off-street parking and loading areas are to be designed, maintained and operated in a manner that will ensure their efficient use, promote public safety, improve aesthetics and, where appropriate, protect surrounding uses from undesirable impacts. Off-street parking spaces, in conjunction with all land or building uses, shall be provided prior to the issuance of a certificate of occupancy as hereinafter prescribed.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-181. - General Requirements.

(a) *Residential parking.*

- (1) Single-family residential off-street parking spaces shall consist of a parking strip, driveway, garage, or combination thereof, and shall be located on the premises they are intended to serve.
- (2) No parking shall be permitted in required yards on a regular basis on lawns or other unpaved areas on residential lots.
- (3) A minimum three feet wide lawn or landscape strip shall be required between the edge of parking area pavement and all property lines to provide adequate room for drainage, snow storage and privacy screening.
- (4) Commercial and recreational vehicle parking in residential districts shall comply with the standards in article III, general provisions.
- (5) Garage doors facing the front yard shall be setback 20 feet from the road right-of-way.

(b) *Location.*

- (1) Except within the B-1, Central Business District, off-street parking for multiple-family and nonresidential uses shall be either on the same lot or within lots under the same ownership and control within 300 feet of the building it is intended to serve, measured from the nearest point of the building or use entrance to the nearest point of the off-street parking lot, except as otherwise permitted in this chapter.
- (2) Within the B-1 District, off-street parking shall be either on the same lot, lot(s) under the same ownership and control, open public parking lots, or on the street within 500 feet of the building it is intended to serve, measured from the nearest point of the building entrance to the nearest point of the off-street parking lot. The planning commission may, however, require that some or all of the parking required by section 86-183, parking space numerical requirements, be provided outside of municipal parking lots or on-street if it is determined that sufficient capacity is unavailable within the municipal parking lot(s) or on-street. The planning commission can require a parking supply and demand study if necessary to make this determination.

(c) *Change in use or intensity.*

- (1) Whenever the use of a building or lot is changed, parking facilities shall be provided as required by this article for the new use.
- (2) If any building, structure, or lot is increased through the addition of dwelling units, increase in floor area, increase in seating capacity, or through other means, additional off-street parking shall be provided to bring the site into compliance.
- (3) Any area once designated as required off-street parking shall not be changed to any other use unless and until equal facilities meeting the standards of this article are provided elsewhere, or the parking requirements of the site change as determined by the city manager.

(d) *Storage and repair.* The use of required parking, drives and loading areas for material storage, refuse storage stations/dumpsters, storage or display of vehicles, trailers and/or merchandise, or for vehicle or machinery repair or maintenance is expressly prohibited.

(e) *Control of off-site parking.* It shall be unlawful to park or store any motor vehicle on private property without the expressed or implied consent of the owner, holder, occupant, lessee, agent, or trustee of such property.

(f) *Shared parking.* The provision for shared off-street parking for two or more buildings or uses is permitted subject to the following:

- (1) The total number of spaces provided collectively shall not be less than the sum of spaces required for each separate use. However, the planning commission may reduce the total number of spaces by up to 25 percent if they determine that the operating hours of the buildings or uses do not overlap.
 - (2) Where buildings are located on separate lots, written easements which provide for continued use and maintenance of the parking shall be submitted to the city for approval. Such agreement shall include provisions to address any changes in use which shall be reviewed in accordance with subsection 86-181(c), change in use or intensity.
 - (3) Where shared parking between two or more lots is utilized, provisions for pedestrian connection(s) must be provided.
- (g) *Parking lot deferment.*
- (1) Where the property owner can demonstrate that the required amount of parking is excessive, the planning commission may approve a smaller parking area, provided that area of sufficient size to meet the parking space requirements of this article is retained as open space, and the owner agrees in writing to construct the additional parking based on observed usage within six months of being informed of such request in writing by the city manager.
 - (2) The site plan shall note the area where parking is being deferred, including dimensions and dotted parking lot layout.
 - (3) Stormwater calculations shall be provided based on the required amount of parking to verify adequate capacity if an expansion is necessary.
- (h) *Additional parking.* To minimize excessive areas of pavement which depreciate aesthetic standards and contribute to high rates of stormwater runoff, the number of spaces provided shall not exceed 20 percent beyond the number required by this article, except as approved by the planning commission. In granting such additional space, the planning commission shall determine that such parking will be required, based on documented evidence of actual use and demand provided by the applicant.
- (i) *Construction.* During construction, off-street parking shall be provided on-site for all construction vehicles and employees. Gravel surfacing may be permitted by the city manager for such temporary parking.
- (j) *Carports and garages.* Carports are not permitted in any single-family residential districts. Carports and garages for multiple-family dwellings and other non-single family residential uses shall be calculated as parking spaces on a one-to-one basis. Carports and garages in such developments shall have a maximum height of 14 feet, measured from the grade to the peak of the structure. Carports shall be enclosed or obscured at least 25 percent along sides visible from public streets, residential districts or vehicular drives within the site. All details must be provided on the site plan and reviewed and approved by the planning commission.
- (k) *Stacking space requirements.*
- (1) Stacking spaces, as required by section 86-183, parking space numerical requirements, which block access to parking spaces shall not be included in calculating the required number of spaces.
 - (2) Each required stacking space shall be a minimum of 24 feet long and nine feet wide.
 - (3) Stacking space shall be designed so that an efficient circulation pattern is maintained on the site and a sufficient width is available to allow a vehicle to maneuver around another vehicle waiting in line.
- (l) *Uses not cited.* For uses not specifically listed in section 86-183, parking space numerical requirements, the requirements for off-street parking facilities shall be in accordance with a similar use as determined by the city manager based on documentation regarding the specific parking needs for the particular use, as determined by the planning commission.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-182. - Parking units of measurement.

The following standards shall be used in determining the required number of parking spaces:

- (1) *Floor area.*
 - a. Where floor area is the unit for determining the required number of off-street parking and loading spaces, such unit shall mean the gross floor area (GFA), unless otherwise noted.
 - b. Where the floor area measurement is specified as gross leasable floor area (GLA), parking requirements shall apply to all internal building areas excluding the floor area used for incidental service, storage, mechanical equipment rooms, heating/cooling systems and similar uses, and other areas not intended for use by the general public. Where these areas are not yet defined, leasable floor area shall be considered to be 85 percent of the gross floor area.
- (2) *Bench seating.* In calculating bench seating for places of assembly, each 24 inches of benches, pews or other such seating, shall be counted as one seat.
- (3) *Employees.* Where the number of spaces required is based on the number of employees, calculations shall be based upon the maximum number of employees likely to be on the premises at any one time and may include overlap of employees during shift changes.
- (4) *Fractional spaces.* When units of measurements determining the number of required parking or loading spaces result in a fractional space, any fraction shall be counted as one additional space.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-183. - Parking space numerical requirements.

The minimum number of off-street parking spaces shall be determined by the type of use in accordance with the following schedule:

Parking Space Numerical Requirements	
Residential	
Mobile or manufactured homes in a mobile home or manufactured housing park	2.0 spaces per dwelling unit plus 5.0 additional spaces for any office or clubhouse facility, plus 1 visitor space for every 3 homes
Multiple-family dwellings	1.5 spaces per each efficiency or one-bedroom dwelling unit, 2.0 spaces per each unit with two bedrooms, 2.5 spaces per each unit with three or more bedrooms, plus 5.0 additional spaces for any office, plus 1.0 space per 200 sq. ft. of GFA of any clubhouse facility, plus visitor off-street parking equal to at least 20% of the total spaces required
Single- & two-family dwellings	2.0 spaces per dwelling unit

Housing for the Elderly	
Congregate, assisted living or interim care housing	1.0 space per each room or three beds, whichever is less,
Dependent housing facilities including convalescent homes, nursing homes, rest homes, etc.	1.0 space per each four beds or two rooms, whichever is less,
Senior apartments	1.0 spaces per unit
Institutional/Public	
Adult & child care facilities	1.0 space per 400 sq. ft. of GFA, plus 1.0 space per employee, plus adequate drop-off area
Auditoriums, assembly halls, stadiums and sports arenas with fixed seating	1.0 space per each three seats or six lineal feet of bleachers
Churches, temples & other places of worship or public assembly	1.0 spaces per each three seats or six feet of pews in the main unit of worship, plus required spaces for any accessory uses such as a school, child care center, recreation facilities, etc.
Community centers including senior centers, cultural centers & teen centers	1.0 space per each 250 sq. ft. of GFA, or 1.0 space per every four persons of capacity authorized by the Uniform Building Code, plus 1.0 space per employee, whichever is greater
Group day-care homes, adult foster care group homes, & adult congregate care facilities	1.0 space per four residents, plus 1.0 space per employee, plus adequate drop-off spaces
Hospitals, outpatient service centers, urgent care centers, emergency medical stations & similar uses	1.0 space per 175 sq. ft. of GFA plus 1.0 space per employee
Lodge & union halls; fraternal orders; private & civic clubs & similar uses	1.0 space per every three persons of capacity authorized by the Uniform Building Code

Municipal office buildings	1.0 space per 250 sq. ft. of GFA
Post offices, public libraries, museums	1.0 space per 200 sq. ft. of GFA (available for public use) plus spaces for employees and delivery vehicles
Public utility use	1.0 space per employee
Schools, elementary & middle schools	2.0 spaces per classroom plus 2.0 drop-off spaces per classroom plus spaces required for any assembly hall, auditorium, and/or outdoor arena or athletic fields
Schools, high schools, colleges, business & vocational schools, & technical training facilities	2.0 spaces per classroom plus 15.0 student spaces per classroom plus parking required for any assembly hall, auditorium, or outdoor arena
Office	
Banks, credit unions, savings & loans	1.0 space per 200 sq. ft. of GFA, plus 2.0 spaces per each 24-hour teller, plus 4.0 stacking spaces for the first drive-through window and 2.0 stacking spaces for each additional drive-through lane
Business offices & professional services	1.0 space per 300 sq. ft. of GFA
Medical and dental clinic/offices (where such use comprises at least 50% of the building or site)	1.0 space per 150 sq. ft. of GFA
Veterinary offices, clinics or hospitals	1.0 space per 250 sq. ft. of GFA.
Commercial	
Animal grooming establishments	1.0 space per 300 sq. ft. of GFA plus 1.0 space per employee
Appliance stores	1.0 space per 250 sq. ft. of GFA
Automobile gasoline stations	1.0 spaces per each pump island and service bay (bay can be included as a space), plus

	<p>1.0 space per employee, plus plus 1.0 space for each 500 sq. ft. of GFA devoted to sales of automotive goods, plus required spaces for any convenience store (mini-mart), restaurant or auto wash</p>
<p>Automobile & vehicle service centers & auto repair establishments</p>	<p>3.0 spaces for each service bay (bay can be included as a space), plus 1.0 space per employee, plus 1.0 space for each tow truck, plus 1.0 stacking space per bay</p>
<p>Automobile & vehicle dealerships including recreational vehicles, boats, motorcycles, & mobile homes</p>	<p>1.0 space per 400 sq. ft. of GFA of interior sales space plus 1.0 space per 600 sq. ft. of GFA of exterior display, plus 3.0 spaces per each service bay (bay can be included as a space)</p>
<p>Automobile washes (automatic)</p>	<p>2.0 spaces, plus 1.0 space per employee, plus 12.0 stacking spaces per bay for free-standing washes, 6.0 stacking spaces when accessory to a gas station</p>
<p>Automobile washes (self-service or coin operated)</p>	<p>2.0 spaces per bay for drying, plus 3.0 stacking spaces per wash bay</p>
<p>Bars, taverns, lounges, and brewpubs (majority of sales consist of alcoholic beverages)</p>	<p>1.0 space per 75 sq. ft. of GFA</p>
<p>Barber shops, beauty salons, and tanning facilities</p>	<p>1.0 space per 175 sq. ft. of GFA or 2.5 spaces per each barber or beautician's chair/station, whichever is greater</p>
<p>Bookstores</p>	<p>1.0 space per 200 sq. ft. of GFA</p>
<p>Business & personal service establishments</p>	<p>1.0 space per 300 sq. ft. of GFA plus 1.0 space per employee</p>
<p>Conference, meeting or banquet rooms; exhibit halls & similar uses</p>	<p>1.0 space per every two persons of capacity authorized by the Uniform Building Code</p>

Convenience stores (mini-marts), with or without gasoline service	1.0 space per 250 sq. ft. of GFA, plus spaces required for automobile gasoline stations plus 2.0 stacking spaces
Discount stores & department stores	1.0 space per 200 sq. ft. of GFA
Dry cleaners	1.0 space per 500 sq. ft. of GFA plus 2.0 stacking spaces per drop off station
Equipment repair establishments	1.0 space per 800 sq. ft. of GFA
Funeral homes & mortuary establishments	1.0 space per 50 sq. ft. of GFA of service parlors, chapels and reception area, plus 1.0 space per each funeral vehicle stored on the premises
Furniture, carpet & flooring stores	1.0 space per 500 sq. ft. of GFA
General retail & service uses not otherwise specified	1.0 space per 200 sq. ft. of GFA
Grocery store & retail food establishments	1.0 space per 250 sq. ft. of GFA
Hardware, paint & home improvement stores	1.0 space per 200 sq. ft. of GFA including outdoor sales space
Kennels, commercial	1.0 space per 400 sq. ft. of GFA, plus 1.0 space per employee
Laundromats	1.0 space per each two (2) washing machines, plus 2.0 spaces for employees
Marinas	1.0 space per each boat slip during boating season, plus 1.0 space per each five dry-docked boats during the winter season, plus additional access and maneuvering space as determined necessary by the planning commission, plus year-round parking spaces as required for other uses such as clubhouse, restaurant or retail store

Mini or self-storage warehouses	Minimum of 6.0 spaces
Motel, hotel, bed & breakfast inn, & similar uses	1.0 space per guest room, plus 1.0 space per employee, plus 75% of required spaces for restaurants, conference rooms, banquet halls and other uses
Open air businesses including nurseries, garden centers & other outdoor display, sales, & storage uses	1.0 space per 500 sq. ft. of GFA of outdoor display, sales and storage area, plus 1.0 space per 200 sq. ft. of GFA of indoor space, plus 1.0 space per employee
Pharmacies	1.0 space per 200 sq. ft. of GFA plus 3.0 stacking spaces for any drive-through windows
Restaurants, standard, with liquor license	1.0 space per 60 sq. ft. of GFA, or 0.6 spaces per seat, whichever is greater, plus spaces required for any banquet or meeting rooms
Restaurants, (standard, without liquor license)	1.0 space per 70 sq. ft. of GFA or 0.5 spaces per seat, whichever is greater, plus spaces required for any banquet or meeting
Restaurants, fast food with drive-through window, including coffee shops, cafes, delicatessens, etc.	1.0 space per 80 sq. ft. of GFA, plus 10.0 stacking spaces
Restaurants, fast food without drive-through window	1.0 space per 80 sq. ft. of GFA or 0.5 spaces per seat, whichever is greater
Restaurants, drive-in	1.0 space per drive-in station, plus 1.0 space per employee
Restaurant carry-out & open front window, with fewer than 6 tables and/or booths	6.0 spaces plus 1.0 space per employee
Showroom of a plumber, decorator or similar trade	1.0 space per 800 sq. ft. of GFA

Shopping centers with less than 100,000 sq. ft. gross leasable floor area	1.0 space per 225 sq. ft. of GFA, plus spaces required for any grocery store, bookstore or restaurant, if included
Shopping centers with 100,000 sq. ft. or more gross leasable floor area	1.0 space per 250 sq. ft. of GFA, plus spaces required for any grocery store, bookstore, or restaurant, if included
Studios for art, photography, music, dance & similar uses	1.0 space per 300 sq. ft. of GFA plus 1.0 space per employee
Video rental establishments	1.0 space per 200 sq. ft. of GFA, with a minimum of 8.0 spaces provided
Wholesale establishments & warehouse clubs	1.0 space per 500 sq. ft. of GFA
Recreation/Entertainment	
Arcades	2.0 spaces per machine plus 1.0 space per employee
Baseball & softball fields	25.0 spaces per field
Batting cages	3.0 spaces per cage
Boat marinas	1.5 spaces per boat berth, plus required spaces for winter boat storage and other uses
Bowling centers	3.0 spaces per lane, plus 0.5 spaces per seat in spaces designated for any lounge or dining area
Golf course driving ranges	1.0 space per tee
Golf courses, miniature & par three	2.0 spaces per each course hole, plus 1.0 space per employee

Golf courses	6.0 spaces per each course hole, plus 1.0 space per employee, plus required spaces for restaurants, banquet rooms, pro shop, offices, and other uses
Health clubs & fitness centers	1.0 space per 250 sq. ft. of GFA, plus required spaces for swimming pools, courts, restaurants and other uses
Ice/roller skating rinks	1.0 space per 170 sq. ft. of GFA, or 1.0 space for each 6.0 seats or feet of bench, whichever is greater, plus 50% of parking required for restaurants, pro shops and other uses
Pool & billiard halls	1.0 space per 70 sq. ft. of GFA or 1.0 space per every three persons of capacity authorized by the Uniform Building Code
Recreation centers (indoor) commercial, not already specified	1.0 space per 1,000 sq. ft. of GFA, plus required spaces for restaurants, banquet rooms, offices, sales area, and other uses
Recreation centers (outdoor) public or commercial	1.0 space per 200 sq. ft. of GFA
Soccer and football fields	30.0 spaces per field
Swimming pools	1.0 space per each three persons of capacity authorized by the BOCA Code
Tennis courts & racquetball centers	1.0 space per 1,000 sq. ft. GFA or 6.0 spaces per court, whichever is greater, plus 50% of required spaces for restaurants, banquet rooms, offices, sales area, & other uses
Theaters, cinemas	1.0 space per each three seats plus 1.0 space per two employees
Industrial	
Light industrial, manufacturing, testing labs, research, design & development centers	1.0 space per 700 sq. ft. GFA, or 1.2 spaces per employee, whichever is greater, plus 1.0 space for

	each corporate vehicle, plus spaces required for any office or sales area
Warehousing & wholesale establishments (non-retail)	1.0 space per each 1,500 sq. ft. GFA, or 1.0 space per employee, whichever is greater; plus 1.0 space for each corporate vehicle plus spaces required for any office/sales area

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-184. - Barrier-free parking requirements.

Each parking lot that serves a building or use, with the exception of single and two-family dwelling units, shall provide barrier free spaces in compliance with the state building code.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-185. - Off-street Parking Space Design and Setback Requirements.

Where required, off-street parking facilities containing more than five parking spaces shall be designed, constructed, and maintained according to the following standards and regulations:

(1) *Ingress and egress.*

- a. Adequate ingress and egress to the parking facility shall be provided by clearly defined driveways in accordance with article IV, division 2, access management and driveway standards.
- b. All spaces shall be provided adequate access by means of maneuvering lanes.
- c. Spaces backing directly onto a street use of the street for maneuvering between parking rows shall be prohibited.
- d. Access to off-street parking which serves a nonresidential use shall not be permitted across land that is zoned or used for residential purposes.

(2) *Surfacing, drainage, and grading.*

- a. Grading, surfacing, and drainage plans shall comply with city engineering specifications and subject to the review and approval of the city engineer. All driveways, parking lots, access lanes and other vehicle maneuvering areas shall be hard-surfaced with concrete or plant-mixed bituminous material, in accordance with specifications of the city.
- b. Off-set parking areas, access lanes, and driveways shall be graded and drained so as to dispose of surface waters. Surface water shall not be permitted to drain onto adjoining property, unless in accordance with an approved drainage plan.
- c. All driveways, parking lots, and loading-unloading areas shall not be less than one percent and not exceed a grade differentiation of four percent.

(3) *Curbs.* A raised or rolled concrete curb a least six inches in height shall be installed with the construction of all driveways, parking lots, access lanes and other vehicle maneuvering areas to prevent motor vehicle conflicts with abutting landscape areas, sidewalks, streets, buildings or

adjoining property. The use of bumper blocks is prohibited, except when associated with barrier-free parking spaces.

(4) *Parking lot setbacks.*

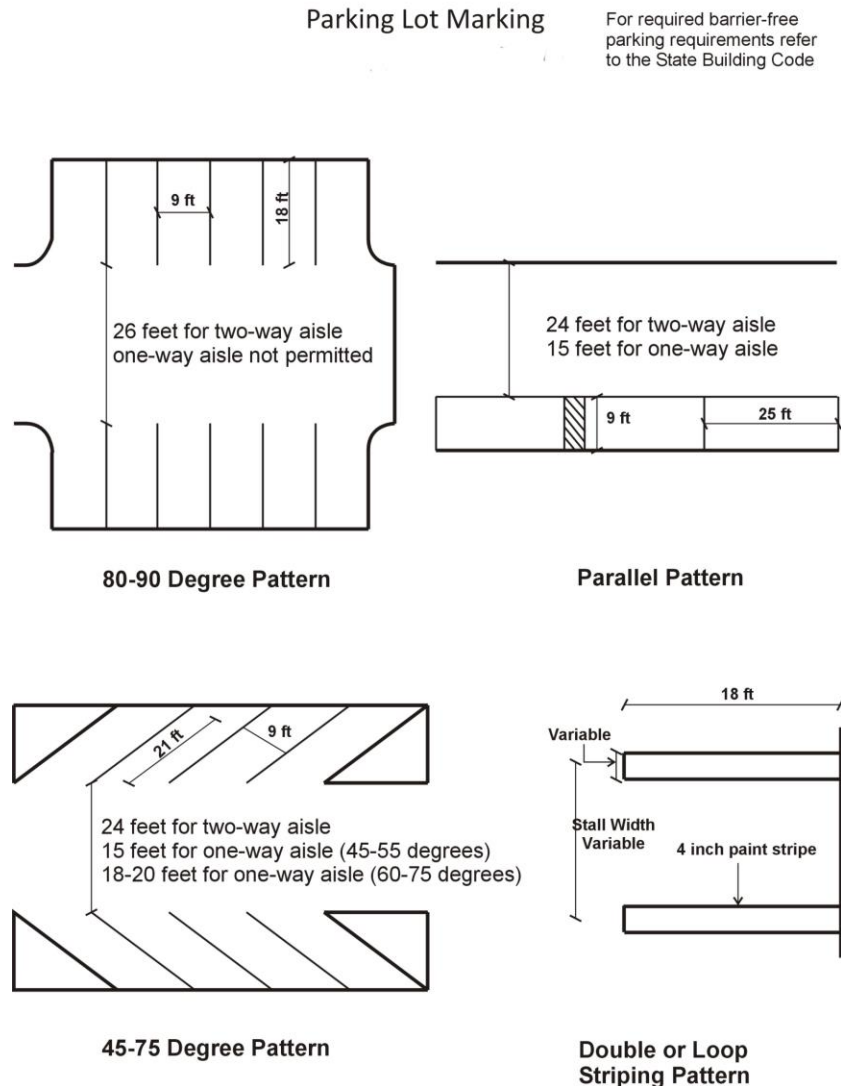
- a. *From street rights-of-way.* In accordance with subsection 86-187(c), location, the planning commission may determine that parking lots may be appropriate in the front yard. If such determination has been made, parking lots, including drives and maneuvering aisles but excluding driveways, must be set back a minimum of 20 feet from any adjacent street right-of-way line in all zoning districts except the CBD, wherein the setback shall be a minimum of ten feet. Required parking lot setback areas shall be landscaped according to the standards of article IV, division 3, landscape standards and tree replacement.
- b. *From non-residential districts.* Parking lots shall have a minimum setback of ten feet from any nonresidential property line that is not a street right-of-way line. This requirement may be waived by the planning commission where a shared access driveway, connected parking lots, frontage road, or rear service drive, designed in accordance with article IV, division 2, access management and driveway standards, is provided.
- c. *From residential districts.* Parking lots shall have a minimum rear and side yard setback of ten from any residential zoning district. This setback area shall include either berming, a wall and/or landscaping, designed according to the standards of article IV, division 3, landscape standards and tree replacement.
- d. *CBD district.* The above setback requirements may be reduced in the CBD by the planning commission upon showing that adequate buffering and/or screening is provided.

(5) *Dimensions.* All spaces shall be designed and marked with dimensions described below and shown in figure 185.1, off-street parking design standards:

Dimensions			
Parking Pattern	Parking Space Dimension	2-Way Aisle Width	1-Way Aisle Width
80—90 degree	9 feet × 18 feet	26 feet	Not permitted
60—75 degree	9 feet × 21 feet	24 feet	18—20 feet
45—55 degree	9 feet × 21 feet	24 feet	15 feet
Parallel parking	9 feet × 25 feet with 3-foot area striped for "no parking" between each two (2) spaces	22 feet	15 feet

- (6) *Parking lot marking.* All parking spaces must be marked with double (or loop) stripes three to four inches wide and spaced not less than 18 inches apart and no greater than 24 inches apart (see Figure 185.1 Off-Street Parking Design Standards).

Figure 185.1. Off-Street Parking Design Standards



- (7) *Walkways.* In accordance with section 86-159, sidewalks, bikepaths, and other pedestrian pathways, walkways shall be located within the parking areas and provide access to the entrances of the building(s).

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-186. - Parking lot construction and maintenance.

- (a) Plans and specifications for parking and loading areas shall be submitted to the city manager prior to the issuance of a building permit. These plans shall at a minimum:
- (1) Show existing and proposed grades.

- (2) Be designed to ensure that stormwater runoff shall be accommodated on-site through approved drainage facilities, including catch basins, runoff calculations, pipe sizes and connections to existing drainage structures.
- (3) Provide specifications on surface and base materials to be used for construction.
- (b) Required parking lots shall be installed and completed within six months of receipt of a building permit and before issuance of an occupancy permit. The city manager may grant a single extension for an additional six months in the event of adverse weather conditions or unusual delays beyond the control of the property owner.
- (c) All parking areas shall be maintained free of dust, trash, and debris. Surfacing, curbing, lighting fixtures, signs, and related appurtenances shall be maintained in good condition.
- (d) The visibility of pavement markings delineating parking spaces and directional control shall be maintained.
- (e) All off-street parking and loading facilities required by this article shall be maintained free of accumulated snow or standing water which prevent full use and occupancy of such facilities, except for temporary periods of no more than five days in the event of heavy rainfall or snowfall.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-187. - Off-street loading and unloading requirements.

- (a) *General applicability.* On-premises space for standing, loading and unloading vehicles shall be provided for each use involving the receipt or distribution of goods. Compliance with the loading space regulations set forth herein shall be required in order to avoid interference with the public use of streets, alleys, parking areas, driveways, sidewalks, and other public areas.
- (b) *Change in use and intensity.* Whenever use of a building, structure, or lot is changed, loading space shall be provided as required by this article for the new use, regardless of any variance which may have been in effect prior to change of use.
- (c) *Location.*
 - (1) Loading/unloading areas and docks shall be prohibited in the front yard or on any building side facing and directly visible from a public street.
 - (2) Loading/unloading operations shall not interfere with traffic on public streets or off-street parking.
 - (3) The vehicular path and turning radii to the loading area must be shown on the site plan to verify truck maneuverability for the largest truck intended to serve the use.
- (d) *Size.* The size of all required loading/unloading spaces shall be at least ten feet by 50 feet or 500 square feet in area for office uses and at least ten feet by 70 feet or 700 square feet in area for commercial and industrial uses, with a clearance of at least 14 feet in height.
- (e) *Surfacing and drainage.*
 - (1) Loading areas shall be hard-surfaced with concrete or plant-mixed bituminous material.
 - (2) Loading areas shall be graded and drained so as to dispose of surface waters.
 - (3) Surface water shall not be permitted to drain onto adjoining property, unless in accordance with an approved drainage plan.
 - (4) Grading, surfacing, and drainage plans shall be subject to review and approval by the engineer.
- (f) *Storage and repair.* The storage of merchandise, sale of motor vehicles, storage of inoperable vehicles, or repair of vehicles is prohibited in required loading space.
- (g) *Central loading.* Central loading facilities may be substituted for individual loading spaces serving businesses on separate lots provided that all of the following conditions are fulfilled:

- (1) Each business served shall have direct access to the central loading area without crossing streets or alleys.
 - (2) Total loading space provided shall meet the minimum requirements specified herein, in consideration of total floor area of all businesses served by the central loading space.
 - (3) No building served shall be more than 300 feet from the central loading area.
- (h) *Loading space requirements.* The minimum number of loading spaces shall be provided in accordance with the following table. 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.

Central Loading	
Institutional, Commercial and Office Uses	
Up to 5,000 sq. ft. GFA	1.0 space.
5,001-60,000 sq. ft. GFA	1.0 space, plus 1.0 space per each 20,000 sq. ft. GFA or fraction thereof
60,001 sq. ft. GFA and over	3.0 spaces, plus 1.0 space per each 50,000 sq. ft. GFA or fraction thereof
Industrial Uses	
Up to 1,400 sq. ft. GFA	0
1,401-20,000 sq. ft. GFA	1.0 space
20,001-100,000 sq. ft. GFA	1.0 space, plus 1.0 space per each 20,000 sq. ft. GFA in excess of 20,000 sq. ft. or fraction thereof
100,001 sq. ft. GFA and over	5.0 spaces

- (i) *Screening.* When required off-street loading in a nonresidential district is visible from public view or abuts a residential district, the off-street loading shall be screened by a solid, ornamental masonry wall at least six feet in height above the grade elevation at the residential district line, in addition to the landscape requirements of article IV, division 3, landscape standards and tree replacement.
- (j) *Calculations.* Required loading areas shall not be included in calculations for off-street parking space requirements.

(Ord. No. [2019-06](#), 1-6-20)

Secs. 86-188, 86-189. - Reserved.

DIVISION 2. - ACCESS MANAGEMENT AND DRIVEWAY STANDARDS

Sec. 86-190. - Statement of purpose.

The purpose of this division is to provide access standards which will facilitate through traffic operations, ensure public safety along roadways, and protect the public investment in the street system; while providing property owners with reasonable, though not always direct, access. The standards are specifically designed for streets whose primary function is the movement of through traffic, as opposed to local streets whose primary function is access to adjacent properties.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-191. - Application of standards.

- (a) The standards of this division shall be applied to the following major traffic routes (arterials) in the city master plan:
 - (1) East Huron Avenue;
 - (2) South Vassar Road;
 - (3) South Main/Frankenmuth Road.
- (b) The access standards contained herein shall be required in addition to, and where permissible shall supersede, the requirements of the county road commission and the state department of transportation (MDOT).
- (c) The standards contained in this division shall apply to all uses, except permitted single-family and two-family dwelling units.
- (d) For expansion and/or redevelopment of existing sites where the planning commission determines that compliance with all the standards of this division is unreasonable, the standards shall be applied to the maximum extent possible, in such situations, suitable alternatives which substantially achieve the purpose of this division may be accepted by the planning commission, provided that the applicant demonstrates all of the following apply:
 - (1) Size of the parcel is insufficient to meet the dimensional standards.
 - (2) The spacing of existing, adjacent driveways or environmental constraints prohibit adherence to the access standards at a reasonable cost.
 - (3) The use will generate less than 500 total vehicle trips per day or less than 75 total vehicle trips in the peak hour of travel on the adjacent street, based on the most recent rates developed by the Institute of Transportation Engineers (ITE).
 - (4) There are no other reasonable means of access.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-192. - Number of driveways.

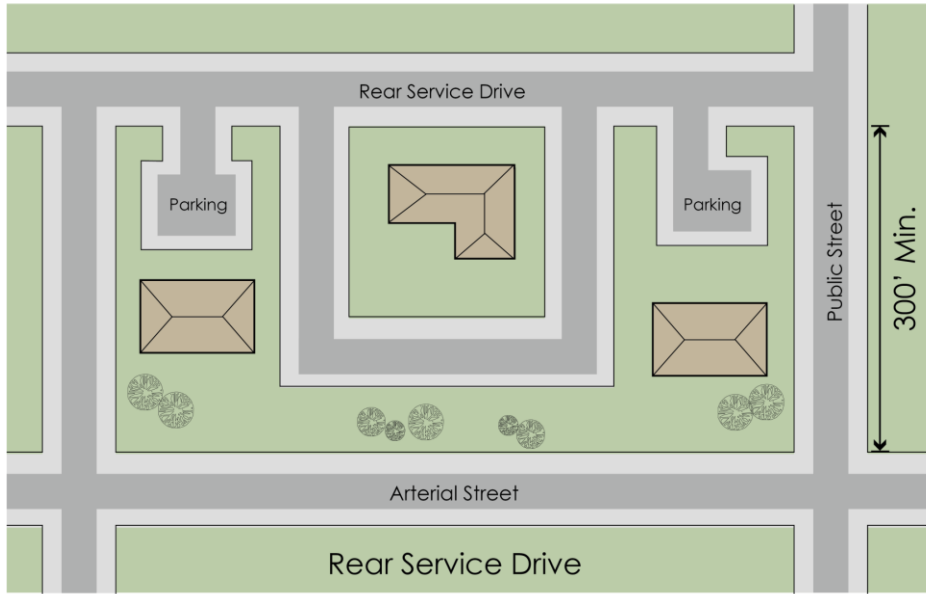
- (a) Access to a parcel shall consist of either a single, two-way driveway or a pair of one-way driveways wherein one driveway is designed and appropriately signed to accommodate ingress movements and the other egress movements.

- (b) Where parcel frontage is insufficient to provide a driveway meeting the minimum driveway width and radii, a shared driveway or other means of access may be required.
- (c) Where parcels of at least two acres in area, have frontage along two streets, access should be provided only along the street with the lower average daily traffic volume, unless the planning commission determines this would negatively affect traffic operations or surrounding land uses.
- (d) Where the property has continuous frontage of over 300 feet and the applicant can demonstrate, using the Institute of Transportation Engineers Trip Generation Manual or another accepted reference, that a second access is warranted, the planning commission may allow an additional access point. Where possible, this access should be spaced accordingly to the standards contained herein, located on a side street, shared with an adjacent property, and/or be constructed to restrict one or both left turn movements.
- (e) Where the property has continuous frontage of over 600 feet, a maximum of three driveways may be allowed, with at least one such driveway being constructed and signed for right-turns-in, right-turns-out only.

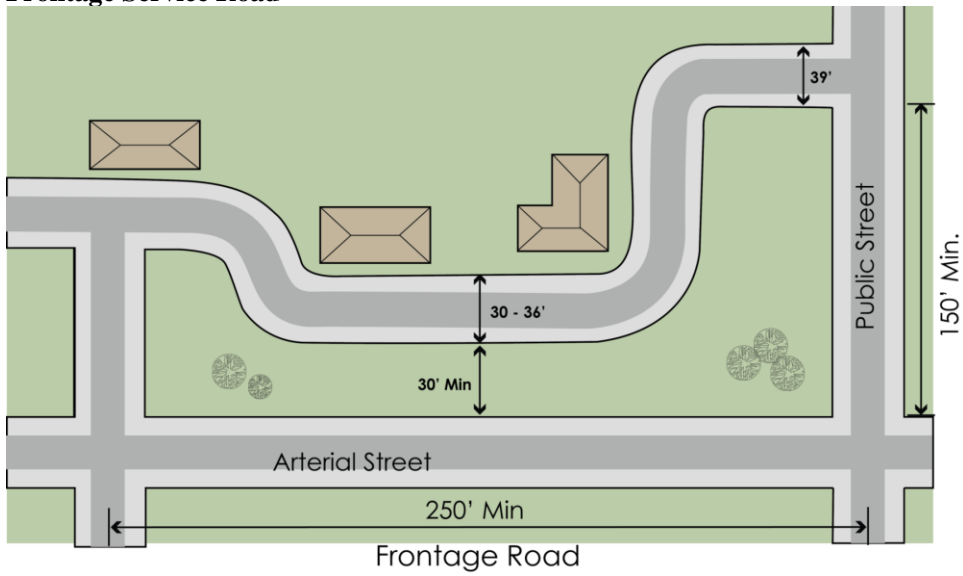
(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-193. - Shared access-joint driveways, frontage roads, parking lot connections, and rear service drives.

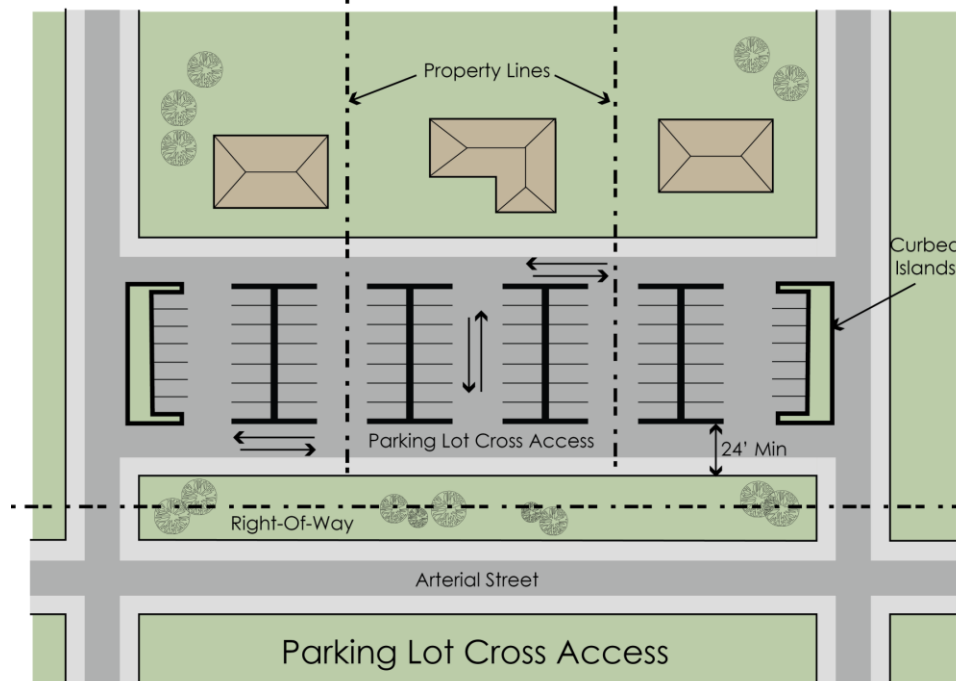
- (a) Shared use of access between two or more property owners should be encouraged through use of driveways constructed along property lines, connecting parking lots and construction on-site of frontage roads and rear service drives; particularly within one-quarter mile of major intersections, for sites having frontage on two or more streets, where frontage dimensions are less than 300 feet, at locations with sight distance problems, and/or along roadway segments experiencing congestion or accidents. In such cases, shared access of some type may be the only access design allowed.
- (b) In cases where a site is adjacent to an existing frontage road, parking lot of a compatible use, or rear service drive, a connection to the adjacent facility may be required by the planning commission.
- (c) In cases where a site is adjacent to undeveloped property, the site should be designed to accommodate a future frontage road, parking lot connection or rear service drive,
- (d) The applicant shall provide the City with letters of agreement or access easements from all affected property owners.



Frontage Service Road



Parking Lot Cross Access



(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-194. - Adequate sight distance.

- (a) Requirements for minimum intersection or corner sight distance for driveways shall be in accordance with the American Association of State Highway and Transportation Officials (AASHTO) guidelines defined in chapter 9 of "A Policy on Geometric Design of Highways and Streets," 1994.
- (b) The planning commission may adjust driveway location where there is inadequate sight distance.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-195. - Driveway spacing from intersections.

- (a) Driveway spacing from intersections shall be measured from the centerline of the driveway to the extended edge of the intersecting street's right-of-way line.
- (b) In order to preserve intersection operations and safety, the minimum distance between a driveway and an intersecting street right-of-way shall be based on the following:
 - (1) For locations in the vicinity of intersections experiencing congestion (peak hour operations below level of service "C" for one or more movements) and/or a significant number of traffic accidents (five or more annually), the planning commission may require that access be constructed along the property line furthest from the intersection.
 - (2) For locations within 200 feet of any signalized or four-way stop intersection, driveways shall be spaced a minimum of 150 feet from the intersection. Where this spacing cannot be provided, driveways designed for "right-turn in, right-turn out only" movements may be allowed, with a minimum spacing of 75 feet from the intersecting street right-of-way.
 - (3) For locations not addressed by paragraph (2) above, not including single-family parcels, driveways shall be spaced 100 feet from the intersection.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-196. - Driveway spacing from other driveways.

- (a) Driveway spacing from other driveways shall be measured from the centerline of each driveway at the point where it crosses the street right-of-way line.
- (b) Minimum driveway spacing from other driveways along the same side of the street shall be determined based on posted speed limits along the parcel for each particular frontage, as follows:

Driveway Spacing From Other Driveways	
Posted Speed (mph)	Minimum Driveway Spacing
25 mph	100 feet
30 mph	125 feet
35 mph	150 feet
40 mph	185 feet
45 mph	230 feet
50 mph	275 feet
55 mph	350 feet

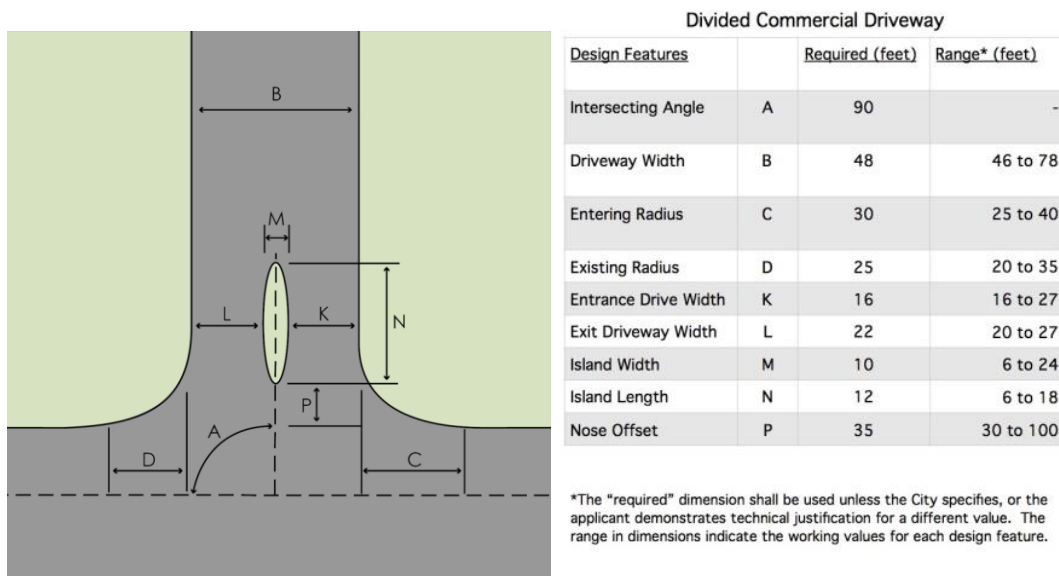
- (c) Driveways shall be directly aligned with those across the street or, where offset, the minimum driveway spacing from driveways across the street shall be a minimum of 150 feet, as determined by the planning commission, excluding when one or both driveways are designed and signed for right-turn-in, right-turn-out only.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-197. - Driveway design, channelized driveways, deceleration lanes and tapers, and bypass lanes.

- (a) *Standards.* Driveways shall be designed to the standards of the county road commission, except where stricter standards are included herein.
- (b) *Driveway width and radii.*
 - (1) The typical driveway design shall include one ingress and one egress lane, with a combined maximum throat width of 30 feet, measured from face to face of curb.

- (2) Wherever the planning commission determines that traffic volumes or conditions may cause significant delays for traffic exiting left, two exit lanes may be required.
 - (3) For one-way paired driveway systems, each driveway shall be 16 feet wide, measured perpendicularly.
 - (4) In areas with pedestrian traffic, the exit and enter lanes may be separated by a median with a maximum width of ten feet.
 - (5) Driveways shall be designed with a 25-foot radius; 30-foot radius where daily semi truck traffic is expected.
- (c) *Driveway storage.* Driveway storage shall be determined by the planning commission based on traffic volumes and conditions. A minimum of 40 feet of driveway storage shall be provided for less intense developments and a minimum of 120 feet of driveway storage shall be required for larger developments. Driveway storage shall be measured from the right-of-way line.
- (d) *Directional driveways, divided driveways, and deceleration tapers and/or by-pass lanes.* Directional driveways, divided driveways, and deceleration tapers and/or by-pass lanes may be required by the planning commission where they are necessary to reduce congestion and accident potential for vehicles accessing the proposed use or site. Right-turn tapers shall be a minimum of 75 feet in length and at least 11 feet wide. Design of direction and divided driveways shall be in accordance with the designs in Directional Driveway Standards Divided.



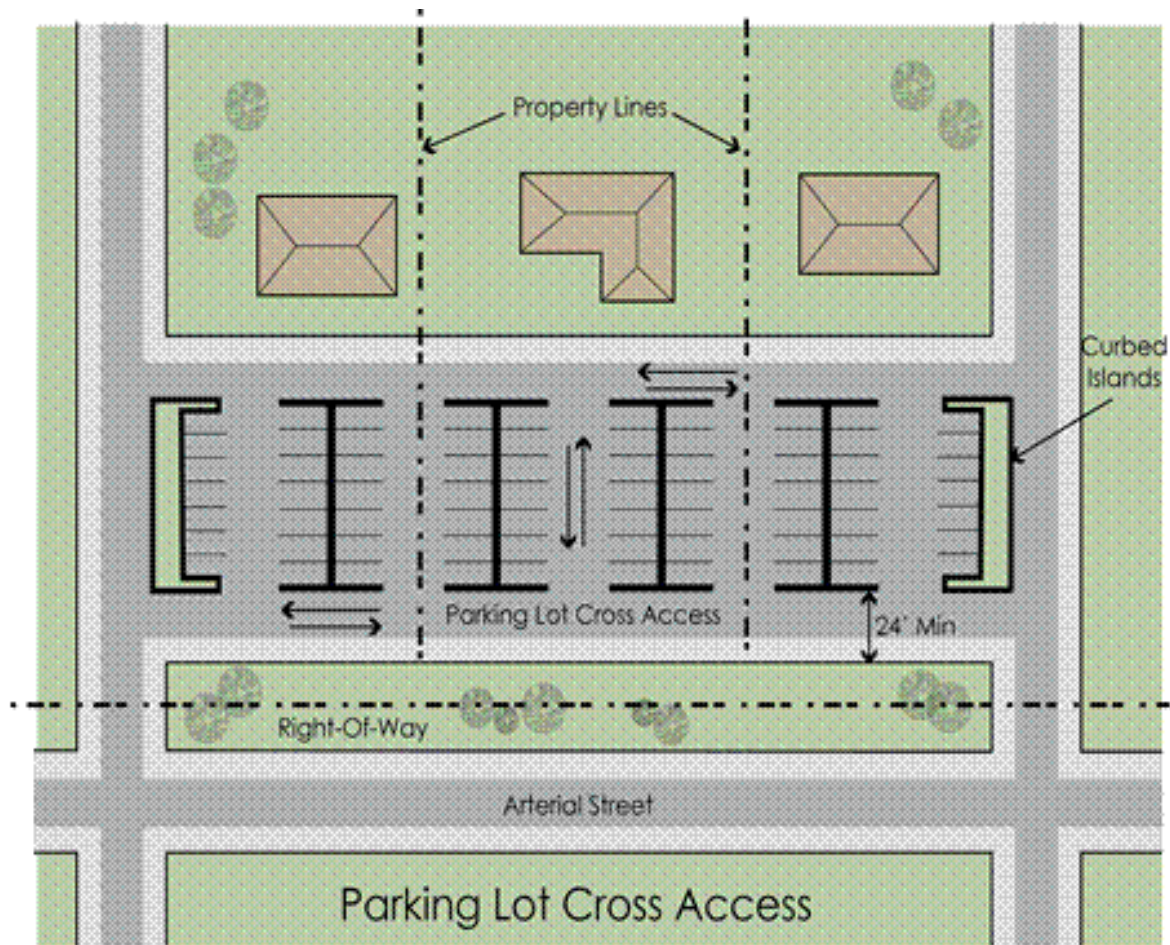
(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-198. - Design of frontage roads, rear service drives and parking lot connections.

Frontage roads, rear service drives and drives connecting two or more parking lots shall be constructed in accordance with the following requirements:

- (1) Pavement width shall be a maximum of 30 feet, measured face of curb to face of curb; intersection approaches may be widened to 39 feet for a left turn lane.
- (2) Frontage road access to public streets shall be spaced according to the standards of section 86-195, driveway spacing from intersections, and section 86-196, driveway spacing from other driveways.

- (3) Frontage roads shall have a minimum setback of 30 feet between the outer edge of pavement and the right-of-way line, with a minimum 60 feet, of uninterrupted queuing (stacking) space at the intersections.
- (4) Parking along or which backs into a frontage road shall be prohibited.
- (5) For properties which are currently developed or adjacent to developed uses, and the standards of paragraphs (1) through (4) above are determined by the planning commission to be too restrictive, frontage roads can be defined through parking lots by a raised curb and/or painted islands, as shown, provided that at least every third island at the end of the parking row is a raised curbed island.



(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-199. - Reserved.

DIVISION 3. - LANDSCAPE STANDARDS AND TREE REPLACEMENT²¹

Footnotes:

--- (2) ---

Fences and walls, 86-138.

Sec. 86-200. - Purpose.

- (a) The intent of this division is to promote the public health, safety and welfare by establishing minimum standards for the design, installation and maintenance of landscape improvements. Landscaping is viewed as a critical element contributing to the aesthetics, development quality, stability of property values, and the overall character of the city. The standards of this division are intended to help achieve a number of functional and environmental objectives such as:
 - (1) Promoting the implementation of the city master plan and subarea studies.
 - (2) Defining and articulating outdoor spaces and architectural elements.
 - (3) Obscuring, integrating and complementing various site elements.
 - (4) Assisting in directing safe and efficient movement of vehicular and pedestrian circulation.
 - (5) Screening headlights to reduce glare and incidental pollution.
 - (6) Reducing the physical impact between adjacent land uses.
 - (7) Providing landscape treatments that are consistent with adjacent sites and parcels within the surrounding area.
 - (8) Providing incentives to preserve quality existing plant material and trees.
 - (9) Providing reasonable standards to bring developed sites, which existed prior to the adoption of these standards, into compliance with the requirements contained herein.
 - (10) Encourage drought-resistant species.
- (b) The standards contained in this division are considered the minimum necessary to achieve the objectives identified above. In several instances these standards are intentionally flexible to encourage flexibility and creative design. Additional landscaping beyond the minimum specified is encouraged to further improve the function, appearance and value of the property.
- (c) The intent of the tree protection removal requirements set forth in this section is to protect to the extent practical, the existing tree cover in the city and when trees must be removed, to sustain tree cover in the city by replacing trees in the community that are removed.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-201. - Tree protection—Removal and replacement, permit required.

- (a) *Permit required.* If more than 25 percent of the trees eight inches in caliper or larger on a site are proposed for removal, the property owner must first notify the zoning administrator and obtain approval. The zoning administrator may require submittal of a proposed site plan for review and/or may send to the planning commission for approval.
- (b) *Normal maintenance.* This article is not intended to prevent the removal of dead or diseased trees on a site, after obtaining a permit from the zoning administrator.
- (c) *Tree location survey.* If a tree location survey is required by the zoning administrator, it shall be presented in a form acceptable to the city and shall include at least the following information:
 - (1) The scale of the tree location survey map shall be drawn at the same scale as the site plan, except a scale shall not be used that will make detail information illegible.
 - (2) The shape and dimensions of the lot or parcel, together with the existing and proposed locations of structures and improvements, including existing and proposed utilities.

- (3) The location and related setback dimensions of all buildings, structures and off-street parking areas, along with all existing or proposed easements.
- (4) All such trees shall be tagged in the field with identifying numbers, using non-corrosive metal tags.
- (5) The location of all existing trees measuring six inches or more in diameter at breast height (DBH), including:
 - a. All such trees within any adjoining street right-of-way; and
 - b. All such trees on any abutting properties that are within 25 feet of the property lines of the subject property; and
 - c. All such trees that may be affected by the development, including all such trees located in any off site right-of-way or utility easement or other easement in which improvements, including off site utility work necessary to serve the new development will be extended.
 - d. All such trees that are proposed to remain, or which are proposed to be relocated, and all such trees that are proposed to be removed shall be clearly identified on the tree location survey map. The tree location survey map shall also contain a list of all of these trees. Their tag number will key the trees on the list to the trees on the survey map. The list shall include the common name of each tree, its DBH number, its condition, and the existing and proposed grade at the base of each tree. The condition of each such tree shall be determined by using the tree-rating matrix set forth in subsection 86-203(2).
- (6) All tree location surveys shall be performed on the site as field surveys. A registered land surveyor shall map the location of each such tree, and record the existing and proposed grades at the base of each such tree. The type, size, and condition of each such tree shall be determined in the field by a registered landscape architect, certified arborist or forester. The name, address, and the phone and fax number, and any email address of those performing these responsibilities shall be provided on the tree location survey map, along with the date the field information was obtained.
- (7) Identify existing trees that will be relocated, their new location on the property, along with a statement as to how they will be protected and/or stored during land clearance and construction, and how these trees will be maintained in a living and growing condition, as required by ordinance.
- (8) A statement explaining how trees not included in item (7), in this subsection, and which will remain on site will be protected during land clearance, construction, including the proposed use of tree wells, protective barriers, tunneling or retaining walls, and explaining thereafter, how these trees will be maintained as a permanent part of the site's landscaping.
- (9) Figures that represent the number of trees that are six inches in DBH that will be removed from:
 - a. The property;
 - b. The public rights-of-way along the property;
 - c. Any abutting property, if applicable;
 - d. Any affected easements, if applicable; and
 - e. Any rights-of-way and/or easements beyond the site in which such trees must be removed to extend services to the site, if applicable.
- (11) A tree location survey may be waived by the city for any area or areas of a development site that lie 50 feet or more outside of the development's construction zone. For the purpose of this section the construction zone shall mean any area of the property that will be disturbed in any way by any new development taking place on the property. Prior to receiving a waiver, the applicant shall submit a statement to the city identifying the most predominant species of trees in the waiver area, the total number of trees in the waiver area, and the estimated predominate tree size in the waiver area. A waiver area shall be physically separated from any designated

construction zone on the property by a snow fence prior to any activity taking place on the property.

(d) *Tree protection during site development.*

- (1) Prior to the land clearing stage of development and before a tree permit will be issued, the owner, developer, or agent shall do the following:
 - a. Clearly identify the on-site trees that are to be removed and those that are to be relocated by fluorescent orange spray paint or by red flagging tape. This responsibility shall be completed before any field inspection shall be conducted by the city or its designee.
 - b. Erect barriers of four-foot high wooden fencing or orange snow with metal stakes ten feet on center (OC) which will shield and protect trees, no closer than six feet from the trunk or at the edge of the tree canopy, whichever is greater, of all such trees or groups of trees.
 - c. Keep the area within the protective barrier clear of all debris or fill, and any equipment and material.
- (2) During the construction stage of development, the owner, developer or agent shall not cause or permit any activity within the drip line of any protected tree or group of trees including but not limited to the storage of equipment, dumpsters, boulders, dirt and excavated material, building or waste material, or any other material harmful to the life of a tree.
- (3) No damaging attachment, wires (other than cable wires for trees), signs or permits may be fastened to any tree protected by this section.
- (4) The city or its designee shall conduct periodic inspections of the site during land clearing and construction in order to ensure compliance with this section.

(f) *Emergency tree removal.* When high winds, storms, tornadoes, floods, freezes, fires, or other manmade or natural disasters damage or destroy trees in the city, making it necessary to expedite the removal of these trees in the interest of promoting the public safety, health and general welfare of the city, the requirements of this chapter may be suspended by the city for a period of 30 days in the affected areas.

(g) *Penalties.* Each unauthorized removal of a tree that is protected by this section shall be deemed a separate offense. The city's zoning code, as amended, shall be applicable to violations and penalties involving the unauthorized removal of a protected tree.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-202. - Replacement of removed trees.

A tree survey shall be submitted with any site plan for new development. The survey shall identify the location, species and size of existing trees on the proposed site that are to be removed, or are within ten feet of the removal area. Existing landmark trees that are planned to be removed shall be replaced on the site in accordance with the following standards:

- (1) Removed landmark trees between eight and 18 caliper inches shall be replaced at a rate of 50 percent of the total diameter breast height (dbh).
- (2) Removed landmark trees greater than 18 caliper inches shall be replaced at a rate of 75 percent of the total dbh.
- (3) Removed landmark trees greater than 30 caliper inches shall be replaced at a rate of 100 percent of the total dbh.
- (4) Landmark trees that are dead or diseased, with no visible growth, as determined by the zoning administrator, are exempt from replacement requirements.
- (5) A summary table of existing trees shall be provided, indicating those trees that will be removed.

(6) Landmark trees are defined by size and species, as listed in the table below:

Common Name	Species	Minimum DBH (inches)
American beech	<i>Fagus grandifolia</i>	18
American chestnut	<i>Castanea dentata</i>	8
Birch	<i>Betula</i> spp	18
Black alder	<i>Alnus glutinosa</i>	12
Black Tupelo	<i>Nyssa sylvatica</i>	12
Black and white walnut	<i>Juglans nigra</i> , <i>J. cinerea</i>	20
Buckeye	<i>Aesculus glabra</i>	18
Cedar, red	<i>Juniperus</i> spp	12
Crabapple (cultivar)	<i>Malus</i> spp	12
Choke cherry	<i>Prunus</i> spp	18
Douglas fir	<i>Pseudotsuga menziesii</i>	18
Eastern hemlock	<i>Tsuga canadensis</i>	12
Flowering dogwood	<i>Cornus florida</i>	8
Hickory	<i>Carya</i> spp	18
Horse-chestnut	<i>Aesculus camea</i>	18
Kentucky coffeetree	<i>Bymnociadus dioicius</i>	18
Larch/tamarack	<i>Larix laricina</i> (eastern)	12
London planetree/sycamore	<i>Plantanus</i> spp	18
Maple	<i>Acer</i> spp	18

Oak	Quercus spp	16
Pine	Pinus spp	18
Sassafras	Sassafras albidum	15
Spruce	Picea spp	18
Tuliptree	Liriodendron tulipifera	18

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-203. - Tree health condition ranking matrix.

Except as may be otherwise waived herein, the applicant shall be responsible for determining the condition (health) in the field of all trees that are to be removed or relocated. Compliance with the applicable requirements of this subsection may be waived by the city, provided the applicant has properly requested a waiver from the applicable requirements of this section, in the manner set forth in this section:

- (1) The applicant or his designee shall evaluate the condition of the tree trunk, the growth rate of the tree, its general structure, identify any insect infestations and/or diseases, the crown development of the tree, and the life expectancy of the tree. From this evaluation the expert examining the trees shall assign a point value to each such tree using the tree condition rating matrix provided in subsection (2) of this section. The rating number shall be placed in the column listing all the trees as outlined in subsection b. of this section.
- (2) The ranking matrix that the expert shall use in the field to calculate the condition (health) of a tree is outlined below.

Ranking Matrix			
Factor	5 or 4	3 or 2	1
Trunk	Sound and solid	Sections of bark missing	Extensive and hollow
Growth/rate	More than 6" twig elongation	2"—6" twig elongation	Less than 2" twig elongation
Structure	Sound	1 major or several minor limbs dead	2 or more major limbs dead
Insects/diseases	No pests present	1 pest present	2 or more pests present

Crown/development	Full and balanced	Full but unbalanced	Unbalanced and lacking a full crown
Life expectancy— Remaining	Over 30 years	15—20 years	Less than 5 years

(3) When the city or its designee evaluates the applicant's tree condition data in the field, the rating matrix set forth in subsection (2) of this section shall be used.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-204. - Incentives to preserve existing trees.

The standards listed below are intended to encourage the preservation of quality and mature landmark trees by providing credits toward required landscape components.

- (a) Trees intended to be preserved shall be indicated on the site plan.
- (b) To obtain credit, the preserved trees shall be arranged to meet the intent of this division, be of high-quality, as confirmed by the city, and at least 2.5-inch caliper in size for deciduous trees, six feet in height for evergreen trees.
- (c) Each deciduous tree preserved that is between 2.5-inch to 7.9-inch caliper in size and evergreen tree that is between six feet to 19 feet shall be calculated as one required tree, two credits for deciduous trees with a caliper of eight inches or greater and evergreen trees greater than 19 feet.
- (d) The landscape plan shall include a matrix that lists required trees and credits for preserved trees.
- (e) During construction, tree protection fencing shall be placed ten feet beyond the drip-line of the tree. The ground area within the fence line shall be maintained with vegetative landscape material or pervious surface cover. The planning commission may allow pedestrian pathways, driveways or parking within the dripline upon determination that the setback from the trunk of the tree is suitable to reasonably ensure protection of the tree and the public. Storage of soils or other materials within the dripline is prohibited.
- (f) If trees are lost within three years after completion of the construction, the property owner shall replace with new trees equal to the number of tree credits granted.
- (g) Tree credits may account for up to 50 percent of the required trees and be applied anywhere on the site.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-205. - Landscape plan specifications.

- (a) A separate detailed landscape plan, prepared by a licensed/registered design professional, shall be submitted as part of the site plan review process.
- (b) The landscape plan shall demonstrate that all requirements of this division are met and shall:
 - (1) Illustrate location, spacing, species, and size of proposed plant material.

- (2) Separately identify compliance with the minimum numeric requirements for greenbelts, buffer zones, parking lot trees, detention ponds, and interior landscaping; required trees or materials cannot be double counted.
- (3) If applicable, identify compliance with the numeric requirements for tree replacement and preservation.
- (4) Provide, as determined by the planning commission, typical cross sections to illustrate views from adjacent land uses and the slope, height and width of proposed berms or landscape elements.
- (5) Identify trees and other landscape elements to be preserved.
- (6) Delineate the location of tree protection fence and limits of grading at the perimeter of areas that to be preserved.
- (7) Provide significant construction details to resolve specific conditions such as limits of grading adjacent to areas with trees and vegetative cover to be preserved, tree wells to preserve existing trees or culverts to maintain natural drainage patterns.
- (8) Provide details to ensure proper installation and establishment of proposed plant material.
- (9) Identify grass areas and other methods of ground cover.
- (10) Identify a landscape maintenance program including a statement that all diseased, damaged or dead materials shall be replaced in accordance with standards of this chapter.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-206. - Design standards.

- (a) *Greenbelts.* A greenbelt shall be planted or preserved along public rights-of-way, private road easements, and designated frontage roads and access drives. The greenbelt is intended to provide a transition between the roadway and an existing or proposed land use. Greenbelts shall be provided in accordance with the following requirements:
 - (1) The width of the greenbelt shall be 35 feet in residential districts and 20 feet in nonresidential districts.
 - (2) Greenbelts shall include only living materials and planting beds, except for approved sidewalks, bike paths, signs, driveways, and essential services.
 - (3) Where sidewalks are located within the greenbelt, plant material shall be provided on each side of the pathway to provide visual and physical separation between the vehicular and pedestrian circulation.
 - (4) The greenbelt shall contain a minimum of one canopy tree and six upright shrubs per 30 linear feet, or fraction thereof, of street frontage including any openings for driveways, pathways, or easements. The planning commission may approve the substitution of evergreen trees for up to 50 percent of the required canopy trees when appropriate in consideration of the land use and existing character of adjacent uses. A hedgerow with upright shrubs planted four to five feet on center along the entire road frontage may also be utilized.
 - (5) Ornamental trees may be used to diversify greenbelt planting requirements, provided two ornamental trees shall be provided for each one required canopy tree.
 - (6) Greenbelt plantings shall be arranged to simulate a natural setting such as massing or staggered rows, except where the planning commission finds a more formal arrangement would be consistent with the established character of the area.
 - (7) Greenbelts shall be designed to ensure adequate sight visibility for motorists, adequate clearance for pedestrians and vehicles, clearance from overhead utility lines, adequate

separation from underground utilities, and accessibility to fire hydrants. Where such conditions prohibit full compliance, the planning commission may adjust the location of the required materials so as long as the design intent is met.

(b) *Parking lot landscaping.* Parking lot landscaping shall be provided in accordance with the following standards:

- (1) Landscaping shall be dispersed evenly throughout the parking lot in order to break up large expanses of pavement and assist with vehicular and pedestrian flow.
- (2) At least one canopy tree shall be provided per eight parking spaces provided.
- (3) All of the required parking lots trees shall be placed within the parking lot envelope as described by the area including the parking lot surface and extending outward ten feet from the edge of the parking lot.
- (4) A minimum of 1/3 of the trees shall be placed within parking islands located inside the perimeter of the parking lot.
- (5) Parking lot islands shall be curbed and be at least 100 square feet in area. Islands within parking lots having less than 100 spaces may be a minimum of ten feet in width, parking areas with more than 100 spaces shall have islands at least 20 feet in width. The depth of the island shall be two feet shorter than an adjacent parking space.
- (6) Only trees, shrubs, grass or other living ground cover shall be used within parking lot islands.
- (7) The design and layout of the parking lots shall provide appropriate pedestrian circulation and connections to perimeter pedestrian connections.

(c) *Buffer zones.*

- (1) A buffer shall be provided between the subject site and all adjacent properties, developed or undeveloped, in accordance with the table on the following page.
- (2) The planning commission shall use the table on the following page as the minimum requirements necessary and determine whether landscaping, a wall, a berm, or combination of these elements are needed to attain the intended screening.
- (3) The use of canopy trees and associated understory are encouraged while walls and berms are discouraged.
- (4) Buffer zones shall include only living materials and planting beds, except for approved sidewalks, bike paths, signs, driveways, and essential services.

Buffer zone A: 30 foot minimum width, along the property line with two canopy trees and four shrubs, or one canopy tree, one evergreen and four shrubs per 20 linear feet, rounded upward, and including a wall, berm or combination of these elements as determined by the planning commission.

Buffer zone B: Ten-foot minimum width, along the property line with one canopy tree and four shrubs, or one evergreen tree and four shrubs per 20 linear feet, rounded upward.

(d) *Detention/retention pond landscaping.* Ponds shall be located outside required setbacks and designed to provide a natural appearance. Detention and retention ponds shall be provided in accordance with the following standards:

- (1) Side slopes shall be such that the perimeter of the pond shall not need to be fenced.
- (2) The sides of the pond must be undulating to avoid an "engineered" appearance.

- (3) One canopy or evergreen tree and ten shrubs are required per 50 feet of pond perimeter, as measured along the top of the bank elevation. The required landscaping shall be planted in a random pattern, not limited to the top of the pond bank.
- (4) Wild grasses and wetland plantings should be utilized on the side slopes and bottom of the pond to give it a more natural appearance, minimize on-going maintenance, and provide improved filtering of sediments.
- (5) Where a natural landscape is found not to be particular or desirable the planning commission may require some type of decorative fencing.
- (e) *Interior site landscaping.* Site landscaping shall be located near building entrances, along building foundations, along pedestrian walkways, near service areas or as landscaped plazas.
- (f) *Residential and site condominium developments.* Landscaping for single-family and multiple-family residential developments shall be provided in accordance with the following requirements:
 - (1) Street trees shall be provided at a rate of one tree per 40 linear feet of frontage, or thereof, along all interior roads. The planning commission may determine that existing trees preserved within ten feet of the road edge may fulfill the street tree requirement for that portion of the road. Trees should generally be planted between the sidewalk and road curb, in consideration of intersection sight distance.
 - (2) The landscape plan shall also include details of the cul-de-sac islands, project entrances, accessory buildings and common open space areas.
- (g) *Right-of-way landscaping.* Public rights-of-way shall be planted with grass or other suitable living plant material and maintained by the owner or occupant of the property. Trees and shrubs may be planted within the right-of-way with permission from the appropriate authority with jurisdiction over the street.
- (h) *Accessory site components.* In addition to required screens or walls, site elements such as waste receptacles, air conditioner units, utility boxes and other similar components shall be appropriately screened with plant material.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-207. - Specifications for landscape improvements and plant materials.

- (a) *Wall standards.* While walls are not necessarily encouraged, certain situations may be appropriate for provision of a wall. When provided, walls shall meet the following requirements:
 - (1) Walls shall be located on the lot line or within the required setback when it is desired to have plant material on both sides of the wall.
 - (2) Walls shall be continuous except for openings for pedestrian connections as approved by the planning commission.
 - (3) Walls shall be constructed of the primary building material of the principal structure as determined by the planning commission.
 - (4) The height of any wall shall be as determined by the planning commission based on the intended screening.
- (b) *Berm standards.* While berms are not necessarily encouraged, they may be appropriate in certain situations. In instances where wider open spaces are available between uses, the planning commission may allow the substitution of a berm with additional landscaping in place of the wall requirement. Berms shall be constructed with horizontal and vertical undulations so as to represent a natural appearance with a crest area at least four feet in width. Berms shall be planted with trees, shrubs or lawn to ensure that it remains stable. The exterior face of the berm shall be constructed as a earthen slope. The interior face of the berm may be constructed as an earthen slope or retained by

- (c) *Plant material.* All plant material shall be hardy to the city, be free of disease and insects and conform to the American Standard for Nursery Stock of the American Nurserymen. Landscaped areas shall include only living plant materials and planting beds, no pebbles or stones are permitted.
- (d) *Minimum sizes and spacing.* The minimum plant sizes and spacing shall be provided in accordance with the following:
- (1) Wherever screening is required, screening shall consist of closely spaced evergreen plantings which can be reasonably expected to form a complete visual barrier. Deciduous plant material may be used for variety to supplement evergreen plantings.

Minimum Sizes and Spacing		
Type of Plant Material	Minimum Plant Sizes	Spacing Requirements
Deciduous canopy trees	2½ in. caliper	25 ft. on-center
Ornamental trees	2 in. caliper 6 ft. height (clump form)	15 ft. on-center
Evergreen trees	8 ft. height	15 ft. on-center
Narrow evergreen trees	4 ft. height	12 ft. on-center
Deciduous shrubs	3 ft. height	4 ft.—6 ft. on-center
Upright evergreen shrubs	3 ft. height	3 ft.—4 ft. on-center
Spreading evergreen shrubs	18 in.—24 in. spread	6 ft. on-center

- e. *Mixing of species.* The overall landscape plan shall not contain more than 33 percent of any one plant species. The use of native species and mixture of trees from the same species association is strongly encouraged.
- (f) *Trees not permitted.* The following trees are not permitted as they split easily, their wood is brittle, their roots clog drains and sewers, and they are unusually susceptible to disease or insects. The planning commission may however allow trees from this list when associated with an appropriate ecosystem. Trees not permitted are as follows: Box elder, elms, tree of heaven, willows, soft maples (silver), poplars, horse chestnut (nut bearing), ash, ginkgo (female), cottonwood, mulberry, black locust, honey locust (with thorns).
- (g) *Planting beds.* Bark used as mulch shall be maintained at minimum of two inches deep. Planting beds shall be edged with plastic, metal, brick or stone in residential districts and metal edging in all other zoning districts.
- (h) *Topsoil.* Top soil shall consist of a 4-inch base for lawn areas and an eight- to 12-inch base within planting beds.

- (i) *Proximity to utilities.* Plant material shall not be located in a manner that will interfere with or cause damage to underground utility lines, public roads or other public facilities.
- (j) *Lawn grasses.* Lawn grasses shall be planted in species normally grown as permanent lawns in the county. Grasses may be plugged, sprigged, seeded or sodded except that rolled sod, erosion reducing net or suitable mulch shall be used in swales or other areas susceptible to erosion and shall be staked where necessary for stabilization. When complete sodding or seeding is not used, nurse grass seed shall be sown and mulched for immediate protection until permanent coverage is achieved. Grass sod and seed shall be free of weeds and noxious pests or disease.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-208. - Minimum standards for installation, irrigation and maintenance.

- (a) *Timing of planting.* All required plant material shall be planted prior to issuing a final certificate of occupancy. In the event that the project is completed during a time of year when planting is impractical, a financial guarantee in the amount of the remaining improvements shall be provided in a form of payment acceptable to the city.
- (b) *Completion of improvements.* Tree stakes, guy wires and tree wrap shall be removed after completion of the initial growing season.
- (c) *Irrigation.* All landscaped areas shall be provided with an underground irrigation system.
- (d) *Maintenance.* Landscaped areas and plant materials required by this chapter shall be kept free from refuse and debris. Plant materials, including lawn, shall be maintained in a healthy growing condition, neat and orderly in appearance in accordance with the approved site plan. If any plant material dies or becomes diseased, it shall be replaced within 30 days written notice from the city or within an extended time period as specified in said notice.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-209. - Standards for compliance for existing sites.

In any case where the building and/or parking area is being increased by at least 25 percent over the originally approved site plan or is being changed to a more intense use as determined by the planning commission, the site shall be brought into full compliance with the landscape standards herein. In instances where the increase in building and/or parking area is less than 25 percent over the original site plan, the extent of new landscaping shall be equal to four percent of compliance for every one percent of increase in building or parking footprint. For example, a building or parking area increase of ten percent requires 40 percent compliance with the landscape standards.

(Ord. No. [2019-06](#), 1-6-20)

DIVISION 4. - SIGNS

Sec. 86-210. - Purpose.

The purpose of this division is to permit and regulate signs and to minimize outdoor advertising within the city so as to protect public safety, health and welfare; minimize abundance and size of signs to reduce visual clutter, motorist distraction, and loss of sight distance; promote public convenience; preserve property values; support and complement land use objectives as set forth in the city master plan and zoning ordinance; and enhance the aesthetic appearance and quality of life within the city. The standards contained herein are intended to be content neutral.

These objectives are accomplished by establishing the minimum amount of regulations necessary concerning the size, placement, construction, illumination, and other aspects of signs in the city so as to:

- (1) Recognize that the proliferation of signs is unduly distracting to motorists and non-motorized travelers, reduces the effectiveness of signs directing and warning the public, causes confusion, reduces desired uniform traffic flow, and creates potential for accidents.
- (2) Prevent signs that are potentially dangerous to the public due to structural deficiencies or disrepair.
- (3) Reduce visual pollution and physical obstructions caused by a proliferation of signs which would diminish the city's image, property values and quality of life.
- (4) Enable the public to locate goods, services and facilities without excessive difficulty and confusion by restricting the number and placement of signs.
- (5) Prevent placement of signs which will conceal or obscure signs of adjacent uses.
- (6) The regulations and standards of this division are considered the minimum necessary to achieve a substantial government interest for public safety, aesthetics, protection of property values, and are intended to be content neutral.
- (7) Prevent off-premise signs from conflicting with other allowed land uses.
- (8) Maintain and improve the image of the city by encouraging signs of consistent size which are compatible with and complementary to related buildings and uses, and harmonious with their surroundings. This includes preventing light trespass onto adjacent properties.
- (9) Prohibit portable signs in recognition of their significant negative impact on traffic safety and aesthetics.
- (10) Preserve and enhance the image of the city's downtown.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-211. - Sign definitions.

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

Animated sign: A sign which uses lights, moving parts, or other means to depict movement, motion, action, the impression or appearance thereof, or create an image of a living creature or person.

Awning or canopy sign: A non-rigid fabric marquee or awning-type structure which is attached to the building by supporting framework, which includes a business identification message, symbol and/or logo. See "wall sign."

Business center: A grouping of two or more business establishments on one or more parcels of property which may share parking and access and are linked architecturally or otherwise present the appearance of a unified grouping of businesses. A business center shall be considered one use for the purposes of determining the maximum number of ground signs. An automobile or vehicle dealership shall be considered a business center regardless of the number or type of models or makes available, however, used vehicle sales shall be considered a separate use in determining the maximum number of signs, provided that the used vehicle sales section of the lot includes at least 25 percent of the available sales area.

Changeable message sign: A sign or portion of a sign on which the message is changed mechanically, electronically or manually.

Device sign: Permanent signs on vending machines, gas pumps, ice containers and similar items indicating only the contents of such devices.

Directional sign: A sign which assists motorists in determining or confirming a correct route such as, enter, exit and parking signs.

Entranceway sign: A sign which marks the entrance to a subdivision, apartment complex, condominium development, senior housing complexes, manufactured housing communities, office and industrial parks and similar uses.

Flashing sign: A sign which contains an intermittent or sequential flashing light source including color and intensity.

Ground or monument sign: A three-dimensional, self-supporting, ground-mounted sign, consisting of two or more sides extending up from the base, and upon which a message is displayed.

Illegal sign: A sign which does not meet the requirements of this division and does not have legal non-conforming status.

Legal nonconforming sign: An existing sign that does not meet current ordinance standards but did so at the time of installation.

Incidental sign: A small sign, emblem, or decal informing the public of goods, facilities, or services available on the premises. Examples of incidental signs include credit card signs, signs indicating the hours of business, no smoking signs, signs used to designate bathrooms, and signs providing information on credit cards and business affiliations.

Mansard: A sloped roof or roof-like facade. Signs mounted on the face of a mansard roof shall be considered wall signs.

Marquee: A permanent roof-like structure or canopy, supported by and extending from the face of the building. A marquee sign is a sign attached to or supported by a marquee structure.

Memorial sign or tablet: A sign having the name of the building and/or the date of erection and cut, cast or engraved into a masonry or metal surface and made an integral part of the structure.

Moving sign: A sign in which the sign itself or any portion of the sign moves or revolves. "Rotating signs" and "feather signs" are types of moving signs. This definition does not include "changeable message signs."

Nameplate: A non-electric, on-premise identification sign.

Non-conforming sign: A sign that does not comply with the size, placement, construction or other standards or regulations of this division, but were lawfully established prior to its adoption. Signs for which the zoning board of appeals has granted a variance are exempt and shall not be defined as non-conforming.

Obsolete sign: A sign for a business or use that has closed.

Off-premise advertising or billboard sign: A sign which identifies a use or advertises products and services not available on the site or parcel on which the sign is located; a sign which directs travelers or provides a message unrelated to the site on which the sign is located, e.g. billboards. Off-premise advertising signs also include video signs and similar technologies.

Portable sign: A sign designed to be moved from place to place, whether or not it is permanently attached to the ground or structure. This includes hot-air and gas-filled balloons, pennants, streamers, festoons, ribbons, tinsel, pinwheels, non-government flags, and searchlights and signs mounted on a portable structure including those with wheels.

Projecting sign: A sign, other than a wall sign, that is affixed to any building or wall and whose leading edge extends more than 12 inches beyond such building or wall.

Pylon or pole sign: A sign supported on the ground by a pole or braces, without a monument base, and not attached to any building or other structure.

Regulatory sign: A sign installed by a public agency to direct traffic flow, regulate traffic operations and provide information in conformance with the Michigan Manual of Uniform Traffic Control Devices.

Roof sign: Any sign that extends above the roofline or is erected over the surface of the roof.

Sandwich board sign: Also known as a poster panel or "A" frame sign. a moveable nonpermanent sign placed within the pedestrian public right-of-way of a public sidewalk during regular business hours consisting of an "A" frame or "inverted T" frame or other temporary style, with not more than two flat surfaces containing messages, and not permanently affixed to any structure or to the sidewalk itself.

Sign: Any device, structure, fixture, figure, symbol, banner, pennant, flag, balloon, logo, or placard consisting of written copy, symbols, logos and/or graphics, designed for the purpose of conveying, bringing attention to, identifying or advertising an establishment, product, goods, services, or other message to the general public. Unless otherwise indicated, the definition of "sign" includes interior and exterior signs which are visible from any public street, sidewalk, alley, park, or public property, but not signs which are primarily visible to and directed at persons within the premises upon which the sign is located.

Snipe sign: A snipe sign is a sign made on any material and attached to any object and having no application to the premises where located.

Temporary sign: A sign not constructed or intended for long-term or permanent use. Examples of temporary signs include signs which announce a coming attraction, a new building under construction, a community or civic event or project, or other special events that occur for a limited period of time such as a garage, yard or estate sale.

Vehicle sign: Signs affixed to a parked vehicle or truck trailer which is being used principally for displaying a message, rather than for transportation purposes.

Wall Sign: 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. Permanent signs which are not affixed directly to a window or are positioned next to a window so that they are visible from the outside, shall also be considered wall signs.

Window graphics: A type of window sign that is attached to a window and does not block visibility from inside the window but displays an image outside the window.

Window sign: A sign located in or on a window which is intended to be viewed from the outside. Permanent window signs which are not affixed directly to a window or are positioned next to a window so that they are visible from the outside shall be considered wall signs.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-212. - Prohibited signs.

The following signs are prohibited in all districts:

- (1) Signs which obstruct free access or egress from any building, including those that obstruct any fire escape, required exit way, window, or door opening or that prevent free access to the roof by firefighters.
- (2) Moving signs and signs having moving members or parts.
- (3) Animated signs.
- (4) Inflatable signs.
- (5) Signs which in any way simulate or could be confused with the lighting of emergency vehicles or traffic signals; there shall be no flashing, oscillating or intermittent, or red, yellow, or green illumination on any sign located in the same line of vision as a traffic control system, nor interference with vision clearance along any highway, street, or road or at any intersection of two or more streets.

- (6) Signs which obstruct or impair the vision of motorists or non-motorized travelers at any intersection, driveway, within a parking lot or loading area.
- (7) Snipe signs, including non-regulatory signs placed in any public right-of-way, as well as those attached to a utility pole, affixed to a tree, street furniture, fences, or waste receptacle.
- (8) Off-premise signs, including video signs or similar technologies.
- (9) Roof signs unless specifically permitted elsewhere in this division.
- (10) Portable signs, as defined, not provided for in this division.
- (11) Pylon or pole signs not provided for in this division.
- (12) Illegal signs.
- (13) Obsolete signs and any sign or sign structure which:
 - a. Is structurally unsafe.
 - b. Constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, or abandonment.
 - c. Is capable of causing electric shock to person who come in contact with it.
 - d. Is not kept in good repair, such that it has broken parts, missing letters, or non-operational lights.
- (14) Flashing signs.
- (15) Any sign which makes use of the words "Stop", "Look", or "Danger", or any other words, phrases, symbols, or characters, in such a manner as to interfere with, mislead, or confuse traffic.
- (16) Any sign not expressly permitted.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-213. - Exemptions to permitting.

The following signs shall not require a permit provided such signs are outside of the public street right-of-way, are located to ensure adequate sight distance, and meet the requirements of section 86-215 of this chapter:

- (1) Address signs.
 - a. In all single-family zoning districts, such sign shall not exceed two square feet in area.
 - b. In all other zoning districts, such signs shall not exceed six square feet in area.
- (2) Community owned or approved entrance or welcome signs.
- (3) Construction signs meeting the size requirements for temporary signs under subsection 86-215(c).
- (4) Temporary signs meeting the requirements of section 86-215(c).
- (5) Device signs with the following conditions:
 - a. Sign area of each device shall not exceed three square feet in area.
 - b. Limit of one sign per device, such as vending machines, gas pumps or ice containers.
- (6) Directory signs. A building with business occupants on the upper floors or the interior space on the first floor of a building may have a directory sign plaque not to exceed ten square feet in area at the street entryway.
- (7) Essential service signs denoting utility lines, hazards and precautions or other similar information.

- (8) Flags.
 - a. Not to exceed three per zoning lot; and
 - b. Not to exceed four feet by six feet.
- (9) Historic markers.
- (10) Incidental signs shall not exceed a total of two square feet, a total of two signs per business. indicating acceptance of credit cards, the location of public telephones, restrooms, restrictions on smoking and restrictions on building entrances or describing business affiliations and are attached to a permitted sign, exterior wall, building entrance, or window.
- (11) Interior signs including any sign which is located completely within an enclosed building, and which is not visible from outside the building or which is primarily directed at persons within the premises upon which the sign is located.
- (12) Memorial signs or tablets shall not exceed four square feet in area, having the name of the building and/or the date of erection and cut, cast or engraved into a masonry or metal surface and made an integral part of the structure.
- (13) Nameplates.
- (14) Real estate signs and real estate open house signs meeting the requirements of subsection 86-215(c).
- (15) Real estate development signs meeting the requirements of subsection 86-215(c), conditioned upon removal when the building or development is completed.
- (16) Regulatory signs including traffic control and street identification signs.
- (17) Traffic control signs.
- (18) Vehicle signs.
- (19) Warning signs that are publicly authorized, such as no trespassing, warning of electrical currents or animals provided such signs do not exceed two square feet in area.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-214. - General standards for permitted signs.

Signs which are permitted as on-premise accessory uses serving a commercial or informational purpose may be permitted subject to the requirements of this division; provided, that no such sign shall be erected or altered until approved by the building official and until a sign permit has been issued.

- (1) *Sign setbacks.*
 - a. All signs, unless otherwise provided for, shall be set back a minimum of ten feet from any public or private street right-of-way line, access drive, or sidewalk located on private property, in all zoning districts. This distance shall be measured from the nearest edge of the sign, measured at a vertical line perpendicular to the ground to the right-of-way, access drive, or sidewalk. In no instance shall a sign be setback less than 25 feet from the curb line, or road surface when no curbing is present.
 - b. Side yard setbacks for signs shall be the same as that required for the main structure or building, provided that all nonresidential signs shall be set back at least 100 feet from any residential district.
- (2) *Clear vision area.* In order to ensure adequate sight distance for motorists, bicyclists and pedestrians, a minimum clear vision area shall be maintained between a height of 24 inches and six feet within a triangular area measured 25 feet back from intersection of public right-of-way

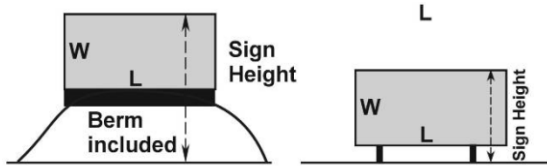
lines. Furthermore, signs shall not be permitted where they obstruct motorist vision of regulatory signs, traffic-control devices or street signs.

- (3) *Design and construction.* Signs, as permitted in the various zoning districts, shall be designed to be compatible with the character of building materials and landscaping to promote an overall unified and aesthetic effect in accordance with the standards set forth herein. Signs shall not be constructed from materials that are remnants or manufactured for a different purpose.
- (4) *Illumination.*
 - a. Signs may be illuminated, but only by steady, stationary, shielded light sources directed solely at the sign or internal to it.
 - b. Use of glaring undiffused lights, including bare bulbs, neon, or flames, is prohibited.
 - c. Lighting shall be shielded and/or pointed downward so as not to project onto adjoining properties or thoroughfares.
 - d. Underground wiring shall be required for all illuminated signs not attached to a building.
- (5) *Maintenance and construction.*
 - a. Every sign shall be constructed and maintained in a manner consistent with the building code provisions and maintained in good structural condition at all times. All signs shall be kept neatly painted, stained, sealed or preserved including all metal, wood or other materials used for parts and supports.
 - b. All signs erected, constructed, reconstructed, altered or moved shall be constructed in such a manner and of such materials so that they shall be able to withstand wind pressure of at least 20 pounds per square foot or 75 mph.
 - c. All signs, including any cables, guy wires, or supports shall have a minimum clearance of four feet from any electric fixture, street light, or other public utility pole or standard.
- (6) *Sign area.* Measurement of allowable sign area is as follows:
 - a. The allowable area for signs shall be measured by calculating the square footage of the sign face and any frame or base of other material or color forming an integral part of the display or used to differentiate it from the background against which it is placed as measured by enclosing the most protruding points or edges of a sign within a parallelogram or rectangle.



- b. When a sign has two or more faces, the area of all faces shall be included in calculating the area of the sign except that where two such faces are placed back to back, only larger face shall be considered, provided that both faces are part of the same structure and are separated by no more than two feet.
- c. For purposes of calculating sign area allowed as a wall sign, the wall sign square footage shall be determined by measuring a parallelogram (box) which includes the portion of the canopy which contains a message, symbol and/or logo.
- d. When a sign consists solely of lettering or other sign elements printed, painted or mounted on a wall of a building without any distinguishing border, panel or background, the calculation for sign area shall be measured by enclosing the most protruding edges of the sign elements within a parallelogram or rectangle.

(7) Sign height.



- a. The permitted height of all signs supported by the ground shall be measured from the level of the ground, finished surface, adjacent to the sign.
- b. Sign height shall not be measured from an area of the ground that has been built-up or constructed in a manner that would have the effect of allowing a higher sign height than permitted by these regulations (e.g. the height of signs erected on a berm shall be measured from the finished grade adjacent to the berm).

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-215. - Specific sign standards.

The number, display area, and height of signs within the various zoning districts are provided in the sign dimensional standards and regulations Table and its accompanying footnotes. Additional standards for specific types of signs are given below.

Sign Dimensional Standards and Regulations								
	Wall, Canopy, or Projecting Sign		Ground Sign			Temporary Signs(c)		
[1]District	Number #	Max. Size	Number # (b)	Max. Size per sign face	Max. Height	Max. Size per sign	Total Area per Parcel	Max. Height
R1-A, R-1, R-2, R-3	—	10% of front facade for all uses other than single-family residential units, duplexes, and attached condominiums	1	24 square feet	6 feet	6 square feet	14 square feet	4 feet
R-T, RM-1, RM-2, RM-3, MH								
B-1, B-2, B-3 & PD commercial uses (b)	1 per business (a)	10% of front façade or 100 square feet, whichever is less (a)	1	48 square feet	6 feet	24 square feet	48 square feet	6 feet
OS-1, & PD office uses								
I-1, I-2								
P-1								

Footnotes to the sign dimensional standards and regulations table:

- (a) *Wall signs.* One wall sign shall be allowed per business, in addition to any other allowed ground signs. Businesses located on a corner lot shall be allowed up to two wall signs, one for each front façade. The maximum wall sign area shall not exceed ten percent of the front facade of the building (any facade which faces a public street), per use or business establishment. However, for a commercial structure containing one use or business establishment, as determined by the planning commission, the size of the wall sign may be increased up to the maximum square footage as follows:

201—400 linear feet of building frontage facing a public street and having a public entrance:
150 square feet

Greater than 400 linear feet of building frontage facing a public street and having a public entrance: 200 square feet

- (1) *Window signs.* Window signs shall be permitted not to exceed 25 percent of the window area of the façade, including window graphics.
- (2) No wall sign shall extend above the roof or parapet of the structure to which it is attached by more than one foot.
- (b) *Ground signs.* Ground signs are not permitted in the B-1, Central Business District. Only one ground sign is permitted per use, including uses which occupy more than one parcel and business centers containing more than one business or use, with additional signs permitted according to the following table, however, no site shall have more than two ground signs, regardless of the number of street frontages or the amount of frontage. Single uses on a single parcel do not qualify for this consideration:

Frontage along two or more rights-of-way: One sign up to the maximum sign face area shall be allowed along two frontages.

300 feet of frontage along one right-of-way: One ground sign along that frontage.

Greater than 300 feet of frontage along one right-of-way: Two ground signs.

- (c) *Temporary signs.*

- (1) All temporary signs must comply with the sign size and height standards as specified in the sign dimensional standards and regulations table.
- (2) Location of temporary signs shall comply with the following:
- Temporary signs shall not be attached to any utility pole, tree, fence, or be located within any public right-of-way.
 - Temporary signs shall not be erected in such a manner than they will or may reasonably be expected to interfere with, obstruct, confuse or mislead traffic.
 - Temporary signs cannot be placed or constructed so as to create a hazard of any kind.
 - Temporary signs may not be posted on private property without first obtaining the permission of the property owner.
 - Signs shall not be located within any clear vision triangle, as described in subsection 86-214(2).
- (3) Each temporary sign shall be removed within 60 days of placement. Furthermore, no sign may be erected on a single parcel for more than 60 calendar days out of every 120 calendar days. Although a permit is not required for temporary signs, property and business owners must maintain a log of dates when temporary sign(s) have been in place showing compliance with the above standard.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-216. - Additional sign standards.

- (a) *Directional signs.* No more than one directional sign shall be permitted for each approved driveway, with a maximum sign area of four square feet per sign, and a maximum height of four feet. Any directional sign which includes a business name, symbol or logo shall be calculated as part of the allowable ground sign square footage, as specified in the sign dimensional standards and regulations table.
- (b) *Off-premise advertising or billboard signs.* New off-premise advertising or billboard signs are not permitted but existing ones may be maintained and repaired.
- (c) *Projecting, awning and canopy signs.* Projecting signs, awnings and canopy signs may be used as an alternative to wall signs listed in the sign dimensional standards and regulations table, provided that they meet the following standards:
 - (1) Any sign area on a canopy shall be included in calculations of maximum wall sign square footage.
 - (2) Projecting or canopy signs in the B-1, Central Business District shall be set back at least two feet from any street curb line, shall not extend more than six feet over the public right-of-way, and shall leave a minimum clearance of eight feet above the ground.
 - (3) Projecting, awning or canopy signs, other than those in the B-1 District, shall have a minimum ground clearance of ten feet, shall be set back at least six feet from any adjacent public right-of-way, nor project over an alley or private access lane. A projecting sign shall not extend for more than two feet from the building to which it is attached.
 - (4) No awning, canopy or projecting sign shall extend above the roof or parapet of the structure to which it is attached by more than one foot.
 - (5) Wood posts or supporting arms shall not be used in conjunction with any projecting sign, unless it is decorative in nature and part of the character of the sign.
 - (6) Projecting signs shall not exceed ten square feet in area on each side. The area of such sign shall be in addition to any permitted sign provided for herein.
 - (7) Canopy signs shall not be internally illuminated and must be blackened out on the underside.
- (d) *Entranceway signs.* One permanent sign per vehicular entrance identifying uses such as subdivisions, apartment complexes, condominium communities, senior housing complexes, manufactured housing communities, office and industrial parks and similar uses, provided that the sign is set back a minimum of 15 feet from any property line or public right-of-way is permitted.
- (e) *Changeable message signs.* Changeable message signs may be permitted as a portion of, and accessory to, a ground or monument sign in the B-2 and I-1 Districts, in accordance with the following:
 - (1) One changeable message sign or one gasoline price sign shall be permitted per premises.
 - (2) Message or gasoline price may be changed electronically or manually.
 - (3) The area of a changeable message sign or gasoline price sign shall not exceed 1/3 the allowable total area of the sign in that district.
 - (4) Glare shall be reduced/minimize in such a manner as to maintain an appropriate level of contrast during the day and an automatic dimmer shall be required to control brightness at night, reduce drive distraction and light trespass into residential areas. A photometric plan which identifies the proposed illumination levels (in footcandles) shall be provided. Illumination levels shall not exceed 1.0 footcandles measured ten feet from the sign and five feet from the ground.
 - (5) Electronic message signs shall not flash, fade in or out, or scroll.

- (6) Electronic messages or gasoline prices shall be displayed for at least 30 seconds, and changes shall take less than one second.
- (7) Any voids or burned out bulbs in an electronic display shall be replaced within seven days and any malfunctioning signs must be turned off until repaired.
- (8) Electronic changeable message signs shall be at least 100 feet from any residential district or use, except as modified in subsection (9) below.
- (9) One electronic message sign, meeting the above requirements, may be approved by the planning commission for institutional uses, meaning a use by a public or quasi-public institution such as a religious organization, church, nonprofit organization, academic institution, library or hospital, located in a multiple-family residential zoning district when meeting the following requirements:
 - a. The institutional use is located on a principal arterial, as designated in the city master plan;
 - b. The sign will not create a nuisance for residential properties in the immediate vicinity of the sign, as determined by the planning commission and subject to any conditions; and
 - c. The appropriate size of the sign shall be determined by the planning commission but shall be no greater than 50 square feet in area.
- (f) *Sandwich board signs.* Sandwich board or portable A-frame signs are permitted in the B-1 and B-2 Districts at the customer building entrances to businesses subject to the following requirements:
 - (1) One sign per customer entrance shall be permitted regardless of the number of tenants on the premises.
 - (2) The sign is permitted only during operating business hours and must be stored inside when the establishment is not open to the general public.
 - (3) Each sign shall not exceed an overall height of 42 inches and an overall width of 24 inches.
 - (4) The sign must be located adjacent to the building, no more than ten feet from the customer entrance to the business, be a minimum of two feet from the edge of the curb, and be located so that at least a five-foot wide sidewalk is maintained.
 - (5) No sign shall be located in such a manner as to interfere with vehicular or pedestrian traffic flow or visibility.
 - (6) All signs must be constructed of weather-proof, durable material and kept in good repair.
 - (7) The sign shall not be illuminated in any manner.
 - (8) Sandwich board signs within the public right-of-way may be moved/removed by the city for municipal purposes (i.e. code enforcement, snow removal, traffic issues, maintenance, etc).

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-217. - Non-conforming signs.

Nonconforming signs are those signs that do not comply with the size, placement, construction or other standards or regulations of this division, but were lawfully established prior to its adoption. Signs for which the zoning board of appeals has granted a variance are exempt and shall not be defined as nonconforming. It is the intent of this division to bring about, in an expeditious and timely manner, the eventual elimination of signs and their supporting structures that are not in conformity with the provisions of this division. The following provisions apply to nonconforming signs, including the replacement of nonconforming signs with less nonconforming signs to encourage a quicker upgrade. A nonconforming sign may be continued and shall be maintained in good condition as described elsewhere in this division, however, the following alterations are regulated:

- (1) A nonconforming sign shall not be structurally altered so as to prolong the life of the sign or to change the shape, size, type or design of the sign unless the change shall make the sign conforming.
- (2) A nonconforming sign shall not be replaced by another nonconforming sign with the exception of pole signs, which can be replaced with a ground or monument sign that is not in compliance with the requirements for ground signs in this division, subject to review and approval by the planning commission.
- (3) A nonconforming sign shall not be re-established after damage or destruction of the estimated expense of reconstruction exceeds 50 percent of the appraised replacement cost as determined by the building official or if 50 percent or more of the face of the sign is damaged or destroyed.
- (4) A nonconforming sign shall not have any changes made in the words or symbols used or the message displayed on the sign unless the sign is designed for periodic change of message.
- (5) Signs having a construction design that permits a complete change of the face portion of the sign display area shall not have any faces changed unless the change does not prolong the life of the total sign structure or alter the shape and size of the sign display area.
- (6) A nonconforming sign shall not be re-established after the activity, business or usage to which it relates has been discontinued for a period of 90 days or longer as defined in section 86-218, dangerous, unsafe, abandoned, and illegally erected signs.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-218. - Dangerous, unsafe, abandoned, and illegally erected signs.

- (a) *Dangerous signs.* Any sign constituting an immediate hazard to health or safety shall be deemed a nuisance per se and may be immediately removed by the city without notice and the cost thereof charged against the owner of the property on which it was installed.
- (b) *Unsafe signs.* Any sign that becomes insecure, in danger of falling, or otherwise unsafe but not considered an immediate danger by the building official to the health or safety of the public shall be removed or repaired within 30 days after written notice from the city building official.
- (c) *Abandoned signs.* Any sign that advertises a business that has been discontinued for at least 90 days or that advertises a product or service that is not longer offered shall be deemed abandoned. Permanent signs applicable to a business temporarily suspended by a change in ownership or management shall not be deemed abandoned unless the structure remains vacant for at least six months. An abandoned sign shall be removed by the owner or lessee of the premises within ten days after written notice from the city building official.
- (d) *Illegally erected signs.* Any sign erected or displayed illegally in violation of this division shall be removed or made to comply with this division within ten days after written notice from the city building official.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-219. - Permits and application procedures.

- (a) *Required.* Except as expressly provided in section 86-213 relating to signs allowed without a permit, and subsection 86-215(c) relating to temporary signs, it shall be unlawful for any person to erect, alter, relocate, or maintain any sign or other structure designed to display a message without first obtaining a permit therefor from the city and payment of a fee provided for in this section.

- (b) *Application.* Applications for permits to erect, construct, maintain, use, display, alter, convert, repair a sign shall be made upon forms provided for by the City, and shall contain or have attached thereto the following information:
- (1) Name, address and telephone number of the applicant, property owner(s), and if applicable, the tenant(s) and occupant(s);
 - (2) Location of building, structure, or lot to which the sign is to be attached or erected;
 - (3) Position of the sign in relation to nearby buildings, structures, and property lines;
 - (4) Two drawings of the plans and specifications and method of construction and attachment to the building or in the ground;
 - (5) Copy of stress sheets and calculations, if deemed necessary by the building official, showing the structure as designed for dead load and wind pressure in accordance with regulations adopted by the city;
 - (6) Name and address of the person erecting the structure and any applicable licenses;
 - (7) Any electrical permit required and issued for such sign;
 - (8) Insurance policy or bond as required by this division;
 - (9) Such other information as the building official, or his or her designee, may require to show full compliance with this and all other applicable laws of the city and the state;
 - (10) In the discretion of the building official, or his or her designee, when in his or her opinion the public safety requires it, the application containing the material required by this section shall, in addition, bear the certificate or seal of a registered architect or engineer as a condition to the issuance of a permit;
 - (11) In all applications for entranceway signs, the building official, or his or her designee, shall require that appropriate provisions have been made to ensure continued maintenance of the sign.
- (c) *Fees.* An application, permit, review and inspection fees shall be paid to the city for each permanent permit and each temporary permit required by this division as shall be set by resolution of the council from time to time.
- (d) *Ordinary maintenance.* No permit is required for the ordinary servicing or repainting of an existing sign message, the cleaning of a sign, the changing of information on a directory sign, or the changing of advertising on a permitted sign specifically designed for regular change of message without change in structure.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-220. - License and insurance.

Every person who engages in the business of erecting, altering or dismantling signs in the city shall first submit proof of appropriate licenses and a liability insurance policy that indemnifies the city and its prior, present and future officials, representatives and employees from all damage suits or actions of every nature brought or claimed against the erector for injuries or damages to persons or property sustained by any person or persons through any act of omission or negligence of said erector, his servants, agents or employees. Said policy shall contain a clause whereby it cannot be canceled or changed until after written notice has been filed with the city building department at least 30 days prior to the date of cancellation. The building official shall issue a permit for the sign upon determining that the proposed sign meets the provisions, standards and regulations of this division and any other applicable city ordinance and after payment of the prescribed fees and deposit.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-221. - Administration, enforcement, violations, and penalties.

- (a) *Generally.* The regulations of this division shall be administered and enforced by the city manager or his or her designee.
- (b) *Violations.* It shall be unlawful for any person to erect, construct, maintain, use, display, enlarge, alter, convert, repair, or move, any sign in the city, or cause or permit the same to be done, contrary to or in violation of any of the provisions, standards and regulations of this division. Each act of violation, and on each day upon which any such violation shall occur, shall constitute a separate offense.
- (c) *Public nuisance per se.* Any sign erected, constructed, maintained, used, displayed, enlarged, altered, converted, repaired, or moved in violation of any of the provisions, standards, and regulations of this division, including the failure to remove a sign when directed under the authority of this division, is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.
- (d) *Municipal civil infraction.* Any person, firm or corporation determined to have violated or been in violation of the provisions, standards or regulations of this division shall be responsible for a municipal civil infraction and subject to the penalties and provisions contained in sections 1-13, 1-14, 2-242 through 2-249 of the city's Code of Ordinances.
- (e) *Other relief.*
 - (1) In addition to the remedies otherwise provided for, the city may remove and dispose of an unlawful sign on public property.
 - (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 chapter.
 - (3) In addition to any remedies provided for by the Code of Ordinances, any equitable or other remedies available may be sought and granted.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-222. - Appeals and variances.

- (a) *Appeals.* Appeal from the ruling of any officer, department, board or bureau of the city, including the building official, concerning the enforcement of the provisions, standards and regulations of this division may be made by any aggrieved party within 30 days of the ruling to the zoning board of appeals, sitting as an administrative appeal board under this division.
- (b) *Variances.* With the exception of requests for variances for multi-tenant ground signs as contemplated in section 86-345, which shall be considered by the planning commission, the zoning board of appeals shall have the authority to grant variances from the requirements of this division according to the criteria in section 86-345. In making a decision on whether a practical difficulty exists, the board may also consider the following for sign variance requests:
 - (1) In determining whether a variance is appropriate, the zoning board of appeals shall study the sign proposal, giving consideration to any extraordinary circumstances, such as those listed below, that would cause practical difficulty in complying with the sign standards. The presence of any of the circumstances listed may be sufficient to justify granting a variance; however, the zoning board of appeals may decline to grant a variance even if certain of the circumstances are present.
 - (2) In granting a variance the zoning board of appeals may attach such conditions regarding the location, character, and other features of the proposed sign as it may deem reasonable. In granting or denying a variance, the zoning board of appeals shall state the grounds and findings upon which it justifies granting or denying the variance based on the following criteria:

- a. Permitted signage could not be easily seen by passing motorists due to the configuration of existing buildings, trees, or other obstructions.
- b. Permitted signage could not be seen by passing motorists in sufficient time to permit safe deceleration and exit. In determining whether such circumstances exist, the zoning board of appeals shall consider the width of the road, the number of moving lanes, the volume of traffic, and speed limits.
- c. Existing signs on nearby parcels would substantially reduce the visibility or identification impact of a conforming sign on the subject parcel.
- d. Construction of a conforming sign would require removal or severe alteration to natural features on the parcel, such as but not limited to: removal of trees, alteration of the natural topography, filling of wetlands, or obstruction of a natural drainage course.
- e. Construction of a conforming sign would obstruct the vision of motorists or otherwise endanger the health or safety of passers-by.
- f. Variance from certain sign regulations would be offset by increased building setback, increased landscaping, or other such enhancements, so that the net effect is an improvement in appearance of the parcel, compared to the result that would be otherwise achieved with construction of a conforming sign.
- g. A sign which exceeds the permitted height or area standards of this division would be more appropriate in scale because of the large size or frontage of the parcel or building.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-223. - Ground sign variances for business centers.

The dimensional requirements (height and area) of section 86-215, specific sign standards, may be modified by the planning commission for business center or shopping center ground signs with multiple tenants and over 20,000 square of gross floor area when the following criteria have been met:

- (1) Where the objectives and intent of this division are better served by such modifications, rather than through the strict application of the requirements contained therein.
- (2) The sign will provide clearer, uncluttered identification to passing motorists than would otherwise be possible under the dimensional requirements of this division.
- (3) The requested modification will improve the aesthetics of the site by minimizing the number of individual signs on the property.
- (4) For larger centers, the sign will identify anchor tenants as opposed to all businesses.
- (5) The area of a changeable message sign or gasoline price sign still cannot exceed 1/3 the total area of the sign for which a modification is granted.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-224. - Substitution clause.

Notwithstanding any provision, standard, or regulation in this division to the contrary, a noncommercial message may be substituted, in whole or in part, for any commercial message on any sign permitted pursuant to this division. If a noncommercial message is substituted, the sign must still comply with the provisions, standards, and regulations of this division applicable to the original sign prior any substitution. The purpose of this provision is to prevent any inadvertent favoring of commercial speech or messages over noncommercial speech or messages.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-225. - Severability clause.

If any provision, standard, or regulation of this division, or the application thereof to any person or circumstance, shall be found invalid by a court, such invalidity shall not affect the remaining portion or application, or validity of the remaining provisions, standards, or regulations of this division as a whole, provided such remaining portions are not determined by the court to be invalid. It is hereby declared to be the legislative intent that this division would have been adopted, had such invalid provision not been included.

(Ord. No. [2019-06](#), 1-6-20)

Secs. 86-226—86-229. - Reserved.

DIVISION 5. - LIGHTING STANDARDS

Sec. 86-230. - Purpose.

The purpose of this division is to protect the health, safety and welfare of the public by recognizing that buildings and sites need to be illuminated for safety, security and visibility for pedestrians and motorists. To do so, this division provides standards for various forms of lighting that will: minimize light pollution; maintain safe nighttime driver performance on public roadways; preserve the restful quality of nighttime by eliminating intrusive artificial light and lighting that unnecessarily contributes to "sky glow"; reduce light pollution and light trespass from light sources onto adjacent properties; conservation of electrical energy; and curtail the degradation of the nighttime visual environment.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-231. - Applicability.

The standards in this division shall apply to any light source that is visible from any property line, or beyond, for the site from which the light is emanating. The city manager (or his designee) may review any building or site to determine compliance with the requirements under this article. Whenever a person is required to obtain a building permit, electrical permit for outdoor lighting or signage, a special land use approval, subdivision approval or site plan approval from the city, the applicant shall submit sufficient information to enable the city manager to determine whether the proposed lighting will comply with this article.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-232. - Lighting definitions.

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

Canopy structure: Any overhead protective structure which is constructed in such a manner as to allow pedestrians/vehicles to pass under.

Flood or Spot Light: Any light fixture or lamp that incorporates a reflector or refractor to concentrate the light output into a directed beam in a particular direction.

Glare: Direct light emitted by a lamp, luminous tube lighting or other light source.

Lamp: The component of the luminaire that produces the actual light including luminous tube lighting.

Light fixture: The assembly that holds a lamp and may include an assembly housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and a refractor or lens. A light fixture also includes the assembly for luminous tube and fluorescent lighting.

Light pollution: Artificial light which causes a detrimental effect on the environment, enjoyment of the night sky or causes undesirable glare or unnecessary illumination of adjacent properties.

Light trespass: The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

Luminaire: The complete lighting system including the lamp and light fixture.

Luminous tube lighting: Gas filled tubing which, when subjected to high voltage, becomes luminescent in a color characteristic of the particular gas used, e.g., neon, argon, etc.

Outdoor light fixtures: Outdoor artificial illuminating devices, outdoor fixtures, lamps and other similar devices, permanently installed or portable, used for flood lighting, general illumination or advertisement.

Shielded fixture: Outdoor light fixtures shielded or constructed so that light rays emitted by the fixture are projected below the horizontal plane passing through the lowest point on the fixture from which light is emitted, e.g. "shoebox-type" fixtures. A luminaire mounted in a recessed fashion under a canopy or other structure such that the surrounding structure effectively shields the light in the same manner is also considered fully shielded for the purposes of this division.

Wall pack: An unshielded fixture that is typically wall-mounted and used to illuminate a large area.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-233. - Submittal requirements.

The following information must be included for all site plan submissions and where full site plan approval is not required, some or all of the items may be required by the city manager:

- (1) Location of all freestanding, building-mounted and canopy light fixtures on the site plan and building elevations.
- (2) Photometric grid overlaid on the proposed site plan indicating the overall light intensity throughout the site (in footcandles).
- (3) Specifications and details for the type of fixture being proposed including the total lumen output, type of lamp and method of shielding.
- (4) Use of the fixture proposed.
- (5) Any other information deemed necessary by the city manager to determine compliance with provisions of this division.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-234. - Lighting standards.

Unless exempted under section 86-235, exemptions, all lighting must comply with the following standards:

- (1) *Freestanding pole lighting.*
 - a. Exterior lighting shall be fully shielded and directed downward to prevent off-site glare. Fixed (not adjustable), downward directed, metal halide or LED, shoebox fixtures shall be used in an effort to maintain a unified lighting standard throughout the city and prevent "sky glow."

- b. The intensity of light within a site shall not exceed ten footcandles within any site or one footcandle at any property line, except where it abuts a service drive or other public right-of-way. The only exception is for automobile dealership lighting, where a maximum of 20 footcandles is permitted in display areas within the site but the above standards shall apply to intensity at the property line. Footcandles abutting a residential district or use can be a maximum of 0.5 footcandles at the property line.
- c. The planning commission may approve decorative light fixtures as an alternative to shielded fixtures when it can be proven that there will be no off-site glare and the proposed fixtures are necessary to preserve the intended character of the site.
- d. The maximum height of parking lot light fixtures shall be 20 feet, except that the planning commission may permit a maximum height of 30 feet within commercial, industrial, and office zoning districts and for institutional uses in residential districts when the poles are no closer than 150 feet to a residential district or use.
- e. Parking lot poles shall be located in parking lot islands or in the periphery parking lot area. Light poles shall be prohibited in parking spaces.
- f. Except where used for security purposes, all outdoor lighting fixtures, existing or hereafter installed and maintained upon private property within non-residential zoning districts shall be turned off between 11:00 p.m. and sunrise, except where such use continues after 11:00 p.m. but only for so long as such use continues.

(2) *Building-mounted lighting.*

- a. Building-mounted lighting shall be fully shielded and directed downward to prevent off-site glare. Fixed (not adjustable), downward directed, metal halide fixtures shall be used in an effort to maintain a unified lighting standard throughout the city and prevent "sky glow."
- b. The intensity of light within a site shall not exceed ten footcandles within any site or one footcandle at any property line, except where it abuts a service drive or other public right-of-way. Footcandles abutting a residential district or use can be a maximum of 0.5 footcandles at the property line.
- c. The planning commission may approve decorative light fixtures as an alternative to shielded fixtures when it can be proven that there will be no off-site glare and the proposed fixtures will improve the appearance of the site or is necessary for security purposes.
- d. The intensity of lighting under roof eaves, awnings, porticos, or other structural projections shall not exceed ten footcandles. The internal illumination of building-mounted awnings is prohibited.
- e. Luminous tube, LED, and exposed bulb lighting is prohibited as an architectural detail on all buildings, e.g. along the roof line and eaves, around windows, etc. unless approved by the planning commission upon showing that the treatment will enhance the appearance of the building.

(3) *Window lighting.*

- a. Any light fixtures visible through a window must be shielded to prevent glare at the property line.
- b. Luminous tube, LED, and exposed bulb lighting (visible from the property line) is prohibited in the windows of a building unless it is part of a sign that meets the requirements of article IV, division 4, signs.

(4) *Gas station canopy lighting.*

- a. The intensity of lighting under gas station canopies shall not exceed 32 footcandles or have an average intensity greater than 22 footcandles for LED fixtures. Any other fixtures shall not have an intensity greater than 20 footcandles.

- b. All fixtures must be recessed into the canopy and the lens shall not extend below the lowest part of the fixture.
- (5) *Other lighting.*
- a. The internal illumination of building-mounted canopies is prohibited.
 - b. Indirect illumination of signs and buildings is permitted provided there is no off-site glare.
 - c. The use of laser light source, search lights or any similar high intensity light for outdoor advertisement or entertainment is prohibited.
 - d. Lighting shall not be of a flashing, moving, or intermittent type.
 - e. Luminous tube, LED, and exposed bulb fluorescent lighting is permitted as part of a sign meeting the requirements of article IV, division 4, signs.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-235. - Exemptions.

The following are exempt from the lighting requirements of this division, except that the city manager may take steps to eliminate the impact of the exempted items when deemed necessary to protect the health, safety and welfare of the public:

- (1) Sports field lighting, in use no later than 10:00 p.m., provided they are located at least 1,000 feet away from any existing residential zone or use. Other sports field lighting may be approved by the planning commission after a determination that compliance with the standards in section 102-214 have been met to the greatest extent possible, and that all efforts possible were made to minimize any negative impacts to surrounding uses.
- (2) Swimming pools.
- (3) Holiday decorations when removed within 15 days of said holiday.
- (4) Window displays without glare.
- (5) Shielded pedestrian walkway lighting.
- (6) Residential lighting with no off-site glare.
- (7) Street lights.
- (8) Search lights may be approved by the city manager, under the following conditions:
 - a. Such lighting must be associated with a public or private special event or annual sale.
 - b. Search lights for private events may be approved for a maximum of two such events per business, person or organization, per calendar year. The city manager may grant exceptions to this maximum for community-wide events or for those that serve a general public purpose or that benefit the public.
 - c. Search lights may not be used for a duration exceeding seven consecutive calendar days.
 - d. Location of all search lights must be in a non-residential district, and must be placed in such a way as to minimize any nuisance or glare onto any nearby residential property.
 - e. Search lights may not be run by any power supply that creates noise or vibration that can be heard or felt by nearby residences at a level that is greater than 75 decibels, or roughly equivalent to the noise generated by city traffic.
 - f. If it is determined necessary by the city manager, a limit to the hours of search light usage may be imposed to prevent night glare.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-236. - Lamp or fixture substitution.

Should any light fixture regulated under this division, or the type of light source therein, be changed after the permit has been issued, a change request must be submitted to the city manager for approval, together with adequate information to assure compliance with this chapter, which must be received prior to substitution.

(Ord. No. [2019-06](#), 1-6-20)

Secs. 86-237—68-239. - Reserved.

ARTICLE V. - APPROVAL PROCEDURES

DIVISION 1. - SITE PLAN REVIEW

Sec. 86-240. - Purpose.

- (a) It is the intent of this division to require site plan review approval by the planning commission prior to issuance of a building permit for certain buildings, structures, and uses that can be expected to have an impact on natural resources, traffic patterns, adjacent parcels, and the character of future development, and for all special land uses, to ensure that all such buildings, structures, and uses are in conformity with the provisions of this division.
- (b) It is further the intent of this division to require the eventual upgrade of existing sites that do not conform with current standards of this division and ensure that the arrangement, location, design, and materials within a site are consistent with the character of the city and the goals and design guidelines in the city master plan.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-241. - Uses requiring site plan review.

Uses Requiring Site Plan Review				
Use or Activity	Requires Site Plan Review		Sketch Plan Review (Administrative Approval)	Exempt
	Administrative Approval	Planning Commission Approval		
a. New construction of any non-residential or multiple-family development; specifically non-residential buildings greater than 1,500 square feet in	•			

all districts excluding Central Business District				
b. All uses subject to special conditions		•		
c. All site plans with multiple phases		•		
d. Site condominium developments or residential subdivision plans		•		
e. Planned developments (PDs) in accordance with article V, division 2, PUD, planned unit development overlay district standards		•		
f. Erection of a tower, antenna, or other communication facility; essential public service buildings and storage yards	•			
g. Co-location of a communication antenna upon an existing tower			•	
h. Adult and child residential care facilities including day-care centers, foster care homes, family day-care homes and group homes	In accordance with section 86-131			
i. Home occupations			•	
j. Temporary uses, buildings, structures, and seasonal events			•	
k. An increase in floor area of uses subject to site plan review up to 1,000 square feet or 5% of existing floor area, whichever is less			•	
l. Change in use to one permitted in zoning district and requires no significant changes to building footprint, parking,			•	

landscaping, lighting, signs, bike paths, or sidewalks				
m. Improvements to outdoor recreational uses and parks			•	
n. Expansion, replacing or alteration of landscaping areas consistent with this division			•	
o. Improvements or installation of walls, fences, or lighting			•	
p. Alterations to off-street parking layout or installation of pavement or curbing improvements provided total number of spaces does not change the number of parking spaces by more than 5% or to meet various federal, state, or Americans with Disabilities Act requirements and the construction plans and lot construction are approved by the appropriate city staff			•	
q. Construction or relocation of a waste receptacle or enclosure			•	
r. Changes to facade, architectural features, or wall signs (elevation plan showing changes and construction materials is required) pursuant to section 86-51, site development requirements, and in compliance with the city downtown design guidelines	•			
s. Approved changes to utility systems			•	
t. Grading, excavation, filling, soil removal, creation of swimming pool, creation of ponds, or tree clearing over 100 square feet			•	

u. Grading, excavation, filling, soil removal, creation of ponds, installation of a swimming pool, or clearing of trees within an area of less than 100 square feet				•
v. Modifications to nonconforming uses, buildings or sites, including a change to a more conforming situation; modifications to nonconforming single-family dwelling units shall be in accordance with article VI, division 1, nonconforming uses, structures, and lots			•	
w. Modifications to upgrade a building to improve barrier free design, comply with Americans with Disabilities Act or other federal, state or county regulations			•	
x. Construction or erection of permitted accessory buildings and structures accessory to a single- or two-family dwelling unit				•
y. Construction, reconstruction, erection and/or expansion of single-family or two-family dwelling on parcel zoned solely for residential purposes				•
z. Development regulated by the Land Division Act of 1997 (P.A. 112) and chapter 70, subdivisions, of the Code of Ordinances				•
aa. Erection of essential public service local distribution lines				•
bb. Construction, erection or relocation of permitted accessory buildings and structures less than 100 square feet in area accessory to a multiple-family,				•

commercial, office, essential service, municipal, or industrial use				
cc. Keeping of animals as an accessory use without additional structures, except kennels under the special land use requirements				•
dd. Construction of accessory building or structure for the keeping of animals			•	
ee. Accessory outdoor display of general retail items as determined by the zoning administrator			•	
ff. Internal construction or change in the floor plan for a conforming use that does not increase gross floor area, provided the construction cost over a 12-month period does not exceed 50% of the building SEV or affect parking requirements on a site				•
gg. Construction or erection of signs, antennas, cooling/heating or other mechanical equipment, telephone booth, newspaper boxes, or similar structures which conform to other city standards and where site plan review is not specifically required under other sections of this division				•
hh. Any proposed building or use which does not qualify for sketch plan or exempt from any site plan review	•			

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-242. - Planned unit developments, site condominiums, and condominium subdivisions.

Site plans for planned unit developments shall be subject to the provisions of article V, division 2, planned unit development overlay, and site condominiums and condominium subdivisions shall be subject to the provisions of article V, division 5, condominium development standards, and the Condominium Act (MCLA 559.101 et seq.).

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-243. - Projects exempt from site plan review.

Projects identified as exempt from site plan review must still meet all applicable zoning ordinance and code requirements and obtain a certificate of zoning compliance prior to application for a building permit or construction.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-244. - Projects eligible for sketch plan review and administrative approval.

- (a) *Intent.* The intent of this section is to permit submittal of sketch plan in certain specific instances where a complete site plan is not considered essential to ensure compliance with the intent and standards of this chapter. The intent is to also provide for an administrative review by city staff or planning commission approved site plans for compliance with conditions as imposed by the planning commission.
- (b) *Eligibility.* A sketch plan, rather than a complete site plan package, may be submitted for uses or activities identified in section 86-241, uses requiring site plan review.
- (c) *Procedure.*
 - (1) *Sketch plan.* The process for administrative approval of a sketch plan shall involve submittal of the sketch plan and required application form, and fee to the zoning administrator. The zoning administrator shall review the sketch plan in accordance with the same standards used by the planning commission for a full site plan. The zoning administrator shall make a report of administrative reviews to the planning commission.
 - a. The minimum contents of a sketch plan submitted for administrative review include:
 - 1. Cover sheet including:
 - i. Completed application form and fee.
 - ii. Title block with sheet number/title; name, address, and telephone number of the applicant and firm or individual who prepared the plans; and date(s) of submission and any revisions (month, day, year).
 - iii. Scale and north-point.
 - iv. Location map drawn to a separate scale with north-point, showing surrounding land, water features, zoning, and streets within a quarter mile.
 - v. Legal and common description of property including net acreage.
 - vi. Identification and seal of registered or licensed architect, engineer, land surveyor, or landscape architect who prepared drawings.
 - vii. Zoning classification of petitioner's parcel and all abutting parcels.
 - viii. A note on each plan sheet stating "Not to Be Used as Construction Drawings."
 - 2. Buildings and structures.

- i. Existing and proposed buildings and parking lots with dimensions, setbacks, and percent coverage.
 - ii. Floor plan indicating existing and proposed uses.
 - iii. Building elevations including materials and colors for all sides with proposed changes. Building material samples shall be submitted to the zoning administrator for approval.
3. Parking and access.
- i. Existing and proposed parking calculations.
 - ii. Existing and proposed driveways.
4. Site data.
- i. Existing and proposed landscaping illustrated on the plan and described in a plant list.
 - ii. Proposed changes to grading and other natural features.
 - iii. Existing and proposed lighting and screening.
 - iv. Proposed changes to utilities.
 - v. Any other items requested by the zoning administrator to assist in the administrative review.
2. *Planning commission approved site plan.* If the administrative review consists of a review of an approved site plan with conditions by the planning commission, the complete site plan must be submitted with all revisions highlighted in such a manner that all modifications are easily identified.
3. *Additional information.* The zoning administrator retains the option to require additional information or a complete site plan for review by the planning commission, particularly for sites which do not comply with previously approved site plans, sites with parking deficiencies, sites abutting residential districts, or sites experiencing problems with drainage, traffic, noise, aesthetics, or other general health and safety issues. If a full site plan is required, the zoning administrator shall inform the applicant to submit a set of plans in accordance with this division within 14 days of receipt of the application.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-245. - (Optional) conceptual site plan review.

The site plan approval process includes a review, at the option of the applicant, of a conceptual site plan by the planning commission. This option is recommended for site plans affecting locations designated in the city master plan as having significant natural features, sites containing floodplain or within the flood hazard zone, sites containing or potentially containing MDEQ designated/regulated wetlands, special land uses, and complex developments. The review of a conceptual site plan allows the planning commission and city staff to review and comment on the project's compliance with the requirements of this division prior to the preparation of all the required site plan review materials.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-246. - Site plan submittal requirements.

The site plan shall include all the following information, unless the zoning administrator determines that some of the required information is not reasonably necessary:

- (1) *Application, form, and fees.* A completed application form, supplied by the city, and an application fee; a separate escrow deposit may be required for administrative charges to review the site plan submittal. An application will not be placed on the planning commission agenda until the zoning administrator determines that the application is complete as reviewed by city staff and consultants.
- (2) *Proof of ownership.* Current proof of ownership of the land to be utilized or evidence of a contractual ability to acquire such land, such as an option or purchase agreement.
- (3) *Project schedule.* A narrative indicating the period of time within which the project will be completed.
- (4) *Copies of the site plan.*
 - a. *Sheet size.* Sheet size of submitted drawings shall be 24 inches by 36 inches, with graphics at an engineer's scale of one inch equals 20 feet for sites of 20 acres or less; and one inch equals 100 feet or less (i.e. one inch equals 20 to 100 feet) for sites over 20 acres.
 - b. *Cover sheet.* Cover sheet providing:
 1. Applicant's name.
 2. Preparer's name and professional seal of architect, engineer, surveyor, or landscape architect indicating license in the State of Michigan.
 3. Date of preparation and revision dates.
 4. North arrow.
 5. Property lines and dimensions.
 6. Complete and current legal description and size of property in acres.
 7. Small location sketch of sufficient size and scale to determine the site's location within the city.
 8. Note on each plan sheet stating "Not to Be Used as Construction Drawings."
- (5) *Site plan.* Plan sheet(s) indicating:
 - a. Zoning and current land use of applicant's property and all abutting properties and of properties across any public or private street from the site.
 - b. Lot lines and all structures on the property and within 100 feet of the site's property lines.
 - c. Location of any vehicle access points on both sides of the street within 100 feet of the site along streets where vehicle access to the site is proposed.
 - d. Existing buildings and any public or private easements, noting those which will remain and which are to be removed.
 - e. Layout and typical dimensions of proposed lots, footprints and dimensions of proposed buildings and structures; uses with the acreage allotted to each use; for residential developments, the number, type, and density of proposed housing units; if a multi-phase development is proposed, identification of the areas included in each phase.
 - f. Elevations showing height, materials, and colors for all proposed structures, including any residential units, shall be provided and considered part of the approved site plan; the building elevations must show all rooftop mechanical units along with the proposed method of screening.
 - g. Building footprints, setbacks, typical floor plans, and a sketch of any ground mounted equipment to scale along with required screening.
 - h. Proposed lot coverage percentage and impervious surface percentage.

- i. Existing and proposed locations of utility services (with sizes), including storm drainage, retention or detention ponds, fire hydrants, and any public or private easements; notes shall be provided clearly indicating which existing services will remain and which will be removed;
 - j. Locations of all natural, historical, and architectural features; natural features shall include all woodlands, trees (in accordance with section 86-204, incentives to preserve existing trees), non-MDEQ regulated wetlands, lakes, rivers, drainageways, topography, etc.
 - k. Location(s) of any MDEQ- regulated wetland, including submission of a wetland delineation by a qualified wetland consultant, and indication of the status of application for an MDEQ wetland permit or copy of permit received including description of any wetland mitigation required; and location of other non-regulated wetland areas over two contiguous acres.
 - l. Location(s) of all properties within the floodplain.
 - m. Location and method of screening for all waste receptacles including dumpsters and compactors, meeting the requirements of section 86-166, waste receptacles and enclosures.
 - n. Location and dimensions of parking lots and spaces, and loading/unloading areas (including vehicle pathway to access loading area), and calculations to meet the requirements of article IV, division 1, off-street parking and loading-unloading standards.
 - o. Details of exterior lighting meeting the requirements of article IV, division 5, lighting standards including locations, height, method of shielding; and a photometric grid overlaid on the proposed site plan indicating the overall light intensity throughout the site (in footcandles);
 - p. Size, type, and location of proposed identification signs including:
 - 1. Location, type, height and method of lighting for identification signs.
 - 2. Location and type of any directional or regulatory/traffic control signs, with details for any sign not conforming to the Michigan Manual of Uniform Traffic Control Devices.
 - 3. Details of site circulation and access design, including:
 - i. Dimensions of existing and proposed right-of-way lines, including those abutting the site, and names of abutting public streets.
 - ii. Indication of pavement widths and pavement type including internal service and access drives.
 - iii. Street horizontal and vertical dimensions, including curve radii.
 - iv. Locations and dimensions of access points, including deceleration or passing lanes, distance from adjacent driveways or intersection streets, including those across a street.
 - v. Location of existing sidewalks and location and dimensions for proposed sidewalks and bicycle paths.
 - vi. Written verification of access easements or agreements, if applicable.
- (6) *Landscape plan.* A landscape plan in accordance with article IV, division 3, landscape standards and tree replacement, indicating proposed plant locations with common plant name, number, and size in caliper at installation. Berms, retaining walls or fences shall be shown with elevations from the surrounding average grade.
- (7) *Grading plan.* A site grading plan for all developments where grading will occur, with existing and proposed topography at a minimum of two-foot contour levels and with topography extending a minimum of 50 feet beyond the site in all directions and a general description of grades within 100 feet, and further where required to indicate stormwater runoff into an approved drain or detention/retention pond.
- (8) *Stormwater management plan.* A general description and location of stormwater management system shall be shown on the grading plan, including pre- and post-site development runoff

calculations used for determination of stormwater management, and location and design (slope) of any retention/detention ponds. Stormwater outfall structures or basins constructed in an MDEQ-regulated wetland may require an MDEQ wetland permit; and, if constructed below the ordinary high water mark of an inland lake or stream, will require a permit under the Inland Lakes & Streams Act, PA 346 of 1972, as amended. Status of all such MDEQ permit applications or copies of permits with attached conditions shall be provided as applicable.

- (9) *Additional items.* Any additional graphics or written materials requested by the planning commission or city council to assist the city in determining the compliance with the site plan standards, such as aerial photography, photographs, traffic impacts using trip generation rates recognized by the Institute of Transportation Engineers (ITE) for an average day and peak hour of the affected roadways, and impact on significant natural features and drainage.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-247. - Standards for site plan approval.

Based upon the following standards, the planning commission may recommend approval, approval with conditions, or denial of the site plan:

- (1) *General.* All elements of the site plan shall be designed to take into account the site's topography, existing historical and architectural features, the size and type of plot, the character of adjoining property, and the traffic operations of adjacent streets. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this division.
- (2) *Building design.* The building design shall relate to the surrounding environment in regard to texture, scale, mass, proportion, and color. High standards of construction and quality materials will be incorporated into the new development in accordance with the requirements of section 86-51, site development requirements.
- (3) *Preservation of significant natural features.* Judicious effort shall be used to preserve the integrity of the land, existing topography, and natural features, in particular woodlands, MDEQ-designated/regulated wetlands, and, to a lesser extent, wetlands which are not regulated by the MDEQ.
- (4) *Landscaping.* The landscape shall be preserved in its natural state, insofar as practical, by removing only those areas of vegetation or making those alterations to the topography which are reasonably necessary to develop the site in accordance with the requirements of this division. Landscaping shall be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property. Landscaping, landscape buffers and greenbelts shall be provided and designed in accordance with the provisions of article IV, division 3, landscape standards and tree replacement.
- (5) *Streets.* All streets shall be developed in accordance with the chapter 70, city subdivision control ordinance and construction standards, unless developed as a private road in accordance with the requirements of section 86-158, private road standards.
- (6) *Access, driveways, and circulation.* Safe, convenient, un-congested, and well defined vehicular and pedestrian circulation within and to the site shall be provided and shall meet the following criteria:
 - a. Drives, streets, parking, and other elements shall be designed to discourage through traffic, while promoting safe and efficient traffic operations within the site and at its access points.
 - b. All driveways shall meet the design and construction standards of the city.
 - c. Access to the site shall be designed to minimize conflicts on adjacent streets, particularly left turns into and from the site.

- d. For uses having frontage and/or access on a major traffic route, as defined in the city master plan, the number, design, and location of access driveways and other provisions for vehicular circulation shall comply with the provisions of article IV, division 2, access management and driveway standards.
- (7) *Emergency vehicle access.* All buildings or groups of buildings shall be arranged so as to permit necessary emergency vehicle access as required by the city fire and police departments.
- (8) *Sidewalks, pedestrian and bicycle circulation.*
 - a. The arrangement of public or common ways for vehicular and pedestrian circulation shall be connected to existing or planned streets and sidewalks/pedestrian or bicycle pathways in the area in accordance with section 86-159, sidewalks, bikepaths, and other walkways.
 - b. A pedestrian circulation system shall be separated from vehicular circulation system.
 - c. In order to ensure public safety, special pedestrian measures, such as crosswalks, crossing signals, and other such facilities may be required in the vicinity of primary and secondary schools, playgrounds, local shopping areas, fast food/service restaurants, and other high traffic areas of pedestrians or bicycles.
- (9) *Barrier-free access.* The site has been designed to provide barrier-free parking and pedestrian circulation.
- (10) *Parking.* The number and dimensions of off-street parking spaces shall be sufficient to meet the minimum required by article IV, division 1, off-street parking and loading standards. However, where warranted by overlapping or shared parking arrangements, the planning commission or city council may reduce the required number of parking spaces as permitted in subsection 86-181(f), shared parking, and subsection 86-181(g), parking lot deferment.
- (11) *Loading and storage.* All loading and unloading areas and outside storage areas shall be screened as determined by the planning commission in accordance with article IV, division 3, landscape standards and tree replacement.
- (12) *Soil erosion control.* The site shall have adequate lateral support so as to ensure that there will be no erosion of soil or other material. The final determination as to adequacy of, or need for, lateral support shall be made by the city engineer.
- (13) *Utilities.* Public water and sewer facilities shall be available or shall be provided for by the developer as part of the site development, where such systems are available.
- (14) *Stormwater management.* Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made to accommodate stormwater which complements the natural drainage patterns and wetlands, prevent erosion, and the formation of dust. Sharing of stormwater facilities with adjacent properties shall be encouraged. The use of detention/retention ponds may be required. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create standing water.
- (15) *Lighting.* Exterior lighting, in accordance with article IV, division 5, lighting standards, shall be arranged so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted.
- (16) *Noise.* The site has been designed, buildings so arranged, and activities/equipment programmed to minimize the emission of noise, particularly for sites adjacent to residential districts.
- (17) *Mechanical equipment and utilities.* Mechanical equipment and utilities, roof, building and ground mounted, shall be screened in accordance with the requirements of section 86-148, mechanical equipment and utilities.
- (18) *Waste receptacles.* Waste receptacles shall be provided as required in section 86-166, waste receptacles and enclosures.

- (19) *Signs.* The standards of article IV, division 4, signs, must be met.
- (20) *Hazardous materials or waste.* For businesses utilizing, storing, or handling hazardous material such as automobile service and automobile repair stations, automobile body repair stations, dry cleaning plants, metal plating industries, and other industrial uses, documentation of compliance with state and federal requirements shall be provided.
- (21) *Other agency and department reviews.* The applicant has provided documentation of compliance with other appropriate agency and department review standards, including, but not limited to, the MDEQ, MDOT, the county drain commission, the county health department, the state department of floodplain management, the city police, fire, building, etc., and other federal and state agencies, as applicable.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-248. - Site plans with multiple phases.

The planning commission shall review site plans with multiple phases as a site plan meeting the submission requirements of this division, section 86-246, site plan submittal requirements. Any future phases identified on a site plan must be reviewed by the planning commission in the form of a site plan submission. The planning commission may require that the conceptual layout for future phases and outlots be shown on site plans to ensure proper development of the overall site. When a future phase of development is identified on a site plan, however, the planning commission is not bound by any aspect of that portion of the plan until a site plan meeting the requirements of this division have been provided. In addition, any phase of a site plan where construction has not commenced within one year from the date of approval must return to the planning commission for a new site plan approval.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-249. - Conditions of site plan approval.

- (a) As part of an approval to any site plan, the zoning administrator or planning commission may impose any additional conditions or limitations as in its judgment may be necessary to ensure that public services and facilities can accommodate the proposed site plan and its activities, to protect significant natural features and the environment, and to ensure compatibility with adjacent land uses. Such conditions shall be considered necessary by the zoning administrator or planning commission to ensure compliance with the review standards of section 86-227, standards for site plan approval, and necessary to meet the intent and purpose of this division.
- (b) Approval of a site plan, including conditions made as part of the approval, is attached to the property described as part of the application and not to the owner of such property or holder of the site plan.
- (c) A record of conditions imposed shall be recorded on the site plan and maintained. The conditions shall remain unchanged unless an amendment to the site plan is approved in accordance with section 86-251, deviations from approved site plan.
- (d) A record of the decision of the planning commission, the reason for the decision reached and any conditions attached to such decision shall be kept and made a part of the minutes of the planning commission.
- (e) The zoning administrator may require that the applicant revise and resubmit a site plan in compliance with the conditions imposed by the planning commission. Should resubmittal be required, all modifications shall be highlighted on the plan in such a manner that the modifications are easily identified. The zoning administrator shall have authority to approve the site plan.
- (f) The zoning administrator may make periodic investigations of developments for which site plans have been approved. Noncompliance with the requirements and conditions of the approved site plan shall constitute grounds for the planning commission to terminate such approval following a public hearing.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-250. - Validity of approved site plan.

- (a) Approval of the site plan, including any phase of a multi-phased site plan, is valid for a period of 18 months. If actual physical construction of a substantial nature of the improvements included in the approved site plan has not commenced and proceeded meaningfully toward completion during that period, the approval of the site plan shall be null and void.
- (b) Upon written application filed prior to the termination of the 18-month review period, the planning commission may authorize a single extension of the time limit for approval of a site plan for a further period of not more than 18 months. Such extension shall only be granted based on evidence from the applicant that the development has a likelihood of commencing construction within the extension period, the length of which shall be determined by the planning commission but which shall not exceed 18 months.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-251. - Deviations from approved site plan.

Amendments to the approved site plan may occur only under the following circumstances:

- (1) An applicant or property owner who has been granted site plan approval shall notify the zoning administrator of any proposed amendment to such approved site plan.
- (2) Minor changes may be approved by the zoning administrator. The zoning administrator must provide, in writing to the planning commission, documentation that the proposed revision does not alter the basic design, compliance with the standards of this division, nor any specified conditions of the plan as agreed upon by the planning commission. In considering such a determination, the zoning administrator shall consider the following to be a minor change:
 - a. Change in size of structures, for residential buildings by up to five percent, provided that the overall density of units does not increase.
 - b. Change in square footage of non-residential buildings by up to five percent or 1,000 square feet, whichever is smaller.
 - c. Alterations to horizontal and/or vertical elevations by up to five percent.
 - d. Movement of a building or buildings by no more than ten feet.
 - e. Increase in designated "areas not to be disturbed."
 - f. Replacement of plantings approved in the site plan landscape plan by similar types and sizes of landscaping which provides a similar screening effect on a one-to-one or greater basis, with approval of the zoning administrator.
 - g. Improvements to site access or circulation, such as inclusion of deceleration lanes, boulevards, curbing, pedestrian/bicycle paths, etc.
 - h. Changes of building materials to another of higher quality, as determined by the zoning administrator.
 - i. Changes in floor plans which do not alter the character of the use.
 - j. Slight modification of sign placement or reduction of size.
 - k. Relocation of sidewalks and/or refuse storage stations.
 - l. Internal rearrangement of parking lot which does not change the number of parking spaces by more than five percent or alter access locations or design.

m. Changes required or requested by the city for safety reasons.

- (3) Should the zoning administrator determine that the requested modification to the approved site plan is not minor, the planning commission shall be notified in writing that the site plan has been suspended, and, if construction has initiated, a stop work order shall be issued for the section of the project deemed not to be in compliance. Thereafter, the applicant may revise the site plan and submit to the zoning administrator for resubmission to the planning commission. All modifications must be highlighted in such a manner that the modifications to the approved plan are easily identified.
- (4) Any deviation from the approved site plan, except as authorized in section 86-251, deviations from approved site plan, shall be considered a violation of this division.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-252. - Property maintenance after approval.

- (a) It shall be the responsibility of the owner of the property for which site plan approval has been granted to maintain the property in accordance with the approved site design on a continuing basis until the property is razed, or until new zoning regulations supersede the regulations upon which site plan approval was based, or until a new site design is approved. This maintenance requirement includes healthy landscaping, walls, fences, pavement, pavement markings, signs, building exterior, drainage facilities, and all other elements of a site.
- (b) Any property owner who fails to so maintain an approved site plan shall be deemed in violation of the provisions of this division and shall be subject to the same penalties appropriate for a violation.
- (c) With respect to condominium projects, the master deed shall contain provisions describing the responsibilities of the condominium association, condominium owners, and public entities, with regard to maintenance of the property in accordance with the approved site plan on a continuing basis. The master deed shall further establish the means of permanent financing for required maintenance and improvement activities which are the responsibility of the condominium association.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-253. - As-built drawings.

- (a) All projects within the city which go through site plan and/or construction plan review shall be required to submit record drawings. The drawings will need to be reviewed and approved by the city engineer prior to final acceptance of the project by the city.
- (b) The initial submittals shall be of two sets of black line prints providing the applicable information shown on the checklist below. The minimum scale shall be one inch equals 50 feet and shall bear the seal of a registered professional engineer or surveyor licensed to practice within the state. All record lengths and elevations must be labeled as record.
- (c) After the record drawings have been approved by the city engineer, the applicant shall submit two mylar copies of the approved drawings. A CD shall also be provided which contains a .pdf version of each sheet of the plan set with the following attributes:
 - (1) Locations shall be shown on the plans in state plane coordinates using the NAD83 Michigan South zone.
 - (2) Individual pipe sizes and structure types should be on separate layers.
 - (3) The scale shall be 1:1.
 - (4) Annotation should be snapped to the mid-point of lines. Lines should be snapped to the center of structures.

(Ord. No. [2019-06](#), 1-6-20)

Secs. 86-254—86-259. - Reserved.

DIVISION 2. - PLANNED UNIT DEVELOPMENT (PUD) OVERLAY

Sec. 86-260. - Intent.

- (a) The planned unit development (PUD) standards are a supplementary list of "overlay" zoning standards which apply to properties simultaneously with one of the other zoning districts established in this chapter, hereinafter referred to as the "underlying" zoning district. For properties approved for PUD designation, these PUD standards replace the schedule of regulations listed for the underlying zoning districts.
- (b) The PUD standards are provided as a design option, intended to permit flexibility in the regulation of land development; to encourage innovation in land use, form of ownership (such as condominiums), and variety in design, layout, and type of structures constructed; to achieve economy and efficiency in the use of land; to preserve significant natural, historical, and architectural features and open space; to promote efficient provision of public services and utilities; to minimize adverse traffic impacts; to provide better housing, employment, and shopping opportunities particularly suited to residents of the city; to encourage development of convenient recreational facilities; and to encourage the use and improvement of existing sites when the uniform regulations contained in other zoning districts alone do not provide adequate protection and safeguards for the site or its surrounding areas.
- (c) The standards are intended to accommodate development on sites with significant natural, historical, and architectural features, as noted in the city master plan, on land which exhibits difficult development constraints, and/or to provide the opportunity to mix compatible uses or residential types, and/or to allow clustering of residential units to preserve common open space and natural features. The PUD standards shall not be sought primarily to avoid the imposition of standards and requirements of other zoning classifications rather than to achieve the stated purposes herein set forth.
- (d) In order to encourage PUD developments on specific properties, these standards relax or waive one or more of the dimensional requirements of the underlying district. The PUD also allows the developer the opportunity to mix compatible uses or residential types on a single property, allows clustering to reduce construction costs, and may enhance marketability through the preservation of significant natural, historical, and architectural features.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-261. - Principal permitted uses.

Principal uses permitted under the PUD standards are based on the underlying zoning district, as indicated below:

- (1) *RA-1, RA-2, RM-1, RM-2.* All principal uses of the underlying district shall be permitted. In addition to those uses, low density multiple-family dwellings or a mixture of single and multiple-family dwellings on a planned basis, through the use of attached dwellings, townhouses, apartment buildings, zero lot line configurations, and/or other similar building configurations; or any combination of these residential uses may be permitted within the PUD.
- (2) *B-2.* All business, service, professional office, retail, and other commercial uses, or any combination of these uses, listed as principal uses permitted in the underlying zoning district shall be allowed. In addition, other business, service, and residential uses may be permitted, if determined by the planning commission to be similar to other uses in the surrounding area.
- (3) *I-1.* All business, service, professional offices, light manufacturing, and other commercial uses, or any combination of these uses, listed as principal permitted uses in the underlying zoning

district shall be permitted. In addition, other business, service, office, and light manufacturing uses may be permitted, if determined by the planning commission to be compatible with other proposed PUD uses and surrounding uses.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-262. - Special land uses and conditional uses.

All uses listed as special land uses in the underlying district are considered as special land uses or conditional land uses within the planned unit development designation.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-263. - Qualifying conditions.

In order to qualify for PUD approval, the applicant must demonstrate in writing that each of the following criteria will be met by the proposed PUD:

- (1) *Demonstrated benefit.* The PUD shall provide one or more of the following benefits not possible under the requirements of another zoning district, as determined by the planning commission:
 - a. Preservation of significant natural or historic features.
 - b. A complementary mixture of uses or a variety of housing types.
 - c. Common open space for passive or active recreational use.
 - d. Mitigation to offset community impacts.
 - e. Redevelopment of a nonconforming site where creative design can address unique site constraints.
 - f. Implementation of a significant component of the city master plan.
- (2) *Availability and capacity of public services.* The proposed type and density of use shall not result in an unreasonable increase in the use of public services, public facilities, and utility capacities.
- (3) *Compatibility with the master plan.* The proposed PUD shall be compatible with the overall goals and recommendations as proposed in the city master plan.
- (4) *Compatibility with the PUD purpose.* The proposed PUD shall be consistent with the purpose of 86-260 and spirit of this chapter.
- (5) *Development impact.* The proposed PUD shall not impede the continued use or development of surrounding properties for uses that are permitted in this chapter.
- (6) *Unified control of property.* The proposed PUD shall be under single ownership or control such that there is a single entity having responsibility for completing the project in conformity with the PUD regulations. This provision shall not prohibit a transfer of ownership or control, provided that notice of such transfer is provided to the city.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-264. - Application and review procedure for preliminary PUD site plan and final PUD site plan.

The application process for a PUD involves a three-step process including: an optional pre-application workshop; review of a preliminary (conceptual) site plan by both the planning commission and city council; and review of a final PUD site plan by the planning commission. The procedures are described below:



- (1) An optional pre-application workshop with the planning commission may be requested by the applicant to discuss the appropriateness of the PUD concept, solicit feedback, and receive requests for additional materials supporting the proposal. An applicant desiring such a workshop shall request placement on the planning commission agenda.
- (2) The applicant shall prepare and submit to the city clerk 15 copies of a preliminary PUD site plan for a PUD, meeting the requirements of section 86-265, preliminary PUD site plan submittal requirements, at least 30 days prior to the meeting at which the planning commission shall first review the request; 21 days for an applicant who has had a pre-application workshop on the proposal within 60 days of the preliminary PUD site plan submittal. The city manager shall promptly transmit this plan to the members of the planning commission.
- (3) The planning commission shall review the preliminary PUD site plan, and shall conduct a public hearing in accordance with the Michigan Zoning Enabling Act, MCL 125.3503(5). During this review, the planning commission may request additional materials supporting the PUD proposal, or recommend modifications or conditions based on the standards of section 102-266, standards for approval of preliminary PUD site plan. The planning commission shall then, within 60 days of the submittal, make a recommendation on the preliminary PUD site plan to the city council. The applicant shall incorporate these modifications or conditions recommended by the planning commission prior to the review by the city council.
- (4) Following receipt of the planning commission recommendations, the City Council shall take final action on said plan and petition within ninety (90) days of the date it receives a report from the planning commission or such reasonable extension of time as may be necessary for adequate review. A PUD rezoning is discretionary on the part of the city and the city council is not obligated to approve a PUD rezoning request unless, in its opinion, the proposal meets the purpose and requirements of this chapter.
- (5) If any conditions are imposed upon the approval of the preliminary PUD site plan by the city council, a list of those conditions shall be made part of the approval and shall be reflected in the final PUD site plan.
- (6) Approval of the preliminary PUD site plan by the city council shall confer upon the owner the right to proceed through the subsequent PUD plan review phases for a period not to exceed three years from date of approval. This period may be extended by the city council for one additional three-year period.
- (7) The applicant shall submit 15 copies of detailed final site plans to the city clerk, as described in section 86-267, final PUD site plan submittal requirements, for all, or any phase of, the approved preliminary PUD site plan at least 30 days prior to the planning commission meeting at which the planning commission shall first review the request.
- (8) Upon submission of all required materials and fees, the planning commission shall review such and shall approve, deny, or approve with conditions, in accordance with the standards and regulations of this zoning ordinance, the final PUD site plan.
- (9) If the final PUD site plan was approved with conditions, the applicant shall submit a revised site plan to the city manager in accordance with section 86-224, projects eligible for sketch plan review and administrative approval for approval prior to the issuance of any building permits.
- (10) If the approved preliminary PUD site plan indicated that the proposed development was to occur in phases, final site plan approval may be granted on each phase of the development, provided that each phase contains all the necessary components to ensure protection of significant natural, historical, and architectural features, and the health, safety, and welfare of the users of the PUD

and the residents of the surrounding area. Subsequent phases shall also follow the process for final PUD site plan outlined in this division.

- (11) In the B-1 District, the city council may, upon recommendation of the planning commission, approve an overall PUD plan for multiple sites and then require each subsequent developer to follow the process for final PUD site plan outlined in this division. Depending upon the size and complexity of the project, the city council may then require each developer to enter into a separate PUD Agreement for each individual site or series of projects.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-265. - Preliminary PUD site plan submittal requirements.

The preliminary PUD site plan shall set forth the proposed uses to be developed in the PUD. The following specific information shall be provided on a site plan:

- (1) *Proof of ownership.* Current proof of ownership of the land to be utilized or evidence of a contractual ability to acquire such land, such as an option or purchase agreement.
- (2) *Written documentation.* Written documentation that the proposal meets the standards of section 86-263, qualifying conditions.
- (3) *Application form and fees.* A completed application form, supplied by the building official/zoning administrator, and an application/review fee; a separate escrow deposit may be required for administrative charges to review the PUD submittal.
- (4) *Sheet size.* Sheet size of submitted drawings shall be at least 24 inches by 36 inches, with graphics at an engineer's scale of one inch equals 20 feet for sites of 20 acres or less; and one inch equals 100 feet or less (i.e. one inch equals 20 to 100 feet) for sites over 20 acres.
- (5) *Cover sheet.* Cover sheet providing:
 - a. Applicant's name.
 - b. Name of the development.
 - c. Preparer's name and professional seal of architect, engineer, surveyor, or landscape architect indicating license in the State of Michigan.
 - d. Date of preparation and any revisions.
 - e. North arrow.
 - f. Property lines and dimensions.
 - g. Complete and current legal description and size of property in acres.
 - h. Small location sketch of the subject site and area within 1/2 mile, and scale.
 - i. Zoning and current land use of applicant's property and all abutting properties and of properties across any public or private street from the PUD site.
 - j. Lot lines and all structures on the property and within 100 feet of the PUD property lines.
 - k. Location of any vehicle access points on both sides of the street within 100 feet of the PUD site along streets where vehicle access to the PUD is proposed.
- (6) *PUD site plan.* A site plan sheet indicating:
 - a. Existing locations of all natural, historical, and architectural features, existing drainage patterns, surface water bodies, floodplain areas, MDEQ designated or regulated wetlands with supporting documentation, wetland areas two or more acres in size, and a tree survey indicating the location and diameter (in inches, measured four feet above grade) of "landmark" trees.

- b. Existing and proposed topography at five-foot contour intervals, and a general description of grades within 100 feet of the site.
 - c. Dimensions of existing and proposed right-of-way lines, names of abutting public streets, proposed access driveways and parking areas, and existing and proposed pedestrian and/or bicycle paths.
 - d. Existing buildings, utility services (with sizes), and any public or private easements, noting those which will remain and which are to be removed.
 - e. Layout and typical dimensions of proposed lots, footprints, and dimensions of proposed buildings and structures; uses with the acreage allotted to each use. For developments with residential components: the number, type, and density of proposed housing units.
 - f. General location and type of landscaping proposed (evergreen, deciduous, berm, etc.) noting existing trees and landscaping to be retained.
 - g. Size, type, and location of proposed identification signs.
- (7) *Site analysis.* A separate plan sheet indicating locations of significant natural, historical, and architectural features, including landmark trees, that will be designated as "areas not to be disturbed" and secured through installation of a snow fence, other fencing, or police line during development of the PUD, including acreage of designated areas.
- (8) *PUD development agreement.* A draft written PUD development agreement specifying all the terms and understandings of the PUD development as prescribed in section 86-57, final PUD site plan submittal requirements may be required when deemed necessary by the planning commission.
- (9) *Multi-phased PUD.* If a multi-phase PUD is proposed, identification of the areas included in each phase; for residential uses identify the number, type, and density of proposed housing units within each phase.
- (10) *Additional information.* Any additional graphics or written materials requested by the planning commission or city council to assist the city in determining the appropriateness of the PUD such as, but not limited to: aerial photography; market studies; impact on public primary and secondary schools and utilities; traffic impact using trip generation rates recognized by the Institute of Transportation Engineers (ITE) for an average day and peak hour of the affected roadways; impact on significant natural, historical, and architectural features and drainage; impact on the general area and adjacent property; description of how property could be developed under the regulations of the underlying district; preliminary architectural sketches; and estimated construction cost.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-266. - Standards for approval of preliminary PUD site plan.

Based upon the following standards, the planning commission may recommend denial, approval, or approval with conditions, and the city council may deny, approve, or approve with conditions the proposed PUD.

- (1) The uses proposed shall be consistent with the city's adopted master plan. Such uses must have a beneficial effect, in terms of public health, safety, welfare, or convenience, on present and future potential surrounding land uses. The uses proposed must not adversely affect the public utility and circulation system, surrounding properties, or the environment. The public benefit shall be one which could not be achieved under the regulations of the underlying district alone or that of any other zoning district.

- (2) Any amendments to the dimensional standards of this chapter, such as lot sizes, setbacks, height limits, required facilities, buffers, open space, permitted sign area, and other similar dimensional standards shall be reviewed and approved by the planning commission.
- (3) Any increase in the density requirements of the underlying zoning district must be approved by the city council upon recommendation of the planning commission and be included under preliminary review of the site plan.
- (4) The number and dimensions of off-street parking shall be sufficient to meet the minimum required by article IV, division 1, off-street parking and loading standards. However, where warranted by overlapping or shared parking arrangements, the planning commission or city council may reduce the required number of parking spaces in accordance with section 86-181, general requirements.
- (5) All streets and parking areas within the PUD shall meet the minimum construction and other requirements of city ordinances, unless modified by city council.
- (6) Safe, convenient, uncongested, and well defined vehicular and pedestrian circulation within and to the site shall be provided. Drives, streets, and other elements shall be designed to discourage through traffic, while promoting safe and efficient traffic operations within the site and at its access points.
- (7) Sidewalks shall be provided in accordance with section 86-164, sidewalks, bikepaths, and other pedestrian pathways.
- (8) Landscaping shall be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property. Plantings and other landscape features shall exceed the standards of article IV, division 3, landscape standards and tree replacement.
- (9) Judicious effort shall be used to preserve significant natural, historical, and architectural features and the integrity of the land, including MDEQ regulated and nonregulated wetlands.
- (10) Surface water shall be retained on the site wherever possible.
- (11) The site shall have adequate lateral support so as to ensure that there will be no erosion of soil or other material. The final determination as to adequacy of, or need for, lateral support shall be made by the city manager. Public water and sewer facilities shall be available or shall be provided by the developer as part of the site development.
- (12) Building design shall be of a high quality, exceeding the standards of section 86-153, non-residential design requirements.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-267. - Final PUD site plan submittal requirements.

The final PUD site plan shall include all the following information, unless the city manager determines that some of the required information is not reasonably necessary for the consideration of the PUD:

- (1) All information required for site plan submittal in accordance with section 86-246, site plan submittal requirements.
- (2) Any additional graphics or written materials requested by the planning commission to assist in determining the impacts of the proposed site plan, including, but not limited to, economic or market studies; impact on public utilities; traffic impacts; impact on significant natural, historical, and architectural features and drainage; impact on the general area and adjacent property; and estimated construction cost.
- (3) A proposed written development agreement specifying all the terms and understanding of the PUD development including:

- a. A survey of the acreage comprising the proposed PUD.
 - b. All conditions which the PUD approval is based, with reference to the approved preliminary PUD plan and a description of all deviations from city regulations which have been requested and approved.
 - c. The manner of ownership of the developed land.
 - d. The manner of the ownership and of dedication or mechanism to protect any areas designated as common areas or open space.
 - e. Provisions assuring that those open space areas shown on the plan for use by the public or residents of the development will be or have been irrevocably committed for that purpose; the city may require conveyances or other documents to be placed in escrow to accomplish this.
 - f. Satisfactory provisions have been made to provide for the future financing of any improvements shown on the plan for site improvements, open space areas, and common areas which are to be included within the development and that maintenance of such improvements is assured by a means satisfactory to the city council.
 - g. The cost of installing and maintaining all streets and the necessary utilities has been assured by a means satisfactory to the city council.
 - h. Provisions to ensure adequate protection of natural features and assurance for replacement of any trees and woodlands.
 - i. Any other concerns raised by the planning commission or city council regarding the construction and maintenance of the PUD.
 - j. The preliminary PUD plan shall be incorporated by reference and attached as an exhibit.
- (4) A written draft of PUD design guidelines specific to the PUD. Such document shall include provisions for site layout, access, vehicular and pedestrian circulation, parking, screening, building design and architecture, landscaping, open space, lighting, and signage. The design guidelines shall also include any variations to the dimensional standards of this chapter, such as density, lot sizes, setbacks, height limits, required facilities, buffers, open space, permitted sign area, and other similar dimensional standards.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-268. - Standards for approval of final site plan.

The planning commission shall use the standards for approval of section 86-227, standards for site plan approval, and any design requirements developed specifically for the PUD by the city council, in reviewing the final PUD site plan.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-269. - Conditions of approval.

The planning commission may attach conditions to the final PUD site plan approval to meet the intent of this division and section 86-229, conditions of site plan approval.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-270. - Validity of approved final PUD site plan.

- (a) *Project commencement.* Construction on the approved final site plan, or for a phase thereof, shall be commenced and proceed in a reasonably diligent manner, within 12 months of approval. If the PUD has not commenced and proceeded beyond site grading to include, at a minimum, installation of footings or foundations and underground utilities at the end of that 12-month period, then the site plan shall be invalid and void.
- (b) *Project completion.* The approved site plan shall remain valid for a three-year period following the date of final site plan approval, provided that the requirements of subsection (a) above are met.
- (c) *Extensions.* The three-year period for project completion may be extended for one year, if applied for by the petitioner and granted by the planning commission in writing following public notice and a public hearing. Failure on the part of the owner to secure the written extension shall result in a stoppage of all construction.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-271. - Deviations from approved final PUD site plan.

- (a) Deviations and amendments from the approved final PUD site plan shall be reviewed and approved in accordance with section 86-231, deviations from approved site plan.
- (b) Should the planning commission determine that the modifications to the final PUD site plan significantly alter the intent of the preliminary PUD site plan, a new submittal illustrating the modification shall be required and must be approved by the city council as a new preliminary PUD plan.
- (c) Any amendment to the PUD design guideline requirements established specifically for the PUD by the city council shall be adopted by resolution of the city council, upon recommendation of the planning commission, and will not require amendment of this division of the zoning ordinance. Amendments to this document must be reviewed and approved in accordance with subsection (a) above.
- (d) Any deviation from the approved PUD site plan, except as authorized in section 86-161, deviations from approved final PUD site plan shall be considered a violation of this division and treated as a misdemeanor. Further, any such deviation shall invalidate the PUD designation.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-272. - Appeals and variances.

Amendments, appeals, and variances related to a PUD cannot be taken to the zoning board of appeals in a PUD. Amendments can only be granted by the planning commission when it is determined that the requested amendments are in keeping with the overall purpose of PUD, as identified in section 86-260, intent, and improve the quality of the development.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-273. - PUDs approved prior to this chapter.

All properties zoned as PUD under the zoning district classifications in place prior to the adoption of this chapter shall be treated as follows:

- (1) Approved residential PUDs shall be rezoned to the appropriate residential district in conformance with their approved density. These and future such locations will be noted on the map as being approved PUD overlay zone districts. Any changes to the preliminary PUD plan and/or final site plans or revisions shall be regulated by this chapter.

- (2) Approved preliminary PUD site plans for mixed use PUDs shall be considered zoned as a mixed-use PUD in the O-S, Office Service District. The approved uses within such PUDs shall be in accordance with the approved locations of commercial, office, and residential uses as designated on the preliminary PUD site plan.
- (3) Any changes to the uses and/or their locations as approved on a mixed use preliminary PUD plan shall meet section 86-266, standards for approval of preliminary PUD site plan. The applicant shall present graphics to illustrate the requested change, submit written materials documenting the need for the change and the adherence with the overall approved PUD concept, and submit updated copies of any traffic, environmental, or market studies which the planning commission or city staff considered necessary to review the impacts of the proposed change.
- (4) All final site plans or revisions to final site plans for PUDs approved prior to the adoption of this chapter shall be regulated and reviewed in accordance with this division.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-274. - Tiny house planned unit development (THPUD).

- (1) *Purpose.* The purpose of the tiny house planned unit development (THPUD) is to:
 - (1) Provide a housing type that responds to changing household sizes, ages and financial security (e.g., retirees, small families, single-person households, young professional);
 - (2) Provide opportunities for ownership of small, detached units within a neighborhood;
 - (3) Encourage creation of more usable space for residents of the development through flexibility in density and lot standards;
 - (4) Support the growth management goal of more efficient use of residential land;
 - (5) Contribute to a strong sense of community through cluster arrangement;
 - (6) Provide guidelines to ensure compatibility with surrounding uses; and
 - (7) Allow for residential development in areas with environmental constraints like floodplains and woodlands.
- (b) *Definition.* A tiny house shall be defined as:
 - (1) A single-family dwelling of conventional modern construction and built to all Michigan building and sanitary codes;
 - (2) Placed on a permanent foundation;
 - (3) Has a total square footage of between 500 and 1,200;
 - (4) Is sited on legally created parcel, subject to setbacks of this chapter;
 - (5) Is connected to water or well and sewer or septic; and
 - (6) Is only permitted as part of a planned unit development (PUD).
- (c) *Applicability.* Tiny housing planned unit developments are allowed, as follows:
 - (1) Within single-family zones, RA-1 and RA-2;
 - (2) On single-family (RA-1 and RA-2) zoned parcels adjacent to multifamily, commercial and industrial zoned parcels, as a transition to multifamily, commercial and industrial uses, including across the street on a case-by-case basis, approved by the director; and
 - (3) Within multifamily zoned properties (RM-1 and RM-2).
- (d) *Accessory dwelling units.* Accessory dwelling units (ADUs) shall not be permitted in tiny housing developments.

(e) *Lot requirements.*

- (1) *Area.* The minimum lot area per dwelling unit shall be of 1,200 square feet. Maximum lot area per dwelling unit shall be 3,000 square feet.
- (2) Maximum lot coverage 40 percent for structure, porches and drives 60 percent.
- (3) Lot width. Minimum width per lot shall be 18 feet. Maximum width per lot 30 feet.
- (4) Lot depth. Minimum length per lot 50 feet. Maximum length per lot 100 feet.

(f) *House site arrangement.*

- (1) Tiny housing developments shall contain a minimum of four tiny houses, with a maximum of 12 tiny houses per grouping. A development may contain multiple groupings.
- (2) Groups of tiny housing shall be arranged on at least two sides of a common open space, or a configuration as otherwise approved by the director.
- (3) On a lot to be used for a tiny housing development, existing detached single-family residential structures, which may be nonconforming with respect to the standards of this section, shall be permitted to remain, but the extent of the nonconformity may not be increased. Such nonconforming dwelling units shall be included in the maximum permitted tiny density.

(g) *Height limit and roof pitch.*

- (1) The height limit permitted for structures in tiny housing developments shall be 18 feet.
- (2) The ridge of pitched roofs with a minimum slope of six to 12 may extend up to 28 feet. The ridge of pitched roofs with a minimum slope of four to 12 may extend up to 23 feet. All parts of the roof above 18 feet shall be pitched.

(h) *Lot coverage and floor area.*

- (1) The maximum lot coverage permitted for buildings in tiny housing developments shall not exceed 60 percent.
- (2) The maximum main floor area is 700 square feet.
- (3) The total floor area of each tiny shall not exceed either one and one-half times the area of the main level or 1,200 square feet, whichever is less. Enclosed space in a tiny located either above the main level and more than 12 feet above finished grade, or below the main level, shall be limited to no more than 50 percent of the enclosed space of the main level, or 400 square feet, whichever is less. This restriction applies regardless of whether a floor is proposed in the enclosed space, but shall not apply to attic or crawl spaces (less than six feet in height).
- (4) Attached garages shall be included in the calculation of total floor area.
- (5) Areas that do not count as total floor area are:
 - a. Unheated storage space located under the main floor of the tiny.
 - b. Attached roofed porches.
 - c. Detached garages or carports.
 - d. Spaces with the ceiling height of six feet or less measured to the exterior walls, such as a second floor area under the slope of a roof.
 - e. The total square foot area of a tiny dwelling unit may not be increased under any circumstance.

(i) *Setbacks and yards.*

- (1) *Yards.* The front yard setback for tiny housing developments shall be ten feet.
- (2) *Rear yards.* The minimum rear yard for a tiny housing development shall be ten feet.
- (3) *Side yards.* The minimum required side yard shall be ten feet.

- (4) *Interior separation for tiny houses in clusters.* The minimum separation shall be ten feet.
 - (j) *Required open space.*
 - (1) *Quantity of open space.* A minimum of 400 square feet per unit of landscaped open space is required. This quantity shall be allotted as follows:
 - a. A minimum of 200 square feet per unit shall be private usable open space (setbacks and common open space shall not be counted as private open space); and
 - b. A minimum of 150 square feet per dwelling unit shall be provided as common open space. (Setbacks and private open space shall not be counted as common open space.)
 - (2) Critical areas and buffers shall not be counted as open space.
 - (3) Each house shall abut its private open space. A fence or hedge not to exceed three feet may separate private open space from common open space.
 - (k) *Development standards.* Tiny houses shall be oriented around and have their main entry from the common open space.
 - (1) Private usable open space shall be provided in one contiguous area with a minimum area of 200 square feet. No horizontal dimension of the open space shall be less than ten feet and shall be oriented toward the common open space, as much as possible.
 - (2) Required common open space shall be provided at ground level in one contiguous parcel. Each tiny house shall abut the common open space, and the common open space shall have tiny houses abutting at least two sides.
 - (3) The minimum horizontal dimension for common open space shall be ten feet.
 - (4) Each tiny house shall have a covered porch or entry of at least 60 square feet with a minimum dimension of six feet on any side.
 - (5) Secondary entrances facing a street or sidewalk shall have a five-foot by five-foot porch.
 - (6) Separation of identical building elevations. Units of identical elevation types must be separated by at least two different elevations. This will result in at least three different elevation plans per cluster. No two adjacent structures shall be built with the same building size or orientation (reverse elevations do not count as different building elevations), facade, materials, or colors.
 - (7) Variety in building design. A variety of building elements and treatments of tiny houses and garage or carport must be incorporated. Structures must include articulation, change in materials or texture, windows, or other architectural feature as shown in the city's design standards. No blank walls are allowed.
 - (8) Five-foot-wide pedestrian pathways (sidewalks) must be included to provide for movement of residents and guests from parking areas to homes and other amenities.
 - (l) *Parking.* Parking shall be:
 - (1) Located on the tiny housing development property.
 - (2) Located in clusters of not more than five adjoining spaces.
 - (3) Screened from public streets and adjacent residential uses by landscaping or architectural screening.
 - (4) Parking is allowed between or adjacent to structures only when it is located toward the rear of the principal structure and is served by an alley or private driveway.
 - (5) Off-street parking requirements are as follows:
 - a. Units under 700 square feet: one space per unit;
 - b. Units between 700 and 1,200 square feet: one and one-half spaces per unit
 - (6) At least one parking stall per dwelling will be enclosed or covered.

- (7) Access to parking shall be from a private drive that is accessible from a public road. The private drive must meet the city's engineering design and development standards.
- (8) Not located in the front yard.
 - (m) *Covered parking.* Covered parking areas should be located so their visual presence is minimized, and associated noise or other impacts do not intrude into public spaces. These areas should also maintain the single-family character along public streets.
- (1) For shared detached garages, the design of the structure must be similar and compatible to that of the dwelling units within the development.
- (2) Shared detached garage structures shall be reserved for the parking of vehicles owned by the residents of the development. Storage of items which precludes the use of the parking spaces for vehicles is prohibited.
- (3) The design of carports must include rooflines similar and compatible to those of the dwelling units within the development.
 - (n) *Screening requirements.*
 - (1) Boundaries between tiny dwellings and neighboring properties shall be screened with landscaping to reduce the appearance of bulk or intrusion onto adjacent properties, or otherwise treated (i.e., through setbacks or architectural techniques) to meet the intent of this section.
 - (2) Common waste and other storage receptacles shall not be placed in the front yard setback area.
 - (3) Common waste and other storage receptacles shall be architecturally screened and/or screened with landscaping so as to mask their appearance to residents, adjacent property owners, and the public rights-of-way.
 - (o) *Requests for modifications to standards.* The city manager or zoning administrator may approve minor modifications to the general parameters and design standards set forth in this chapter, provided the following criteria are met:
 - (1) The site is constrained due to unusual shape, topography, easements, flood prone, or sensitive areas.
 - (2) The modification is consistent with the objectives of this chapter.
 - (3) The modification will not result in a development that is less compatible with neighboring land uses.
 - (p) *Maintenance of open space and utilities.* Before final PUD approval is granted, the applicant shall submit covenants, deeds and homeowners association bylaws and other documents guaranteeing maintenance and common fee ownership of public open space, community facilities, private roads and drives, and all other commonly owned and operated property. These documents shall be reviewed, approved, and recorded at the county.
 - (q) *Application and review procedure for preliminary tiny house PUD and final tiny house PUD site plan.*
 - (r) Application and review shall be consistent with section 86-24 through section 86-272.

(Ord. No. [2019-06](#), 1-6-20)

Secs. 86-275—86-279. - Reserved.

DIVISION 3. - SPECIAL LAND USES

Sec. 86-280. - Purpose.

The intent of this division is to provide standards for special land uses, which are uses that under usual circumstances could be detrimental to other land uses permitted within the same zoning district, but

may be permitted because of circumstances unique to the location of the particular use. This division provides standards for the planning commission to determine the appropriateness of a given special land use using factors such as: compatibility with adjacent zoning, location, design, size, intensity of use, impact on traffic operations, potential impact on groundwater, demand on public facilities and services, equipment used, and processes employed. Accordingly, special land uses should not be permitted without consideration of relevant restrictions or conditions being imposed which address their unique characteristics.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-281. - Standards for approval.

- (a) Prior to approving a special land use application the planning commission shall require that the following general standards, in addition to the specific standards noted for individual uses in section 86-287, special land use specific requirements, be satisfied. The proposed use or activity shall:
 - (1) Be compatible and in accordance with the goals, objectives, and policies of the city master plan and promote the intent of the zoning district in which the use is proposed.
 - (2) Be constructed, operated, and maintained so as to be compatible with the existing or intended character of the general vicinity and so as not to change the essential character of the area in which it is proposed.
 - (3) Be served adequately by public facilities and services, such as highways, streets, police and fire protection, drainage structures, water and sewage facilities, and primary and secondary schools.
 - (4) Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to the natural environment, public health, safety, or welfare by reason of excessive production of traffic, noise, smoke, odors, or other such nuisance.
- (b) Properties for which application for special land use approval is made shall also be subject to site plan review in accordance with the requirements of article V, division 1, site plan review. Failure to obtain site plan approval will constitute denial of the approved special land use.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-282. - Application procedure.

- (a) Any person owning or having an interest in the subject property may file an application for special land use approval as provided for in this division.
- (b) The following materials shall be submitted to the city at least 60 days prior to the meeting at which the planning commission first considers the special land use application:
 - (1) Payment of the required fee.
 - (2) Copies of completed application forms.
 - (3) Copies of a site plan meeting the requirements of article V, division 1, site plan review.
 - (4) Impact assessment if required by the planning commission; the analysis shall be carried out by qualified individuals and shall include, but need not be limited to the impact on: natural features, stormwater management, surrounding land uses, public facilities/services, public utilities, and traffic.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-283. - Designated review authority and approval procedure.

- (a) The planning commission shall have final review authority for all special land uses.
- (b) Following the submission of the required application materials the planning commission shall hold a public hearing in accordance with the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended and with section 86-333, public hearings.
- (c) The planning commission shall review the application in terms of the requirements of section 86-281, standards for approval, and shall approve, approve with conditions, or deny the application.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-284. - Conditions of approval.

- (a) As part of any special land use approval, the planning commission may impose any additional conditions or limitations as, in its judgement, may be necessary for protection of the public interest. Such conditions shall be related to and ensure that the review considerations of section 86-281, standards for approval, and the applicable specific regulations of section 86-287, special land use specific requirements, are met.
- (b) The approval of a special land use, including conditions made as part of the approval, is attached to the property described as part of the application and not to the owner of such property.
- (c) A record of conditions imposed shall be maintained. The conditions shall remain unchanged unless an amendment to the special land use approval is approved.
- (d) A record of the decision of the planning commission, the reasons for the decision reached, and any conditions attached to such decision shall be kept and made a part of the minutes of the planning commission.
- (e) The zoning official shall make periodic investigations of developments authorized by special land use approval to ensure continued compliance with all requirements imposed by the planning commission and this division. Noncompliance with the requirements and conditions approved for the special land use shall constitute grounds for the planning commission to terminate the approval following a public hearing. Such hearing shall be held in accordance with the procedures used for the original hearing as described in section 86-333, public hearings, and as required by this division.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-285. - Validity of special land use approval.

- (a) In cases where actual physical construction of a substantial nature of the structures authorized by a special land use approval has not commenced within one year of issuance, and a written application for extension of the approval has not been filed as provided below, the approval shall automatically become null and void and all rights thereunder shall terminate.
- (b) Upon written application filed prior to the termination of the one year period, the planning commission may authorize a single extension of the time limit for a further period of not more than one year. Such extension shall only be granted based on evidence from the applicant that the development has a reasonable likelihood of commencing construction within the one year extension.
- (c) The granting of a special land use shall allow that particular use to be conforming on the subject property, as long as the standards of this division are maintained.
- (d) Any use for which a special land use approval has been granted and which ceases to continuously operate for a six-month period shall be considered abandoned and the special land use approval shall become null and void.
- (e) No application for a special land use approval which has been denied wholly or in part shall be resubmitted for a period of one year from the date of the order of denial, except on the grounds of new

evidence or proof of changed conditions relating to all of the reasons noted for the denial found to be valid by the planning commission.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-286. - Special land use amendments and expansions.

- (a) *Amendments.* Any person or agency who has been granted a special land use approval shall notify the zoning administrator of any proposed amendment to the approved site plan of the special land use. The zoning administrator shall determine whether the proposed amendment constitutes a minor or major amendment based on the determination standards for all site plans in accordance with the requirements of section 86-251, deviations from approved site plan. A major amendment to a special land use approval shall comply with the application and review procedures contained in this division.
- (b) *Expansion or change in use.* The expansion, change in activity, reuse, or redevelopment of any use requiring a special land use approval, with an increase of ten percent or greater, shall require re-submittal in the manner described in this division. A separate special land use approval shall be required for each use requiring special land use review on a lot, or for any expansions of a special land use on property which has not previously received special land use approval.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-287. - Special land use specific requirements.

The general standards and requirements of section 86-281, standards for approval, are basic to all uses authorized by a special land use approval. However, certain special land uses, because of their unique character and potential impacts on the welfare of adjacent properties and the city, require additional specific requirements. Such uses are listed below with specific standards and regulations that must be met in addition to the general standards of section 86-281, standards for approval, and other sections of this chapter.

The following are special land uses with specific site and/or use standards which are described on the following pages:

Land Uses with Specific Requirements:

Adult entertainment regulated uses (subsection 86-287(1)).

Amusement parks, carnivals, fairgrounds, fairs, and other types of outdoor entertainment facilities (subsection 86-287(2)).

Automobile gasoline stations (subsection 86-287(3)).

Automobile repair establishments (major repair) and automobile service establishments (routine maintenance and minor repair) (subsection 86-287(4)).

Bed and breakfast inns (subsection 86-287(5)).

Churches, temples, and similar places of worship or public assembly (subsection 86-287(6)).

Commercial parking lots (subsection 86-287(7)).

Drive-through window facilities for banks, restaurants or other permitted uses (subsection 86-287(8)).

Essential public service buildings and structures (subsection 86-287(9)).

Extractive uses (commercial mining of sand, gravel, stone, and similar materials) (subsection 86-287(10)).

Garden centers (subsection 86-287(11)).

Golf courses (subsection 86-287(12)).

Golf driving ranges and miniature golf courses (subsection 86-287(13)).

Hospitals (subsection 86-287(14)).

Incinerators, cogeneration plants, recycling centers, and composting facilities (subsection 86-287(15)).

Outdoor storage (subsection 86-287(16)).

Parking structures (subsection 86-287(17)).

Retail businesses and centers exceeding 50,000 square feet (subsection 86-287(18)).

Retail businesses with adult novelties (subsection 86-287(19)).

Salvage yard (subsection 86-287(20)).

Schools, including public, private and parochial elementary, middle, and high (subsection 86-287(21)).

Theaters, cinemas, and similar assembly buildings (subsection 86-287(22)).

Wireless communication facilities (subsection 86-287(23)).

(1) *Adult entertainment regulated uses.*

- a. *Intent.* In the development and execution of these zoning regulations, it is recognized there are some uses that, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances, thereby causing a deleterious effect upon the adjacent areas. The proximity of adult entertainment regulated uses to certain uses considered particularly susceptible to the negative impacts or the concentration of adult uses tends to erode the quality of life, adversely affect property values, disrupt business investment, encourage residents and businesses to move or avoid the community, increase crime, and contribute a blighting affect on the surrounding area. This subsection describes the uses regulated and the specific standards needed to ensure that the adverse effects of these uses will not contribute to the deterioration of the surrounding neighborhood, to prevent undesirable concentration of these uses, and to require sufficient spacing from uses considered most susceptible to negative impacts.
- b. *Definitions.* The following definitions shall apply to adult entertainment regulated uses:
 1. *Specified anatomical areas.* Portions of the human body defined as follows:
 - i. Less than completely and opaquely covered human genitals, pubic region, buttocks, or female breast below the point immediately above the top of the areola.
 - ii. Human male genitals in a discernible turgid state, even if completely and opaquely covered.
 2. *Specified sexual activities.* The explicit display of one or more of the following:
 - i. Human genitals in a state of sexual stimulation or arousal.
 - ii. Acts of human masturbation, sexual intercourse, or sodomy.

- iii. Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breast.
- c. *Uses regulated.* The following uses are regulated by this subsection and defined for purposes of regulating adult entertainment regulated uses:
1. *Adult book or supply store.* An establishment having ten percent or more of all usable interior, retail, wholesale, or warehouse space devoted to the distribution, display, or storage of books, magazines, and other periodicals and/or photographs, drawings, slides, films, video tapes, recording tapes, and/or novelty items which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein, or an establishment with a segment or section devoted to the sale or display of such material.
 2. *Adult model studio.* Any place where models who display specified anatomical areas as defined herein are present to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons who pay some form of consideration or gratuity. This definition shall not apply to any accredited art school or similar educational institution.
 3. *Adult motion picture arcade or mini motion picture theater.* Any place where motion picture machines, projectors, or other image producing devices are maintained to show images and where the images displayed depict, describe, or relate to specified sexual activities or specified anatomical areas as defined herein.
 4. *Adult motion picture theater or adult live stage performing theater.* An enclosed building wherein still or motion pictures, video tapes, or similar material is presented or viewed which is distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein for observation by patrons therein. Such an establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.
 5. *Adult outdoor motion picture theater.* A drive-in theater used 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 herein for observation by patrons of the theater. Such establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.
 6. *Adult physical cultural establishment.* Any establishment, club, or business by whatever name designated, which offers or advertises, or is equipped or arranged to provide as part of its services, massages, body rubs, alcohol rubs, physical stimulation, baths, or other similar treatment by any person. An adult physical cultural establishment may include, but is not limited to, establishments commonly known as massage parlors, health spas, sauna baths, Turkish bathhouses, and steam baths. The following uses shall not be included within the definition of an adult physical culture establishment:
 - i. Establishments which routinely provide such services by a licensed physician, a licensed chiropractor, a licensed osteopath, a licensed physical therapist, a licensed practical nurse practitioner, a therapeutic massage practitioner as defined in this chapter or any other similarly licensed medical professional.
 - ii. Fitness center, as defined in this chapter.
 - iii. Electrolysis treatment by a licensed operator of electrolysis equipment.
 - iv. Continuing instruction in martial or performing arts, or in organized athletic activities.
 - v. Hospitals, nursing homes, medical clinics, or medical offices.

- vi. Barber shops or beauty parlors and salons which offer massages to the scalp, the face, the neck, or shoulders only.
 - vii. Adult photography studios whose principal business does not include the taking of photographs of specified anatomical areas as defined herein.
7. *Cabaret*. An establishment where live entertainment is provided, presented, permitted or performed, which performances are distinguished or characterized by an emphasis on or relationship to specified sexual activities or specified anatomical areas as defined herein for observation by or participation of patrons therein. Also, an establishment which features any of the following: topless dancers and/or bottomless dancers, go-go dancers, strippers, male and/or female impersonators or similar entertainers, topless and/or bottomless waiters, waitresses and/or employees.
8. *Adult, nude, partially nude dancing*. A business having as its principal activity the live presentation of or display of nude or partially nude male or female impersonator(s), dancer(s), entertainers(s), waiter(s) or waitress(es), or employee(s) and which may or may not feature the service of food or beverage. For the purpose of this division, nude or partially nude shall mean having any or all of the specified anatomical areas exposed as defined herein.
- d. *Required spacing*. The establishment of the types of adult entertainment regulated uses listed above shall meet all of the following space requirements, with the minimum distance between uses measured horizontally between the nearest points of each property line:
- 1. One thousand feet from:
 - i. Any other adult entertainment regulated use.
 - ii. All churches, convents, temples and similar religious institutions.
 - iii. All public, private or parochial nursery, primary or secondary schools, public parks, and hospitals.
 - iv. Any adult or child care facility.
 - 2. Eight hundred feet from:
 - i. Any single-family or multiple-family residential district or use.
 - ii. Any pool or billiard hall, concreted amusement center, indoor and outdoor recreation such as miniature golf; dance club catering primarily to teenagers, movie theaters, ice or roller skating rinks, and similar uses generally frequented by children and teenagers.
- e. *Special site design standards*.
- 1. The maximum size of the building shall be five thousand (5,000) square feet.
 - 2. The building and site shall be designed, constructed, and maintained so material such as a display, decoration, or sign depicting, describing, or relating to specified sexual activities or specified anatomical areas cannot be observed by pedestrians and motorists on a public right-of-way or from an adjacent land use.
 - 3. Adult entertainment regulated uses shall be located within a freestanding building. A shared or common wall structure or shopping center are not considered to be a freestanding building.
 - 4. The color of the building materials shall be reviewed and approved by the planning commission.
 - 5. The planning commission shall determine the type of buffer zone to be required and maintained along the side and rear lot lines, based on the site conditions, views from public streets, and distance and type of surrounding land uses.

6. The hours of operation shall be approved by the planning commission.
 7. Access shall be from an arterial roadway.
 8. Any adult entertainment regulated use which allows customers to remain on the premises while viewing live, filmed, or recorded entertainment, or while using or consuming the products or services supplied on the premises shall provide at least one security guard on duty outside the premises, patrolling the grounds and parking areas, at all times while the business is in operation.
- f. *Obscene material strictly prohibited.* The applicant for a special land use for any adult entertainment regulated use shall set forth in his or her application a statement in sufficient detail to describe the material contained in the adult entertainment regulated use. In the event that the planning commission finds the material proposed to be within the adult entertainment regulated use to be obscene, then the special land use shall not be granted. For purposes of this subsection, a form of expression shall be classified as obscene if the material meets all of the following criteria:
1. The average individual, applying contemporary community standards for the city would find that the material, taken as a whole, appeals to the prurient interest.
 2. The material, taken as a whole, lacks serious literary, artistic, political, or scientific value.
 3. The material depicts or describes, in a patently offensive way, sexual conduct.
- g. *Waivers.* Upon denial of any application for an adult entertainment regulated use under this section the applicant may appeal for a waiver of the location provisions above to the zoning board of appeals (ZBA) consistent with the standards set forth below. The ZBA may waive the location provisions set forth in this Section, after all the following findings are made:
1. *Compliance with regulations.* The proposed use will not be contrary to any other provision of these zoning regulations or injurious to nearby properties.
 2. *Not enlarge district.* The proposed use will not enlarge or encourage the development of a "skid row" or "strip."
 3. *Consistent with programs.* The establishment of an additional adult entertainment regulated use will not be contrary to, or interfere with, any program of urban renewal or neighborhood development.
 4. *Consistent with law.* All applicable city, state or federal laws and regulations will be observed.
 5. *Procedure for waiver.* Prior to granting a waiver of the location restrictions set forth above, a public hearing in accordance with the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended and with section 86-303, public hearings, shall be held.
- h. *Conditions of approval.* Prior to the granting of approval for the establishment of any adult entertainment regulated use, the planning commission may impose any conditions or limitations upon the establishment, location, construction, maintenance, or operation of the adult entertainment regulated use which is necessary for the protection of the public interest. Any evidence, bond, or other performance and guarantee may be required as proof that the conditions stipulated in connection therewith will be fulfilled.
- i. *Specific penalties.* No person operating an adult entertainment regulated use shall permit any person under the age of 18 to be on the premises of the business as an employee, customer, or otherwise.
- (2) *Amusement parks, carnivals, fairgrounds, fairs, and other types of outdoor entertainment facilities.*
- a. Minimum lot size shall be ten acres.

- b. Activity areas using fences, buildings, walkways, or other suitable barriers shall be clearly defined on the site plan.
- c. All buildings, structures, and parking shall be at least 300 feet from any dwelling unit, excluding any dwelling unit on the site.
- d. Vehicle access shall be provided onto a primary road. Vehicle access shall be controlled, with capability to accommodate at least three lanes of ingress traffic. At least 300 feet of stacking (queuing) area shall be provided on-site for parking fee collection.
- e. The planning commission shall determine the sufficient amount of on-site parking.
- f. Maximum lot coverage by buildings and structures shall be 20 percent.
- g. The planning commission may require posting of a financial performance guarantee, in an amount determined necessary by the city, to cover any potential damage or clean-up on the site or adjacent properties.
- h. The planning commission may establish limits on hours of operation, time limits on the validity of the special land use approval, or any other measures deemed necessary to minimize negative impacts on nearby uses and traffic operations along public streets.
- i. Prior to issuance of a special land use approval, the applicant shall provide evidence of public liability insurance and property damage insurance to cover potential liability for death or injury to persons or damage to property, which may result from the conduct of the activity.

(3) *Automobile gasoline stations.*

- a. There shall be a minimum lot area of one acre and minimum lot width of 250 feet.
- b. Pump islands shall be a minimum of 40 feet from any public right-of-way or lot line. Tanks, propane, and petroleum products shall be set back at least 15 feet from any lot line.
- c. Overhead canopies shall be setback at least 20 feet from the right-of-way and constructed of materials consistent with the principal building. The proposed clearance of any canopy shall be noted on the site plan. Any signs, logo, or identifying paint scheme shall be in accordance with article IV, division 4, signs. The canopy shall be no higher than the principal building. Lighting in the canopy shall be recessed, fully shielded, and directed downward to prevent off-site glare.
- d. Only one driveway shall be permitted from each street unless the planning commission determines additional driveways will be necessary to ensure safe and efficient access to the site.
- e. The intensity of lighting within a site shall meet the requirements of article IV, division 5, lighting standards.
- f. There shall be no outdoor storage or display of vehicle components and parts, supplies, or equipment except within an area defined on the site plan approved by the planning commission and which extends no more than ten feet beyond the building.
- g. The applicant shall submit a pollution incidence protection plan (PIPP). The PIPP shall describe measures to prevent groundwater contamination caused by accidental gasoline spills or leakage, such as special check valves, drain back catch basins, and automatic shut off valves, as approved by the city fire department.
- h. Any use involving maintenance, service, or repair shall also meet the standards for automobile service establishments.
- i. In the event that an automobile service station use has been abandoned or terminated for a period of more than one year, all underground gasoline storage tanks shall be removed from the premises, in accordance with state requirements.

- (4) *Automobile repair establishments (major repair) and automobile service establishments (routine maintenance and minor repair).*
- a. All principal and accessory structures shall be set back a minimum of 500 feet from a single-family residential district.
 - b. There shall be a minimum lot frontage on a paved road of 200 feet.
 - c. All maintenance and repair work shall be conducted completely within an enclosed building.
 - d. There shall be no outdoor storage or display of vehicle components and parts, materials, commodities for sale, supplies, or equipment.
 - e. Storage of wrecked, partially dismantled, or other derelict vehicles, or overnight parking of any vehicle except a tow truck shall be permitted in a designated area. Such area shall be appropriately screened from public view as determined by the planning commission.
 - f. The applicant shall submit a pollution incidence protection plan (PIPP). The PIPP shall describe measures to prevent groundwater contamination caused by accidental gasoline spills or leakage, such as special check valves, drain back catch basins, and automatic shut off valves, as approved by the city fire department.
 - g. Any use with gasoline sales shall also meet the standards for automobile gasoline stations.
- (5) *Bed and breakfast inns/airbnb.*
- a. Parking areas shall be located off-street and shall not be located in any required front yard.
 - b. No bed and breakfast inn shall be located closer than 300 feet to another bed and breakfast inn.
 - c. Meals or other services provided on the premises shall only be available to residents, employees, and overnight guests of the inn.
 - d. The dwelling unit in which the bed and breakfast establishment is located shall be the principal residence of the operator, and such operator shall live on the premises while the establishment is active. In the case of multiple ownership, at least one owner shall occupy the premises while the establishment is active.
 - e. No guest of the bed and breakfast inn shall be permitted to reside on the premises for more than 30 consecutive days.
 - f. Any dwelling or structure proposed as a bed and breakfast inn must possess some historical or architectural significance that makes it a unique location for such an establishment. The exterior appearance of the bed and breakfast shall not be changed from its single-family or historic character.
 - g. No more than five rooms shall be available for rent at any time.
- (6) *Churches, temples, and similar places of worship or public assembly.*
- a. Buildings of greater than the maximum height allowed by specific district height regulations, may be allowed provided front, side, and rear yards are increased above the minimum required yards by one foot for each foot of building height that exceeds the maximum height allowed. The building height cannot exceed 35 feet.
 - b. All principal and accessory buildings shall be set back a minimum of 100 feet from any single-family residential use. Parking shall be set back a minimum of 50 feet from any single-family residential use.
 - c. Vehicle access to the site shall be provided from a street classified as a "major street" or collector street on the city's Act 51 map.
 - d. The planning commission may require an operations plan and/or parking generation studies to determine parking needs.

- e. All churches, temples, and similar places of worship or public assembly in existence at the time of adoption of this chapter shall be considered conforming, but must meet the standards of this chapter for any expansions.
- (7) *Commercial parking lots.*
- a. A commercial parking lot may be permitted as an expansion of an existing parking lot or new construction that is abutting a principal permitted or special land use.
 - b. The applicant must demonstrate that there is an on-site parking shortage that cannot be economically resolved without expanding onto an abutting lot.
 - c. All access to the lot shall be provided from the commercial property and/or the street on which the commercial use fronts; not onto a residential (local) street.
- (8) *Drive-through window facilities for banks, restaurants or other permitted uses.*
- a. Sufficient stacking capacity in accordance with article IV, division 1, off-street parking and loading standards, for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way.
 - b. A bypass lane shall be provided around the stacking spaces.
 - c. In addition to parking space requirements, at least three parking spaces shall be provided in close proximity to the exit of the drive-through portion of the operation to allow for customers waiting for delivery of orders.
 - d. Only one ingress/egress driveway shall be permitted on any single street. If the use is located on a corner lot access to the drive-through facility shall be only from the street which carries the least amount of daily traffic at the time the application is approved, except that such access from any other street may be shared with an adjoining property.
 - e. The planning commission may require direct vehicular access connections with adjacent commercial developments where feasible.
 - f. Access driveways shall be located no less than 100 feet from the centerline of the intersection of any street or 75 feet from the centerline of any other driveway.
 - g. Overhead canopies shall be setback at least 20 feet from the right-of-way and constructed of materials consistent with the principal building. The proposed clearance of any canopy shall be noted on the site plan. The canopy shall be no higher than the principal building.
 - h. Outdoor speakers for the drive through facility shall be located in a way that minimizes sound transmission toward neighboring property and uses.
- (9) *Essential public service buildings and structures.*
- a. Such facilities shall not be located closer than 150 feet from any lot occupied by a residential use or located in a residential district.
 - b. Electric or gas regulator equipment and apparatus shall be set back a minimum of 50 feet from any public right-of-way and 30 feet from all other lot lines.
 - c. An open-air fence six feet in height shall be constructed for security purposes as determined by the planning commission.
- (10) *Extractive uses (commercial mining of sand, gravel, stone, and similar materials).*
- a. Extractive operations reasonably related to site development for building foundations, parking lot grading and preparation, grading for approved detention or retention ponds, and/or intended to accommodate swimming pools, in accordance article II, division 1, general provisions, and article V, division 1, site plan review, and as determined by the zoning administrator, shall not require a special land use approval.

- b. All extractive uses shall be established and maintained in accordance with all applicable state statutes.
- c. The applicant shall submit a written statement describing:
 - 1. Equipment to be used and the process involved including hauling capacity, noise ratings, and size.
 - 2. Planned travel routes for haulers.
 - 3. Time period by which the excavation shall be completed, including a specified extension period should undue weather conditions arise.
 - 4. Indication of the proposed use of the property following the extraction.
 - 5. Approved reclamation plan.
 - 6. Agreement to conform to the standards of this subsection and other applicable sections of this chapter.
 - 7. Documentation that demonstrates to the satisfaction of the planning commission that the extractive activities will not produce any serious consequences which will adversely affect the natural topography, drainage patterns, water bodies, floodplains, street conditions, nearby property values, or use of adjacent land. The planning commission may require separate environmental, engineering, and/or traffic impact or marketing studies supporting the need for and minimal consequences of such extraction.
- d. The planning commission may require a performance bond or other guarantee to ensure compliance with the standards of this section. In addition, the planning commission may require an occupancy permit to allow extractive activities for a time not exceeding one year. The permit may be renewed upon the finding by the building official/zoning administrator that the applicant has complied with the requirements by the city and other appropriate agencies.
- e. In order to ensure sublater support, no material may be removed from an area and no machinery shall be erected or maintained within 50 feet of any property line or street right-of-way or within 200 feet of any residential district.
- f. Creation of a lake or pond shall only be permitted where the applicant can demonstrate, using engineering and hydrologic studies, that the water can be maintained in a non-polluted condition; with side slopes not exceeding a one foot of vertical rise to three feet of horizontal distance; and that the applicant meets any requirements by the state department of environmental quality (MDEQ).
- g. Truck routing shall be restricted to those streets designed to accommodate truck traffic on a year-round basis. The planning commission may restrict access routes to protect the character or surrounding areas and/or street pavement and base conditions.
- h. A minimum 300-foot paved segment at the site entrance shall be provided to help remove materials from truck tires.
- i. A reclamation plan shall be provided indicating final grades which are harmonious with surrounding grades and not in excess of five percent unless demonstrably necessary for the proposed reclamation land use. No topsoil shall be removed from the site; topsoil shall be redistributed properly upon completion of the extractive activities, or phase thereof. A reclamation plan should demonstrate that the end use of the site is feasible for the uses in the zoning district.
- j. The planning commission may require that the site be enclosed with a six-foot high security fence with a locking access gate. Such fences shall be placed no closer than 50 feet to the top or bottom of any slope.
- k. No slope shall exceed an angle with the horizontal of 45 degrees.

- l. No building or structure shall be erected on the site except as may be permitted in that zoning district or if approved as a temporary structure for machinery or field office.
- m. Proper measures shall be utilized to minimize the nuisance of noise and dust or airborne materials, as determined by the building official, and may include requirements on stockpiling size, height, and/or covering of stockpiles.

(11) *Garden centers.*

- a. The outdoor storage or material display areas shall not be permitted in any front yard as determined by the planning commission. Such areas shall meet all other yard setback requirements applicable to any building in the district.
- b. All loading activities and parking areas shall be provided off-street and on the same premises.
- c. The storage of any soil, sand, mulch, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties. The outdoor storage of fertilizers, pesticides, and other hazardous materials shall be prohibited.
- d. Decorative fences, knee walls, and other architectural features may be required by the planning commission for outdoor sales, display, and storage areas to assure compatibility with the existing or intended character of the general vicinity.
- e. All materials stored outdoors shall not be piled or stacked higher than the height of any garden center fencing or wall.

(12) *Golf courses.*

- a. Minimum size for properties involved for the use shall be 40 acres.
- b. The principal and accessory buildings, including maintenance sheds, shall be set back at least 75 feet from all property and street lines.
- c. Accessory buildings, structures, and storage areas shall be screened on all sides from adjacent residential areas and public street rights-of-way as determined by the planning commission.
- d. Operational hours for maintenance vehicles, course maintenance, and/or irrigation may be restricted by the planning commission to protect nearby residential districts.

(13) *Golf driving ranges and miniature golf courses.*

- a. All traffic ingress and egress shall be from a major traffic route in the city master plan, or as a local or collector street on the city's Act 51 map.
- b. Whenever any such use abuts a residential district, a transition buffer area at least 100 feet in width shall be provided between all operations, buildings, and structures, including fences, and the residential property. Landscaping, berms, and structural screens of a type approved by the planning commission may be placed within the buffer strip.
- c. All buildings, uses, operations, and structures, including fences, shall be located a minimum of 100 feet from any public right-of-way. This yard shall be landscaped as determined by the planning commission.

(14) *Hospitals.*

- a. Minimum site area shall be ten acres.
- b. The proposed site shall have at least one property line abutting a "major street", as identified in the city's Act 51 map or identified as a major traffic route in the city master plan.
- c. The front, side, and rear yard minimum setbacks shall be 50 feet.
- d. Parking setbacks shall be 40 feet in the front yard, 20 feet for side and rear yards.

- e. Whenever any such use abuts a residential district, a transition buffer area of at least 100 feet in width shall be provided. Walls, fences, or landscaping may be required as part of this buffer area as determined by the planning commission.
 - f. Emergency room, ambulance, and delivery areas shall be screened from public view with an obscuring wall and/or landscaping with a minimum height of six feet.
 - g. Auxiliary uses, such as a pharmacy, gift shop, cafeteria, day care, and similar customary hospital related uses shall be allowed.
 - h. Parking for professional and outpatient buildings, or sections of a hospital building, shall be calculated as separate uses as noted in article IV, division 1, off-street parking and loading standards. Only 1/2 of the total number of parking spaces within gated or restricted physician parking lots shall be included for required parking calculations.
- (15) *Incinerators, cogeneration plants, recycling centers, and composting facilities.*
- a. All operations shall be at least 500 feet from any residential district or use.
 - b. All operations shall be at least 200 feet from the boundary of any lake, stream, drain, wetland, or other surface water body.
 - c. Documentation shall be provided regarding the proposed control of odors from the facility.
 - d. All storage areas shall be within an enclosed building or waste receptacles.
- (16) *Outdoor storage.*
- a. A special land use approval may be granted for outdoor display, sales, or storage on the same property as an approved mini-storage use, marina, or other principal use deemed compatible by the planning commission.
 - b. Stored vehicles or goods on a site without a building, shall meet the setback requirements of the zoning district. If a building is located on the site, no outdoor storage shall be permitted in any required yard of buildings for the district in which the commercial outdoor storage use is located.
 - c. If retail activity is associated with the use, an enclosed building of at least 500 square feet of gross floor area for office and sales use is required.
 - d. The storage of soil, sand, mulch, and similar loosely packaged materials shall be contained and covered to prevent it from blowing into adjacent properties. The outdoor storage of fertilizers, pesticides, and other hazardous materials is prohibited.
 - e. All stored materials including loosely packaged materials shall not be piled or stacked higher than the height of the obscuring screen. Vehicles, implements, and recreational vehicles may exceed the height of the screen provided that they are set back from the screen a distance equal to their height.
 - f. All outdoor storage areas shall be paved with a permanent, durable, and dustless surface and shall be graded and drained to dispose of all surface water.
 - g. All loading and truck maneuvering shall be accommodated on-site or on a dedicated easement.
 - h. Fencing and lighting for security purposes may be required as determined by the planning commission. All lighting shall be shielded from adjacent residential areas in accordance with article IV, division 5, lighting standards.
- (17) *Parking structures.*
- a. Any parking structure shall comply with the required setbacks and height requirements for principal buildings for the district in which it is located.

- b. Parking structures shall be designed as integral elements of the overall site plan, taking into account the relationship to the principal building and other structures on the site.
- c. The facade of the parking structure shall be compatible in design, color, and type of material to the principal building(s) on the site or on adjacent sites.
- d. Vehicle access design must ensure safe and efficient traffic operation along the public or private roadway serving such structure.

(18) *Retail businesses and centers exceeding 50,000 square feet.*

- a. Retail businesses and shopping centers exceeding 50,000 square feet shall only be located where they can be accessed by major traffic routes, as classified in the city master plan, or streets classified as "major streets" on the city's Act 51 map.
- b. The design of buildings or shopping centers shall ensure that vehicular circulation patterns are appropriately designed and regulated to eliminate potential conflicts between traffic generated by the building or shopping center, and traffic on adjacent streets and thoroughfares. The planning commission, prior to making a recommendation on an application for such use, may require a traffic analysis which compares the projected trip generating capacity of the proposed development to existing and projected traffic volumes and the carrying capacity of adjacent streets. The traffic analysis shall be prepared by a firm or individual experienced in such studies.
- c. Whenever any such use abuts a residential district, a building setback of at least 200 feet shall be provided. Areas of impervious surfaces (parking and driveways) shall be set back a minimum of 100 feet.
- d. Maximum lot coverage of all buildings shall be 25 percent, maximum lot coverage of all buildings, parking, and paved areas shall be 70 percent of the site.
- e. Internal circulation shall be designed such that no intersection includes more than four aisles or drives.
- f. Site entrances shall be restricted to three-way movements, with unrestricted inbound movements.
- g. Internal drives defined by the ends of aisles shall have raised curbed, landscaped islands at appropriate locations to define circulation paths and control movements through the parking lot.
- h. Loading facilities which serve the principal building shall be screened from public view.
- i. Outdoor storage of trucks, trailers, or pallets shall be prohibited. The outdoor display, sale or storage of merchandise shall require a separate special land use approval under subsection 86-287(16), outdoor storage.
- j. Any outlots shall have circulation and parking designed to complement the remainder of the site.
- k. An operations plan including uses, hours of operation, delivery times, truck routes, security provisions, maintenance procedures, and other operations as determined by the planning commission may be required as part of special land use review to assure compatibility with the surrounding neighborhoods.

(19) *Retail businesses with adult novelty items.*

- a. *Intent.* Same as subsection 86-287(1)a.
- b. *Definitions.*
 - 1. *Adult materials:* One or a combination of more than one of the following types of materials: adult books and adult novelty items.

2. *Adult books*: Books, magazines, newspapers, advertisements, displays, posters, video tapes, video discs and motion picture films which are characterized by their emphasis on portrayals of human genitals and pubic regions or acts of human masturbation, sexual intercourse, or sodomy.
 3. *Adult novelty items*: Devices of simulated human genitals or devices designed for sexual stimulation.
 4. *Retail businesses with adult novelty items*: See section 86-339, definitions (retail businesses with adult novelty items).
- c. *Requirements and regulated uses*. The following requirements and regulated uses are included this subsection and defined for purposes of regulating retail businesses with adult novelty items:
1. Except for transitory movement by customers to the cash register and exiting the store, and except for temporary movement for delivery of inventory into the store and subsequent shelf placement, adult materials shall not be visible to the public, except for within a designated area meeting the following requirements:
 - i. Separate room (hereinafter referred to as adult material room) with a minimum of six-foot high walls that screen or substantially limit view by persons in the remaining areas of the store.
 - ii. Minors under the age of 18 years of age shall not be permitted in the adult material room.
 - iii. The ceiling in the adult material room shall not be utilized for the display, storage or reflection of any adult materials.
 - iv. A bathroom and/or mechanical room adjacent to the adult material room shall at no time be used for the display or storage of adult materials.
 2. Adult materials are prohibited in any location visible to the public outside of a retail business, including any area visible to the public through front windows of a retail business.
 3. There shall not be any live modeling or similar activity of any sort on the property.
 4. There shall be only one public entrance to the retail business located at the front of the retail business only, excluding required emergency exits and loading doors.
 5. Retail businesses with adult novelty items shall be located at least 500 feet from:
 - i. All churches, convents, temples and similar religious institutions.
 - ii. All public, private or parochial nursery, primary or secondary schools, public parks, and hospitals.
 - iii. All child care centers or day care centers.
 6. Pre-viewing of any adult materials on or from any televisions, audio players, video screens, monitors or other devices in the retail business is prohibited.

(20) *Salvage yard*.

- a. The salvage yard shall be enclosed on all sides by a solid wall or fence at least six feet in height. The wall or fence shall be maintained in good repair and shall be free of handbills or other advertising except for approved signs. Non-transparent gates not exceeding 48 feet in width shall be permitted in the enclosure.
- b. Vehicles or vehicle bodies shall be stored in rows with a minimum of 20-foot continuous loop drives separating each row of vehicles.

- c. Vehicle parts shall not be stored, loaded, unloaded, or dismantled outside the fence enclosing the salvage yard.
 - d. No vehicle, vehicle bodies, or other materials shall be stored in a manner as to be visible from any residence, business, or street from a height at or below the top of the fence enclosing the yard.
 - e. All batteries shall be removed from any vehicle, and all radiator and fuel tanks shall be drained prior to the vehicle being placed in the storage yard. Salvaged batteries, oil, and other such substances shall be removed by a licensed disposal company or be stored in a manner which prevents leakage of battery fluid. No fluids removed from vehicles shall be applied as a dust control method.
 - f. The property shall include at least six acres.
 - g. The front obscuring fence shall be set back the same distance as a principal building in the Industrial District, and all such fences shall be set back a minimum of 500 feet from any residential district or use.
 - h. In order to protect surrounding areas, the crushing of vehicles or any part thereof shall be limited to daylight hours, provided that such activities shall not be conducted on Sundays or federally recognized holidays.
 - i. The applicant shall submit written assurances that the activities of the salvage yard will comply with all state and federal regulations.
 - j. The planning commission may impose other conditions which have a reasonable relationship to the health, safety, and general welfare of the city. These conditions can include a provision for an annual inspection by the building official to ensure continuing compliance with the above standards.
- (21) *Schools, including public, private, and parochial elementary, middle, and high.*
- a. At least one street access shall be onto a street classified as a "major street" or "collector street" on the city's Act 51 transportation map.
 - b. All play areas adjacent to a residential district must be fenced.
 - c. Bus and automobile drop-off and pickup drives must be provided and shall be separate from, and not conflict with, through travel lanes of any street classified as a "major street " or "collector street" on the city's Act 51 map.
- (22) *Theaters, cinemas, and similar assembly buildings.*
- a. The principal and accessory buildings and structures shall be not be located within 200 feet of any residential district or use. Parking and other impervious surfaces shall be set back a minimum of 100 feet from any residential district or permitted use.
 - b. All uses shall be conducted completely within a fully enclosed building.
 - c. At least one street access shall be onto a street classified as a "major street" or "collector street" on the city's Act 51 transportation map.
 - d. The arrangement of buildings and parking shall ensure that vehicular circulation patterns are appropriately designed and regulated to eliminate potential conflicts between traffic generated by the use, and traffic on adjacent streets and thoroughfares. The planning commission may require a traffic analysis which compares the projected trip generating capacity of the proposed development to existing and projected traffic volumes and the carrying capacity of adjacent streets. The traffic analysis shall be prepared by a firm or individual experienced in such studies.
- (23) *Wireless communication facilities.* All applications for wireless communication towers shall be reviewed in accordance with the following standards and conditions and, if approved, shall be constructed and maintained in accordance with such standards and conditions. In addition, if the

tower is approved, it shall be constructed and maintained with any additional conditions imposed by the planning commission in its discretion.

a. *Co-location.*

1. The applicant must demonstrate to the planning commission that a feasible co-location on an existing tower, building, or other structure for the new wireless communication facility is not available for the coverage and capacity needs and that a location on municipal property is not practical.
2. Antennae which are attached to an existing tower, building, or other structure are encouraged to minimize the adverse visual impacts associated with the proliferation and clustering of towers. Co-location of antennas by more than one carrier on existing towers, buildings, or other structures shall take precedence over the construction of new towers, provided such co-location is accomplished in a manner consistent with the following:
 - i. A tower which is modified or reconstructed to accommodate the co-location of an additional antenna shall be of the same tower type as the existing tower.
 - ii. An existing tower may be modified or rebuilt to a taller height, not to exceed 30 feet over the tower's existing height, to accommodate the co-location of an additional antenna.
 - iii. A tower which is being rebuilt to accommodate the co-location of an additional antenna may be moved on-site when approved by the planning commission.
3. Any proposed tower for commercial wireless telecommunication services shall be designed structurally, electrically, and in all other respects, to accommodate both the applicant's equipment and comparable equipment for at least two additional users. Towers must be designed to allow for future rearrangement of equipment upon the tower and to accept equipment mounted at varying heights.
4. Where an attached wireless communication facility is proposed on the roof of a building, the equipment enclosure, if proposed, shall be designed, constructed, and maintained to be architecturally compatible with the principal building. The equipment enclosure may be located within the principal building or may be an accessory building. If proposed as an accessory building, it shall conform with all district requirements for principal buildings, including yard setbacks and building height.

b. *Use.* Wireless communication towers may be considered either a principal use or accessory use when no other principal use exists on the site.

c. *Design.*

1. Towers for commercial wireless telecommunication services shall be located and designed to be harmonious with the surrounding area through the use of color and architectural treatment, except in instances where color is dictated by other state or federal authorities. Towers shall be of a monopole design unless the planning commission determines that an alternative design would better blend into the surrounding environment.
2. All accessory buildings shall be constructed of brick, provided the planning commission may waive this requirement for a building that is located in the Industrial District and is not visible from a public right-of-way or Non-Industrial District.

d. *Setbacks.* Setback provisions shall not apply to towers located on existing buildings, towers, or other existing structures. Any part of the structure or equipment placed on the ground pertaining to the tower for commercial wireless telecommunication services shall comply with the following minimum setback.

1. Adjacent to any residential district: The height of the structure.

2. Adjacent to any non-residential district: 1/2 of the height of the structure.
 3. Public rights-of-way: 1/2 of the height of the structure plus an additional 25 feet.
- e. *Separation.* A minimum of 2,000 feet of separation shall exist between freestanding towers.
 - f. *Height.* The maximum height of the new or modified support structure and antennae shall be the minimum height demonstrated to be necessary for reasonable communication by the applicant (and by other entities to co-locate on the structure). Any accessory building contemplated to enclose such things as switching equipment, shall be limited to the maximum height for accessory structures or buildings within the respective district.
 - g. *Screening.* The structure base, accessory buildings, equipment, and enclosures shall be screened with landscaping, berms, walls, or a combination of these elements as determined by the planning commission in accordance with the standards of article IV, division 3, landscape standards and tree replacement.
 - h. *Lighting.* Towers for commercial wireless telecommunication services shall not be illuminated unless required by other state or federal authorities.
 - i. *Signs.* Signs or other advertising not related to safety or hazard warnings shall not be permitted on any part of the tower or associated equipment or buildings.
 - j. *Fencing.* Fencing shall be provided for protection of the support structure and security to prohibit unauthorized persons from accessing the facility.
 - k. *Access.* There shall be unobstructed access to the support structure, for operation, maintenance, repair, and inspection purposes, which may be provided through or over an easement. This access shall have a width and location determined by such factors as: the location of adjacent thoroughfares and traffic and circulation within the site; utilities needed to service the tower and any attendant facilities; the location of buildings and parking facilities; proximity to Residential Districts and minimizing disturbance to the natural landscape; and the type of equipment which will need to access the site.
 - l. *Maintenance plan.* A maintenance plan, and any applicable maintenance agreement, shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to ensure the long term, continuous maintenance to a reasonably prudent standard.
 - m. *Abandoned or unused towers.* Towers for commercial wireless telecommunication services which are abandoned or unused shall be removed, along with any associated structures or equipment, within 12 months of the cessation of operations, unless a time extension is granted by the zoning administrator. One three-month extension shall be permitted only if the zoning administrator finds that the owner or former operator of the facility is taking active steps to ensure its removal.
 - n. *Applicable site conditions.* Any non-conforming building or use on the site, such as outdoor storage, signs, inadequate landscaping, unpaved parking, lack of a sidewalk, improper lighting, or similar conditions shall be brought into conformance prior to the erection of the wireless communication tower.
 - o. *Application requirements.* The following information shall be provided in addition to the requirements of article V, division 1, site plan review:
 1. Signed certification by a professional engineer licensed by the state with regard to the manner in which the proposed structure will fall in the event of damage, accident or injury (i.e. "fall zone"), and that the setback area provided shall accommodate the structure should it fall or break and provide a reasonable buffer in the event the structure fails.
 2. A description of the performance guarantee to be posted at the time of receiving a special land use approval for the facility to ensure removal of the facility when it is abandoned or is no longer needed.

3. A map that illustrates existing and known proposed wireless communication facilities within the city and adjacent communities, which are relevant in terms of potential co-location or to demonstrate the need for the proposed facility.
4. For all new facilities, in recognition of the city's policy to promote co-location, a written agreement, transferable to all assessors and assigns, that the operator shall make space available on the facility for co-location.
5. Elevation drawings of the accessory buildings and equipment shall be provided.
6. A soils report from a geotechnical engineer, licensed in the state. This soils report shall include soil borings and statements confirming the suitability of soil conditions for the proposed use.

(Ord. No. [2019-06](#), 1-6-20)

Secs. 86-288, 86-289. - Reserved.

DIVISION 4. - CONDITIONAL LAND USES

Sec. 86-290. - Purpose.

The intent of this division is to provide standards for conditional land uses, which are uses with specific conditions that if met, make the use permitted by right. These conditions are intended to minimize potential negative impacts to other surrounding land uses that could arise due to operations of the particular use. This division provides standards for the zoning administrator or planning commission, depending upon the site plan review requirements, to review and determine if the conditions have been met.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-291. - Standards for approval.

- (a) Prior to approving a conditional land use, the zoning administrator shall require that the proposed use meets all requirements and standards. If all requirements and standards are met, a conditional use permit is granted.
- (b) Properties for which application for conditional land use approval is made shall also be concurrent with, and subject to, site plan review in accordance with the requirements of article V, division 1, site plan review. Failure to obtain site plan approval will constitute denial of the approved conditional land use.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-292. - Requirements and standards of approval.

- (a) The requirements to permit the conditional use shall remain unchanged.
- (b) The zoning official shall make periodic investigations of the conditional land use to ensure continued compliance with all requirements and standards imposed by this division. Noncompliance with the requirements for the conditional land use shall constitute grounds for the zoning administrator to terminate the approval.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-293. - Validity of conditional land use approval.

- (a) In cases where actual physical construction of a substantial nature of the structures authorized by a conditional land use and site plan approval has not commenced within 18 months, and a written application for extension of the approval has not been filed as provided below, the approval shall automatically become null and void and all rights thereunder shall terminate.
- (b) Upon written application filed prior to the termination of the 18-month period, the zoning administrator may authorize a single extension of the time limit for a further period of not more than 18 months. Such extension shall only be granted based on evidence from the applicant that the development has a reasonable likelihood of commencing construction within the 18-month extension.
- (c) The granting of a conditional land use shall allow that particular use to be conforming in the zoning district, as long as the standards of this division are maintained.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-294. - Conditional land use specific requirements.

Conditional land uses, because of their unique character and potential impacts on adjacent properties and the city, require additional specific requirements. Such uses are listed below with specific standards and regulations that must be met.

The following are conditional land uses with specific site and/or use standards which are described on the following pages:

Land Uses with Conditional Requirements

Automobile washes, automatic or self-service (section 86-294(1)).

Automobile or vehicle dealerships (section 86-294(2)).

Bars, taverns, lounges, microbreweries (accessory), and brewpubs (section 86-294(3)).

Funeral homes and mortuary establishments (section 86-294(4)).

Kennels (section 86-294(5)).

Marihuana (section 86-294(6)):

Medical marihuana grower

Medical marihuana processor

Medical marihuana provisioning center

Medical marihuana secure transporter

Medical marihuana safety compliance facility

Adult-use marihuana grower

Adult-use marihuana processor

Adult-use marihuana microbusiness

Adult-use marihuana secure transporter

Adult-use marihuana safety compliance facility

Mini- or self-storage warehouses (section 86-294(7)).

Outdoor retail display and sales (section 86-294(8)).

Pet boarding facilities (section 86-294(9)).

Restaurants with an open front window (section 86-294(10)).

Small manufacturing establishment (section 86-294(11)).

Veterinary hospitals (section 86-294(12)).

(1) *Automobile washes, automatic or self-service.*

- a. Only one ingress/egress driveway shall be permitted on any single street.
- b. Where adjoining residentially zoned or used property, a decorative masonry wall six feet in height shall be erected along any common lot line. Such wall shall be continuously maintained in good condition. The zoning official or planning commission may approve a fence, landscaped berm, or landscaping as an alternative.
- c. All washing facilities shall be within a completely enclosed building. Self-service facilities may be within a partially enclosed building.
- d. Vacuuming and drying may be located outside the building, but shall not be in the required front yard and shall be set back at least 50 feet from any residential district. Such areas shall be screened with obscuring landscaping as determined by the zoning official or planning commission.
- e. Adequate stacking space shall be provided in accordance with the requirements of article IV, division 1, off-street parking and loading standards. Stacking spaces shall not be permitted in the public right-of-way.

(2) *Automobile or vehicle dealerships.*

- a. Outdoor storage of automobiles or vehicles for sale shall not be permitted in any required front or side yard.
- b. All parking, display and outdoor storage areas shall be paved with a permanent and durable surface. Curbing around all parking, display and storage areas shall be provided.
- c. Any use involving the maintenance, service, or repair of vehicles shall also meet the standards for automobile repair and/or service establishments.
- d. Exterior lighting shall be fully shielded and directed downward to prevent off-site glare. The intensity within a site shall not exceed 20 footcandles within the site for or one footcandle at the property line, except where it abuts a residentially used or zoned site, whereby a maximum of ten footcandles and 0.5 footcandles is permitted for vehicle storage areas.
- e. Flags, banners, streamers, and inflatables, shall not be permitted unless approved by the zoning official or planning commission.

(3) *Bars, taverns, lounges, microbreweries (accessory), and brewpubs.*

- a. The principal building shall be setback at least 100 feet from a residential district (does not apply in the B-1, Central Business District).
- b. Noise shall not be a nuisance outside of the building, in accordance with section 86-150, performance standards, and other city ordinances.

(4) *Funeral homes and mortuary establishments.*

- a. Minimum lot area shall be one acre and minimum lot width shall be 150 feet.

- b. An off-street vehicle assembly area shall be provided to be used in support of funeral processions and activities. This area shall be in addition to the required off-street parking and its related maneuvering area.

(5) *Kennels.*

- a. For kennels housing dogs, the minimum lot size shall be two acres for the first three dogs and an additional 1/3 acre for each one additional dog.
- b. Buildings wherein dogs are kept, dog runs, and/or exercise areas shall not be located closer than 150 feet to any lot line and 200 feet from any road right-of-way.
- c. Such facilities shall be subject to other conditions and requirements necessary to ensure against the occurrence of any possible nuisance (i.e., fencing, soundproofing, sanitary requirements).
- d. All enclosures for breeding, rearing, shelter, or other uses in connection with harboring of animals, shall be hard surfaces and provided with proper drains.
- e. A kennel may be permitted as an accessory use to a veterinary office, clinic, or hospital. Such accessory use shall be subject only to the special land use standards of the veterinary use.

(6) *Marihuana.*

- a. The following uses must meet all state requirements and licensing. A valid license from the Licensing and Regulatory Affairs (LARA) must be provided to the city:
 - 1. Medical marihuana grower;
 - 2. Medical marihuana processor;
 - 3. Medical marihuana provisioning center;
 - 4. Medical marihuana secure transporter;
 - 5. Medical marihuana safety compliance facility;
 - 6. Adult-use marijuana grower;
 - 7. Adult-use marihuana processor;
 - 8. Adult-use marihuana retailer;
 - 9. Adult-use marihuana microbusiness;
 - 10. Adult-use marijuana transporter;
 - 11. Adult-use marihuana safety compliance facility.

(7) *Mini- or self storage warehouses.*

- a. Minimum lot size shall be three acres.
- b. Minimum building and parking setbacks shall be 50 feet from any public street right-of-way line, 50 feet from any residential district and 25 feet from any nonresidential zoning district.
- c. The front yard visible from a public right-of-way and any side or rear yards adjacent to residential districts shall include wrought iron or similar decorative fencing and landscaping as determined by zoning official or planning commission.
- d. The storage units shall be screened from all abutting properties through the use of landscaping and/or walls.
- e. Building design and materials shall be compatible with the existing and intended character of the area. Building facades facing a right-of-way must consist of decorative split face block or brick, as approved by the zoning official or planning commission. All roofs must be pitched.

- f. No storage unit doors shall face a public right-of way. Walls, fences, and landscaping as determined by the zoning official or planning commission may be utilized to obscure views of doors from the public right-of-way.
- g. All storage shall be completely within enclosed buildings or structures, unless a separate special land use approval is granted for commercial outdoor storage on the premises, in accordance with subsection 86-294(8), outdoor retail display and sales.
- h. Buildings shall be limited to storage only.

(8) *Outdoor retail display and sales.*

- a. Unless accessory to an approved retail business, an enclosed building of at least 500 square feet of gross floor area for office and sales use is required.
- b. Displays shall be placed against the front wall of the principal building and shall not extend more than 36 inches from the building façade; provided that where there is a pedestrian sidewalk in front of the display, it shall remain unobstructed for a continuous width of at least 48 inches.
- c. Displays shall be no taller than five feet high and shall not be longer than 20 feet or the length of the store's façade, whichever is less.
- d. Displays shall not interfere with fire lanes.
- e. The merchandise displayed must be offered for sale on the premises in front of which it is displayed.
- f. Palletized materials such as mulch, salt pellets, hunting bait, etc. shall not be displayed.
- g. A sketch plan indicating the location and dimensions of the outdoor display must be submitted and approved by the city prior to any outdoor display. Any outdoor display shall at all times comply with the sketch plan or site plan approved by the city.

(9) *Pet boarding facilities.*

- a. Except for the outdoor play area, the facilities must be located in a building with the pet boarding and any ancillary services being the only uses.
- b. The lot shall be at least two acres in size.
- c. Up to five percent of the floor area may be used for accessory retail sales.
- d. Adequate traffic circulation must be provided on-site to accommodate the frequent pickup and drop-off of animals for the facility.
- e. An outdoor play area is allowed with the following restrictions:
 - 1. Any outdoor play area shall not be any closer than 150 feet from a residential zoning district.
 - 2. Any outdoor play area shall be located in the interior side yard or rear yard.
 - 3. A maximum eight-foot high fence enclosure is required around the play area and surface must be easy to maintain.
 - 4. All animal waste shall be removed from the outdoor play area daily and disposed of in a sanitary manner.
 - 5. Pets shall not be permitted to remain outdoors overnight.

(10) *Restaurants with an open front window.*

- a. All containers shall be made of recyclable materials; Styrofoam and similar petroleum based material containers shall be prohibited.
- b. Trash receptacles shall be provided and maintained on the property.

- c. All signs placed on the building shall be mounted flat against the building; and interior signs visible to patrons through glass or an opening shall not exceed 25 percent of that area. Temporary signs indicating the whether the establishment is "opened" or "closed for the season" shall be permitted in accordance with article IV, division 5, signs.
- d. Outdoor seating may be provided.
- e. Months and hours of operation shall be provided as part of the conditional land use application.

(11) *Small manufacturing establishment.*

- a. In the Central Business District permitted by right, subject to the following:
 - 1. Establishment occupies less than 1,500 square feet and has not more than ten employees.
 - 2. May not include bulk storage of flammable materials.
 - 3. Storage of materials/production must be completely within a closed building.
 - 4. The emission of odor or noise must be mitigated.
 - 5. Must have an accessory retail use or another component that provides direct interaction with the public.
 - 6. Must have windows along street frontage that allow pedestrians to view manufacturing process.
 - 7. Must have a public entrance directly from the street.
- b. In the General Business District permitted by right, subject to the following:
 - 1. Establishment occupies less than 3,000 square feet and has not more than 20 employees.
 - 2. May not include bulk storage of flammable materials.
 - 3. Storage of materials/production must be completely within a closed building.
 - 4. The emission of odor or noise must be mitigated.
 - 5. Must have an accessory retail use or another component that provides direct interaction with the public

(12) *Veterinary hospitals.*

- a. Such facilities shall be used only for domesticated animals. Treatment or boarding of non-domesticated, wild, exotic, or vicious animals shall not be permitted.
- b. The principal buildings or structures shall be set back at least 75 feet from the front property line; and at least 200 feet from any property line abutting a residential district or use on the same side of the street, and at least 75 feet from all other property lines.
- c. The zoning official or planning commission may permit veterinary and animal grooming uses as accessory uses to retail pet supply establishments.
- d. Parking lots shall be set back at least 50 feet from a residential district or use, and shall be screened by a wall at least four feet high with landscaping on the exterior side of the wall. The zoning administrator or planning commission may permit a landscaped berm or dense landscape buffer as an alternative to the wall.
- e. All principal use activities shall be conducted within a totally enclosed principal building; no outdoor animal enclosures or runs are permitted unless a separate special land use has been approved for a kennel under subsection 86-294(5), kennels, or pet boarding facility under subsection 86-294(9).

- f. Any indoor boarding shall be limited to that incidental to treatment or surgery unless the use has also been approved as a kennel or pet boarding facility.
- g. Such facilities shall be subject to other conditions and requirements necessary to ensure against the occurrence of any possible nuisance (i.e., fencing, soundproofing, sanitary requirements).
- h. All waste disposal shall meet the requirements of the state health department.

(Ord. No. [2019-06](#), 1-6-20)

Secs. 86-295—86-299. - Reserved.

DIVISION 5. - CONDOMINIUM DEVELOPMENT STANDARDS

Sec. 86-300. - Purpose.

The intent of this division is to provide regulatory standards for condominiums and condominium subdivisions similar to those required for projects developed under other forms of ownership. This division is not intended to prohibit or treat a proposed or existing condominium project different than a project or development under another form of ownership.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-301. - Definitions.

The definitions contained in article I, division 2, definitions, are intended to make comparison possible between the definitions of the zoning ordinance and the city subdivision regulations.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-302. - Application and authority.

The following review process shall apply to all condominium projects within the city:

- (1) Concurrently with notice required to be given to the city pursuant to section 71 of P.A. 59 of 1978, as amended (MCL 559.171) a person, firm, corporation or other legal entity intending to develop a condominium project shall file with the city clerk the following information with respect to the projects:
 - a. All names, address and telephone numbers of:
 - 1. The person, firm, corporation or other legal entity with an ownership interest in the land on which the project will be located together with a statement that the entity is a fee owner or land contract purchaser.
 - 2. All engineers, attorneys, architects, and licensed land surveyors, involved in the condominium project.
 - 3. The developer or proprietor of the project.
 - b. The legal description of the land including tax identification numbers.
 - c. The total acreage.
 - d. The intended use.
 - e. The number of units to be developed.

- f. A copy of the proposed master deed.
- (2) Condominium projects shall contain all information required by the Condominium Act.
- (3) The information shall be filed with the zoning administrator at the time the information is filed with the city clerk, and shall be kept current.
- (4) In addition to the requirements of this division, any applicable requirements of article V, division 2, planned unit development overlay standards; article V, division 1, site plan review, and the city subdivision regulations, must be met.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-303. - Approval of plans.

All condominium plans must be approved by the planning commission following the same process identified for site plan review in the city zoning ordinance. In making determination, the planning commission shall consult with the zoning administrator, city planner, city attorney, and the city engineer regarding the adequacy of the master deed, deed restrictions, utility systems, streets, project design, and layout and compliance with the Condominium Act.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-304. - Streets and necessary easements.

- (a) Condominium projects shall comply with all public and private street requirements found in the Vassar Code of Ordinances. Streets in condominium developments which connect to public streets shall dedicate the project street to the public.
- (b) The condominium plan shall include all necessary easements granted to the city for constructing, operating, inspecting, maintaining, repairing, altering, replacing and/or removing pipelines, mains, conduits, and other installations of a similar character (hereinafter called public structures) for the purpose providing public utilities, including, but not limited to, conveyance of sewage, water and stormwater runoff across, through and under the property subject to such easement, and excavating and filling ditches and trenches necessary for the location of such structures.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-305. - Setbacks and boundaries.

- (a) The setback requirements for condominium buildings shall be in accordance with the district regulations unless otherwise modified by the planning commission as part of planned unit development (PUD). Setbacks shall be measured from roadway easement lines. Distances between buildings shall be the required minimum yard setback for the total of both sides.
- (b) The relocation of boundaries as defined in section 148 of the Condominium Act shall conform to all setback requirements of this chapter for the district in which the project is located, shall be submitted to the planning commission for review and approval and these requirements shall be made a part of the bylaws and recorded as part of the master deed.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-306. - Common elements.

After construction of a condominium unit, the undeveloped area of a unit site shall become a common element.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-307. - Encroachment.

A condominium project shall not be constructed in a manner that intentionally creates an encroachment.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-308. - Subdivision of unit sites.

Subdivision of condominium unit sites is permitted with planning commission approval, contingent upon the submission of an amended master deed to determine the effect of the subdivision on conditions of zoning or site plan approval, and shall be made as part of the bylaws and recorded as part of the master deed.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-309. - Conformance with subdivision regulations.

All condominium project plans shall conform to the plan preparation requirements, design layout, and improvements standards as established in the city subdivision regulations.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-310. - Residential recreational area.

Any residential condominium comprising 20 or more lots or dwelling units, either as a single development or as a group of adjacent developments offered by a single proprietor, shall provide an active recreational area in accordance with section 86-157, residential recreational area.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-311. - Water and waste water.

The condominium project shall comply with and meet all federal, state, and county standards for a domestic water system and waste water disposal.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-312. - Expansion and conversion.

Any expansion or conversion of a condominium project involving additional land and new phases must be approved by the planning commission.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-313. - Master deed.

The project developer shall furnish the zoning administrator with one copy of the proposed consolidated master deed, one copy of bylaws and two copies of the proposed plans. The proposed plans shall be reviewed for compliance with this chapter and the city Code of Ordinances and to ensure that an assessment mechanism has been included to guarantee adequate maintenance of common elements. Master deeds submitted to the city for review shall not permit contraction of the condominium (whereby co-owners can withdraw from the condominium and responsibility for maintenance of common elements) without re-submittal of the master deed to the city for review and approval. Fees for these reviews shall be established, from time to time, by resolution of the City Council.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-314. - As-built plan and occupancy.

Submission of an as-built plan of a condominium unit is required prior to occupancy. The zoning administrator may allow occupancy of the project before all improvements required are installed provided that a bond is submitted to the city clerk, sufficient in amount and type to provide for the installation of improvements before the expiration of the temporary occupancy permit without expense to the city. The amount of the bond shall be determined by the city engineer.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-315. - Final bylaws, consolidated master deed, and site plan.

Upon approval of the development, a copy of the bylaws and consolidated master deed shall be furnished to the city. The site plan shall be provided in digital format meeting the requirements of section 86-233, as-built drawings.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-316. - Compliance with other statutes and ordinances.

All condominium projects shall comply with federal, state, and city laws, statutes and ordinances.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-317. - Violation and penalty.

Any violation of the terms and conditions of this article shall constitute a misdemeanor punishable, upon conviction, by a sentence of not to exceed 90 days in jail or a fine not to exceed \$500.00, or both such fine and imprisonment, in the discretion of the court.

(Ord. No. [2019-06](#), 1-6-20)

Secs. 86-318, 86-319. - Reserved.

ARTICLE VI. - ADMINISTRATIVE PROVISIONS

DIVISION 1. - NON-CONFORMING USES, STRUCTURES, AND LOTS

Sec. 86-320. - Non-conforming uses, structures, and lots, in general.

- (a) Within the districts established by this division, or amendments that may later be adopted, there exist lots, structures and uses of land which were lawful before this division was enacted or amended, but which would be prohibited, regulated, restricted or otherwise unlawful under the provisions of this division or future amendments.
- (b) It is the intent of this division to permit these non-conformities to continue until they are removed, but not to encourage their survival. Such non-conforming uses and structures are declared by this division to be incompatible with permitted uses in the districts involved. It is further the intent of this division that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
- (c) Non-conforming uses are considered to present a greater public burden than non-conforming lots and structures, therefore the intent of this chapter is to gradually eliminate non-conforming uses or decrease their non-conforming status, but to permit certain non-conforming uses to continue under certain conditions.
- (d) Non-conforming lots and structures are typically those established prior to the current zoning standards. The city intends to allow continued use of these lots and structures in certain cases. Accordingly, this division establishes regulations that govern the completion, restoration, reconstruction and expansion of non-conforming structures which do not increase the non-conforming situation.
- (e) To avoid undue hardship, nothing in this division shall be deemed to require a change in the plans, construction or designated use of any structure on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this division, and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner except that where demolition or removal of an existing structure has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the structure involved.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-321. - Non-conforming lots.

- (a) *Use of nonconforming lots.* Any lot of record existing at the effective date of the ordinance codified in this chapter that now fails to meet the requirements for area or width, or both, that are generally applicable in the district shall be considered a nonconforming lot. A principal building and customary accessory buildings for a permitted use may be erected on any nonconforming lot of record, provided all other standards of this title are met, such as setbacks, minimum floor area, maximum height and access requirements.
- (b) *Variance to area and dimensional requirements.* If the use of a nonconforming lot requires a variation in minimum floor area or dimensional (minimum setback and maximum height) standards, then the use shall be permitted only if a variance is granted by the zoning board of appeals.
- (c) *Nonconforming contiguous lots under the same ownership.* The following regulations shall apply to nonconforming contiguous lots under the same ownership. The intent of these regulations is to ensure that development of nonconforming lots will not overbuild the lots, result in a development pattern or structures that are out of character with the surrounding neighborhood, diminish access to open space, sunlight, and views for existing residences and will be in accordance with the residential density planned for in the city master plan.
 - (1) If two or more lots or combination of lots with contiguous frontage are or have been under single ownership are of record at the time of adoption or amendment of this title, and if all or part of the individual lots do not meet the requirements established for lot width and area, the lands involved

shall be considered to be an individual parcel for the purposes of this chapter, except as provided in subsection (c)(4) of this section. The lots must be combined prior to receiving a building permit for any construction activity, including additions, renovations or new construction.

- (2) No portion of said parcel shall be used, occupied, or sold in a manner which diminishes compliance with lot width and area requirements established by this title, nor shall any division of a parcel be made which creates a lot with width or area less than the requirements stated in this title.
- (3) Any combination, in whole or in part, of nonconforming lots of record shall result in lots that conform to the requirements of this title to the maximum extent feasible. Any altering of lot lines or combination of lots shall result in lots that conform to the requirements of this title. Once any combination that creates a conforming lot occurs, the resulting lot shall not retain nonconforming lot of record status and will hereafter be required to comply with the lot requirements of this title.
- (4) Where an individual owns two or more contiguous nonconforming lots, the lots may be sold or developed as separate individual lots only where each individual lot has an area and width equal to or greater than the median area and width of all developed lots within 750 feet. The 750-foot dimension shall be measured from the perimeter of the applicant's lots and shall include all lots or portions of lots within 750 feet, but shall only include lots that are within the same zoning district. Where there are multiple lots developed with a single dwelling, these lots shall be considered a single combined lot for calculation of median area and width. Multiple contiguous vacant lots under the same ownership shall be considered a single combined lot for calculation of median area and width. The applicant shall provide a map and calculations to certify the median lot area and width.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-322. - Non-conforming uses.

Where, at the effective date of this chapter or amendment thereto, lawful use of land exists that is made no longer permissible under the provisions of this chapter as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following limitations:

- (1) No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.
- (2) No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter.
- (3) A non-conforming use shall be determined to be abandoned if one or more of the following conditions exist, and which shall be deemed to constitute an intent on the part of the property owner to abandon the non-conforming use:
 - a. Utilities, such as water, gas and electricity to the property, have been disconnected.
 - b. The property, buildings, or grounds have fallen into disrepair.
 - c. Signs or other indications of the existence of the non-conforming use have been removed.
 - d. Removal of equipment or fixtures which are necessary for the operation of the non-conforming use.
 - e. Other actions, which in the opinion of the city manager, constitute an intention on the part of the property owner or lessee to abandon the non-conforming use.
 - f. Those alleged non-conforming uses which cannot be proved to have been legally existing prior to the effective date of this section shall be declared illegal and shall be discontinued following the effective date of this section.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-323. - Non-conforming structures.

Where, at the effective date of this chapter or amendment thereto, a lawful structure exists that could not be built under the provisions of this section 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 limitations:

- (1) No such structure may be enlarged or altered in a way which increases its nonconformity within the provisions of this chapter.
- (2) Any additions or modifications to such structure should bring the structure into greater conformity with the architectural and site standards applicable to the addition or modification.
 - a. Any addition greater than 25 percent of the gross floor area of the principal building shall require the entire addition to fully meet the setback and build to standards.
 - b. Any addition less than 25 percent of the gross floor area of the principal building is required to meet the architectural and site standards but may be granted flexibility by the City Manager with bringing the building into greater conformity with the setback and build to standards.
- (3) Should such structure be destroyed by any means to an extent greater than fifty percent (50%) of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.
- (4) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved.
- (5) Should such structure be altered or modified so as to eliminate, remove or lessen any or all of its non-conforming characteristics, then such non-conforming characteristics shall not be later reestablished or increased.
- (6) Expansion of a non-conforming residential building.
 - a. A non-conforming residential building may be expanded into a required side or rear yard in a manner that does not comply with the setback standards with approval from the city manager. The city manager shall utilize the following standards:
 1. The expansion does not involve an additional story to the residential building.
 2. The expansion does not extend closer to the lot line than any existing, non-conforming part of the structure.
 3. The addition does not extend beyond the predominant existing building line along the same block.
 4. The addition retains compliance with all other setback, lot coverage, and height requirements.
 5. The addition will meet all minimum building code requirements.
 6. The resultant addition, in terms of dimensions and design, would be compatible with the established character of the neighborhood.
 7. The design of the addition must be compatible with the existing structure and not detract from the appearance of the site.
 8. The expansion of a residential building with a non-conforming yard, not meeting the requirements above, shall be prohibited unless a variance is granted by the zoning board of appeals (ZBA).

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-324. - Continuance of non-conforming uses of structures and land.

Where, at the effective date of this chapter or amendment thereto, lawful use of a structure, or of a structure and land in combination, exists that is made no longer permissible under the provisions of this chapter as enacted or amended, such use may be continued as long as it remains otherwise lawful, subject to the following limitations:

- (1) No existing structure devoted to a use not permitted by this chapter in the zoning district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the zoning district in which it is located.
- (2) Any non-conforming use may be extended throughout any parts of a structure which were 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 structure.
- (3) If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use provided that the ZBA, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate in the district than the existing non-conforming use; in permitting such change, the ZBA may require appropriate conditions and safeguards in accord with the purpose and intent of this chapter.
- (4) Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the non-conforming use may not thereafter be resumed.
- (5) When a non-conforming use of a structure, or structure and premises in combination, is discontinued or ceases for six consecutive months or for 18 months during any three-year period, the structure, or structure and premises in combination, shall not thereafter be used, except in conformance with the regulations of the zoning district in which it is located; structures occupied by seasonal uses shall be excepted from this provision. These provisions may be waived, as determined by the city manager, upon substantiation that there is intent to continue the nonconformity.
- (6) Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-325. - Non-conforming sites.

The intent of this section is to permit improvements and minor modifications to sites containing uses and building(s) which do not meet all of the various site improvement related regulations of this zoning ordinance, including provisions such as landscaping, signage, building materials and architecture, paving and other non-safety site related items. The purpose is to allow gradual compliance with these and other site related requirements, for the entire site, for sites that predate the chapter requirements.

Site improvements or expansions on nonconforming sites may be permitted by the city manager or the planning commission during special land use, conditional land use, site plan review, without a complete upgrade of all site elements under the following conditions. The city may require a performance guarantee to ensure that all improvements permitted under this Section will be made in accordance with the approved plan.

- (1) There are reasonable site improvements proposed to the overall site in relation to the scale and construction cost of the proposed building improvements or expansion.
- (2) Safety-related site issues, or those regulated by state and federal laws, are met. Driveways that do not conform with the access management requirements of this chapter shall be eliminated to

the extent practical, provided that the minimum reasonable access shall be maintained, as determined by the standards of article IV, division 2, access management and driveway standards, and as approved by the planning commission.

- (3) Landscaping shall be required to conform to the requirements of article IV, division 3, landscape standards and tree replacement; exceptions will be permitted only where the existing site conditions prevent full compliance.
- (4) All signs must conform with article IV, division 4, signs. Existing pole signs shall be replaced with monument signs. Some size allowances may be granted where site conditions warrant such consideration.
- (5) All lighting, including pole and building mounted, must conform with article IV, division 5, lighting standards.
- (6) The improvements or minor expansions shall not increase any existing nonconformity with the site requirements.
- (7) A site plan shall be submitted and reviewed in accordance with article V, division 1, site plan review.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-326. - Repairs and maintenance.

- (a) On any structure devoted in whole or in part to any non-conforming 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 estimated value of the structure, as determined by the most recent assessment of the market value of the structure for purposes of taxation, provided that the cubic content of the structures as it existed at the time of enactment or amendment of this chapter shall not be increased.
- (b) Nothing in this division shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-327. - Change of tenancy or ownership.

A change of tenancy, ownership or management of any existing non-conforming uses of land, structures and premises shall not alter the non-conforming status of a non-conforming building, structure, use, or lot, provided there is no change in the nature or character of such non-conforming uses.

(Ord. No. [2019-06](#), 1-6-20)

Secs. 86-328, 86-329. - Reserved.

DIVISION 2. - ADMINISTRATION AND ENFORCEMENT

Sec. 86-330. - Authority of zoning administrator.

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

- (1) The zoning administrator shall make inspections of buildings and premises necessary to carry out the duties of administration and enforcement of this chapter.
- (2) The zoning administrator shall issue and serve appearance tickets on any person with respect to any violation of this chapter where there is reasonable cause to believe that the person has committed such an offense.
- (3) The zoning administrator shall issue a certificate of zoning compliance when the requirements of this chapter have been met.
- (4) The zoning administrator shall perform such other functions necessary and proper to enforce and administer the provisions of this chapter.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-331. - Certificates of zoning compliance.

The zoning administrator shall issue certificates of zoning compliance under the following conditions:

- (1) No building permit shall be issued for the construction, erection, alteration, expansion, moving or repair of any building or other structure until a certificate of zoning compliance has been issued therefore. Issuance of such a certificate shall indicate that the use and plans for which the permit is requested comply with this division.
- (2) It shall be unlawful to use or occupy or permit the use or occupancy of any building, structure or premises, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure, as permitted under the terms of this division, until a certificate of zoning compliance shall have been issued hereunder by the zoning administrator. The certificate shall state that the building, structure, and lot and use thereof, conform to the requirements of this division.
- (3) The zoning administrator shall maintain a record of all certificates of zoning compliance.
- (4) Certificates of zoning compliance authorize only the use, arrangement and construction set forth in the application and any appended plans, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter. Any change in approved plans shall occur only as provided for in this division and shall require the issuance of an amended certificate of zoning compliance.
- (5) The types of buildings and structures subject to a building permit or zoning compliance permit are generally described in the following table. The zoning administrator will make the final determination of the applicability of the building permit and will make the final determination of the applicability of a zoning compliance permit, based on the information submitted by the applicant and subject to applicable legislation, including this chapter.

Buildings and Structures Subject to Building Permits	Buildings and Structures Subject to Zoning Compliance Permits
<ol style="list-style-type: none"> 1. All principal structures 2. Accessory structures two stories in height or taller, regardless of floor area 3. Attached accessory structures 4. Accessory structures that have a floor area exceeding 120 square feet 5. Retaining walls greater than four feet in height 	<ol style="list-style-type: none"> 1. Change of use, including operations for current occupants 2. Change of tenant 3. Building façade changes 4. Landscape changes; entrance features 5. Parking lot changes, other than routine maintenance

6. Other structures as outlined in the Michigan Building and Residential Codes	6. Lighting, including the replacement of fixtures 7. Utility relocation 8. Change of rooftop mechanical units
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(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-332. - Performance guarantees.

- (a) As a condition of approval of a site plan, special land use or planned unit development, the zoning administrator may require a financial guarantee of sufficient sum to assure the installation of those features or components of the approved activity or construction which are considered necessary to protect the health, safety and welfare of the public and of users or inhabitants of the proposed development. Such features or components, hereafter referred to as "improvements," may include, but shall not be limited to, roadways, curbs, landscaping, fences, walls, screens, lighting, drainage facilities, sidewalks, driveways, parking areas, utilities, and similar items. Financial guarantees are generally required for items that cannot be completed due to weather or related delays yet a temporary certificate of occupancy is sought.
- (b) Performance guarantees shall be processed in the following manner:
- (1) Prior to the issuance of a certificate of occupancy, the applicant shall submit an itemized estimate of the cost of the uncompleted required improvements, which shall then be reviewed by the zoning administrator. The amount of the performance guarantee shall be no greater than 100 percent of the cost of installing the uncompleted improvements, plus the cost of necessary consultants and a reasonable amount for contingencies.
 - (2) The required performance guarantee may be in the form of a cash deposit, certified check, or irrevocable bank letter of credit acceptable to the city.
 - (3) Upon receipt of the required performance guarantee, the zoning administrator may issue a temporary certificate of occupancy for the subject development or activity, provided it is in compliance with all other applicable provisions of this division.
 - (4) When all of the required improvements have been completed, the obligor shall send written notice to the zoning administrator of completion of such improvements. Thereupon, the zoning administrator shall inspect all of the improvements and shall recommend to the zoning administrator either approval or rejection of the improvements with a statement of the reasons for any rejections.
 - (5) The zoning administrator shall then either approve or reject the improvements. The zoning administrator shall notify the obligor in writing of the action within 30 days after receipt of the notice from the obligor of the completion of the improvements.
 - (6) The zoning administrator, upon completion of all required improvements, shall issue a certificate of zoning compliance and forward it to the zoning administrator.
 - (7) Upon receipt of the certificate of zoning compliance and request of the obligor, the zoning administrator shall rebate the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed.
 - (8) Performance guarantees shall not be returned until all debts or obligations to the city are resolved.

(9) A record of authorized performance guarantees shall be maintained by the zoning administrator.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-333. - Public hearings.

Unless otherwise required, notices for all public hearings shall be given as follows:

- (1) The notice shall:
 - a. Describe the nature of the request.
 - b. Indicate the property that 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.
 - c. State when and where the request will be considered.
 - d. Indicate when and where written comments will be received concerning the request.
- (2) Except as required in (3) and (4), below, notices for all public hearings shall be given as follows:
 - a. Notice of the hearing shall be not less than 15 days before the date of the public hearing, not including the date of the meeting.
 - b. Notice of the hearing shall be published in a newspaper of general circulation.
 - c. Notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered.
 - d. Notice shall also be sent by mail to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.
- (3) Newspaper publication as required in (2) above shall be the only notice required for an amendment to the zoning ordinance or the zoning map that affects 11 or more properties.
- (4) Zoning board of appeals.
 - a. For ordinance interpretations and appeals of administrative decisions by the zoning board of appeals notice shall be only to the applicant and by newspaper publication, as required in (2)b above.
 - b. If the interpretation or appeal of an administrative decision involves a specific property, notice shall be given to the person bringing the appeal and as required in (2)a—c, above.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-334. - Violations.

Whenever by the provisions of this chapter the performance of any act is required, or the performance of any act is prohibited, or whatever regulation, dimension or limitation is imposed on the use of, or upon any land, or on the erection or alteration or the use or change of use of a structure or the uses within such structure, a failure to comply with such provisions of this chapter shall constitute a violation of this chapter. Every day on which a violation exists shall constitute a separate violation and a separate offense.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-335. - Penalties.

Any person who violates this chapter shall be responsible for a civil infraction violation, subject to the fines and penalties set forth in the city Code of Ordinances.

(Ord. No. [2019-06](#), 1-6-20)

Secs. 86-336—86-339. - Reserved.

DIVISION 3. - ZONING BOARD OF APPEALS

Sec. 86-340. - Establishment.

A zoning board of appeals (ZBA), hereinafter in this division sometimes referred to as the "board," is hereby established pursuant to the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended.

The terms of the statute shall prevail, except as modified by the terms of the Code of Ordinances and the Charter which are not in direct conflict thereto.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-341. - Membership, quorum, and alternate members.

- (a) The ZBA shall consist of five members appointed by majority vote of the members of the city council. Each member shall be appointed to hold office for a three-year term. A vacancy on the zoning board of appeals shall be filled by the city council for the remainder of the unexpired term in the same manner as the original appointment.
- (b) Three members shall constitute a quorum.
- (c) The city council may, if desired, appoint two alternate members for three-year terms. One or both alternate members may be called by the chairman, or in the absence of the chairman by the vice-chairman, or, in the absence of the vice-chairman, by the secretary to sit as a regular member of the ZBA if a regular member is absent from or unable to attend one or more meetings. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. While serving, the alternate member shall have the same voting rights a regular member of the ZBA.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-342. - Qualifications of members.

- (a) Members of the board shall be residents of the city. One of the regular members or an alternate member of the ZBA may be a member of the city council, but that member shall not serve as chairperson of the ZBA. One of the regular members of the ZBA shall be a member of the planning commission.
- (b) An employee or contractor of the council may not serve as a member of the ZBA.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-343. - Procedural matters, public hearings, and vote required.

- (a) The ZBA is hereby authorized and empowered to establish its own rules of procedure and to elect its own officers subject to the provision that it shall, at its organizational meeting, elect a chairman, a vice-chairman and a secretary. In establishing rules of procedure and election of officers, a majority of those in attendance and constituting a quorum shall be required.
- (b) Prior to the ZBA making a decision in a specific case, the ZBA shall conduct a public hearing. Written notice of the hearing shall be in accordance with section 86-333, public hearings.
- (c) A concurring vote of a majority of the members of the ZBA shall be necessary to reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor of the applicant, a matter upon which the board is required to pass under this chapter or other chapters of the Code of Ordinances, except that a concurring vote of 2/3 of the members of the ZBA shall be necessary to grant a variance from uses of land permitted in this chapter.
- (d) A member of the ZBA who is also a member of the planning commission or the city council shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the planning commission or the city council. However, the member may consider and vote on other unrelated matters involving the same property.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-344. - Jurisdiction, duties and responsibilities.

The ZBA shall have all jurisdiction and powers granted by the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended, and the following specific jurisdiction and powers:

- (1) To hear and decide appeals from and review any order, requirements, permit, decision or determination made by the building official or any other administrative official or body in enforcing the provisions of this chapter. The ZBA may reverse or affirm, wholly or in part, or may modify the order, requirement, permit, decision or determination as in the ZBA's opinion ought to be made in the premises, and to that end shall have all the powers of the administrative official or body from whom the appeal is taken.
- (2) To hear and decide matters referred to it or upon which it is required to pass under any ordinance adopted pursuant to Act 207 of 1921 (MCL 125.581 et seq.), as amended, of the state, or by other chapters of the Code of Ordinances.
- (3) If there are practical difficulties (for nonuse variances) or unnecessary hardship (for use variances) in the way of carrying out the strict letter of the zoning ordinance, the ZBA may grant a variance in accordance with this section, so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice done. The ZBA may impose conditions and vary or modify any of its rules, regulations or provisions relating to the construction, structural changes in, equipment, or alteration of buildings or structures or the uses of land, buildings or structures, so that the spirit of the particular Article shall be preserved, public safety secured and substantial justice done.
- (4) The ZBA may grant dimensional or other site plan related variances for special land uses, however the ZBA shall not have the power to reverse or modify the planning commission decision to approve or deny a special land use permit nor grant variances to any special land use standards or conditions of special land use approval.
- (5) The ZBA shall not have the authority to reverse the decision on a PUD preliminary or final site plan, change any conditions placed by the planning commission or city council, or grant variances to the PUD site plan, written PUD agreement or the requirements of this article.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-345. - Granting of variances.

The ZBA shall prescribe appropriate conditions and safeguards to carry out the requirements of this subsection and shall not grant any variance unless it shall have made a finding of fact based upon the evidence as presented to it in each specific case as specified below:

- (1) *Dimensional variance.* The ZBA may grant a dimensional variance only upon a finding that practical difficulties exist. A dimensional variance is a variance from any dimensional standard or requirement of this ordinance, 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. The variance will do substantial justice to the applicant, as well as to other property owners.
 - b. A lesser variance than that requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.
 - c. The need for the variance is due to unique circumstances or conditions peculiar to the property and not generally applicable in the area or to other properties in the same zoning district such as exceptional narrowness, shallowness, shape, topography or area.
 - d. The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessor may or may not be considered depending upon whether the practical difficulty would have existed regardless of the action.
 - e. 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.
 - f. The granting of the variance will not materially impair the intent and purpose of this chapter.
- (2) *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 not provided for 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. There must be financial proof of the applicant's inability to realize any reasonable return; speculation or a qualitative assessment is inadequate.
 - 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. The applicant must prove that there are certain features or conditions of the land that are not generally applicable throughout the zone and that these features make it impossible to earn a reasonable return without some adjustment. In those situations where the difficulty is shared by others, the board may find that relief should be accomplished by an amendment to the zoning ordinance, not a variance.
 - 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.

Sec. 86-346. - Appeals.

- (a) An appeal, as provided in section 86-344, jurisdiction, duties and responsibilities, shall be taken within such reasonable time as shall be prescribed by the ZBA by general rule, and if no general rule has been adopted, within 60 days of the order, requirements or determination of an administrative official or body, by the filing with the city manager and with the board of a notice of appeal specifying the grounds thereof. The city manager shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. Filing with the secretary of the ZBA the notice of appeal, or, in the absence of the secretary filing of the same with the chairman or presiding officer, shall satisfy the provision of this section that a copy of the notice of appeal be filed with the board.
- (b) An appeal stays all proceedings in furtherance of the action appealed from, unless the building official certifies to the ZBA after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed other than by a restraining order which may be granted by the board or by the circuit court for the county, on application, on notice to the building official and on due cause shown.
- (c) The ZBA shall fix a reasonable time for the hearing of the appeal, which time shall be within 30 days of the receipt of the notice of appeal.
- (d) Any interested party may appear and be heard at the hearing in person or by an agent or attorney.
- (e) The ZBA shall not have the power to alter or change the zoning district classification of any property.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-347. - Decisions.

- (a) Matters coming before the ZBA shall be decided within a reasonable time.
- (b) The decision of the ZBA shall not become final until the expiration of five days from the date of entry of the order, unless the board shall find the immediate effect of the order is necessary for the preservation of property or personal rights and shall so certify on the record.
- (c) In its decisions, the ZBA shall state a finding of facts underlying its decisions.
- (d) Decisions of the ZBA may be appealed to the appropriate court on the record and for that reason the board shall cause a record to be made of its proceedings.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-348. - Orders, validity, and limitations.

- (a) No order of the ZBA permitting the erection or alteration of buildings shall be valid for a period longer than one year, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is commenced and proceeds to a completion in accordance with the terms of such permit.
- (b) No order of the ZBA permitting a use of a building or premises shall be valid for a period longer than one year unless such use is established within such period; provided, however, that if the use of such permit is dependent upon the erection or alteration of a building, such order shall continue in full force and effect if a building permit for such use, erection or alteration is obtained within such period and such erection or alteration is commenced and proceeds to completion in accordance with the terms of such permit.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-349. - Reserved.

DIVISION 4. - REZONING, ZONING ORDINANCE, AND MASTER PLAN AMENDMENT REVIEW

Sec. 86-350. - Initiation of rezoning, zoning ordinance text, and master plan amendments.

- (a) The city council may, from time to time, amend, modify, supplement or revise the zoning district boundaries shown on the official zoning map (rezoning) or the provisions of this chapter. An amendment to the zoning district boundaries contained on the official zoning map (rezoning) may be initiated by the city council, the planning commission, or by the owner or owners of property which is the subject of the proposed amendment. Amendments to the text of this chapter may be initiated by the city council, the planning commission, or by petition of one or more residents or property owners of the city. All proposed amendments to the official zoning map or the provisions of this chapter shall be referred to the planning commission for public hearing and recommendation to the city council, prior to consideration thereof by the city council.
- (b) The planning commission may amend the future land use designations shown on the city master plan. An amendment may be initiated by the planning commission or by petition of one or more residents or property owners of the city.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-351. - Application procedure.

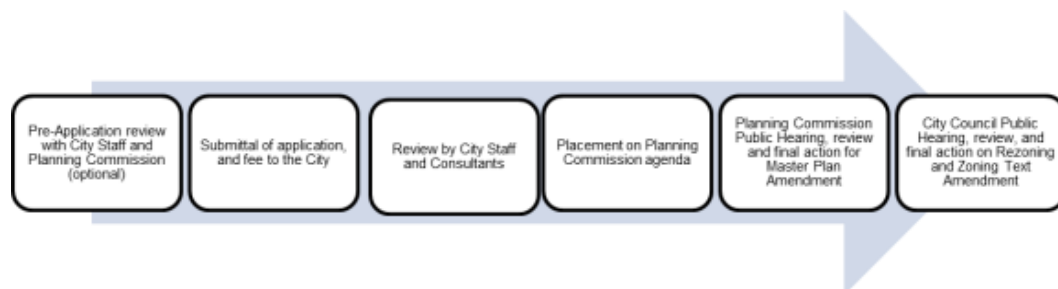
- (a) An amendment to the official zoning map, this chapter or the master plan, except those initiated by the city council or planning commission, shall be initiated by submission of a completed application on a form supplied by the city, including an application fee, which shall be established from time to time by resolution of the city council.
- (b) In the case of an amendment to the official zoning map (rezoning), the following information shall accompany the application:
 - (1) A legal description and street address of the subject property, together with a map identifying the subject property in relation to surrounding properties.
 - (2) The name, signature and address of the owner of the subject property, a statement of the applicant's interest in the subject property if not the owner in fee simple title, or proof of consent from the property owner.
 - (3) The existing and proposed zoning district designation of the subject property.
 - (4) A site analysis site plan illustrating existing conditions on the site and adjacent properties; such as woodlands, wetlands, soil conditions, steep sloped, drainage patterns, views, existing buildings, any sight distance limitations and relationship to other developed sites and access points in the vicinity.
 - (5) A conceptual plan demonstrating that the site could be developed with representative uses permitted in the requested zoning district meeting requirements for setbacks, wetland buffers access spacing, any requested service drives and other site design factors.
 - (6) A written environmental assessment describing site features and anticipated impacts created by the host of uses permitted in the requested zoning districts.
 - (7) A traffic impact analysis shall be provided if any use permitted in the requested zoning district could generate 100 or more peak hour directional trips, or 1,000 or more vehicle trips per day; the traffic study should contrast the daily and peak hour trip generation rates for representative use in the current and requested zoning district; the determination of representative uses shall be made by the planning commission with input from city staff and consultants.

- (8) A written description of how the requested rezoning meets section 86-353, criteria for amendment of the official zoning map (rezoning).
- (c) In the case of an amendment to the official zoning map (rezoning), the site must be staked to clearly indicate the location of the requested amendment. Flagged stakes shall be placed at each parcel corner.
- (d) In the case of an amendment to the master plan or this chapter, other than an amendment to the official zoning map, a general description of the purpose and intent of the proposed amendment shall accompany the application form.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-352. - Rezoning, zoning ordinance, and master plan amendment procedure.

- (a) Upon initiation of a rezoning, zoning ordinance text amendment or master plan amendment, a public hearing on the proposed amendment shall be scheduled before the planning commission in accordance with section 86-333, public hearings and in accordance with the provisions of the Michigan Zoning Enabling Act (Public Act 110 of 2006), and Michigan Public Act 285 of 1931, as amended.
- (b) Following the public hearing, the planning commission shall identify and evaluate all factors relevant to the petition and shall report its findings and recommendation to the city council, except in the case of a master plan amendment. In the case of an amendment to the official zoning map (rezoning), the planning commission shall consider the criteria contained in section 86-353, criteria for amendment of the official zoning map (rezoning), below, in making its finding and recommendation.
- (c) Following receipt of the findings and recommendation of the planning commission, the city council shall consider the proposed amendment. In the case of an amendment to the text of this chapter, the city council may modify or revise the proposed amendment as recommended by the planning commission, prior to enactment. In the case of an amendment to the official zoning map (rezoning), the city council shall approve or deny the amendment, which may be based on consideration of the criteria contained in section 86-353, criteria for amendment of the official zoning map (rezoning), below.
- (d) No petition for rezoning, zoning ordinance text amendment or master plan amendment that has been denied by the city council or planning commission (master plan amendment) shall be resubmitted for a period of one year from the date of denial except on the grounds of new evidence or proof of changed conditions relating to all of the reasons noted for the denial found to be valid by the planning commission.



(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-353. - Criteria for amendment of the official zoning map (rezoning).

In considering any petition for an amendment to the official zoning map (rezoning), the planning commission shall, and the city council may, consider the following criteria in making its findings, recommendations, and decision:

- (1) Consistency with the goals, policies and future land use map of the city master plan, including any subarea or corridor studies. If conditions have changed since the city master plan was adopted, the consistency with recent development trends in the area.
- (2) Compatibility of the site's physical, geological, hydrological and other environmental features with the potential uses allowed in the proposed zoning district.
- (3) Evidence the applicant cannot receive a reasonable return on investment through developing the property with one of the uses permitted under the current zoning.
- (4) The compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure, and potential influence on property values.
- (5) The capacity of city infrastructure and services sufficient to accommodate the uses permitted in the requested district without compromising the "health, safety and welfare" of the city.
- (6) The apparent demand for the types of uses permitted in the requested zoning district in the city in relation to the amount of land in the city currently zoned to accommodate the demand.
- (7) Where a rezoning is reasonable given the above criteria, a determination shall be made that the requested zoning district is more appropriate than another district or amending the list of permitted or special land uses within a district.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-354. - Amendments required to conform to court decree.

Any amendment for the purpose of conforming to a decree of a court of competent jurisdiction shall be adopted by the city council and published, without necessity of a public hearing or referral thereof to any other commission or agency.

(Ord. No. [2019-06](#), 1-6-20)

Sec. 86-355. - Conditional rezoning.

- (a) *Conditional rezoning.* An applicant for a rezoning may voluntarily offer a conditional rezoning along with an application for rezoning before or following the public hearing for a proposed rezoning. An election to submit a conditional rezoning shall be pursuant to the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended, and this section.
 - (1) A conditional rezoning shall be a written agreement executed by the applicant and the city, shall be in recordable form and shall be recorded with the county register of deeds after execution.
 - (2) A conditional rezoning may include limitations on the uses permitted on the property in question, specify lower or varying density or less intensity of development and use, or may impose more restrictive measures on the location, size, height, or other measure for buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture and other features than would otherwise be provided in this chapter.
 - (3) A conditional rezoning may not authorize uses or developments of greater intensity or density, or which are not permitted in a proposed zoning district; nor may a conditional rezoning permit variations from height, area, setback or similar dimensional requirements that are less restrictive than a proposed zoning district.
 - (4) A conditional rezoning shall include conditions that bear a reasonable and rational relationship and/or benefit to the property in question. A conditional rezoning may include conditions related to the use and development of the property that are necessary to:

- a. Serve the intended use of the property such as improvements, extension, widening, or realignment of streets, utilities, or other infrastructure serving the site.
 - b. Minimize the impact of the development on surrounding properties and the city overall.
 - c. Preserve natural features and open space beyond what is normally required.
- (b) *Content of agreement.* In addition to any limitations on use or development of the property or preservation of property features or improvements as described above, a conditional rezoning shall also include the following:
 - (1) An acknowledgement that the conditional rezoning was proposed voluntarily by the applicant.
 - (2) An agreement and understanding that the property shall not be developed or used in any manner that is not consistent with a conditional rezoning.
 - (3) An agreement and understanding that the approval of a rezoning and a conditional rezoning shall be binding upon and inure to the benefit of the property owner and the city, and their respective heirs, successors, assigns, receivers or transferees.
 - (4) An agreement and understanding that, if a rezoning with a conditional rezoning becomes void for any reason including, but not limited to, reasons identified in this section, then no further development shall take place and no permits shall be issued unless and until a new zoning district classification for the property has been established.
 - (5) An agreement and understanding that no part of a conditional rezoning shall permit any activity, use, or condition that would otherwise violate any requirement or standard that is otherwise applicable in the new zoning district.
 - (6) A legal description of the land to which the agreement pertains.
 - (7) Any other provisions as are agreed upon by the parties.
- (c) *Process.* A conditional rezoning shall be reviewed concurrently with a petition for rezoning following the process in section 86-352, rezoning, zoning ordinance, and master plan amendment procedure and the following:
 - (1) A conditional rezoning may be submitted prior to or following the planning commission public hearing. If the agreement is submitted following the planning commission public hearing, it must be reviewed by the planning commission and a second public hearing shall be held prior to the planning commission making its recommendation on the rezoning and conditional rezoning to the city council. A conditional rezoning shall be reviewed by the city attorney to determine that it conforms with the requirements of this section, this chapter, and the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended, and that the conditional rezoning is in a form acceptable for recording with the county register of deeds.
 - (2) Following a public hearing for a proposed zoning amendment, the planning commission shall make a recommendation to the city council based upon the criteria listed in section 86-353, criteria for amendment of the official zoning map (rezoning). In addition, following a public hearing to consider a conditional rezoning, the planning commission shall consider and address in written findings whether a proposed conditional rezoning:
 - a. Is consistent with the intent of this article.
 - b. Bears a reasonable and rational connection and/or benefit to the property being proposed for rezoning.
 - c. Is necessary to ensure that the property develops in such a way that protects the surrounding neighborhood.
 - d. Leads to a better development than would have been likely if the property had been rezoned without a conditional rezoning, or if the property were left to develop under the existing zoning classification.

- e. Is clearly in the public interest.
 - (3) If a conditional rezoning has been offered by the applicant and recommended for approval by the planning commission, the city council may approve a conditional rezoning as a condition to the rezoning if it meets all requirements of subsection (2) above. The conditional rezoning shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the city council to accomplish the requested rezoning.
 - (4) If a rezoning and conditional rezoning are approved, the zoning classification of the rezoned property shall consist of the district to which the property has been rezoned, plus a reference to the conditional rezoning. The zoning map shall specify the new district, plus a small letter "a" to indicate that the property is subject to a conditional rezoning (i.e., "B-1, a"). The city clerk shall maintain a listing of all properties subject to zoning agreements and shall provide copies of the agreements upon request.
 - (5) An approved conditional rezoning shall be recorded with the county register of deeds.
 - (6) Any uses proposed as part of a conditional rezoning that would otherwise require approval of a special land use or site plan approval shall be subject to the applicable review and approval requirements of article V, division 3, special land uses and article V, division 1, site plan review.
 - (7) All other requirements of this chapter or any other city ordinances shall apply to the property to which a conditional rezoning applies.
- (d) *Expiration.*
- (1) Unless extended by the city council for good cause, a rezoning and conditional rezoning shall expire two years after adoption of the rezoning and conditional rezoning, unless substantial construction on the approved development of the property pursuant to building and other required permits issued by the city commences within the two-year period and proceeds diligently to completion.
 - (2) In the event that substantial construction on the approved development has not commenced within the aforementioned two years, or if construction and development does not proceed diligently to completion thereafter, a conditional rezoning and rezoning shall be void and of no effect.
 - (3) Should a conditional rezoning become void, all development on the subject property shall cease, and no further development shall be permitted. Until action satisfactory to the city is taken to bring the property into compliance with this chapter, the city may withhold or, following notice to the applicant and being given an opportunity to be heard, revoke permits and certificates, in addition to or in lieu of any other lawful action to achieve compliance.
 - (4) Notwithstanding the above, if the property owner applies in writing for an extension of a rezoning and a conditional rezoning at least 30 days prior to the expiration date, the city council may, in its sole discretion, grant an extension of up to one year. Future extensions may be granted, although the number of previous extensions granted to a particular rezoning and conditional rezoning shall be considered by the city council.
- (e) *Reversion of zoning.* If a rezoning and conditional rezoning become void as outlined above, then the zoning classification of the property shall revert back to its previous zoning classification. The reversion process shall be initiated by the city council by requesting that the planning commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall be the same as applies to all other rezoning requests, including the notice and hearing as required by the Michigan Zoning Enabling Act (Public Act 110 of 2006), and this chapter. No building or other permit shall be issued or valid during the process described in this subsection.
- (f) *Continuation.* Provided that all development and/or use of the property in question is in compliance with a conditional rezoning, a use or development authorized there under may continue indefinitely, provided that all terms of a conditional rezoning continue to be adhered to.

- (g) *Amendment.*
- (1) During an initial two-year period, or during any extension granted by the city as permitted above, the city shall not add to or alter a conditional rezoning, even with the landowner's consent.
 - (2) A conditional rezoning may be amended after the expiration of an initial two-year period and any extensions, in the same manner as was prescribed for the original rezoning and conditional rezoning.
- (h) *Violation of agreement.* Failure to comply with a conditional rezoning at any time after approval will constitute a breach of the agreement and also a violation of this chapter and further use of the property may be subject to legal remedies available to the city. Any violation of a conditional rezoning that is not cured within 30 days after written notice of the violation is given shall permit the city council, in its sole discretion, to declare a conditional rezoning void and of no effect
- (i) *Subsequent rezoning of land.* Nothing in a conditional rezoning, nor any statement or other provision, shall prohibit the city from later rezoning all or any portion of the property that is the subject of a conditional rezoning to another zoning classification. Any rezoning shall be conducted in compliance with this chapter and the Michigan Zoning Enabling Act (Public Act 110 of 2006).
- (j) *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 the owner's rights under this chapter.

(Ord. No. [2019-06](#), 1-6-20)