

Chapter 50 - ZONING

Footnotes:

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Editor's note— *Ord. No. 1080, adopted Apr. 16, 2013, repealed former Ch. 50, §§ 50-1—50-409, and enacted a new Ch. 50 as set out herein. Former Ch. 50 pertained to similar subject matter. For prior history, see Code Comparative Tables.*

Charter reference— *City planning and zoning, ch. XIII.*

State Law reference— *Michigan zoning enabling act, MCL 125.3101 et seq.; Michigan planning enabling act, MCL 125.3801 et seq.*

ARTICLE I. - INTRODUCTION

Sec. 50-1. - Short title.

This chapter shall be known as the City of Eastpointe Zoning Ordinance.

(Ord. No. 1080, 4-16-2013)

Sec. 50-2. - Intent.

The purposes of this chapter are to:

- (1) Promote the public health, safety, morals and general welfare;
- (2) Encourage the use of lands in accordance with their character and adaptability;
- (3) Limit the improper use of land;
- (4) Avoid the overcrowding of population;
- (5) Provide adequate light and air;
- (6) Avoid congestion on the public roads and streets;
- (7) Reduce hazards to life and property;
- (8) Facilitate adequate provisions for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements; and
- (9) Conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties.

In reaching these objectives, the city will give reasonable consideration to the character of each district, its peculiar suitability for particular uses, the general and appropriate trend, and the character of land, buildings and population development, as studied, recommended and/or adopted within the master plan by the City of Eastpointe Planning Commission and the Eastpointe City Council.

(Ord. No. 1080, 4-16-2013)

Secs. 50-3—50-9. - Reserved.

ARTICLE II. - DEFINITIONS AND CONSTRUCTION

Sec. 50-10. - Definitions.

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

Accessory means a use which is clearly incidental to, customarily found in connection with, and, except in the case of accessory off-street parking or loading spaces, located on the same zoning lot with the principal use to which it is related. When the term "accessory" is used in this text, it shall have the same meaning as the term "accessory use." An accessory use includes, but is not limited to, the following:

- (1) Residential accommodations for servants and/or caretakers and private vehicle garages;
- (2) Swimming pools and tennis courts for the use of the occupants of a residence, and their guests;
- (3) Domestic or agricultural storage in a barn, shed, tool room, or similar accessory building or other structure;
- (4) A newsstand primarily for the use of the occupants of a building, when the newsstand is located on the same premises with the building;
- (5) Storage of merchandise normally carried in stock and which is directly used in connection with a business use on the premises, unless such accessory storage is specifically prohibited as set forth in the regulations of the zoning lot on which the principal use is located;
- (6) Storage of goods and materials used in the manufacture of a product made on the same premises, unless such storage is specifically prohibited as set forth in the regulations of the zoning lot on which the principal use is located;
- (7) Accessory off-street parking spaces, open or enclosed, on the same premises as the use it is intended to serve, except as otherwise permitted in the P-1 Vehicle Parking District as set forth in this Code;
- (8) Uses clearly incidental to a main use such as but not limited to offices of an industrial or commercial use located on the same premises with the principal use;
- (9) Accessory off-street loading, and unloading on the same premises as the principal use; and
- (10) Accessory signs located on the same premises as the principal use.

Acre, net means gross land acreage devoted to a use, exclusive of land in streets, alleys, parks, playgrounds, school yards, or other public lands and open spaces such as environmentally restricted land.

Adolescent means a male or female human being less than 18 years of age.

Adult means a male or female human being 18 years of age or older.

Adult-oriented use includes the following uses as herein defined:

Adult arcade means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

Adult bookstore or adult video store means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes or video reproductions, slides, or other audio visual representations which depict or describe specified sexual activities or specified anatomical areas; and
- (2) Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult bookstore or adult video store. Such other business purposes will not serve to exempt such commercial establishment from being categorized as an adult bookstore or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas.

Adult cabaret means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- (1) Persons who appear in a state of nudity;
- (2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; and
- (3) Films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult motel means a hotel, motel or similar commercial establishment which:

- (1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;
- (2) Offers a sleeping room for rent for a period of time that is less than ten hours; and
- (3) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten hours. *Adult motion picture theater* means a commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult theater means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

Escort means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort agency means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

Establishment means and includes any of the following:

- (1) The opening or commencement of any sexually-oriented business as a new business.
- (2) The conversion of an existing business, whether or not a sexually-oriented business, to any sexually-oriented business.
- (3) The additions of any sexually-oriented business to any other existing sexually-oriented business.
- (4) The relocation of any sexually-oriented business.

Nude model studio means any place where a person who appears in a state of nudity or displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

Nudity or a *state of nudity* means the appearance of a human bare buttocks, anus, male genitals, female genitals, or full female breast.

Permittee and/or *licensee* means a person in whose name a permit and/or license to operate a sexually-oriented business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.

Person means an individual, proprietorship, partnership, corporation, association, or other legal entity.

Seminude means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

Sexual encounter center means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

- (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; and
- (2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or seminude.

Sexually-oriented business means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center. Sexually-oriented businesses are classified as follows:

- (1) Adult arcades;
- (2) Adult bookstores or adult video stores;
- (3) Adult cabarets;
- (4) Adult motels;
- (5) Adult motion picture theaters;
- (6) Adult theaters;
- (7) Escort agencies;
- (8) Nude model studios;
- (9) Sexual encounter centers.

Specified anatomical areas mean the male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.

Specified sexual activities means and includes any of the following:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy.
- (3) Masturbation, actual or simulated.
- (4) Excretory functions as part of or in connection with any of the activities set forth in subsections (1) through (3) of this definition.

Substantial enlargement of a sexually-oriented business means the increase in floor areas occupied by the business by more than 25 percent, as the floor areas exist on the date of enactment.

Transfer of ownership or control of a sexually-oriented business means and includes any of the following:

- (1) The sale, lease, or sublease of the business.
- (2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means.
- (3) The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

Alley means any dedicated public way, typically along the rear property line, affording a secondary means of access to abutting property.

Alteration means a change, addition, or modification in construction (or deconstruction) or type of occupancy, any change in the structural members of a building, such as walls or partitions, columns, beams or girders, the act of which may be referred to herein by the term "altered" or "reconstructed."

Apartment means a room or suite of rooms used as a dwelling for one family which has cooking facilities and sanitary facilities located therein which is leased or rented.

Apartment building means a building or a portion thereof, designed exclusively for occupancy by two or more families living independently of each other in apartment units.

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

Efficiency apartment means a dwelling unit generally containing not less than 450 square feet of floor area, and consisting of not more than one room in addition to the kitchen, dining and necessary sanitary facilities.

One-bedroom unit means a dwelling unit containing a minimum floor area of at least 500 square feet per unit, consisting of not more than two rooms in addition to kitchen, dining, and necessary sanitary facilities.

Three or more bedroom unit means a dwelling unit wherein for each room in addition to the three rooms permitted in a two-bedroom unit, there shall be provided an additional area of 200 square feet to the minimum floor area of 700 square feet.

Two-bedroom unit means a dwelling unit containing a minimum floor area of at least 600 square feet per unit, consisting of not more than three rooms in addition to kitchen, dining, and necessary sanitary facilities.

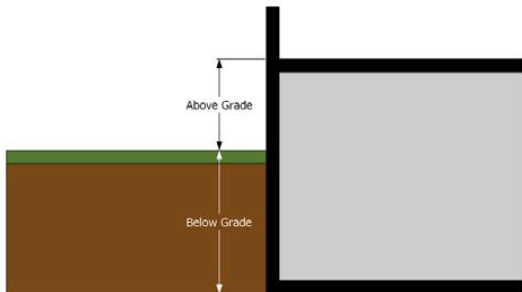
Arcade means any establishment or place of business containing four or more mechanical amusement devices.

Arcade, adult. See *Adult oriented use*.

Automobile repair garage. See *Motor vehicle repair*.

Automobile service center means a building or premises used primarily for the sale and installation of major automobile accessories, such as tires, batteries, radios, air conditioners and mufflers, plus such services as brake adjustment, wheel alignment and balancing; but excluding any major mechanical repairs, collision work, undercoating or painting.

Basement means that portion of a building between the floor and ceiling which is at least partly below ground level, provided that the vertical distance from grade to the floor below is more than a vertical distance from grade to ceiling. A basement shall not be considered as a story.



Block means the property abutting one side of a street and lying between the two nearest such perpendicular side streets or railroad right-of-way, or any other barrier to the continuity of development, or corporate boundary lines of the city.

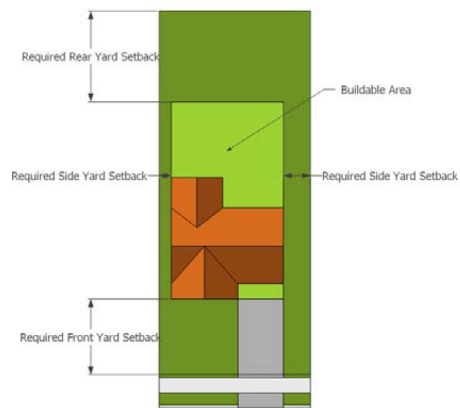
Brick. See *Face brick*.

Building means:

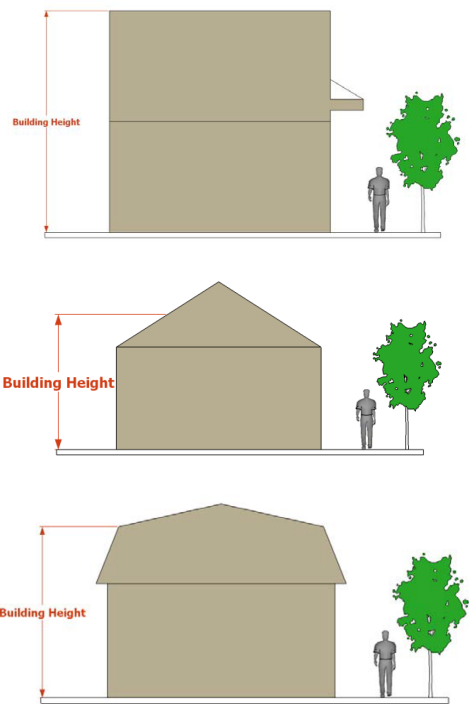
- (1) The term "building" means any structure which:
 - a. Is permanently affixed to the land; or
 - b. Has one or more floors and/or a roof.

Building, accessory. See *Accessory building*.

Building area means the space remaining on a property for building purposes after compliance with minimum building setback requirements.



Building height means, for a principal building or structure, the vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip, and gambrel roofs. For detached accessory buildings, the vertical distance measured from the established grade to the highest point of the roof surface for flat roofs and to the ridge line for mansard, gable. For a building located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall.



Building line means a line formed by the face of the buildings, typically, the minimum building line is the same as a front setback line.



Building, main or principal means a building in which the principal use is conducted.

Building, one-family. See Dwelling, single-family.

Building, multiple-family means a building or a portion thereof, designed exclusively for occupancy by two or more families living independently of each other.

Building, two-family. See Dwelling, two-family.

Cemetery means land dedicated solely for burial of the human dead.

Cemetery, pet means land dedicated solely for burial of nonhuman dead.

Child. See Adolescent.

Child care means the provision of care and supervision for periods of less than 24 hours a day. For the purposes of this chapter, child care shall include the following:

Child care center means a facility, other than a private residence, receiving one or more preschool or school-age children for care for periods of less than 24 hours a day, where the parents or guardians are not immediately available to the child. Child care center includes a facility that 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, nursery school, parent cooperative preschool, play group, before-school or after-school program, or drop-in center. The term "child care center" does not include any of the following:

- (1) A Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are attending for not more than three hours per day for an indefinite period or for not more than eight hours per day for a period not to exceed four weeks during a 12-month period.
- (2) A facility operated by a religious organization where children are in the religious organization's care for not more than three hours while persons responsible for the children are attending religious services.
- (3) A program that is primarily supervised, school-age-child-focused training in a specific subject, including, but not limited to, dancing, drama, music, or religion. This exclusion applies only to the time a child is involved in supervised, school-age child-focused training.
- (4) A program that is primarily an incident of group athletic or social activities for school-age children sponsored by or under the supervision of an organized club or hobby group, including, but not limited to, youth clubs, scouting, and school-age recreational or supplementary education programs. This exclusion applies only to the time the school-age child is engaged in the group athletic or social activities and if the school-age child can come and go at will.

Family child care home means a private home in which one but fewer 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. The term "family child care home" includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year.

Group child care home means a private home in which more than six but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group child care home includes a home in which care is

given to an unrelated minor child for more than four weeks during a calendar year.

Church means a building(s) used principally for religious worship (not specific to a religion) and its ancillary activities, but the term "church" shall not include or mean an undertaker's chapel or funeral building.

City means the City of Eastpointe, Macomb County, Michigan.

Clinic means an establishment where human patients, who are not lodged overnight, are admitted for examination and treatment by a group of physicians, dentists or similar professions.

Club, lodge or fraternity means an organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, public service, patriotism, ideals or the like.

Commercial (center commercial) means a retail center which is generally characterized by more than one use in a group of buildings served by a common off-street parking area, and whose architecture is of uniform design and appearance.

Commercial (noncenter commercial) means a freestanding individual use in a single building of its own design and architecture that may or may not be in common with the buildings around it.

Commercial vehicle includes all motor vehicles used for the transportation of passengers for hire, or constructed or used for transportation of goods, wares or merchandise, and/or all motor vehicles designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

Condominium means a form of ownership, which, for the purposes of this chapter, is applied to the following terms as defined herein:

Common elements means the portions of the condominium project other than the condominium units which are intended to service the entire condominium development.

Condominium Act means Public Act No. 59 of 1978 (MCL 559.101 et seq.).

Condominium bylaws means the required set of bylaws establishing the rules of conduct for the condominium project and association which is attached to the master deed.

Condominium site plan means a scaled drawing of the site, including a survey of the property, the units, the limited and general common elements, utility layouts, floor plans and elevation sections, as appropriate, showing existing and proposed structures, improvements, roadways, parking, etc., as it is to be erected on the site.

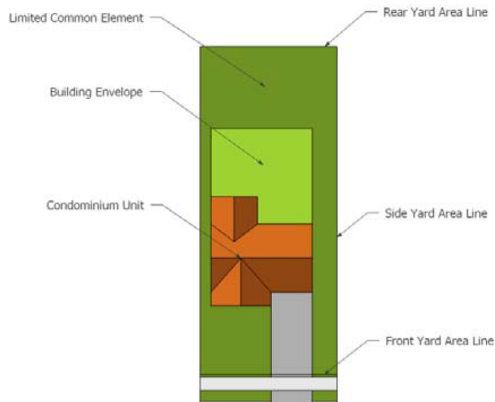
Condominium unit means that portion of the project designed and intended for separate, individual ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use.

Consolidating master deed means the final amended master deed for a contractible or expandable condominium project, or a condominium project containing convertible land or space which the final amended master deed fully describes the condominium project as completed.

Contractible condominium means a condominium project from which any portion of the submitted land or buildings (i.e., units) may be withdrawn pursuant to express provisions in the condominium documents and in accordance with this chapter and the condominium act.

Conversion condominium means a condominium project containing condominium units, some or all of which were occupied before the filing of a notice of taking reservations under section 71 of the Condominium Act (MCL 559.171).

Convertible area means a unit or a portion of the common elements of the condominium project referred to in the condominium documents within which additional condominium units or general or limited common elements may be created pursuant to express provision in the condominium documents and in accordance with this chapter and the condominium act.



Co-owner means a person, firm, corporation, partnership, association, trust, or other legal entity or any combination of those entities, who owns a condominium unit within the condominium project. Co-owner includes land contract vendees and land contract vendors, who are considered jointly and severally liable under this act and the condominium documents, except as the recorded condominium documents provide otherwise.

Expandable condominium means a condominium project to which additional land may be added pursuant to express provisions in the condominium documents and in accordance with this chapter and the condominium act.

Limited common elements means a portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.

Master deed means the condominium document recording the condominium project as approved by the city. The master deed shall also include exhibits that include the approved bylaws and condominium subdivision plan for the project.

Convalescent or nursing home means a home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders, wherein two or more persons are cared for. Said home shall conform and qualify for license under state law even though state law has different size regulations.

Density means the number of dwelling units developed on, an acre of land. As used in this chapter, all densities are stated in dwellings per net acre.

Development means the construction of a new building or structure on a lot, the relocation of an existing building, or the use of open land for a new use.

District means the various portions of the city within which certain zoning regulations and requirements or various combinations thereof apply under the provisions of this chapter.

Drive-in. See *Restaurant, drive-in.*

Drive-through means a business establishment designed and intended to provide a driveway approach and temporary motor vehicle standing space or stacking space where customers receive service while in their motor vehicles as either a primary or ancillary means of service.

Dwelling means a place or unit of residence. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Dwelling, manufactured means a dwelling unit which is substantially built, constructed, assembled, and finished off the premises upon which it is intended to be located and then brought to the site for final assembly.

Dwelling, single-family means a building designed exclusively for and occupied exclusively by one family.

Dwelling, site built means a dwelling unit which is substantially built, constructed, assembled, and finished on the premises which is its final location. Site built dwelling units shall include dwelling units constructed of precut materials, and panel walls, roof and floor sections when such sections require substantial assembly and finishing on the site.

Dwelling, two-family means a building designed exclusively for occupancy by two families living independently of each other (two-family dwellings shall also be considered multiple family dwellings).

Earth berm. See *Landscaping*.

Earth berm, obscuring. See *Landscaping*.

Easement or *corridor* means the area within which a public transmission line is located, either above or below ground. The term "corridor" shall apply when the designated area within which the transmission line is located is owned in fee interest by a utility company.

Entrance ramp means a roadway designed to permit traffic from an unlimited access surface street to gain access to a limited access highway or expressway.

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

Essential services means the erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface, or overhead gas, electrical, steam, fuel or water transmission or distribution systems, collections, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment in connection therewith, but not including buildings which are necessary for the furnishing of adequate service to the city of such utilities or municipal departments for the general health, safety or welfare. Essential services shall be permitted as authorized and regulated by law and the applicable standards of this chapter and other ordinances of the city.

Excavation means any breaking of ground, except common household gardening and ground care.

Exit ramp means a roadway designed to permit traffic from a limited access highway or expressway to gain access to an unlimited access surface street.

Face brick, nonresidential means material consisting of kiln baked clay or shale masonry units the exterior dimensions of which shall not be less than four inches deep by four inches high, by 12 inches long, the individual shape of which shall be rectangular in appearance.

Face brick, residential means material consisting of kiln baked clay or shale masonry units the exterior dimensions of which shall not exceed accepted industry standards for residential brick units, except no such unit shall be less than three and five-eighths inches deep, measured from the front face of the unit to the rear face of the unit.

Family means either of the following:

- (1) A domestic family, that is, one or more persons living together and related by the bonds of consanguinity, marriage, or adoption, together with servants of the principal occupants and not more than one additional unrelated person, with all of such individuals being domiciled together as a single, domestic, housekeeping unit in a dwelling.
- (2) The functional equivalent of the domestic family, that is, persons living together in a dwelling unit whose relationship is of a permanent and distinct character and is the functional equivalent of a domestic family, with a demonstrable and recognizable bond which constitutes the functional equivalent of the bonds which render the domestic family a cohesive unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, or group whose association is temporary or seasonal in character or nature. For the purposes of enforcement, it is presumed that a functional equivalent of a domestic family is limited to six or fewer persons.

Fast food restaurant. See *Restaurant (fast food)*.

Fence means a structure serving as an enclosure, a barrier, a confinement or a boundary, usually made of posts or stakes joined together by boards, wire, or rails. A fence is not a wall.

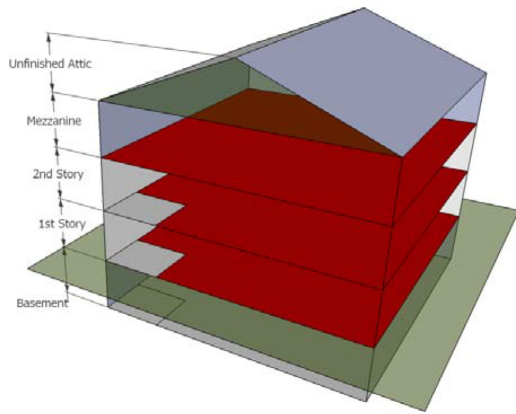
Privacy fence means a fence structure, or any part of a fence, over a height of four feet, consisting of materials constructed in such a manner to inhibit at least 70 percent of the light, ventilation and sight through the fence. Examples of privacy fences include but are not limited to stockade and shadow box.

Fence, obscuring means an opaque structure (having no or minimal openings) and a definite height and location designed to serve as a screen or obscuring device.

Filling means the depositing or dumping of any matter on or into the ground which modifies the grade, except deposits resulting from common household gardening and general farm care.

Floor area, gross means the area of a building measured to the exterior face of all exterior walls.

Floor area, useable, nonresidential means the sum of the horizontal area of the first story measured to the interior face of exterior walls; plus, similarly measured, that area of all other stories, including mezzanines, which may be made fit for occupancy, including the floor area of all accessory buildings measured similarly and the floor area of basements when used for activities related to the principal use, but excluding storage, furnace, and utility rooms or interior parking areas.



Floor area, useable, residential means the sum of the horizontal area of the first story measured to the interior face of exterior walls; plus, similarly measured, that area of all other stories having more than 84 inches of headroom which may be made useable for human habitation; but excluding the floor area of basements, attics, attached or unattached garages, breeze ways, unenclosed porches and accessory buildings. (See *Story* and *Story, half* and *Basement*.)

Foster care means the provision of 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. The term "foster care" shall include the following:

Adult foster care family home means a private residence with the approved capacity to receive six or fewer adults to be provided with foster care for five or more days a week and for two or more consecutive weeks. The adult foster care family home licensee shall be a member of the household, and an occupant of the residence.

Adult foster care large group home means an adult foster care facility with the approved capacity to receive at least 13 but not more than 20 adults to be provided with foster care.

Adult foster care small group home means an adult foster care facility with the approved capacity to receive 12 or fewer adults to be provided with foster care.

Foster family group home means a private home in which more than four but less than seven minor 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.

Foster family home means a private home in which 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.

Garage, commercial parking means a building or structure which is used by the public for the parking of motor vehicles.

Garage, private means a detached accessory building or integral portion of a main building designed or used solely for the storage of motor-driven vehicles, boats, and similar vehicles owned and used by the occupants of the building.

Garage, repair. See *Motor vehicle repair*.

Gasoline service station. See *Motor vehicle service station*.

Grade means the ground elevation established for the purpose of regulating the number of stories and the height of the building. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by computing the average elevation of the ground for each face of the building, and averaging the totals.

Greenbelt, aesthetic. See *Landscaping*.

Greenbelt, obscuring. See *Landscaping*.

Home occupation means a gainful occupation, activity, hobby or profession that is carried on entirely within the walls of a residential dwelling and which is carried on by the inhabitants thereof, which use is incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof.

Hospital means a building, structure or institution in which sick or injured persons are given medical or surgical treatment and operating under license by the health department and the State of Michigan, and is used for primarily in-patient services, and including such related facilities as laboratories, out-patient departments, central service facilities, and staff offices.

Hotel means a building or part of a building, with a common entrance or entrances, in which the dwelling units or rooming units are used primarily for transient occupancy and within which one or more of the following services are offered; maid service, furnishing of linen, telephone secretarial or desk service and bell boy service. A hotel may also include a restaurant, cocktail lounge, banquet halls, ballrooms or meeting rooms.

Junk means any motor vehicles, machinery, appliances, products, merchandise with parts missing or scrap metals or other scrap materials that are damaged, deteriorated, or are in a condition which cannot be used for the purpose that the product was manufactured.

Junkyard includes automobile wrecking yards, any area where junk vehicles are stored, keeping or abandonment of junk, including scrap metal or other scrap materials, or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof except for the normal household refuse which is stored only between regular pickup and disposal of household refuse, provided the same is not left for a period of over 30 days in which case it shall be considered as junk. This definition does not pertain to uses conducted entirely within an enclosed building.

Kennel, commercial means any lot or premises on which three or more dogs, and/or cats, or other household pets, over six months of age are either permanently or temporarily boarded. The term "kennel" shall also include any lot or premises where household pets are bred or sold on a regular basis.

Landscaping means the art or science of placing live planting materials in specific or in specified areas with the intent of improving the appearance of an area, or for the purpose of creating a screen to obscure vision beyond the screen. The term "landscaping" shall also include the following terms:

Buffers for conflicting land use means a device or an area that is used for the purpose of protection and shielding the view of one use of land from another. A buffering device could include a wall, fence, earth berm or landscape planting screen, or an area containing sufficient natural tree cover to serve as a buffer.

Caliper means the diameter of a tree measured five feet above the root ball.

Earth berm, artistic means an aesthetically designed landscaping feature, which may also serve to create a landscaped mound for the purpose of temporarily detaining stormwater runoff.

Earth berm, obscuring means an earthen mound of definite height, length, location and appearance, which is designed and intended to serve as an obscuring device.

Greenbelt, aesthetic means an area in which live landscape planting materials are placed for aesthetic purposes and not for the purpose of screening.

Greenbelt, obscuring means a landscaped area of definite width, height and location containing live planting materials of definite spacing or grouping which is designed to serve as an obscuring device.

Interior landscaped areas includes all landscaped areas between the walls of a building and any off-street parking spaces, service drives or vehicle maneuvering lanes, or loading and unloading areas.

Obscure means to make not readily visible, to hide or screen from view.

Parking lot tree means a large deciduous tree placed within or adjacent to an off-street parking area.

Peripheral landscaped areas includes all landscaping that lies between any off-street parking spaces, service drives and vehicle maneuvering lanes, or loading and unloading area, and any peripheral property line, or where no parking, service drives and vehicle maneuvering lanes, or loading and unloading areas exist, any landscaped areas lying between any minimum required building setback line and a peripheral property line.

Shrubs, large means shrubs which will be four feet six inches in height or greater at maturity.

Shrubs, small means shrubs which will be less than four feet six inches in height at maturity.

Tree, large deciduous means a minimum of two and one-half inches in caliper measured five feet up to the tree from the ground.

Tree, small deciduous means a minimum of one and one-half inches in caliper measured five feet up the tree from the ground.

Vehicle use area includes all off-street parking lots, drive aisles, loading, unloading areas, service drives and landscaped islands.

Loading space. See *Off-street loading space*.

Local street means a street of limited continuity which is to be used to gain access to abutting residential properties.

Lot means 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.

Lot area means the total horizontal area within the lot lines of the lot, excluding any portion of abutting private streets.

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

Lot coverage means the part or percent of the lot occupied by buildings including accessory buildings.

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

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

Lot lines means the legal property lines bounding the lot as described in the legal description.

Front lot line means, the line separating such lot from such street right-of-way. In the case of a corner lot the front lot line shall be the narrower of the two frontage lines, except in the case where both street frontages are at equal dimension, the front shall be the one assigned a street address. In the case of a double frontage lot, the front lot line shall be that line separating said lot from that street which is designated as the front street by the owner, with city approval, or the city's zoning board of appeals shall designate the front lot line.

Rear lot line means, ordinarily, that lot line which is opposite and most distant from the front lot line of the lot. In the case of an irregular, triangular, or cone shaped lot, the property owner, with city approval, may designate the rear lot line, or the city's zoning board of appeals shall designate the rear lot line.

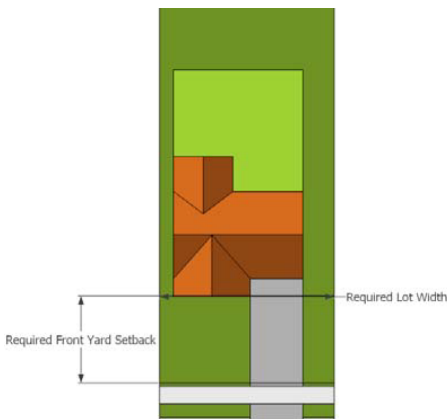
Side lot line means any lot line which is not a front lot line or a rear lot line. A side lot line separating a lot from a street is an exterior side lot line. A side lot line separating a lot from another lot is an interior side lot line.

Lot of record means a parcel of land, the legal description and dimensions of which are on file with the city or county and which actually exists as so shown.

Lot, through (double frontage) means an interior lot having frontage on two, more or less, parallel streets. In case of a row of double frontage lots, all sides of said lots adjacent to streets shall be considered frontage, and front yards shall be provided as required.

Lot width means the horizontal straight line distance between the side lot lines.

Lot width, required means the minimum required horizontal straight line distance between the side lot lines, measured between the two points where the minimum required front setback line intersects the side lot lines.



Main building (principal building) means a building in which is conducted the principal use of the lot upon which it is situated.

Main use means the principal use to which the premises are devoted and the principal purpose for which the premises exist.

Major thoroughfare means an arterial street which is intended to serve as a large volume traffic way for both the immediate area and the region beyond, and may be designated as a major thoroughfare, parkway, freeway, expressway, or equivalent terms in the city's master land use plan. Any street with a width, existing or proposed, of 120 feet or greater shall be considered a major thoroughfare.

Marquee means a structure of a permanent nature projecting out horizontally from the wall of a building, typically depicted a message or providing signage.

Master land use plan means a comprehensive plan including graphic and written policies indicating the general location for streets, parks, schools, public building and all physical development of the city and any amendment to such plan or parts thereof.

Mechanical amusement device means any machine or device, whether video, electronic, mechanical or a combination thereof, which, upon the insertion of a coin, trade, token, ticket, slug, plate, disc or key, or payment of a price, operates or may be operated as a game, entertainment or contest of skill or amusement of any kind or description which contains no automatic payoff device for the return of money, price or goods to the player and further includes any machine, apparatus, or contrivance which is used or may be used as a game of skill and amusement wherein or whereby the player initiates, employs or directs any force generated by the machine. This definition does not apply to or include:

- (1) A vending machine which does not incorporate gaming or amusement features;
- (2) Musical devices or coin-operated radios; or
- (3) Television sets in private quarters.

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

Mixed use means a single building or property containing more than one type of use, or a single development of more than one building and use, where different land use types are in close proximity, and which are planned with shared vehicle and pedestrian access and parking areas.

Mobile home means a structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. The term "mobile home" does not include a recreational vehicle.

Mobile home park means any plot of ground upon which two or more mobile homes, occupied for dwelling or sleeping purposes, are located.

Motel means a series of attached, semidetached or detached rental units containing a bedroom, bathroom and closet space. Units shall provide for overnight lodging and are offered to the public for compensation.

Motor vehicle repair (general) means the general mechanical repair, including overhaul and reconditioning of motor vehicle engines, transmissions and other mechanical repairs, but not including collision services such as body, frame or fender straightening and repair, painting or undercoating.

Motor vehicle repair (major) means the general mechanical repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision services such as body, frame or fender straightening and repair, painting or undercoating.

Motor vehicle service center means a use which is accessory to a designated retail commercial outlet located within a shopping center or which is within a building composed of the same construction material and of the same design as the shopping center, wherein automobile products such as motor oils, lubricants and various automobile mechanical parts that are retailed directly to the public by said retail commercial outlet are installed.

Motor vehicle service station (gasoline station) means a place where gasoline or other motor fuel and lubricants for operating motor vehicles are offered for sale at retail to the public including sale of accessories, lubricating and light motor service on the premises, but not including collision services such as body, frame or fender straightening or repair, painting or undercoating.

Noncenter commercial. See *Commercial, noncenter*.

Nonconforming building means a building or structure, or portion thereof lawfully existing at the effective date of the ordinance, or amendments thereto and that does not conform to the provisions of the district in which it is located.

Nonconforming use means a use which lawfully occupied a building or land at the effective date of the ordinance or amendments thereto, and that does not conform to the use regulations of the district in which it is located.

Nuisance factors means 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, particularly at night, passenger traffic, and invasion of non abutting street frontage by traffic.

Nursery means an area for the growing of plant materials, not offered for sale on the premises.

Nursery, commercial means a space, building or structure, or combination thereof, for the growing and storage of live trees, shrubs, or plants offered for sale on the premises, including products used for gardening or landscaping.

Nursery school. See *Day care*.

Nursing home. See *Convalescent care*.

Occupancy load means the number of individuals that are permitted to occupy a building or property as determined by the city.

Occupied means to dwell or reside in (either permanently or temporarily).

Off-street loading space means a facility or space specifically intended to permit the standing, loading or unloading of trucks and other vehicles outside of a public right-of-way.

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

Open air business uses means business sales and operations not conducted within a wholly enclosed building, and shall include the following uses:

- (1) Bicycle, trailer, mobile home, motor vehicle, farm implements, boats or home equipment sale or rental services.
- (2) Outdoor display and sale of garages, sheds, swimming pools, and similar uses.
- (3) Retail sale of fruit, vegetables, and perishable foods.

- (4) Retail sale of trees, shrubbery, plants, flowers, seed, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment and other home garden supplies and equipment.
- (5) Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving range, children's amusement park or similar recreation uses.

Open front store means a business establishment so developed that service to the patron may be extended beyond the walls of the structure, not requiring the patron to enter the structure. The term "open front store" shall not include automobile repair stations or automobile service stations.

Open space means an area of land that remains primarily undeveloped and in its natural state. The term "open space" may include park lands and park facilities so long as they are provided as a part of an open space area.

Open storage (motor vehicle) means the outdoor standing or placement of motor vehicles including truck trailers for more than 18 hours, including new or used motor vehicles on display for lease or sale.

Open storage (nonresidential) means the outdoor standing or placement of any material which is manmade, assembled, fabricated or treated in any manner and which may or may not be used directly in the processing or fabrication of a product manufactured on the premises.

Open storage (residential) means the outdoor placement or keeping of material which is owned and possessed by the resident occupying the dwelling unit on the premises or by the owner of the premises where open storage is to take place.

Out lot means a lot in a subdivision which is restricted from use for building purpose, whether or not deeded to the city, but which is not dedicated as a street or public reservation or public park.

Parking means the parking of a motor vehicle for short duration. The term "temporarily" or "shortly" for the purpose of this definition shall mean and be measured by hours, or at most, up to a maximum of 18 hours.

Parking lot. See *Off-street parking lot*.

Parking space means an area of definite length and width exclusive of drives, aisles or entrances giving access thereto, and shall be fully accessible for the parking of vehicles.

Pawnbroker:

Employee means any person over 18 years of age who renders any service in connection with the operation of a pawnbroker, secondhand dealer or junk dealer business and who receives compensation from the owner or operator of the business or patrons thereof.

Owner and *operator* mean a person who owns or controls a pawnbroker, secondhand dealer or junk dealer business. This includes individuals, licensees, managers, lessees, sponsors, partnerships, corporations, societies, organizations, associations or any combination of individuals of whatever form or character.

Patron means any person over 18 years of age who does business in any form with a pawnbroker, secondhand dealer or junk dealer business.

Pawnbroker means any person, corporation or member of a co-partnership or firm who loans money on deposit or pledge of personal property, or other valuable thing, other than securities or printed evidence of indebtedness, or who deals in the purchasing of personal property or other valuable things on condition of selling the same back again at a stipulated

price.

Secondhand dealer and junk dealer mean any person, corporation or member of a co-partnership or firm whose principal business is that of purchasing, storing, selling, exchanging and receiving secondhand personal property of any kind or description.

Planned commercial center. See *Commercial, center commercial*.

Planning commission means the city's planning commission.

Planned development means a proposed use of the land which requires the submission of a site plan for more than one building, structure or use to be approved, including spatial relationships and vehicular and pedestrian circulation.

Principal use. See *Main use*.

Property line means the boundary lines that define and identify the extent of a lot, parcel or property by ownership.

Public utility means a person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under governmental regulations to the public: gas, steam, electricity, sewage disposal, communication, telegraph, transportation or water.

Recreation land means any publicly owned or privately owned property that is utilized for recreation activities, including such active recreation as camping, swimming, picnicking, hiking, walking, nature study and various organized or unorganized sports, and inactive recreation such as reading, sitting and table games.

Recreation vehicles or equipment includes the following:

- (1) Boats and boat trailers including boats, floats, ski jets and rafts, plus the normal equipment to transport the same on the highway.
- (2) Folding tent trailer means a folding structure, mounted on wheels and designed for travel and vacation use.
- (3) Motorized home means a portable dwelling designed and constructed as an integral part of a self-propelled vehicle.
- (4) Pickup camper means a structure designed primarily to be mounted on a pickup or truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational, and vacation uses.
- (5) Snowmobile and all-terrain vehicle plus the normal equipment to transport the same on the highway.
- (6) Travel trailer means a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, permanently identified "travel trailer" by the manufacturer.
- (7) Utility trailer, for the purpose of this chapter, means any wheeled vehicle designed and intended to be towed behind another vehicle.

Recycling means the process by which waste products are reduced to raw materials and transformed into new and often different products.

Recycling center means a facility where previously used products or materials are transformed into new and often different products. For the purposes of this chapter, the term "recycling center" means other than a junkyard as defined.

Restaurant (drive-in) means a business establishment designed to provide a motor vehicle driveway approach, standing space, or parking space where patrons receive food and beverages while in motor vehicles for consumption in motor vehicles while on the premises.

Restaurant (fast food carry-out) means a business establishment wherein food is prepared or cooked on the premises to be sold in disposable containers or wrappers to patrons and which is not intended to be consumed on the premises or within a motor vehicle parked or standing on the premises.

Restaurant (fast food sit-down) means a business establishment in which a patron purchases food or beverages, which may have been previously prepared, and which is served in disposable containers or wrappers and which the patron consumes while seated in the restaurant.

Restaurant (sit-down) means a business establishment in which a patron purchases food or beverages, which is then prepared after the patrons order, on the premises and which is thereafter served to the patron and is consumed by the patron while seated in the restaurant.

Right-of-way means the right-of-way line shall be the line established by the Macomb County Department of Roads and the city in its right-of-way requirements established in the city's adopted master land use plan.

Roadside stands means a temporary or existing permanent building operated for the purpose of selling only produce raised or produced by the proprietor of the stand or his family on the premises, and its use shall not make into a commercial district land which would otherwise be an agricultural or residential district, nor shall its use be deemed an approved commercial activity.

Salvage yards means an open area where used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled including, but not limited to, scrap iron and other metals.

Screen. See *Landscaping*.

Secondary thoroughfare means a street of limited continuity designed and intended to collect and distribute traffic to and from local streets and to and from major thoroughfares.

Setback means the minimum horizontal distance between any side of the main building and any adjoining property boundaries, such as the front of the building, excluding only the steps, and the front lot line or street right-of-way line.

Signs:

Animated sign means a sign that uses lights, moving parts or other means to depict an object in motion or a sequence of motions.

Awning means a metal, wooden, fiberglass, canvas or other cover which extends over a porch, patio deck, balcony, window, door or open space.

Awning sign means a sign that is printed on, integrated into, or otherwise affixed to an awning.

Balloon means any floating air-filled or gas-filled object tethered to a fixed location.

Balloon sign means a sign in which one or more balloons are used as a permanent or temporary sign or as a means of directing attention to any business location.

Banner sign means a sign produced on cloth, paper, fabric or other similar material.

Billboard means an off-premise, non accessory sign advertising an item or product that is not produced or sold on the same premises where the sign is located.

Canopy means a roof-like structure providing shelter which is either freestanding or is projecting from a building and is supported by structural members.

Canopy sign means a sign that is printed, integrated into or otherwise affixed to a canopy-type structure.

Church or school sign means a freestanding sign as defined in this section and which may have changeable letters and which is located on property owned by churches or schools.

Display area means the area of a sign, measured in square feet, within which a message, logo or other means of conveying a message, thought or idea is presented or displayed.

Fabric awning means a canvas or other fabric cover which extends over a porch, patio, deck, balcony, window, door or open space.

Feather sign means a temporary type sign typically vertical in nature constructed of canvas or fabric, attached to a pole and placed onto or into the ground.

Festoon sign means a sign consisting of a wreath or garland of flowers, leaves, paper or other material hanging in a loop or curve.

Freestanding sign means a sign that is not attached in any way to a building on the property.

Gasoline price sign means any sign which is used to advertise the price of gasoline. If the brand identification sign is attached to or a part of the sign advertising price, that portion of the sign used for advertising price shall be considered the gasoline price sign.

Mansard roof means a four-sided roof having a double slope on all sides, with the lower slope much steeper than the upper.

Marquee sign means a sign that is permanently affixed to a structure, projecting outward from the building wall more than 18 inches but not more than five feet which creates a permanent overhang, typically over an entrance.

Monolith sign means a three-dimensional, self-supporting, base-mounted, freestanding sign, consisting of two or more sides extending up from the base, and upon which a message is posted. A monolith sign may also consist of a base-mounted cylindrical structure upon which a message is posted.

Municipal sign means a sign constructed or otherwise placed on property advertising or informing the general public of issues pertaining to the City of Eastpointe, locations of public properties or facilities, etc.

Mural means a work of decorative art applied on or attached to an exterior wall within public view that does not include graphics or text that can be interpreted as commercial advertising, except that a mural may contain bona fide historic recreations or restorations of vintage advertising of former businesses.

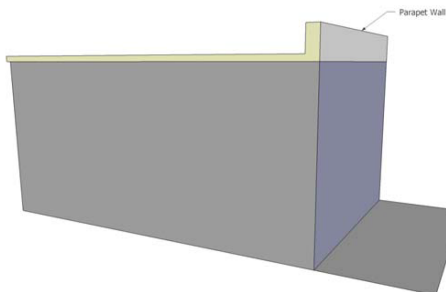
Neon sign means an illuminated sign constructed of fluorescent lights in the form of bent glass tubes; the different colors being obtained by adding different gases to the neon.

Nonconforming sign means a sign that is prohibited under the provisions of this article but was in use and lawful at the date of enactment of this article.

Obsolete sign means a sign that advertises a product that is no longer made or that advertises a business that has closed at that location.

Outline tubing sign means a sign consisting of glass tubing, filled with a gas such as neon, which glows when electric current is sent through it.

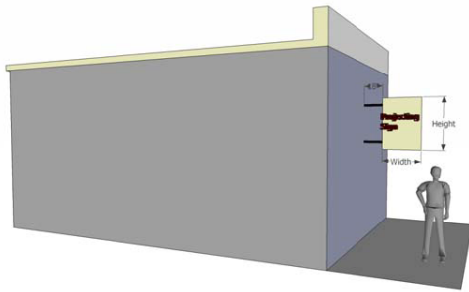
Parapet means a low protective wall or railing along the edge of a raised structure such as a roof or balcony.



Pennant sign means a sign or display consisting of long, narrow, usually triangular flags.

Portable sign means a sign that is not permanently affixed to a building face or to a pole, pylon or other support structure that is permanently anchored in the ground.

Projecting sign means a sign that is affixed to any building or structure and extends in whole or in part beyond the building wall, or structure by more than 18 inches.



Roof sign means a sign erected, constructed or maintained upon, and which projects above or beyond, a roof or parapet.

Rooming house means any building occupied as a home or family unit where certain room, in excess of those used by members of the immediate family, are leased or rented to one or more persons and occupied by four or more persons not members of the family.

Sandwich sign means a sign typically temporary in nature, consisting of two advertising boards laid back-to-back and at least partially supported by each other.

Sign generally means any use of words, numbers, figures, devices, designs, logos, trademarks, letters, characters, marks, points, planes, posters, pictorials, pictures, strokes, stripes, lines, reading matter, illuminating devices or paint visible to the general public and designed to inform or attract the attention of persons not on the premises on which the sign is located as determined by the building official or the planning commission, including the structure upon which the sign may be printed or affixed.

Sign display area means:

- (1) Unless otherwise noted, the display area of a sign shall include the total area within any triangle, square, or rectangle upon which a message is presented or displayed, including any symbol or logo and including any frame or other material forming an integral part of the display, or which is used to differentiate the display area from the background against which it is placed.

- (2) In the case of an oval or other geometric shape the display area will be the area contained within a square or a rectangle the edges of which touch the outer most edges of the circle, oval or other geometric shape.
- (3) In the case of letters or symbols attached directly to a wall in which there is no frame or other material to form an integral part of the display or used to differentiate such sign from the background against which it is placed, the display area envelope shall be measured from the front of the first letter to the end of the last letter in the word or message of words, logos, emblems, figures, pictures, etc.
- (4) For a single face sign, the area shall be computed as the total exposed exterior surface in square feet. For a double-faced freestanding sign, the display area shall be applicable to one face of the sign, provided that the outline and dimensions of the second face is identical in every way to the first and the faces are back so only one face of the sign is visible at any given location.

Signage means the total number and area of signs requiring a permit which are allowed on the property where the signs exist or are proposed for erection. Maximum signage shall be determined by adding together the maximum area in square feet of each sign which would be permitted on the property in question.

Spinner means a sign or display consisting of parts that spin.

Street furniture means a sign structure that by its design invites, entices, encourages or makes itself convenient or available to use by the general public for something more than mere visual attraction to its message.

Temporary sign means a sign that is intended to be erected for only a few days or weeks, including portable signs, trailer signs, banners, pennants or any other sign that is not permanently affixed to a building face or to a pole, pylon or other support that is permanently anchored on the ground. Temporary signs may include real estate signs, residential and nonresidential construction signs, temporary political signs, garage sale signs, real estate open house signs, etc.

Temporary event or temporary seasonal sign means a sign that is displayed on public property for either a public or private event, typically a festival, fundraiser, or gathering, to be held on public property.

Trailer sign means a sign that is mounted on a frame with wheels and that is capable of being pulled by a vehicle or by hand. For the purposes of this article, a trailer sign is considered to be a portable sign.

Wall sign means a sign that is attached affixed, painted or placed flat against, parallel to or upon any exterior wall or surface of any building or building structure provided that no part of any sign extends more than 18 inches from the face of the exterior wall and does not project above the roof or parapet line. For purposes of this article, a sign attached to the face of a mansard roof is considered to be a wall sign. Murals shall not be considered wall signage.

Window sign means any sign located in or on a window or inside a building and visible to the general public on the exterior, whether or not the sign is affixed to the window.

Site plan means a drawing showing all prominent features of a proposed development so that it may be evaluated in order to determine compliance with the applicable requirements of this Code.

Special land use means a use of land which requires compliance with certain development or location conditions as set forth for the use in the various zoning districts.

Storage. See *Open storage*.

Story means that part of a building, except a mezzanine, 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 space shall not be counted as a story when more than 50 percent, by cubic content, is below the height level of the adjoining ground.

Story, half means an uppermost story generally lying under a sloping roof having an area of at least 200 square feet with a clear height of seven feet six inches.

Street, public means a dedicated public right-of-way and accepted roadway, other than an alley, which affords the principal means of access to abutting property.

Structural alteration means any change in the supporting members of a building or structure, such as bearing walls or partitions, columns, beams or girders, stairways, or any change in the width or number of exits, any substantial change in the roof, or any addition or removal of exterior walls.

Structure means anything placed, constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

Swimming pool means any structure located above or below grade designed to hold water to a depth greater than 24 inches to be used for swimming.

Telecommunication towers.

Attached wireless communications facilities means wireless communication facilities that are affixed to existing structures, such as existing buildings, towers, water tanks, utility poles and the like. A wireless communication support structure proposed to be newly established is not included within this definition.

Colocation means the location by two or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, with the view toward reducing the overall number of structures required to support wireless communication antennas within the community.

Wireless communication facilities means and includes all structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, microwave relay towers, telephone transmission equipment buildings and commercial mobile radio service facilities. Not included within this definition are: citizen band radio facilities, shortwave facilities, ham, amateur radio facilities, satellite dishes, and governmental facilities, which are subject to state or federal law or regulations which preempt municipal regulatory authority.

Wireless communication support structures means structures erected or modified to support wireless communication antennas. Support structures within this definition include, but are not limited to, monopoles, lattice towers, light poles, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure.

Temporary use means a use of building or land permitted by the city to exist during periods of construction of the main building or use, or for special events.

Tourist home means any building in which there are less than ten rooms or rental units, other than such as may be occupied by the family of the owner or lessee, in which transients are lodged for hire.

Townhouse means a building occupied by three or more families, where each dwelling unit is divided from the one adjacent to it by a party wall extending the full height of the building. Each dwelling unit is capable of individual use and maintenance without trespassing upon adjoining properties and utilities and service facilities are independent for each property.

Transient means a person lodging for hire in any building for less than 30 days.

Transition means a zoning district, a landscaped area, arrangement of lots, wall or other means which may serve as a district or area of transition, i.e., a buffer zone between various land use districts and/or land use and thoroughfares.

Travel trailer park (overnight camping facility) means a place utilized for the temporary storage of travel trailers, for camping purposes, where there is no permanent storage of mobile homes for year round occupancy, and where commercial activity is limited to service the needs of the temporary occupants of the travel trailer park.

Use means the principal purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

Variance. See *Zoning variance*.

Vehicle dealer means a person, firm, corporation, etc., licensed by the state to sell cars, trucks, motorcycles, recreational vehicles, boats and related parts, supplies and services.

Veterinary clinic means a place for the care, diagnosis and treatment of sick or injured animals, and those in need of medical or surgical attention. A veterinary clinic may include customary pens or cages but not for the purpose of commercial boarding. A veterinary clinic may also be known as a veterinary hospital.

Video store means a commercial establishment whose principal function is the renting or sale of video materials such as dvd's, tapes and any other format capable of transmitting a picture, except those materials that would categorize the use as an adult video store as defined herein.

Wall, obscuring means a structure of definite height and location to serve as an opaque screen.

Wind energy system shall have the following meanings:

Large wind energy turbine means 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.

Medium wind energy turbine means 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 and does not exceed 250 kilowatts.

Monopole means towers that are constructed of open steel truss work or a single hollow tube of welded steel.

Shadow flicker means alternating changes in light intensity caused by the moving blade of a wind energy system casting shadows on the ground and stationary objects, such as a window at a dwelling.

Small wind energy turbine means 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 and it does not exceed 30 kilowatts.

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

Front yard means an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building.

Rear yard means an open space extending the full width of the lot the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building. In the case of a corner lot, the rear yard shall be opposite the assigned street frontage.

Side yard, interior means an open space between a main building and the interior side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the interior side lot line to the nearest point of the main building.

Zoning district. See *District*.

Zoning lot. See *Lot, zoning*.

Zoning map means the official map of the city, kept by the clerk, which visually depicts by area and identifies by name, various zoning districts throughout the city.

Zoning variance means a modification of the literal provisions of this chapter granted when strict enforcement of this chapter would cause practical difficulty owing to circumstances unique to the individual property on which the variance is granted.

(Ord. No. 1080, 4-16-2013)

Secs. 50-11—50-19. - Reserved.

ARTICLE III. - GENERAL STANDARDS

Sec. 50-20. - General standards.

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

- (1) Specific provisions shall control over general provisions.
- (2) In the case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control.
- (3) The word "shall" is always mandatory and the word "may" is permissive.
- (4) The words used in the present tense shall include the future; and words used in the singular shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- (5) A "building" or "structure" includes the whole or any part thereof and shall be used interchangeably.
- (6) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," "occupied for," or other similar phrases.
- (7) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
- (8) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either...or," the conjunction shall be interpreted as follows:
 - a. "And" indicates that all the connected items, conditions, provisions or events shall apply.
 - b. "Or" indicates that the connected items, conditions, provisions or events shall apply singly or in any combination.
 - c. "Either...or" indicates that the connected items, conditions, provisions or events shall apply singly, but not in combination.
- (9) Terms not herein defined shall have the meaning assigned to them in the Webster's Standard Dictionary.

(Ord. No. 1080, 4-16-2013)

Sec. 50-21. - Interpretation.

In its interpretation and application, the provisions of this chapter shall be held to be the minimum requirement, or in some instances, the maximum permitted limitation adopted for the promotion of the public health, morals, safety, comfort, convenience, or general welfare. This chapter is not intended to repeal, abrogate, annul or in any way impair or interfere with any existing provision of law or ordinance, or with any rule, regulation or permit previously adopted or issued, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises.

(Ord. No. 1080, 4-16-2013)

Sec. 50-22. - Vested rights.

Nothing in this chapter shall be interpreted or construed to give rise to any permanent vested right in the continuation of any particular use, use district or zoning classification, or any permissible activity therein, and such use, use district or zoning classification or activity is hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of the public health, safety and welfare unless otherwise permitted by law.

(Ord. No. 1080, 4-16-2013)

Sec. 50-23. - Changes and amendments.

- (a) *Initiation of amendment.* The city council may, after planning commission recommendation, or on its own initiation, or after petition or request has been made, amend, supplement, or change the zoning district boundaries or the regulations herein, pursuant to the authority and procedures set forth in Public Act 110 of 2006, as amended. Text amendments may be proposed by any governmental body or any interested person or organization. Changes in district boundaries may be proposed by any governmental body, any person having a freehold interest in the subject property, or by the designated agent of a person having a freehold interest in the property.
- (b) *Application for amendment.* A petition for a zoning ordinance text amendment, or an amendment to change the zoning classification of a particular property, shall be commenced by filing a petition with the planning commission on forms furnished by the building department. A fee in the amount set by resolution of the city council shall be paid to the director of finance at the time the petition is filed. All sums received under this section shall be placed in the general fund of the city to defray the expenses of administering this article. The petition shall explicitly describe the proposed amendment and shall be signed by the applicant. Petitions for rezoning of a specific site shall be accompanied by a plot plan or survey and shall contain the following information:
- (1) Applicant's name, address, and telephone number.
 - (2) Scale, northpointe, and dates of submission and revision.
 - (3) Zoning classification of petitioner's parcel and all abutting parcels.
 - (4) Existing lot lines, building lines, structures, parking areas, driveways, and other improvements on the site and within 100 feet of the site.
 - (5) Dimensions, centerlines, and right-of-way widths of all abutting streets and alleys.
 - (6) Location of existing drainage courses, floodplains, and natural features.
 - (7) All existing and proposed easements.
 - (8) Location of all existing and proposed utilities.
- (c) *Review procedures.* After the completed petition and all required supporting materials have been received and fees paid, the petition shall be reviewed in accordance with the following procedures:
- (1) *Planning commission review.*
 - i. The petition shall be placed on the agenda of the next regularly scheduled meeting of the planning commission. The planning commission shall review the petition for amendment in accordance with section 50-23(d) and hold a public hearing in accordance with Public Act No. 110 of 2006 (MCL 125.3101 et seq.), as

amended.

- ii. Notice of the public hearing shall be given in the manner set forth in Public Act 110 of 2006 (MCL 125.3101 et seq.), as amended. If an individual property or several adjacent properties are proposed for rezoning, the planning commission shall give notice of the proposed rezoning to the owner of the property in question at least 15 days before the hearing.

(2) *Action by the planning commission and city council.*

- i. Following the hearing on the proposed amendment, the planning commission shall make written findings of fact which it shall transmit together with the comments made at the public hearing and its recommendation to the city council.
- ii. The city council may, by majority vote of its membership, adopt the proposed amendment, deny the proposed amendment whereby no application for a map amendment which has been denied shall be reconsidered for one year unless the planning commission determines there have been changes in the facts, evidence, and/or conditions in the case, or the city council may refer the proposed amendment to the planning commission for further recommendations with the specified time period whereby the city council may then either adopt the amendment with or without the recommended revisions or reject same.

(d) *Review consideration.* The planning commission and the city council shall, at a minimum, consider the following before taking action on any proposed amendment:

- (1) Will the proposed amendment be in accordance with the basic intent and purpose of the zoning ordinance?
- (2) Have conditions changed since the zoning ordinance was adopted?
- (3) Will the proposed amendment further the comprehensive planning goals and policies of the city and is the proposed amendment consistent with the future land use map of the master plan? If conditions have changed since the master plan was last adopted, the proposal shall be consistent with recent development trends in the area and planning best practices.
- (4) Will the amendment correct an inequitable situation created by the zoning ordinance rather than merely grant special privileges?
- (5) Will the amendment result in unlawful exclusionary zoning?
- (6) Will the amendment set an inappropriate precedent resulting in the need to correct future planning mistakes?
- (7) If a rezoning is requested, is the proposed zoning consistent with the zoning classification of surrounding land?
- (8) If a rezoning is requested, could all requirements in the proposed zoning classification be complied with on the subject parcel?

(e) *Notice and record of amendment adoption.* Following adoption of an amendment by the city council, notice shall be published in a newspaper of general circulation in the city within 15 days after adoption in accordance with Public Act 110 of 2006 (MCL 125.3101 et seq.) as amended. The notice shall include either a summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment; the effective date of the amendment, and the time and place where a copy of the ordinance may be purchased or inspected. A record of all amendments shall be maintained by the city.

(Ord. No. 1080, 4-16-2013; Ord. No. 1154, 7-24-2018)

Sec. 50-24. - Submittal limitation.

A petition to change or modify a zoning ordinance district boundary or to change or modify any provision of this chapter that has been denied by city council, shall not be presented for consideration for one year from the date of denial unless it has been determined by the planning commission that new information or conditions exist which may impact the review of such request.

(Ord. No. 1080, 4-16-2013)

Sec. 50-25. - Conflict of laws.

Whenever this chapter imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by any other law or ordinance, the standards of this chapter shall govern. Whenever any other law, code or ordinance shall impose more stringent requirements than are imposed or required by this chapter, such other law, code or ordinance shall govern.

(Ord. No. 1080, 4-16-2013)

Sec. 50-26. - Uses not otherwise specified.

Other uses which have not been specifically mentioned may be processed under a special use permit if they possess unique or innovative operational or development characteristics. Any such use must be processed and reviewed in accordance with the procedures and requirements set forth in this article.

(Ord. No. 1080, 4-16-2013)

Sec. 50-27. - Conditional rezoning.

- (a) *Intent.* The planning commission and the city council have recognized that, in certain instances, it would be advantageous to both the city and property owners seeking rezoning if a plan, along with conditions and limitations that may be relied upon by the city, could be proposed as part of a petition for rezoning. Therefore, it is the intent of this section to provide an election to property owners in connection with the submission of petitions seeking the amendment of this ordinance for approval of a rezoning with conditions, per Public Act 110 of 2006 (MCL 125.3101 et seq.), as amended.
- (b) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning.

Rezoning conditions mean conditions proposed by the applicant and approved by the city as part of an approval under this section, including review and recommendation by the planning commission, which shall constitute regulations in connection with the development and use of property approved with a rezoning condition in conjunction with a rezoning. Such rezoning conditions shall not authorize uses or developments of greater intensity or density and which are not permitted in the district proposed by the rezoning (and shall not permit uses or development expressly or implicitly prohibited in the conditional rezoning agreement), and may include some or all of the following:

- (1) The location, size, height or other measure for and/or of buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture, and other features shown on the CR plan.
- (2) Specification of maximum density or intensity of development and/or use, expressed in terms fashioned for the particular development and/or use, for example, and without limitation, units per acre, maximum usable floor

area, hours of operation and the like.

- (3) Preservation of natural resources and/or features.
- (4) Facilities to address drainage/water quality.
- (5) Facilities to address traffic and parking issues.
- (6) Preservation of open space.
- (7) A written understanding for permanent maintenance of natural resources, features, and/or facilities to address drainage/water quality, traffic, open space and/or other features or improvements; and, provision for authorization and finance of maintenance by or on behalf of the city in the event the property owner(s) fail(s) to timely perform after notice.
- (8) Signage, lighting, landscaping, and/or building materials for the exterior of some or all structures.
- (9) Permissible uses of the property.
- (10) Preservation of historic structures or sites to preserve the history of the city.
- (11) Donation of land for open space, using a land conservancy or other means, to protect the open space for future generations.
- (12) Paving, making substantial improvements to, or funding of improvements to major roads where the entire community benefits.
- (13) Construction and/or donation of community buildings where the need has been identified and defined by the city.
- (14) Provide usable and contiguous open space amounting to at least 40 percent of the site, using the concept of clustering.
- (15) Added landscaping, above and beyond what is required by ordinance.
- (16) Reclamation and re-use of land, where previous use of land causes severe development difficulties, or has caused blight.
- (17) Installation of streetscape on an arterial road, beyond what is required by ordinance, and where compatible with city guidelines concerning trees, streetlights, and landscaping.
- (18) Drain and drainage improvements, beyond what is required by ordinance, using best management practices.
- (19) Providing monuments or other landmarks to identify city boundaries.
- (20) Such other conditions as deemed important to the development by the applicant.

Conditional rezoning (CR) agreement means a written agreement approved and executed by the city and property owner, incorporating a CR plan, and setting forth rezoning conditions, conditions imposed pursuant to Public Act 110 of 2006 (MCL 125.3101 et seq.), as amended, and any other terms mutually agreed upon by the parties relative to land for which the city has approved a rezoning with rezoning conditions. Terms of the CR agreement shall include an agreement and understanding of the following:

- (1) That the rezoning with rezoning conditions was proposed by the applicant to induce the city to grant the rezoning;
- (2) That the city relied upon such proposal and would not have granted the rezoning but for the terms spelled out in the CR agreement;
- (3) That the conditions and CR agreement are authorized by all applicable state and federal laws and constitutions;
- (4) That the CR agreement is valid and was entered into on a voluntary basis, and represents a permissible exercise

of authority by the city;

- (5) That the property in question shall not be developed or used in a manner inconsistent with the CR plan and CR agreement;
- (6) That the approval and CR agreement shall be binding upon and inure to the benefit of the property owner and the city, along with their respective heirs, successors, assigns, and transferees;
- (7) That, if a rezoning with rezoning conditions becomes void in the manner provided in this section, no development shall be undertaken or permits for development issued until a new zoning district classification of the property has been established; and
- (8) That each of the requirements and conditions in the CR agreement represent a necessary and reasonable measure which, when considered with all other conditions and requirements, are roughly proportional to the increased impact created by the use represented in the approved rezoning with rezoning conditions, taking into consideration the changed zoning district classification and the specific use authorization granted.

Conditional rezoning (CR) plan means a plan of the property which is the subject of a rezoning with rezoning conditions, prepared by a licensed civil engineer or architect, that may show the location, size, height, design, architecture or other measure or feature for and/or buildings, structures, improvements and features on, and in some cases adjacent to, the property. The details to be offered for inclusion within the CR plan shall be determined by the applicant, subject to approval of the city council after recommendation by the planning commission.

(c) *Authorization and eligibility.*

- (1) *Application.* A property owner shall have the option of making an election under this section in conjunction with a submission of a petition seeking a rezoning. Such election may be made at the time of the application for rezoning is filed, or at a subsequent point in the process of review of the proposed rezoning. The election shall be made by filing an application conforming with this section for approval of a conditional rezoning that would establish site-specific use authorization if the petition for rezoning is granted. Such election shall be to seek a rezoning with rezoning conditions pursuant to Public Act 110 of 2006 (MCL 125.3101 et seq.), as amended, which would represent a legislative amendment of the zoning ordinance.
- (2) *Site specific regulations.* In order to be eligible for the proposal and review of a rezoning with rezoning conditions, a property owner must propose a rezoning of property to a new zoning district classification, and must, as part of such proposal, voluntarily offer certain site-specific regulations (to be set forth on a CR plan and in a CR agreement to be prepared) which are, in material respects, equally or more strict or limiting than the regulations that would apply to the land under the proposed new zoning district, as contained in 1 through 20 section 50-27(b) above.

(d) *Required application information.*

- (1) *A CR plan, as defined in section 50-27(b) above.* The CR plan shall not replace the requirement for site plan review and approval, special land use approval, or subdivision or condominium approval, as the case may be.
- (2) *Statement of rezoning conditions, as defined in section 50-27(b) above.* Rezoning conditions shall not authorize uses or development not permitted in the district proposed by the rezoning (and shall not permit uses or development expressly or implicitly prohibited in the CR agreement).
- (3) *A CR agreement, as defined in section 50-27(b) above.* The CR agreement shall be prepared by the applicant (or designee) and approved by the city attorney. The CR agreement shall incorporate the CR plan and set forth the

rezoning conditions, together with any other terms mutually agreed upon by the parties (including the minimum provisions specified in the definition of the CR agreement, above).

- (e) *Review and approval criteria.* The applicant shall have the burden of demonstrating that the following requirements and standards are met by the CR plan, rezoning conditions, and the CR agreement:
- (1) *Enhancement of the project area.* Approval of the application shall accomplish, among other things, and as determined in the discretion of the city council, the integration of the proposed land development project with the characteristics of the project area and result in an enhancement of the project area as compared to the requested zoning change, and such enhancement would be unlikely to be achieved or would not be assured in the absence of the use of a conditional rezoning.
 - (2) *In the public interest.* Sufficient conditions shall be included on and in the CR plan and CR agreement on the basis of which the city council concludes, in its discretion, that, as compared to the existing zoning and considering the site specific land use proposed by the applicant, it would be in the public interest to grant the rezoning with rezoning conditions; provided, in determining whether approval of a proposed application would be in the public interest, the benefits which would reasonably be expected to accrue from the proposal shall be balanced against, and be found to clearly outweigh the reasonably foreseeable detriments thereof, taking into consideration reasonably accepted planning, engineering, environmental and other principles, as presented to the city council, following recommendation by the planning commission, and also taking into consideration the special knowledge and understanding of the city by the city council and the planning commission.
- (f) *Review process.*
- (1) *Pre-application meeting.* Prior to the time of making application for a conditional rezoning, the applicant shall schedule a pre-application submission meeting with the city manager, the city planner, the city engineer, the city attorney, or their designees, for a preliminary review of the application for conditional rezoning and so that the applicant has a thorough understanding of the process. The applicant shall pay the city's costs and expenses incurred for this meeting.
 - (2) *Offer of conditions.* At the time of making application for amendment of this ordinance seeking a rezoning of property, or at least a later time during the process of city consideration of such rezoning, a property owner may submit an application for approval of a conditional rezoning to apply in conjunction with the rezoning.
 - (3) *Application.* The application, which may be amended during the process, shall include a CR plan proposed by the applicant and shall specify the rezoning conditions proposed by the applicant, recognizing that rezoning conditions shall not authorize uses or development not permitted in the district proposed by the rezoning.
 - (4) *Notice of public hearing.* The proposed rezoning together with rezoning conditions shall be noticed for public hearing before the planning commission as a proposed legislative amendment to the zoning ordinance in accordance with section 50-23.
 - (5) *Planning commission recommendation.* Following the public hearing and further deliberations as deemed appropriate by the planning commission, the planning commission shall make a recommendation to the city council on the proposed rezoning with rezoning conditions.
 - (6) *City council action.* Upon receipt of the recommendation of the planning commission, the city council shall commence deliberations on the proposed rezoning with rezoning conditions. If the city council determines that it may approve the rezoning with rezoning conditions, the city council shall specify tentative conditions and direct

the city attorney to work with the applicant in the finalization of the proposed CR agreement.

- (g) *Zoning map designation.* If approved, the zoning district classification of the rezoned property shall consist of the district to which the property has been rezoned, accompanied by a reference to "CR conditional rezoning". The zoning map shall specify the new zoning district plus a reference to "CR" (for example, the district classification for the property might be B-3, general business with CR, conditional zoning, with a zoning map designation of B-3/CR) and use of the property so classified and approved shall be restricted to the permission granted in the CR agreement, and no other development or use shall be permitted.
- (h) *Use of property.*
- (1) *Generally.* The use of the property in question shall, subject to section 50-27(f)(2) below, be in total conformity with all regulations governing development and use within the zoning district to which the property has been rezoned, including, without limitation, permitted uses, lot sizes, setbacks, height limits, required facilities, buffers, open space areas, and land use density.
 - (2) *Development subject to conditional rezoning requirements.* Development and use of the property shall be subject to the more restrictive requirements shown or specified on the CR plan, and/or in the other conditions and provisions set forth in the CR agreement, required as part of the conditional rezoning approval, and such CR plan and conditions and CR agreement shall supersede all inconsistent regulations otherwise applicable under the zoning ordinance.
- (i) *Recordation of CR agreement.* A rezoning with rezoning conditions shall become effective following publication in the manner provided by law and after recordation of the CR agreement with the register of deeds, whichever is later.
- (j) *Amendment to CR agreement.* Amendment of a CR agreement shall be proposed, reviewed and approved in the same manner as a new rezoning with rezoning conditions.
- (k) *Expiration.* Unless extended by the city council for good cause, the rezoning with rezoning conditions shall expire following a period of two years from the effective date of the rezoning unless construction on the development of the property pursuant to the required permits issued commences within such two-year period and proceeds diligently and in good faith as required by ordinance to completion.
- (1) *Extension of approval.* In the event the development has not commenced, as defined above, within two years from the effective date of the rezoning, the conditional rezoning and the CR agreement shall be void and of no effect. The property owner may apply to the city council for a one-year extension one time. The request must be submitted to the city before the two-year time limit expires. The property owner must show good cause as to why the extension should be granted.
 - (2) *Violation of the CR agreement.* If development and/or actions are undertaken on or with respect to the property in violation of the CR agreement, such development and/or actions shall constitute a nuisance per se. In such cases, a stop work order may be issued relative to the property and any other lawful remedies sought. Until curative action is taken to bring the property into compliance with the CR agreement, the city may withhold, or following notice, revoke permits and certificates, in addition to or in lieu of such other lawful action to achieve compliance.
 - (3) *City action upon expiration.* If the rezoning with rezoning conditions becomes void in the manner provided in above, then the city shall rezone the property to its former zoning classification in accordance with the zoning ordinance procedures. Additionally, the property owner may seek an alternative zoning designation. Until such a

time as a new zoning district classification of the property has become effective, no development shall be undertaken or permits for development issued.

(Ord. No. 1156, 7-24-2018)

Secs. 50-28, 50-29. - Reserved.

ARTICLE IV. - ADMINISTRATION AND ENFORCEMENT

Sec. 50-30. - Penalty, equitable remedies.

- (a) Whoever violates or fails to comply with any of the provisions of this chapter, or any permit, license or exception granted hereunder, or any lawful order of the building department, a building official, the zoning board of appeals or city council, issued pursuant to this chapter, shall be guilty of a misdemeanor.
- (b) The owner of any building, structure or premises or part thereof which is in violation of this chapter, who has assisted knowingly in the commission of such violation, shall be guilty of a separate offense and upon conviction thereof shall be liable to the fines and imprisonment herein provided.
- (c) A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.
- (d) The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

(Ord. No. 1080, 4-16-2013)

Sec. 50-31. - Enforcement.

This chapter shall be administered and enforced by a building official of the building department of the city or his or her designee, unless otherwise directed by city council. In the temporary absence of the building official or his or her designee, the city manager may designate a person to temporarily serve in this capacity.

(Ord. No. 1080, 4-16-2013)

Sec. 50-32. - Duties of the building official.

- (a) The building department may grant occupancy permits or zoning compliance permits for each new use upon recommendation of the building official.
- (b) May make inspections of building or premises necessary to carry out his or her duties in the enforcement of this chapter.
- (c) The building department shall record all nonconforming uses existing on the effective date of the ordinance.
- (d) Under no circumstances is the building department or building official permitted to make changes to this chapter in carrying out his or her duties.
- (e) The building official shall not refuse to issue a permit when conditions imposed by this chapter are complied with by the applicant, despite violations of contracts such as private covenants or private agreements which may occur upon the granting of such permit.

(Ord. No. 1080, 4-16-2013)

Sec. 50-33. - One- and two-family residential plot plans.

The building official, or his or her designee, shall require that all applications for permits for one- and two-family residential units be accompanied by plans and specifications, including the following plot plan information:

- (1) The actual shape, location and dimensions of the lot.
- (2) The shape, size and location of all buildings or other structures to be erected, altered or moved and of any building or other structure already on the lot.
- (3) The existing and intended use of the lot and of all such structures upon it.

(Ord. No. 1080, 4-16-2013)

Sec. 50-34. - Building permits, certificates of occupancy and zoning compliance permits.

- (a) No building permit shall be issued for the erection, alteration or use of any building or structure or part thereof or for the use of any land which is not in accordance with this chapter.
- (b) No vacant land and no existing use of land shall be changed to a different use group or type, unless a certificate of occupancy and/or zoning compliance permit is first obtained for the new or different use.
- (c) No building or structure, or part thereof, shall be changed to or occupied by a use of a different use group or type unless a certificate of occupancy and/or zoning compliance permit is first obtained for the new or different use.
- (d) No building or structure, or part thereof, shall be erected, altered, moved or repaired unless a building permit has first been issued. The terms "altered" and "repaired" include any changes in structural parts, stairways, type of construction, type, class or kind of occupancy, light or ventilation, means of egress and ingress or other changes affecting or regulated by the city, except for minor repairs or changes as determined by the building official.
- (e) A nonresidential building or tenant space shall not be occupied with a new use, whether the use is the same type of use that previously occupied the building or tenant space or a different use, until the building or tenant space has been inspected by the building official and fire marshal and a new occupancy permit has been granted.

(Ord. No. 1080, 4-16-2013)

Sec. 50-35. - Temporary uses.

Purpose. This section allows for the establishment of certain temporary uses of limited duration, provided that such uses do not negatively affect adjacent properties or municipal facilities, and provided that such uses are discontinued upon the expiration of a set time period. The construction or alteration of any permanent building or structure is not considered a temporary use.

- (a) The building official may permit uses and the occupancy of structures that are consistent with the uses otherwise permitted in a zoning district, but which are temporary and do not require the construction of any capital improvement of a structural nature. In no case shall a use not otherwise allowable in a zoning district be permitted on a temporary basis.
- (b) Temporary uses and the temporary occupancy of structures may be granted for periods of not more than 14

consecutive days nor more than 42 total days within a 12-month calendar year, except as follows:

- (1) *Real estate sales offices.* Sales offices are allowed on residential development sites in any zoning district until all lots or houses are sold. Use of the sales office to market sites outside of the project is prohibited.
 - (2) *Temporary parking of construction equipment during construction.* Temporary use of non-loading areas for the parking or storage of tractor trailers, office trailers, construction equipment and materials, or intermodal shipping containers, or for construction worker parking, during construction or renovation, is allowed in all zoning districts, subject to the standards of this section.
 - (3) Outdoor sales of seasonal goods, including flowers, pumpkins, Christmas trees and holiday baskets, may be allowed for the duration of the applicable season, but in no case to exceed 90 consecutive days; provided, however, that retail sales and display of fireworks from a temporary facility shall only be allowed as provided for in section 50-91 of this article.
- (c) Outdoor sales areas, except as otherwise provided in this chapter, are expressly prohibited. However, temporary outdoor sales may, be approved by the building official after obtaining a permit. No more than three temporary outdoor sales permits shall be issued for any given location within a single calendar year. In addition, one grand opening sale per business shall be permitted, provided the sale is conducted within 60 days from the day the use is first opened for business. The one-time grand opening sale shall be held for not more than 14 continuous days. Outdoor sales areas shall be subject to the following restrictions:
- (1) The items proposed to be sold outdoors are related to and displayed immediately adjacent to an existing licensed place of business.
 - (2) The proposed sales area must constitute an accessory use to the principal use of the premises or as provided by a charitable or nonprofit organization.
 - (3) A minimum width of five feet shall be maintained as a pedestrian way in front of any business conducting an outdoor sale. No person licensed under this section shall display any goods or merchandise in such a manner as to interfere with pedestrian or vehicular traffic safety, nor shall any display violate any fire or police regulation, or this Code.
- (d) The building official, in granting permits for temporary uses, including temporary outdoor sales, and for the temporary occupancy of structures shall do so under the following conditions:
- (1) *Licensed commercial uses.* Temporary, commercial uses conducted by persons or entities lawfully authorized to conduct the use in question, when contained within temporary structures, but not including temporary sales as provided for section 50-36, are allowed only for the time period specified in subsection (a) above.
 - (2) All such users shall obtain a business license from the city clerk's office.
 - (3) A mobile food truck requires a license from the county health department as well as a business license from the city clerk.
 - (4) *Required permits.* All temporary uses shall obtain any permits required by other municipal departments, such as the clerk's office, the health department, the building safety department, or the police department.
 - (5) The granting of the temporary use shall be granted in writing stipulating all conditions as to time, nature of activities permitted and arrangements for removing the use and associated structures at the termination of such temporary permit.
 - (6) All setbacks, land coverage ratios, off-street parking requirements, lighting regulations, and other requirements of

the City Code shall be considered so as to protect the public health, safety, peace, morals, comfort, convenience and general welfare of the inhabitants of the city.

(7) In classifying uses as not requiring capital improvement, the building official shall determine that they are either demountable structures related to the permitted use of the land, or structures which do not require foundations, heating systems or sanitary connections.

(8) The use shall be in harmony with the existing general character of the district.

(9) No temporary structure shall be used for residential purposes and temporary residential use of property is not allowed.

(e) A written application (on a form provided by the city) for a temporary use permit required by this section shall be signed by the applicant and the legal owner of the property and shall be filed with the building department. The application shall be submitted at least ten days before the first date of the proposed temporary use.

(f) A fee established by resolution of the city council shall be paid at the time the application is filed.

(g) Upon compliance with the requirements of this section, the form and any other ordinances of the city that may be applicable being demonstrated to the satisfaction of the building official, the building department shall issue to the applicant a temporary use permit.

(Ord. No. 1080, 4-16-2013; Ord. No. 1137, 4-4-2017)

Sec. 50-36. - Reserved.

Editor's note— Ord. No. 1137, adopted Apr. 4, 2017, repealed § 50-36, which pertained to temporary sales and derived from Ord. No. 1080, 4-16-2013.

Sec. 50-37. - Hearings.

Whenever any section of this chapter shall refer to this section, notice of a public hearing shall be given in accordance with the applicable notice requirements of Public Act No. 110 of 2006 (MCL 125.3101 et seq.), as amended, and set forth in this section.

(1) Not less than 15 days' notice of the time and place of the public hearing shall first be published in an official paper or a paper of general circulation in the city. Further, those properties within 300 feet of the property to be rezoned seeking special land use approval (as applicable) shall also be given not less than 15 days' notice of the time and place of such public hearing as required by law. Not less than 15 days' notice of the time and place of the public hearing shall first be given by mail to each public utility company and to each railroad company owning or operating any public utility or railroad within the district or zones affected that registers its name and mailing address with the city clerk for the purpose of receiving the notice. An affidavit of mailing shall be maintained.

(Ord. No. 1080, 4-16-2013)

Sec. 50-38. - Fees.

Fees for inspections, permits, certificates or copies thereof required or issued under this chapter shall be collected by the building department in advance of issuance. The amount of such fees shall be established by resolution of city council and shall cover the enforcement costs of this chapter.

In addition, prior to the issuance of a building permit, the applicant shall file with the building department a performance guarantee in the form of cash deposit or certified check. The amount of such guarantee shall be as set forth by the city council as adopted by resolution and shall cover all improvements not normally covered in the building permit, i.e., berms, walls, landscaping, lighting, surfacing of drives, parking service drives, traffic control devices within the jurisdiction of the city, reclamation, etc. The guarantee shall include a schedule of costs assigned to the different improvements and approved by the city council. Moneys may be released to the applicant in proportion to work completed on the different elements after inspection of work and the approval of the building department. No partial release of funds shall exceed 90 percent of the guarantee, i.e., at least ten percent shall be retained by the city until all work has been completed and subsequently inspected and approved by the building department.

(Ord. No. 1080, 4-16-2013)

Sec. 50-39. - Declaration of nuisance, abatement.

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

(Ord. No. 1080, 4-16-2013)

ARTICLE V. - SITE PLANS AND SPECIAL LAND USES

Sec. 50-40. - Generally.

- (a) In order to provide sufficient information to properly review developmental proposals in the city, certain basic drawings and data are required. The data required are set forth in this section and all such information shall be filed with the building department. Following submission of the required information and verification of its completeness, the building department shall review the site plan for compliance with this section and all other applicable requirements of this chapter and the city. The review and recommendations of applicable city departments shall be considered together with those of the city planner, the city engineer and applicable city personnel.
- (b) The site plan review requirements provide the essential tool necessary to promote compatible and functional layout of the site, both in terms of internal and external factors and compliance with the standards and requirements of this chapter. Efficient pedestrian and vehicular movements relative to the consideration of building groupings, the location of parking areas, service areas, access points and traffic flow within the site and adjacent development and thoroughfares are areas of concern.

(Ord. No. 1080, 4-16-2013)

Sec. 50-41. - Site plans required.

A site plan shall be submitted for approval of:

- (1) Any new use or development or construction that requires a building permit, except single-family or two-family residential construction;

- (2) Any change of use from a lower to a more intensive use which increases dwelling density, off-street parking or loading traffic generation;
- (3) Any use requiring special land use approval;
- (4) Any planned unit development;
- (5) The construction of masonry walls; and
- (6) Any other items which the building official determines planning commission review is necessary.

(Ord. No. 1080, 4-16-2013)

Sec. 50-42. - Compliance with chapter.

- (a) Every site plan submitted shall be in accordance with the requirements of this chapter. Required site plan information is specified on the site plan checklist form which is available from the building department. Site plans shall be forwarded to the planner, engineer and city department heads and checked for completeness and no plans will be processed unless they are complete and unless all fees are paid in accordance with the schedule of fees adopted by the city council.
- (b) The site plan shall not be placed on the planning commission agenda until such time the building official determines the site plan is in compliance with the requirements of this chapter and is ready for planning commission review and action.

(Ord. No. 1080, 4-16-2013)

Sec. 50-43. - Review.

- (a) In the process of reviewing the site plan, the following items shall be considered:
 - (1) Whether or not the proposed site plan is in accordance with all provisions and requirements of this chapter.
 - (2) The location and design of driveways providing vehicular ingress to and egress from the site, in relation to streets giving access to the site, and in relation to pedestrian traffic. Where one or more nonresidential driveways have been established prior to any redevelopment, one or more existing driveways may be permitted to remain subject to final site plan approval. The planning commission may reduce the number of driveways in existence to utilize access management practices. An approved permit, in compliance with the approved site plan, authorizing any curb cuts from the public agency having jurisdiction over any abutting public thoroughfare shall be furnished prior to the issuance of a building permit.
 - (3) The traffic circulation patterns within the site and the location and placement of buildings, parking areas and loading areas as they relate to:
 - a. Safety and convenience of both vehicular and pedestrian traffic on and adjacent to the site;
 - b. Satisfactory and harmonious relationships between the development on the site and the existing and prospective development of contiguous land and in adjacent neighborhoods; and
 - c. Necessary accessibility by emergency vehicles, etc.
 - (4) The minimizing of adverse effects on desirable environmental and physical characteristics of the site, as balanced against the reasonable development of the site.
 - (5) Whether or not landscaping, fences, walls and berms are in conformity with necessary screening requirements.

- (6) Whether or not the proposed site plan is in accord with the spirit and purpose of this chapter and not inconsistent with, contrary to, the objectives sought to be accomplished by this chapter and the principles of sound planning.
- (7) For the purpose of promoting and protecting the public health, safety, convenience and general welfare of the inhabitants and the land resources of the city, provision is made herein for the submission and review of a site plan.

(Ord. No. 1080, 4-16-2013)

Sec. 50-44. - Action after review.

Upon reviewing a site plan, one of the following actions shall be taken:

- (1) If the site plan meets all the requirements of this chapter and related development requirements and standards, the planning commission and/or city council shall approve such plan and shall record such approval on the site plan, filing one copy in the official site plan file and returning one copy to the applicant.
- (2) If the site plan does not meet the requirements of this chapter and related development requirements and standards, the planning commission and/or city council shall deny such plan and shall record the reasons for such denial. The applicant may subsequently refile a corrected site plan under the same procedures followed for the initial submission.
- (3) If minor corrections to the site plan are necessary, then such conditions shall be noted and conditional approval may be granted. One copy shall be retained in the official site plan file and one copy shall be returned to the applicant.

(Ord. No. 1080, 4-16-2013)

Sec. 50-45. - Modifying an approved site plan.

Any requests to modify or alter an approved site plan shall be submitted to the building department for processing. Minor modifications or alterations to a previously approved site plan may be approved by the building department provided the change does not:

- (1) Alter the basic design or layout of the approved site plan; or
- (2) Change or negate any condition that the planning commission may have placed on the site plan at the time of approval.
 - a. When considering whether an approved site plan may be reviewed and approved by the building department when modifications or alterations to the approved plan are proposed, the building department may consider the following conditions a minor modification or alteration to a previously approved site plan, when:
 1. A change in the size (footprint) of a building does not result in:
 - i. The need for additional off-street parking spaces;
 - ii. A diminishing of any building setback to a point less than the minimum applicable setback requirement of the district;
 - iii. A reduction in the area of the site devoted to landscaping to less than the minimum applicable requirements of this chapter;

2. A change in the exterior appearance of the building that does not involve more than five percent of the entire wall surface of the building and which will not introduce exterior building wall materials that are not permitted nor change the basic color of the exterior walls of the building;
 3. A change in the basic location of the principal building when the change does not adversely impact any other element of the site, including, but not necessarily limited to, the location, layout and number of off-street parking spaces, general site traffic and pedestrian circulation or the extent of site landscaping;
 4. Modifications to general site access including the redesign or inclusion of acceleration and/or deceleration lanes as directed by the political jurisdiction in control of the right-of-way, boulevard entrances, or the inclusion of pedestrian access ways, including bicycle paths;
 5. Modifications to the interior floor plan, provided the change does not result in the need for more off-street parking spaces, or a change in the location of any approved loading or unloading area, or drive-up service area;
 6. There is a change in the location, design and size of an exterior sign that had been approved by the planning commission, provided the sign complies with the requirement of this chapter, pertaining to signs, as amended, but which does not increase the size or appearance of the approved sign;
 7. There is any internal change to the location, layout, or number of off-street parking spaces required on the approved site plan; and
 8. Modifications are requested by the city's public safety departments that will not adversely impact the minimum applicable requirements of this chapter.
- b. When the building department determines that a proposed modification or alteration to an approved site plan constitutes greater changes than those above outlined in this section, the building department shall notify the applicant of its decision and forward the site plan to the planning commission for review and consideration.
- c. The building official shall also:
1. Have the authority to consult with any other city department head, consultant or other appropriate agency regarding site plan issues.
 2. Provide a report to the planning commission each month regarding the issues which the building department heard.
- d. Any and all costs associated with the administrative review conducted by the building department shall be paid by the applicant prior to the issuance of a building permit.

(Ord. No. 1080, 4-16-2013)

Sec. 50-46. - Effective period.

The approval of a site plan shall be effective for a period of 12 months from the date of such approval unless otherwise specified in this chapter. If a building permit has not been obtained and construction commenced, the approval shall be null and void. Approval of a phase of an overall site plan does not constitute approval of the entire site plan. A one-year extension to the site plan approval may be granted by the planning commission/city council for good cause.

(Ord. No. 1080, 4-16-2013)

Sec. 50-47. - Notice of hearing.

Whenever a site plan requires planning commission review and approval prior to the issuance of a building permit, the planning commission shall provide notice to the residents within 300 feet of the site of the proposed project and shall take comments on the application up to and at the time the application is considered by the planning commission.

(Ord. No. 1080, 4-16-2013)

Sec. 50-48. - Intent.

Typically, various land use activities are provided for in one or more zoning districts. The criteria for such allocations are based upon similarities in the nature of the uses and their relationship to other uses and thoroughfares. Essentially, the zoning districts are established to coordinate with and provide for effectuation of the city's master land use plan in a logical and desirable manner. There are, however, various existing and specialized uses whose operational characteristics and influences require special consideration if they are to be effectively and reasonably permitted in the city. It is, therefore, the intent of this section to set forth the basic and specialized review process and requirements necessary to evaluate and control these uses within the city and further determine any other reasonable requirements which will provide for their development and operation without adversely affecting the public health, safety and welfare of the city as a whole.

(Ord. No. 1080, 4-16-2013)

Sec. 50-49. - Special land use permits; action by planning commission.

(a) Procedure for applying shall be as follows:

- (1) Applications for special use permits shall be filed with the building department on a form provided by the city.
- (2) Each application shall be accompanied by a fee in an amount as adopted by the city council.
- (3) The application shall also include such information as required by Article V Site Plans and Special Land Uses.
- (4) The completed application shall be signed by the fee holder of the affected property.

(b) As a part of completing a review and study of an application for a special land use approval, the planning commission shall hold a public hearing in accordance with section 50-37.

(c) Following the public hearing and deliberation of the standards below, the planning commission shall forward a copy of the application, the minutes of the public hearing and the commission's recommendation to the city council.

(d) The city council shall review and make the final determination on the application. Prior to approving any application for a special land use approval, the city council shall find adequate evidence that the proposed use:

- (1) Will be harmonious with and in accordance with the general objectives of the master land use plan;
- (2) Will be designed, constructed, operated and maintained in harmony with the existing and intended character of the general area and so that the use will not change the essential character of that area;
- (3) Will not be hazardous or disturbing to existing or future neighboring uses;
- (4) Will represent an improvement to property in the immediate vicinity and to the community as a whole;
- (5) Will be served adequately by essential public services and facilities, such as highways, streets, drainage structures, sewer and water infrastructure, police and fire protection and refuse disposal, or that persons or agencies

- responsible for the establishment of the proposed use shall be able to provide adequately for such services;
- (6) Will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community;
 - (7) Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any person or property or to the general welfare by reason of excessive smoke, fumes, glare, noise, vibration or odors; and
 - (8) Will be consistent with the intent and purposes of this chapter.
- (e) In order to ensure that the proposed special land use approval fulfills the requirements of this article, the following shall apply:
- (1) The planning commission may recommend and the city council may require such additional conditions and safeguards as deemed necessary for the protection of the health, safety, and general welfare and individual property rights as well as ensuring that the intent and objectives of this chapter are observed. The breach of any condition, safeguard or requirement and the failure to correct such breach within 30 days after an order to correct is issued by the city shall be reason for immediate revocation of the permit. Additional time for correction of the cited violation may be allowed by the city upon submission of proof of good and sufficient cause. Conditions and requirements stated as a part of special land use approval authorizations shall be continuing obligations of the holders of such permits and are binding upon their heirs and assigns and upon any persons taking title to the affected property while such special use permit is in effect. Accordingly, the special land use approval and any conditions shall be recorded with the Macomb County Register of Deeds.
 - (2) The discontinuance of a special land use approval for 12 months or more after a specified time may be grounds for the termination of the permit. Renewal of a special use permit may be granted after a new application, review and determination by the city council, after recommendation of the planning commission. The special land use approval may also require that a specified percentage of authorized construction be completed within a stated time as a condition of the issuance of the permit.
 - (3) No application for a special use permit which has been denied by the city council shall be resubmitted until the expiration of one year from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions sufficient to justify reconsideration by the planning commission. Each reapplication will be treated as a new application.

(Ord. No. 1080, 4-16-2013)

ARTICLE VI. - ZONING BOARD OF APPEALS

Sec. 50-50. - Establishment and membership.

- (a) The zoning board of appeals shall perform its duties and exercise its powers as provided in Public Act No. 110 of 2006 (MCL 125.3101 et seq.) as amended, and in such a way that the objectives of this chapter shall be observed, public safety secured, and substantial justice done. The board shall consist of seven members all appointed by the mayor with the consent of the city council. Appointments shall be for a period of three years.
- (b) One regular member may be a member of the city council, but shall not serve as chair of the zoning board of appeals.

An employee or contractor of the city may not serve as a member of the zoning board of appeals.

- (c) The mayor, with the consent of the city council, may appoint not more than two alternate members to the zoning board of appeals. An alternate member may be called as specified to serve as a member of the zoning board of appeals in the absence of a regular member, if the regular member will be unable to attend one or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which a regular member has abstained for reasons of conflict of interest. The alternate member appointed shall serve on the case until a final decision is made. The alternate member shall have the same voting rights as a regular member of the zoning board of appeals.
- (d) No member or alternate member of the zoning board of appeals shall serve as a member of the planning commission. Also, no member of the planning commission shall serve as a member or alternate member of the zoning board of appeals.

(Ord. No. 1080, 4-16-2013)

Sec. 50-51. - Meetings.

Meetings of the zoning board of appeals shall be held at the call of the chairperson and at such other times as the board may determine or specify in its rules of procedure. The chair, or in the absence of the chair, the acting chair of the zoning board of appeals may administer oaths and compel the attendance of witnesses. All hearings conducted by the zoning board of appeals shall be open to the public. The board shall adopt its own rules of procedure and keep a record of its proceedings showing the vote of each member upon each question or, if a member is absent or fails to vote, the record shall indicate the absence or state the reason for the member's failure to vote. After each meeting, the zoning board of appeals shall file a copy of the minutes in the office of the Eastpointe City Clerk, and that record shall become a public record. The concurrent vote of a majority of the total members of the board shall be necessary to render a decision.

(Ord. No. 1080, 4-16-2013)

Sec. 50-52. - Appeals.

- (a) An appeal may be taken to the zoning board of appeals by a person aggrieved or by an officer, department, or board of the city. In addition, a variance may be applied for and granted under section 4 of the Uniform Condemnation Procedures Act, Public Act No. 87 of 1980 (MCL 213.54) and as provided for in Public Act No. 110 of 2006 (MCL 125.3101 et seq.), as amended. The appellant shall file an application with the board, on forms furnished by the building department. An application for an appeal shall specify the grounds for the appeal.
- (b) Following receipt of a written request to appear before the zoning board of appeals, the board shall fix a reasonable time for the hearing at the request and give notice in the manner set forth in this chapter and Public Act No. 110 of 2006 (MCL 125.3101 et seq.), as amended.
- (c) At the hearing, a party may appear in person or may be represented by agent or attorney.
- (d) The building department shall forthwith transmit to the zoning board of appeals all the papers and other documents that constitute the record upon which the appeal was taken. The final decision of the zoning board of appeals on an appeal shall be in the form of a motion. The motion shall clearly state that the decision of the zoning board of appeals reversed, modified or affirmed, in whole or in part, the administrative appeal that was before the board.
- (e) The decision of the zoning board of appeals shall be final. A party aggrieved by the decision of the board may appeal

that decision to the county circuit court as provided in Sections 605 and 606 of the Zoning Enabling Act (PA 110 of 2006), as amended.

(Ord. No. 1080, 4-16-2013)

Sec. 50-53. - Stay of proceedings.

An appeal shall stay all proceedings in furtherance of the action unless the building department certifies to the zoning board of appeals, after notice of appeal is filed that a stay would, in the opinion of the department, cause imminent peril to life or property. In such a case, the proceedings shall not be stayed other than by a restraining order which may be granted by the circuit court.

(Ord. No. 1080, 4-16-2013)

Sec. 50-54. - Fees for appeals.

A fee in the amount set by resolution of the city council shall be paid to the director of finance at the time the notice of appeal is filed. All sums received under this section shall be placed in the general fund of the city to defray the expenses of administering this chapter.

(Ord. No. 1080, 4-16-2013)

Sec. 50-55. - Powers.

- (a) *Generally.* The zoning board of appeals shall not alter or change the zoning district classification of any property, nor grant a use variance that would allow a use to be established in a zoning district in which the use would not otherwise be permitted. However, the board may act on those matters where this chapter provides for an administrative review, interpretation, exception or special approval permit and may authorize a variance as defined in this section, and/or state law.
- (b) *Administrative review.* The board may hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decisions or refusal made by the building department, planning commission or any other administrative official or body in carrying out or enforcing this chapter, except as otherwise prohibited in this section.
- (c) *Variances.* Where, owing to special conditions, a literal enforcement of this chapter would involve practical difficulties with implementation of this chapter, the board may, upon appeal, authorize a variation or modification of this chapter and may impose conditions and safeguards it determines are necessary, so that the public health, safety and general welfare may be secured and substantial justice done. No such variance or modification of this chapter shall be granted unless it appears by competent, material and substantial evidence that all of the following facts and conditions exist:
 - (1) There are unique circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties or class of uses in the same district or zone.
 - (2) Such variance or modification is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same district or zone in which the property is located.
 - (3) The granting of such variance or modification will not be materially detrimental to the public health, safety and

general welfare or be materially injurious to the other property or improvements in such zone or district in which the property is located.

(4) The granting of such a variance will not adversely affect the purposes or objectives of this chapter or the city's master plan.

(d) *Determinations.* In consideration of all appeals and proposed variations from this chapter, the board shall first determine that the proposed variation will not impair an adequate supply of light and air to adjacent property, unreasonably increase the congestion in public streets, increase the danger of fire, endanger the public safety, unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or general welfare of the inhabitants of the city.

(e) *Limitations on authority.* Nothing herein contained shall be construed to give or grant to the board the power or authority to alter or change this chapter or the zoning map, such power and authority being reserved to the city council in the manner provided by law.

(Ord. No. 1080, 4-16-2013)

Sec. 50-56. - Notice of hearings.

The zoning board of appeals shall make no recommendation except after a public hearing has been conducted in accordance with section 50-37.

(Ord. No. 1080, 4-16-2013)

Sec. 50-57. - Effective period of orders.

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

(Ord. No. 1080, 4-16-2013)

Secs. 50-58—50-59. - Reserved.

ARTICLE VII. - ZONING DISTRICTS

Sec. 50-60. - Districts established.

For the purpose of this chapter, the city is hereby divided into the following zoning districts.

(1) Residential districts.

One- and Two-Family Residential Districts

a. R-1 One-Family Residential District;

b. R-2 Two-Family Residential District;

Multiple-Family Residential Districts

- c. RT Townhome Residential District;
- d. RM-1 Multiple-Family Residential District (low rise); and
- e. RM-2 Multiple-Family Residential District (mid rise).

(2) Nonresidential districts.

Office and Business Districts

- a. OS-1 Office Service District;
- b. B-1 Community Business District;
- c. B-2 Downtown District (allows for mixed use);
- d. B-3 General Business District;

Industrial Districts

- e. I-1 Light Industrial District; and
- f. P-1 Vehicle Parking District.

(3) Mixed use district.

- a. PD Planned Development District.
- b. Redevelopment Ready Sites.

(Ord. No. 1080, 4-16-2013)

Sec. 50-61. - Uses not otherwise specified.

Other uses which have not been specifically mentioned in any district may be processed as a permitted use or as a special use as determined by the building official and if they possess unique or innovative operational or development characteristics.

(Ord. No. 1080, 4-16-2013)

Sec. 50-62. - Zoning district requirements—Generally.

All buildings and uses permitted in any zoning district shall be subject to the applicable standards of this chapter.

(Ord. No. 1080, 4-16-2013)

Sec. 50-63. - Zoning district boundaries.

The boundaries of the zoning districts are hereby established as shown on the official zoning map of the city. The official zoning map and copies of the map are on file at the office of the city clerk as well as the city building department, with all notations, references, and other information shown thereon are incorporated by reference.

(Ord. No. 1080, 4-16-2013)

Sec. 50-64. - Zoning district boundaries interpreted.

Where uncertainty exists with respect to the boundaries of the various districts as shown on the zoning map, the following rules shall apply:

- (1)

Boundaries indicated as approximately following the centerline of streets, highways or alleys, shall be construed to follow such centerline.
- (2)

Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (3)

Boundaries indicated as approximately following city limit lines shall be construed as following city limit lines.
- (4)

Boundaries indicated as parallel to, or extensions of features indicated in subsections (1) through (3) of this section, shall be so construed.
- (5)

Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- (6)

Where physical or natural features existing on the ground are at variance with those shown on the official zoning map, in other circumstances not covered by subsections (1) through (4) of this section, or where a property owner or applicant disagrees with the interpretation of the zoning map, the zoning board of appeals shall interpret the district boundaries.
- (7)

Insofar as some or all of the various districts may be indicated on the official zoning map by lines which, for the sake of map clarity, may not fully divide public rights-of-way, it is intended that such district boundaries do extend to the center of any public right-of-way.
- (8)

In the event that the zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the city council may, by resolution, adopt a new zoning map. The new zoning map may correct drafting or other errors or omissions in the prior zoning map, but no such corrections shall have the effect of amending the original zoning map or any subsequent amendment.

(Ord. No. 1080, 4-16-2013)

Sec. 50-65. - Zoning of vacated areas.

Whenever any park, commons, outlet, or any street, alley or other public way, or portion thereof in the city shall be vacated, such park, commons, outlet, or any street, alley or other public way, or portion thereof, shall automatically be classified in the same zoning district as the property to which it attaches, unless otherwise recommended by the planning commission.

(Ord. No. 1080, 4-16-2013)

Secs. 50-66—50-69. - Reserved.

ARTICLE VIII. - ONE- AND TWO-FAMILY RESIDENTIAL DISTRICTS

Sec. 50-70. - R-1 One-Family Residential District.

- (a)

Intent. The R-1 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-family detached dwellings along with other residentially related facilities which serve the residents in such districts.

- (b)

Regulations (also see Schedule of Regulations).

Lot	In Feet
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Minimum lot size	6,000
Minimum lot width	50 feet
Maximum lot coverage	35 percent (The maximum lot coverage permitted for all buildings may be increased by one percent for every 100 square feet of lot area that the lot is less than 4,000 square feet. In no case shall the maximum amount of lot coverage for all buildings exceed 45 percent of the total area of the lot.)
Setbacks	
Front	25 (Where front yards of greater or less depth than above specified exist in front of dwellings on more than 50 percent of the lots of record on one side of a street in any block in such district, the minimum required front yard setback for any building thereafter erected or placed on any lot in such block shall be not less, but need not be greater than, the average depth of the front yards of existing buildings along said frontage in the block.)
Eight Mile, Gratiot and Kelly	102 feet from centerline
Nine and Ten Mile Roads	60 feet from centerline
Toepfer and Stephens Avenues	43 feet from centerline
Each side	Four, 13 (Total)
Rear	30
Parking setbacks	
Front	n/a

Each side	n/a
Rear	n/a
Building	
Height	30
Stories	Two
Minimum floor area	Minimum square footage/ground floor minimum square footage
One-story	880/880
One- and one-half story	880/800
Two-story	880/624

In the R-1 District, lots of 50 feet or greater in width shall have a minimum of 13 feet between single-family detached dwellings.

(c) *Principal uses permitted.* In the R-1 One-Family Residential Districts, no building or land shall be used and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this chapter:

- (1) One-family detached dwellings.
- (2) Family child care home, registered by the State Department of Human Services for the care and keeping of up to six minor children.
- (3) Foster family home, registered by the State Department of Human Services for the care and keeping of up to four minor children.
- (4) Adult foster care family home, registered by the State Department of Human Services for the care and keeping of up to six adults.
- (5) Foster family group home, registered by the State Department of Human Services for the care and keeping of more than four but less than seven minor children.
- (6) The private growing of vegetables, fruits, flowers, shrubs and trees, provided such use is not operated for commercial purposes. This shall not apply to bona fide farming operations.
- (7) Publicly owned and operated libraries, parks, parkways and recreational facilities.
- (8) Cemeteries which lawfully occupied land at the time of adoption of the ordinance.

- (9) Public and parochial or other private elementary schools offering courses in general education.
- (10) Home occupations, provided the following conditions are met:
 - a. They are conducted wholly and entirely within the principal dwelling. If the home occupation is to be conducted within a detached garage or accessory building, the use may be processed and reviewed as a special land use approval.
 - b. They are located either in the basement of the principal dwelling (subject to the building code), or when they are not located in the basement, they shall not occupy more than 25 percent of the floor area of the principal dwelling, excluding the basement.
 - c. They are conducted only by the inhabitants thereof as defined in this chapter, there being no other employees or assistants employed in connection with a home occupation.
 - d. No article shall be made or sold or offered for sale except such as may be produced or provided by the inhabitants.
 - e. There shall be no equipment or machinery used in connection with a home occupation which is industrial in nature, or which will have a negative impact on adjacent residential property.
 - f. They do not change the character of the residential appearance, or the orientation of the dwelling unit as a residential use.
 - g. They will not require internal or external alterations or construction other than that which may be required to meet local or state safety or construction code standards, as authorized by the city.
 - h. No home occupation shall be carried on to an extent that will require parking in excess of that required for a residential building by this chapter.
 - i. They have no signs, advertising devices or other manifestation located on the exterior of the dwelling structure or within any yard area which suggests or implies the existence of a home occupation.
 - j. The home occupation does not include clinics, hospitals, barber or beauty shops, tearooms, tourist homes, kennels, millinery shops or any other use similar to the above use, or which does not meet the above requirements. Further, such use shall not violate any state or federal law.
 - k. The home occupation complies with the licensing requirements of article II of chapter 12, pertaining to licensing, as amended, if required.
 - l. Home occupations shall be reviewed by the building department. The building department may forward the request to the planning commission for its review. When the building department or the planning commission has determined that the above conditions are met, the building department shall issue an occupancy permit with conditions enumerated thereon. Once established, no home occupation shall deviate from the above required conditions. No home occupation shall be continued when the same shall be found by the building department to be a nuisance or to be in violation of the above conditions due to noise, electrical interference, dust, smoke, odor, vibration, traffic congestion, reduction of parking, or reduction in the overall living environment of the dwelling or the surrounding area.
- (11) Accessory buildings and uses, customarily incidental to any of the above permitted uses referenced in subsection (c)(1) through (10) of this section and the requirements of section 50-160.
- (12) Keeping of chickens, provided the following conditions are met:
 - a. Any person residing in the R-1 one-family residential districts, in a single-family detached structure, desiring to

keep live chickens shall first obtain a license from the city and that person may keep not more than three hen chickens within the city for personal use only and not for any business or commercial use. Completed license applications shall be submitted to the building department along with the fee which shall be determined by city council resolution. Applications shall set forth the name and residence of the applicant, the purpose and number of hen chickens sought to be kept, and include any drawings or other information required by the building department. Applicants must be in compliance with all city codes and ordinances at the time of application. In addition, the keeping of hen chickens shall not be permitted unless consent, in writing, is obtained by the applicant from all adjoining property owners which consent shall be on a form provided by the building department. The building department shall conduct an inspection of the proposed chicken coop and shall issue a license where the application is in compliance with all requirements, regulations and ordinances of the city. Approved license holders shall also schedule an inspection by the animal control officer within 30 days of license issuance. Failure to schedule an inspection shall result in an automatic revocation of the license. If an inspection identifies noncompliance with any of the requirements set forth in subsection c of this section, the permit holder shall have 15 days to achieve compliance with the requirements or the building department may revoke the license or seek prosecution of the violation under section 50-30. Licenses shall be valid for up to two years, shall be non-transferable, site-specific and shall expire on December 31 of the second year of issuance. A person who wishes to continue keeping chickens shall obtain a new license prior to expiration of the previous license, provided the animal control officer makes an inspection and approves the request for a renewal. Application for a new license shall be pursuant to the procedures and requirements applicable at the time a person applies for a new license.

- b. Notwithstanding this section, private restrictions on the use of property shall remain enforceable. Private restrictions include but are not limited to deed restrictions, neighborhood association by-laws, and covenant deeds.
- c. A person residing in a R-1 one-family residential district, in a single-family detached structure, who keeps hen chickens shall comply with all of the following requirements:
 - 1. Keep no more than three hen chickens at any time unless an additional amount is otherwise provided for by the ordinances of the city.
 - 2. Roosters or male chickens and any other type of fowl or poultry are prohibited.
 - 3. Slaughtering of any chickens at the property is prohibited.
 - 4. Chickens shall be maintained in a fully enclosed structure or a fenced enclosure and shall be kept in the enclosed structure or fenced enclosure at all times. Fenced enclosures are subject to all fence provisions and restrictions in the City of Eastpointe Zoning Ordinance. An enclosed structure shall be constructed of permanent materials and shall be properly maintained in accordance with the property maintenance code adopted by the city in section 10-79, as amended.
 - 5. Chickens shall not be kept in any location on the property other than in the backyard. For purposes of this section, "backyard" means that portion of a lot enclosed by the property's rear lot line and the side lot lines to the points where the side lot lines intersect with an imaginary line established by the rear of the single-family structure and extending to the side lot lines.
 - 6. No enclosed structure shall be located within any side or rear yard setback area. An enclosed structure or fenced enclosure shall not be located closer than ten feet to any residential structure on adjacent

property.

7. All structures and enclosures for the keeping of chickens shall be constructed and maintained so as to prevent rats, mice, or other rodents or vermin from being harbored underneath or within the walls of the structure or enclosure.
8. All feed and other items associated with the keeping of chickens likely to attract rats, mice, or other rodents or vermin shall be secured and protected in sealed containers.
9. Chickens shall be kept in compliance with the Michigan Department of Agriculture Generally Accepted Agricultural and Management Practices for the Care of Farm Animals, as it relates to laying chickens, as amended, except as otherwise provided in this section.
10. Any contact of chickens pursuant to this section by children shall be under the supervision of an adult.
11. Any violation of any of these provisions may be prosecuted as provided in section 50-30.

(d) *Special land use approvals.* The following uses shall be permitted in the R-1 One-Family Residential District, subject to the conditions imposed for each use and subject further to the review and recommendation of approval of the planning commission to the city council as provided for in section 50-49:

- (1) Churches and other facilities normally incidental thereto subject to the following conditions:
 - a. Buildings of greater than the maximum height permitted in the R-1 Districts shall provide an additional setback from any property line one additional foot for every one foot the building or buildings that exceed the maximum building height limitations of the district.
 - b. All access to the site shall be to an existing or planned major thoroughfare, freeway service drive, or collector street (as defined in the city's master plan or county thoroughfare plan). The planning commission may approve alternative access configurations as outline in section 50-167.
- (2) Public, parochial and private intermediate or secondary schools offering courses in general education.
 - a. Access to the site shall be to an existing or planned major thoroughfare, freeway service drive, or collector street (as defined in the city's master land use plan or county thoroughfare plan). The planning commission may approve alternative access configurations as outline in section 50-167.
- (3) Utility and public service buildings and uses (without storage yards) when operating requirements necessitate the locating of such building within the district in order to serve the immediate vicinity.
 - a. Public buildings and uses shall not include any outdoor storage of materials and/or vehicles and shall be consistent in appearance and perspective with the residential development around it to the greatest extent possible as determined by the planning commission.
- (4) Private non-profit recreational areas and community centers such as sports fields, community pools, and fitness centers subject to the following conditions:
 - a. The proposed site for any of the uses permitted herein shall have at least one property line abutting a major thoroughfare as designated in the city's master land use plan or the county thoroughfare plan. The planning commission may permit such uses on property that does not abut a major thoroughfare upon finding the proposed use will be designed and operated in such a manner as to not adversely impact the surrounding neighborhood and roadways. The planning commission may also approve alternative access configurations as outline in section 50-167.
 - b. Front, side and rear yards shall be at least 80 feet wide, and shall be landscaped in trees, shrubs and grass.

The planning commission may reduce the required setbacks upon a finding that the reduction will not impact the surrounding properties and neighborhood and that appropriate screening and buffering has been provided.

- c. Whenever a swimming pool is constructed, the pool area shall be provided with a protective fence six feet in height and entry shall be provided by means of a controlled gate in addition to all applicable requirements of the Michigan Building Code.
 - d. Off-street parking shall be at a rate of one space for every 300 square feet of usable floor area, provided, however, that the planning commission may modify the off-street parking requirements in those instances wherein it is specifically determined that a significant percentage of users will originate from the immediately adjacent areas, and will therefore be pedestrian.
 - e. Community center shall mean and include non-profit entities that provide recreational, leisure, educational, child care, social, religious, and cultural services to the community, but shall not include entities engaged in substance abuse counseling or reentry services for formerly institutionalized persons. No community center may incorporate sleeping facilities or otherwise provide for residential occupancy.
- (5) Colleges, universities and other such institutions of higher learning, public and private, offering courses in general, technical or religious education, all subject to the following conditions:
- a. Any use permitted herein shall be on a site of such size and so located that the proposed use will be compatible with the adjacent development.
 - b. All access to such site shall be to an existing or planned major thoroughfare, freeway service drive, or collector street (as defined in the city's master plan or county thoroughfare plan). The planning commission may approve alternative access configurations as outline in section 50-167.
 - c. Provide a building setback of not less than 25 feet from any property line. The building shall set back one additional foot (beyond the initial 25-foot requirement) for each foot it exceeds 25 feet in height.
- (6) Private pools when they are accessory to a principal permitted use and are located within the rear yard only, and provided further, that they meet the following requirements:
- a. Private pools shall not require planning commission review and approval.
 - b. The outside edge of the pool shall be set back from any side or rear lot line a distance at least equal to the side yard setback as specified in section 50-150. In no instance shall this setback be less than ten feet from any side street or alley right-of-way.
 - c. There shall be a distance of not less than four feet between the outside pool wall and any building located on the same lot.
 - d. No swimming pool shall be located less than 35 feet from any front lot line.
 - e. No swimming pool shall be located in an easement.
 - f. All areas containing swimming pools shall be completely enclosed by a fence not less than four feet in height. The gates shall be a self-closing and latching type, with the latch on the inside of the gate not readily available for children to open. Gates shall be capable of being securely locked when the pool is not in use for extended periods. Fences of four to six feet in height may be permitted provided they meet the requirements of section 50-161 relating to fences. These requirements are in addition to all those applicable requirements of the Michigan Building Code.

- (7) Cemeteries provided that:
- a. Not more than 51 percent of the land in the residential unit in which the cemetery is to be located is in recorded plats; and
 - b. All access to such site shall be to an existing or planned major thoroughfare, freeway service drive, or collector street (as defined in the city's master plan or county thoroughfare plan). The planning commission may approve alternative access configurations as outline in section 50-167.
- (8) Adult foster care small group home, registered by the state consumer and industry services and approved to house not more than 12 foster care occupants.
- (9) Halfway homes, facilities for substance abuse treatment and the like.
- (10) Accessory buildings and uses customarily incidental to any of the permitted uses.
- (11) Wind energy systems.
- a. *Purpose and intent.* The purpose of this section is to provide a safe, effective and efficient use of wind energy turbines in order to reduce the consumption of fossil fuels in producing electricity; to preserve and protect public health, safety, welfare and quality of life by minimizing the potential adverse impacts of wind energy turbines; and to establish standards and procedures by which the siting, design, engineering, installation, operation and maintenance of wind energy turbines shall be governed.
 - b. *General regulations.* Small wind energy systems, medium wind energy systems and large wind energy systems shall be permitted in all zoning districts as a special use and subject to the following:
 1. Height and type.
 - i. Only monopole construction shall be permitted and said systems shall be attached to a monopole only.
 - ii. The total height of a wind energy system tower, including maximum extension of the top of the blade, shall not exceed the maximum height for structures permitted in the zoning district.
 2. Setbacks. A wind energy system tower shall be set back a distance equal to its total height from:
 - i. Any public road right-of-way, unless written permission is granted by the governmental entity having jurisdiction over the road;
 - ii. Any overhead utility lines, unless written permission is granted by the affected utility;
 - iii. All property lines;
 - iv. And the minimum setback requirements for the zoning district in which the system shall be located, except support cables, if provided, shall be anchored to the ground no closer than ten feet to any property line.
 3. Access.
 - i. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
 - ii. The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of eight feet above the ground.
 4. Speed controls. All systems shall be equipped with manual and automatic over speed controls.
 5. Electric lines. All electrical wires associated with a wind energy systems, except those necessary to connect

the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires, shall be located underground.

6. Signal interference. No wind energy system shall be located in any location where its proximity with existing fixed broadcast, retransmission, or reception antennas for radio, television or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception.
7. Noise.
 - i. Audible noise or the sound pressure level from the operation of the wind energy system shall not exceed a rating of 50 dBA, or the ambient sound pressure level plus five dBA, whichever is greater, for more than ten percent of any hour, measured at the property line of the subject property.
 - ii. Proof from the manufacturer that the system is capable of meeting these noise requirements shall be provided at the time a permit is requested.
8. Shadow flicker.
 - i. At the time a permit is requested, the applicant shall conduct a written analysis of potential shadow flicker regarding structures within 300 feet of the wind energy system.
 - ii. The analysis shall identify the location of shadow flicker that may be caused by the wind energy system and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year.
 - iii. The analysis shall identify problem areas where shadow flicker may affect the occupants of the structures and describe measures that shall be taken to eliminate or mitigate the problems at the time a permit is requested.
9. System limit. Only one wind energy system whether small wind, medium wind or large wind energy system, shall be allowed per residential dwelling unit or commercial structure.
10. Abandonment.
 - i. A wind energy system that is out-of-service for a continuous 12-month period will be deemed to have been abandoned.
 - ii. If the wind energy system is determined to be abandoned, the owner shall remove the entire system at the owner's sole expense within 30 days of receipt of the notice of abandonment from the city.
 - iii. If the wind energy system is not removed within 30 days after receipt of notice of abandonment, the city may remove or secure the removal of the system with its actual costs and reasonable administrative charges be drawn, collected and/or enforced from under any security or bond posted at the time of application or alternatively, be charged as a lien against the property.
11. Permit requirements and procedures.
 - i. A building permit shall be required for the installation of all wind energy systems.
 - ii. A site plan drawing of the proposed system shall be required at the time an application for permit is made.
 - iii. An applicant shall submit said application and the required fees with the building department and shall post a bond sufficient to cover the expense of the city for removing an abandoned wind energy

system.

- iv. At the time an application is made or sought, the structural design of the system and tower shall be signed and sealed by a professional engineer registered in the state, certifying that the design complies with all the standards set forth for safety and stability in all applicable codes in effect in the state and all sections referred to herein.

(e) *Required conditions.* The following conditions where applicable shall apply to all uses permitted in the district:

- (1) No building or structure shall be permitted except in conjunction with a principal permitted use.
- (2) All single-family dwelling buildings shall comply with the applicable requirements of sections 50-168.
- (3) All single-family attached or detached dwelling buildings developed in clusters shall comply with the applicable requirements of section 50-151.
- (4) Except as otherwise regulated in this section, see section 50-151 limiting the height and bulk of buildings, the minimum size of lot by permitted land use, the maximum dwelling unity density permitted, and building setbacks and development options.
- (5) Consult article XIX of this chapter regarding compliance with the requirements of off-street parking, loading and layout standards as they may apply to various uses permitted in the district.
- (6) Consult article XX of this chapter regarding compliance with the requirements of screening and landscaping as they may apply to various uses permitted in the district.
- (7) Consult article XXI of this chapter regarding compliance with the requirements of nonconforming uses as they may apply to various uses permitted in the district.
- (8) Consult article XXII of this chapter regarding exceptions to certain regulations of this chapter as they may apply to various uses permitted in the district.
- (9) Consult article IV of this chapter regarding administration and enforcement.

(Ord. No. 1080, 4-16-2013; Ord. No. 1129, 3-1-2016; Ord. No. 1134, 3-28-2017)

Sec. 50-71. - R-2 Two-Family Residential District.

- (a) *Intent.* The R-2 Two-Family Residential District is designed to afford a transition of use in existing housing areas by permitting new construction or conversion of existing structures between adjacent residential, commercial, office, thoroughfare or other uses which would affect the residential character. This district also recognizes the existence of older residential areas of the city where larger houses have been or can be converted from one-family to two-family residences in order to extend the economic life of these structures and allow the owners to justify the expenditures for repairs and modernization. This district also allows the construction of new two-family residences where slightly greater densities are reasonable.

(b) *Regulations (also see Schedule of Regulations).*

Lot	In Feet
Minimum lot size	3,500
Minimum lot width	30 feet

Maximum lot coverage	35 percent (The maximum lot coverage permitted for all buildings may be increased by one percent for every 100 square feet of lot area that the lot is less than 4,000 square feet. In no case shall the maximum amount of lot coverage for all buildings exceed 45 percent of the total area of the lot.
Setbacks	
Front	25 feet
Eight Mile, Gratiot and Kelly	102 feet from centerline
Nine and Ten Mile Roads	60 feet from centerline
Toepfer and Stephens Avenues	43 feet from centerline
Each side	Ten/20 (Total)
Rear	30 feet
Parking setbacks	
Front	n/a
Each Side	n/a
Rear	n/a
Building	
Height	30
Stories	Two
Minimum floor area	Minimum square footage/ground floor minimum square footage

	800/800
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- (c) *Principal uses permitted.* In the R-2 Two-Family Residential District, no building or land shall be used, except for one or more of the following specified uses, unless otherwise provided in this chapter:
- (1) All uses permitted and as regulated in the R-1 One-Family Residential District.
 - (2) Two-family dwellings.
 - (3) Accessory buildings and uses customarily incidental to any permitted uses.
- (d) *Special land use approvals.* The following uses shall be permitted in the R-2 Two-Family Residential District, subject to the conditions imposed for each use and subject further to the review and recommendation of approval of the planning commission to the city council as provided for in section 50-49:
- (1) Wind energy systems (section 50-70(d)).
- (e) *Required conditions.* The following conditions where applicable shall apply to all uses permitted in the district:
- (1) No building or structure shall be permitted except in conjunction with a principal permitted use.
 - (2) All single-family and two-family dwellings shall comply with the applicable requirements of sections 50-168 and 50-169.
 - (3) All single-family attached dwelling developed in clusters shall comply with the applicable requirements of section 50-151.
 - (4) Except as otherwise regulated in this section, see section 50-150 limiting the height and bulk of buildings, the minimum size of lot by permitted land use, the maximum dwelling unity density permitted, and building setbacks and development options.
 - (5) Consult article XIX of this chapter regarding compliance with the requirements of off-street parking, loading and layout standards.
 - (6) Consult article XX of this chapter regarding compliance with the requirements of screening and landscaping.
 - (7) Consult article XXI of this chapter regarding compliance with the requirements of nonconforming uses.
 - (8) Consult article XXII of this chapter regarding exceptions to certain regulations of this chapter.
 - (9) Consult article IV of this chapter regarding administration and enforcement.

(Ord. No. 1080, 4-16-2013)

Secs. 50-72—50-79. - Reserved.

ARTICLE IX. - MULTIPLE-FAMILY RESIDENTIAL DISTRICTS

Sec. 50-80. - RT Townhome Residential District.

- (a) *Intent.* The RT Townhome Residential District is designed to provide sites for lower density townhome dwellings and

related uses which will serve as zones of transition between major thoroughfares and/or nonresidential uses and lower density districts, typically on parcels which may be otherwise difficult to develop. This district is intended to preserve the basic single-family character and density of an area without introducing higher density multiple-family uses. The RT Townhome Residential District may also permit the preservation of natural features of the site when such development would not conflict with the existing and potential land use patterns in the area.

(b) *Regulations (also see Schedule of Regulations).*

Lot	In Feet
Minimum lot size	At least 3,000 square feet of land area shall be provided for each one-bedroom dwelling unit. An additional 500 square feet shall be provided for each additional bedroom.
Minimum lot width	n/a
Maximum lot coverage	30 percent
Setbacks	
Front	25 feet
Eight Mile, Gratiot and Kelly	102 feet from centerline
Nine and Ten Mile Roads	60 feet from centerline
Toepfer and Stephens Avenues	43 feet from centerline
Each side	Ten
Rear	30
Parking setbacks	
Front	25 feet
Each side	n/a
Rear	n/a

Building	
Height	30
Stories	Two

(c) *Principal uses permitted.* In the RT Townhome Residential District, no building or land shall be used, except for one or more of the following specified uses, unless otherwise provided in this chapter.

- (1) All uses permitted and as regulated in the R-2 Two-Family Residential Districts.
- (2) Townhome dwellings.
- (3) Accessory buildings and uses customarily incidental to any permitted or special land use.

(d) *Special land use approvals.* The following uses shall be permitted in the RT Townhome Residential District, subject to the conditions imposed for each use and subject to the review and recommendation of approval of the planning commission to city council:

- (1) Churches and other facilities normally incident thereto subject to the following conditions:
 - a. Buildings of greater than the maximum height permitted in the RT District shall provide an additional setback from any property line one additional foot for every one foot the building or buildings that exceed the maximum building height limitations of the district.
 - b. All access to the site shall be to an existing or planned major thoroughfare, freeway service drive, or collector street (as defined in the city's master plan or county thoroughfare plan). The planning commission may approve alternative access configurations as outline in section 50-167.
- (2) Public, parochial and private intermediate or secondary schools offering courses in general education.
 - a. Access to the site shall be to an existing or planned major thoroughfare, freeway service drive, or collector street (as defined in the city's master land use plan or county thoroughfare plan). The planning commission may approve alternative access configurations as outline in section 50-167.
- (3) Colleges, universities and other such institutions of higher learning, public and private, offering courses in general, technical or religious education.
- (4) Hospitals, medical centers, urgent care facilities, and the like.
- (5) Housing for the elderly (senior citizen housing) and the like.
- (6) Wind energy systems (section 50-70(d)).

(e) *Required conditions.* The following conditions where applicable shall apply to all uses permitted in the district.

- (1) In the case of townhome developments, a site plan shall be submitted for review and approval prior to issuance of a building permit.
- (2) All access to the site shall be to an existing or planned major thoroughfare, freeway service drive, or collector street (as defined in the city's master plan or county thoroughfare plan). The planning commission may approve

alternative access configurations as outline in section 50-167.

- (3) Under this section the attaching of up to six dwellings shall be permitted. An offset of at least ten feet shall be provided along each facade of the building between each livable unit. This may be modified by the planning commission upon a finding that the proposed architecture of the building meets the intent of this chapter. Each dwelling unit shall have a living space near grade level and shall not have one dwelling under or above another.
- (4) A townhome development shall be located and arranged to avoid any disruption in the continuity of public streets and/or utilities.
- (5) Points of ingress and egress shall be minimized along public thoroughfares and shall be located and arranged to avoid undesirable traffic patterns with adjacent land uses and abutting public thoroughfares.
- (6) All single-family dwellings shall comply with the applicable requirements of sections 50-168 and 50-169.
- (7) All single-family attached dwellings developed in clusters shall comply with the applicable requirements of section 50-151.
- (8) Except as otherwise regulated in this section, see section 50-150 limiting the height and bulk of buildings, the minimum size of lot by permitted land use, the maximum dwelling unity density permitted, and building setbacks and development options.
- (9) Consult article XIX of this chapter regarding compliance with the requirements of off-street parking, loading and layout standards.
- (10) Consult article XX of this chapter regarding compliance with the requirements of screening and landscaping.
- (11) Consult article XXI of this chapter regarding compliance with the requirements of nonconforming uses.
- (12) Consult article XXII of this chapter regarding exceptions to certain regulations of this chapter.
- (13) Consult article IV of this chapter regarding administration and enforcement.

(Ord. No. 1080, 4-16-2013)

Sec. 50-81. - RM-1 Multiple-Family Residential District.

- (a) *Intent.* The RM-1 Multiple-Family Residential District is designed to provide sites for intermediate density multi-family dwelling structures and related uses which will generally serve as zones of transition between nonresidential districts and higher density multiple-family districts and lower density one-family districts. The RM-1 Multiple-Family District is further provided to service the limited needs for an apartment type of unit in an otherwise predominantly lower density, single-family residential community.
- (b) *Regulations (also see Schedule of Regulations).*

Lot	In Feet
Minimum lot size	At least 2,000 square feet of land area shall be provided for each one bedroom dwelling unit. An additional 500 square feet shall be provided for each additional bedroom.

Minimum lot width	n/a
Maximum lot coverage	30 percent
Setbacks	
Front	25 feet
Eight Mile, Gratiot and Kelly	102 feet from centerline
Nine and Ten Mile Roads	60 feet from centerline
Toepfer and Stephens Avenues	43 feet from centerline
Each side	Ten
Rear	30
Parking setbacks	
Front	25
Each side	n/a
Rear	n/a
Building	
Height	30
Stories	Two and one-half

(c) *Principal uses permitted.* In the RM-1 Multiple-Family Residential District, no building or land shall be used, except for one or more of the following specified uses, unless otherwise provided in this chapter:

- (1) All uses permitted and as regulated in the RT Townhome District.
- (2) Multiple-family dwellings.

(3) Accessory buildings and uses customarily incidental to any permitted use.

(d) *Special land use approvals.* The following uses shall be permitted in the RM-1 Multiple-Family District, subject to the conditions imposed for each use and subject to the review and recommendation of approval of the planning commission to city council:

(1) General hospitals, when the following conditions are met:

- a. All access to the site shall be to an existing or planned major thoroughfare, freeway service drive, or collector street (as defined in the city's master plan or county thoroughfare plan). The planning commission may approve alternative access configurations as outline in section 50-167.
- b. The minimum setback for all two-story structures shall be at least 100 feet from all property lines. The planning commission may reduce the required setbacks upon a finding that the reduction will not impact the surrounding properties and neighborhood and that appropriate screening and buffering has been provided.

(2) Housing for the elderly (senior citizen housing) when the following conditions are met:

- a. All dwellings shall consist of at least 350 square feet per unit, not including kitchen and sanitary facilities. The planning commission may reduce the required floor area requirements in the instance that federal or state funded low or fixed income units are being provided.
- b. All housing for the elderly shall be provided as a planned development consisting of cottage type living quarters, apartment dwelling units, rooming units, or a mix of all of these, but such developments shall include central dining, indoor and outdoor recreation facilities, a central lounge and workshops.
- c. Elderly housing developments may also contain service-oriented uses, such as central laundry facilities, a drugstore, barber and beauty shops.

(3) Convalescent care homes (nursing homes) when the following conditions are met:

- a. There shall be provided on the site not less than 1,500 square feet of open space for each bed in the home, which land area shall provide for landscaping, yard requirements and accessory uses.
- b. The minimum building setback shall be 50 feet from any property line. The planning commission may reduce the required setbacks upon a finding that the reduction will not impact the surrounding properties and neighborhood and that appropriate screening and buffering has been provided.

(4) Adult foster congregate care facility registered by the state consumer and industry services and approved to house not less than 20 occupants receiving foster care, provided the following conditions are met:

- a. Off-street parking shall be provided in accordance with the applicable requirements of sections 50-220 and 50-221.
- b. If an outdoor trash receptacle is used for the disposal of refuse, it shall be located in the rear yard and screened in accordance with the requirements of section 50-236.
- c. Off-street parking shall be located in the rear yard or within the non required area of an interior side yard.
- d. Loading, unloading of supplies and materials shall take place in the rear yard, or within a non required interior side yard.
- e. All applicable requirements of Act 218 of the Public Acts of 1979, as amended, shall be met.

(5) Adult foster care large group home registered by the state consumer and industry services and approved to house not less than 13 but not more than 20 foster care occupants.

- (6) Adult foster care small group home, registered by the state consumer and industry services and approved to house than 12 foster care occupants.
- (7) Halfway homes, facilities for substance abuse treatment and the like.
- (8) Wind energy systems (section 50-70(d)).
- (e) *Required conditions.* The following conditions where applicable shall apply to all uses permitted in the district:
 - (1) No building or structure shall be permitted except in conjunction with a principal permitted use.
 - (2) All single-family dwellings shall comply with the applicable requirements of sections 50-168 and 50-169.
 - (3) All single-family attached dwellings developed in clusters shall comply with the applicable requirements of section 50-151.
 - (4) Except as otherwise regulated in this section, see section 50-150 limiting the height and bulk of buildings, the minimum size of lot by permitted land use, the maximum dwelling unity density permitted, and building setbacks and development options.
 - (5) Consult article XIX of this chapter regarding compliance with the requirements of off-street parking, loading and layout standards.
 - (6) Consult article XX of this chapter regarding compliance with the requirements of screening and landscaping.
 - (7) Consult article XXI of this chapter regarding compliance with the requirements of nonconforming uses.
 - (8) Consult article XXII of this chapter regarding exceptions to certain regulations of this chapter.
 - (9) Consult article IV of this chapter regarding administration and enforcement.

(Ord. No. 1080, 4-16-2013)

Sec. 50-82. - RM-2 Multiple-Family Residential District.

- (a) *Intent.* The RM-2 Multiple-Family Residential District (mid rise) are designed to provide sites for high density multiple-dwelling structures adjacent to high traffic generators commonly found in the proximity of large acreage nonresidential development areas abutting major thoroughfares and expressways. This district is further provided to serve the residential needs of persons desiring apartment-type accommodations with central services as opposed to the residential patterns found in other residential districts. These districts are further designed to provide transition between traffic generators and other residential districts through the requirements of lower coverage which, in turn, will result in more open space.

- (b) *Regulations (also see Schedule of Regulations).*

Lot	In feet
Minimum lot size	At least 1,200 square feet of land area shall be provided for each one bedroom dwelling unit. An additional 500 square feet of site area shall be provided for each additional bedroom.
Minimum lot width	n/a

Maximum lot coverage	30 percent
Setbacks	
Front	
Eight Mile, Gratiot and Kelly	102 feet from centerline
Nine and Ten Mile Roads	60 feet from centerline
Toepfer and Stephens Avenues	43 feet from centerline
Each Side	Equal to the height of the building
Rear	Equal to the height of the building
Parking setbacks	
Front	25 feet
Each Side	n/a
Rear	n/a
Building	
Height	48 feet
Stories	Five

(c) *Principal uses permitted.* In the RM-2 Multiple-Family Residential District (mid rise), no building or land, except as otherwise provided in this chapter, shall be used except for one or more of the following specified purposes.

(1) All principal uses permitted in the RM-1 Multiple-Family Residential District meeting the requirements of such section, with the exception of one-family and two-family dwellings, which shall be expressly prohibited.

(2) Accessory buildings and uses customarily incidental to any permitted use.

(d) *Special land use approvals.* The following uses may be permitted in the RM-2 Multiple-Family Residential District (mid-

rise), subject to the conditions imposed for each use and subject to the review and recommendation of approval of the planning commission to the council:

- (1) Mid-rise apartments, subject to the following conditions:
 - a. All such structures shall be developed on a site of at least two acres in area.
 - b. The site shall have its ingress and egress directly onto a major thoroughfare or expressway service drive.
 - c. Accessory buildings and uses customarily incidental to any of the above permitted uses.
- (2) Minor retail and personal service uses when such uses are clearly accessory to the residents of a mid-rise building.
 - a. Such uses shall be located within the walls of the main structure.
 - b. No identifying sign for any such business use shall be visible from the exterior of the building.
 - c. Such uses shall not exceed 25 percent of the floor area at grade level or 50 percent of a subgrade level, and shall be prohibited on all other floors.
- (3) A sit-down restaurant when such use will not conflict with basic residential parking and calculation requirements.
- (4) Wind energy systems (section 50-70(d)).
- (e) *Required conditions.* The following conditions where applicable shall apply to all uses permitted in the district:
 - (1) No building or structure shall be permitted except in conjunction with a principal permitted use.
 - (2) All single-family attached dwellings developed in clusters shall comply with the applicable requirements of section 50-151.
 - (3) Except as otherwise regulated in this section, see section 50-150 limiting the height and bulk of buildings, the minimum size of lot by permitted land use, the maximum dwelling unit density permitted, and building setbacks and development options.
 - (4) Consult article XIX of this chapter regarding compliance with the requirements of off-street parking, loading and layout standards.
 - (5) Consult article XX of this chapter regarding compliance with the requirements of screening and landscaping.
 - (6) Consult article XXI of this chapter regarding compliance with the requirements of nonconforming uses.
 - (7) Consult article XXII of this chapter regarding exceptions to certain regulations of this chapter.
 - (8) Consult article IV of this chapter regarding administration and enforcement.

(Ord. No. 1080, 4-16-2013)

Secs. 50-83—50-89. - Reserved.

ARTICLE X. - OFFICE AND BUSINESS DISTRICTS

Sec. 50-90. - OS-1 Office Service District.

- (a) *Intent.* OS-1 Office Service District is designed to accommodate uses such as offices, banks and business services which can serve as transitional areas between residential and business districts and to provide a transition between

major thoroughfares and residential districts. Permitted uses are oriented to those occurring within a building with a landscaped setting and are, therefore, more in harmony with adjacent residential areas.

(b) *Regulations (also see Schedule of Regulations).*

Lot	In feet
Minimum lot size	n/a
Minimum lot width	n/a
Setbacks	
Front	Five feet
Eight Mile, Gratiot and Kelly	102 feet from centerline
Nine and Ten Mile Roads	60 feet from centerline
Toepfer and Stephens Avenues	43 feet from centerline
Each side	Zero
Rear	20 (If the rear yard of a lot in any of these districts abuts an improved (hard-surfaced) public alley right-of-way, and any required screening barrier is, or will be, located on the opposite side of the alley, the alley right-of-way may be used in satisfying the minimum rear yard setback requirement of the district.)
Parking setbacks	
Front	Five
Each side	n/a
Rear	n/a
Building	

Height	15
Stories	One
The planning commission may permit a building over one story and 15 feet in height (but not to exceed two stories and 30 feet) after special land use approval.	

- (c) *Principal uses permitted.* In the OS-1 Office Service District, no building or land shall be used, except for one or more of the following specified uses, unless otherwise provided in this chapter:
- (1) Office buildings for any of the following or similar occupations: executive, administrative, professional, accounting, writing, clerical, veterinary (no outside runs or kennels permitted), stenographic and drafting.
 - (2) Medical and dental offices, but not including those offering industrial clinic emergency room services.
 - (3) Banks, credit unions, savings, and loan associations and similar uses, with drive-in facilities as an accessory use only.
 - (4) Child care centers.
 - (5) Offices of nonprofit professional, civic and religious organizations.
 - (6) Business schools.
 - (7) Other uses similar to the above uses.
 - (8) Accessory structures and uses customarily incidental to the permitted uses.
- (d) *Special land use approvals.* The following uses shall be permitted in the OS-1 Office Service District, subject to the conditions imposed for each use and subject to the review and recommendation of approval of the planning commission to city council:
- (1) Specialized retail activities, such as a pharmacy, medical aides, optical or prosthesis, provided the following conditions are met:
 - a. Any such use shall be accessory to a permitted use and located within the same building.
 - b. The floor space set aside for the interior display and sale of such merchandise shall not exceed 25 percent of the usable floor area of the building.
 - (2) Multi-family units constructed to the standards set forth for RM-1 Multiple-Family Residential District may be approved when the following conditions are met:
 - a. Multi-family dwellings may be permitted in areas where there is an existing mixture of multiple and nonresidential uses. The site shall provide for adequate setbacks, parking and outdoor living space. Small apartment sites between two nonresidential uses shall be avoided to provide for the more orderly development of office uses and thereby avoid people living in an isolated location surrounded by activities with more intensive development characteristics.
 - b. Multi-family development may be permitted in areas not presently containing a mixture of office and multi-family uses when such development meets the following conditions:

1. The site is of such size and shape that it will provide for a self sufficient residential environment meeting all c subsection (d)(2)a. of this section.
2. The site shall be located on the exterior end of an OS-1 Office Service District and shall serve as a transition to other adjacent residential use districts.

(3) Veterinary offices (with outdoor runs or kennels).

(4) Churches and other places of worship.

(5) Wind energy systems (section 50-70(d)).

(e) *Required conditions.* The following conditions, where applicable, shall apply to all uses permitted in this district:

- (1) Permitted uses in the OS-1 Office Service Districts shall contain all storage of goods and material for sale and/or distribution within the building.
- (2) The parking of any commercially used or licensed vehicle with a rated capacity of one ton or more is not permitted other than for normal deliveries of short duration.
- (3) Parking or storage of disabled vehicles in any off-street parking lot is prohibited.
- (4) The overnight storage of vehicles is prohibited.
- (5) Except where otherwise regulated in this section, see section 50-150 limiting the height and bulk of buildings, the minimum size of lot by permitted use, the maximum dwelling unit density permitted, and building setbacks.
- (6) Consult article XIX of this chapter regarding compliance with the requirements of off-street parking, loading and layout standards.
- (7) Consult article XX of this chapter regarding compliance with the requirements of screening and landscaping.
- (8) Consult article XXI of this chapter regarding compliance with the requirements of nonconforming uses.
- (9) Consult article XXII of this chapter regarding exceptions to certain regulations of this chapter.
- (10) Consult article IV of this chapter regarding administration and enforcement.

(Ord. No. 1080, 4-16-2013)

Sec. 50-91. - B-1 Community Business District.

- (a) *Intent.* The B-1 Community Business District is designed and intended to serve as a district of land use transition between major thoroughfares and more intense nonresidential uses and residential neighborhoods. It is therefore, the intent of the B-1 district to limit the type of commercial land use permitted in the district to the lower profile, less intense type of day-to-day convenience and comparison shopping, and service uses that serve the community.

(b) *Regulations (also see Schedule of Regulations).*

Lot	In Feet
Minimum lot size	n/a
Minimum lot width	n/a

Setbacks	
Front	
Eight Mile, Gratiot and Kelly	102 feet from centerline
Nine and Ten Mile Roads	60 feet from centerline
Toepfer and Stephens Avenues	43 feet from centerline
Each Side	Zero
Rear	20 (If the rear yard of a lot in any of these districts abuts an improved (hard-surfaced) public alley right-of-way, and any required screening barrier is, or will be, located on the opposite side of the alley, the alley right-of-way may be used in satisfying the minimum rear yard setback requirement of the district.)
Parking setbacks	
Front	Five
Each side	n/a
Rear	n/a
Building	
Height	15 feet
Stories	One
The planning commission may permit a building over one story and 15 feet in height after special land use approval.	

- (c) *Principal uses permitted.* In the B-1 Community Business District, no building or land for outdoor sales shall be used, except one or more of the following specified uses, unless otherwise provided in this chapter:
- (1) Any principal permitted use in the OS-1 Office Service Districts, but subject to the regulations applicable in this section.
 - (2) Generally recognized retail businesses which supply commodities on the premises, including, but not limited to, groceries, meats, dairy products, baked goods or other foods, cellular phones, coffee shops, dry goods, clothing, hobbies, crafts, appliances, or hardware.
 - (3) Personal service establishments which perform services on the premises, including but not limited to, repair shops (watches, radio, television, shoe, etc.), tailor shops, beauty parlors or barbershops, photographic studios and self-service laundries.
 - (4) Dry cleaning establishments or pick-up stations dealing directly with the consumer, but not including central dry cleaning plants serving more than one retail outlet.
 - (5) Post office and other federal, state, or county offices.
 - (6) Churches or other places of worship and their related uses existing in the district at the time of adoption of the ordinance.
 - (7) Business schools and private technical training facilities operated for profit, but not including dormitories.
 - (8) Private clubs, fraternal orders and lodge halls.
 - (9) Restaurants, excluding drive thrus.
 - (10) Resale shops, second hand stores, and consignment shops (but not including pawn shops).
 - (11) Retail sales and display of fireworks from a permanent location.
 - (12) Retail sales and display of fireworks from a temporary facility such as a tent, trailer, stand, area covered by canopy, etc., provided all other applicable requirements for peddlers, solicitors, etc., are met.
 - (13) A lawfully existing nonconforming use of a building and land in combination, or a lawful use of land that may become nonconforming on the date of adoption of this chapter. Should any such nonconforming use cease to exist on the property for any reason for a period of 12 consecutive months, or for 18 months during any three-year period, any subsequent use of the building or land shall conform to the regulations specified in this chapter for the zoning district in which the land is located.
 - (14) Other uses similar to those above.
 - (15) Accessory structures and uses customarily incidental to any permitted use.
- (d) *Special land use approvals.* The following uses shall be permitted in the B-1 Community Business District, subject to the conditions imposed for each use and subject to the review and approval of the planning commission:
- (1) Gasoline filling stations (including quick change oil sales) for the sale of gasoline, oil and minor accessories, provided:
 - a. No repair work is done;
 - b. Towing or service trucks or any other commercially used or licensed vehicle shall be parked or stored indoors on the premises;
 - c. No disabled or damaged vehicles are parked or stored on the premises;
 - d. All pump islands are placed no closer than 20 feet from any required frontage lawn panel or right-of-way line;

and

- e. All canopy structures are placed no closer than ten feet to any street or alley right-of-way line, and have a ground to ceiling clearance of at least 13 feet.
- (2) Publicly owned buildings, public utility buildings, telephone exchange buildings, electric transformer stations and substations, gas regulator stations, and water and sewage pumping stations; all without storage yards.
- (3) Mortuary establishments, including a caretaker's residence, provided the following conditions are met:
 - a. Adequate vehicular assembly area for a funeral procession shall be provided off-street, in addition to required off-street parking.
 - b. The service and loading area shall be obscured from adjacent residential areas.
- (4) Outdoor eating areas (of more than ten persons), subject to the following conditions:
 - a. It is accessory to a sit-down restaurant on the same property.
 - b. Adequate off-street parking is provided in addition to parking required for the principal use based on outdoor seating capacities.
 - c. May be located in any yard on the premises occupied by the principal use, but not in any public right-of-way.
 - d. Shall be fenced with an appropriate fence, wall, or other acceptable means as determined by the planning commission.
 - e. The outdoor eating area is made part of the license of the principal use.
 - f. Outdoor seating areas of ten persons or less may be approved administratively subject to the above conditions.
- (5) Accessory seasonal open air sales area, provided:
 - a. All such outdoor facilities are designed as an integral part of a principal permitted use on the same premises;
 - b. Such outdoor sales are limited to the retail sale of plant material, lawn furnishings and landscaping amenities, play equipment and garden supplies, including lawn care and gardening appliances;
 - c. Such outdoor sales area is limited to locations at the ends of the principal building mass where they may extend outward from the building into any interior side or rear yard, except when a yard abuts a residential district, the sales area shall be restricted to a location within any non required interior side or rear yard. No such sales area shall extend outward from the building into any exterior side or front yard area;
 - d. Space may be provided in conjunction with a permitted outdoor sales area for the loading of customer vehicles only, except when area is in a yard that abuts a residential district, the location restrictions of subsection (d)(5)c. of this section shall apply;
 - e. The entire area shall be enclosed with building walls that shall represent a physical extension of the principal building, including the same exterior building wall materials and same color material as the principal building, except for the purposes of display and to provide light and air to the interior display area; exterior walls of the accessory outdoor sales area may also consist of decorative ornamental metal fencing material. Except where gates are provided, all such fencing shall be placed on top of a continuous wall structure, the height of which shall not be less than three feet; and
 - f. To aid in its review of a site plan for an accessory outdoor sales area, the planning commission may require submittal of drawings of sufficient detail and scale to clearly depict and identify by name, the type of

decorative ornamental metal fencing materials that will be used in conjunction with such areas.

- (6) Movie theaters, play houses, assembly halls, concert halls and similar places of assembly, provided their activities are conducted within enclosed buildings.
- (7) Business establishments which install and service as well as sell electronic equipment for motor vehicles, provided:
 - a. An area completely enclosed within the principal building is provided for the installation and testing of such devices; and
 - b. Such area is sufficiently soundproofed so that the pressure levels of sound emanating from the installation and/or testing of any electronic system or device which is designed and expressly intended to generate, or possessing the capability of generating intense pressure levels of sound, shall not carry beyond the property lines of the premises on which the use is located.
- (8) Retail sales establishment whose principal function is the sale of alcoholic beverages liquors provided that they are located at least 500 feet from any school, church, public library, or day care center.
- (9) Wind energy systems (section 50-70(d)).
- (e) *Required conditions.* The following conditions shall apply to all uses permitted in this district:
 - (1) Permitted uses in the B-1 Community Business District shall contain all storage of goods and materials for sale and/or distribution within the building.
 - (2) The parking of commercial licensed vehicles will be permitted in the rear yard only, and all such vehicles shall be clearly incidental to the principal permitted use on the property, and any such vehicle shall be limited to operable vehicles with a current license which are driven from the site on a regular basis and shall not include those used for storage, sales and/or advertising.
 - (3) Parking or storage of disabled vehicles in any off-street parking lot is prohibited.
 - (4) Except where otherwise regulated in this section, see section 50-150 limiting the height and bulk of buildings, and building setbacks.
 - (5) Consult article XIX of this chapter regarding compliance with the requirements of off-street parking, loading and layout standards.
 - (6) Consult article XX of this chapter regarding compliance with the requirements of screening and landscaping.
 - (7) Consult article XXI of this chapter regarding compliance with the requirements of nonconforming uses.
 - (8) Consult article XXII of this chapter regarding exceptions to certain regulations of this chapter.
 - (9) Consult article IV of this chapter regarding administration and enforcement.

(Ord. No. 1080, 4-16-2013)

Sec. 50-92. - B-2 Downtown District.

- (a) *Intent.*
 - (1) Develop a fully integrated, mixed use, pedestrian orientated environment with building containing commercial, residential and office uses.
 - (2) Create a synergy of uses within the DDA area to support economic development and redevelopment in accordance with the City of Eastpointe Master Plan as well as the Eastpointe DDA Design Framework Plan.

- (3) Minimize traffic congestion, inefficient surface parking lots, infrastructure costs and other impacts by promoting a compact, mixed use pedestrian friendly district.
- (4) Regulate building height to achieve appropriate scale along streetscapes to ensure proper transitions to nearby residential neighborhoods.
- (5) Create a definable sense of place of the downtown area with a pedestrian oriented, traditional urban form with bold innovations in architecture.

(1) *Regulating plan.*

- a. A regulating plan has been adopted for the entire downtown development area and further divides the downtown into three main zones. These include:

- 1. Mixed use core;
- 2. Institutional/municipal;
- 3. Work/live nine mile.

These zones shall be the same as depicted within the DDA Design Framework Plan.

- (2) Each zone has its own requirements for building form, height and use as follows:

- a. Building use.

P = Permitted Use SLU = Special Land Use NP = Not Permitted			
Use	Mixed Use Core	Institutional/ Municipal	Work/Live Nine Mile
Residential (First Floor)	NP	NP	P
Residential (Second Floor and Above)	P	P	P
Home Occupations	P	P	P

Educational Facilities (Public or Private) (First Floor)	NP	P	NP
Educational Facilities (Public or Private) (Second Floor and Above)	P	P	P
Professional Offices (First Floor)	P	P	P
Professional Offices (Second Floor and Above)	P	P	P
Service Uses (First Floor)	P	P	P
Service Uses (Second Floor and Above)	P	P	P
City Uses and Buildings	P	P	P
General Retail	P	SLU	SLU
General Retail (with drive thru or drive in)	SLU	SLU	NP
General Retail (with outdoor storage, display or sales)	SLU	SLU	NP
Parking Structure	SLU	SLU	NP

*City uses may include city-owned parking lots and structures.

Mixed Use Core

Floor 1—Commercial

Work/Live Nine Mile

Floor 1—Commercial

Floor 2—Office/Residential Floor 3 and above—Residential Floor 5 & 6 Bonus Floors Residential		Floor 2—Office/Residential Floor 3 and above—Residential
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- b. Building placement.
1. Mixed use core.

i. Front build to line: Zero feet from front property line.

The front facade of the building must be built on the front property line for a minimum of 60 percent of the lot width. Depending on the architecture of the building, the proposed uses, and nature of the lot, the planning commission may approve deviations from this requirement. Balconies for residential units may not extend into a public right-of-way.

ii. Side yard setback: Zero feet from side property line.

If windows or door openings exist, a minimum side yard setback of ten feet shall be provided.

iii. Rear yard setback: 20 feet from rear property line.
2. Live/Work Nine Mile.

i. Front build to line: 15 feet from front property line.

Depending on the architecture of the building, the proposed uses, and nature of the lot, the planning commission may approve deviations from this requirement. Balconies may not extend into a public right-of-way.

ii. Side yard setback: Zero feet from side property line.

If windows or door openings exist, a minimum side yard setback of ten feet shall be provided.

iii. Rear yard setback: 20 feet from rear property line.
- c. Permissible building encroachments.
- Awnings may extend into a public right-of-way, over a sidewalk, over dedicated parking areas, but shall not extend over a property line in separate ownership.
- For awnings which extend over a pedestrian area, a minimum clearance of eight feet shall be provided. If the area is for automobiles or maneuvering of automobiles a minimum clearance of 14 feet must be provided.

- d. Use of public right-of-way or other outdoor private space.
 - 1. The following uses may be permitted into a public right-of-way or on a public sidewalk:
 - i. Outdoor cafe area, including tables;
 - ii. Outdoor sales space;
 - iii. Outdoor signage (permitted by the city);
 - iv. Street vendors;
 - v. Other outdoor uses as deemed appropriate by the city.
 - 2. A permit shall be obtained from the city building department (or other appropriate department as necessary) prior to the use of any public right-of-way or public sidewalk. The following shall be conditions of the permit:
 - i. A minimum of one-half of the width of the sidewalk shall be maintained clear and unobstructed.
 - ii. Any use that requires the installation of a fence or other permanent structure shall provide assurance that should the outdoor use cease, that the fence or structure shall be removed.
- e. Building height.
 - 1. The minimum building height shall be two stories and 24 feet in height.
 - 2. The maximum building height shall be six stories and 72 feet in height (if a building height bonus is approved as outlined in this section).
 - 3. Existing buildings which are less than two stories in height may receive a waiver to the minimum height requirements of this chapter. In considering whether to grant a deferment, the planning commission shall consider the following factors amongst any other factors it determines to be pertinent:
 - i. The change in use is determined by the planning commission to be minor in nature and therefore does not justify the additional story(s) to be constructed.
 - ii. The applicant can provide documented analysis from a certified architect or structural engineer that the cost of the improvements to the building to achieve the minimum height requirement is not justifiable.
 - iii. An alternative design for the building facade is presented that generally meets the intent of the chapter.
- f. Building height bonus.
 - 1. A building height bonus of two stories or 24 feet (constituting a fifth and sixth story) may be permitted.
 - i. If a building height bonus is sought, the application shall be reviewed as a special land use approval to ensure that the design and impacts of building will not negatively impact the surrounding properties or public spaces.
 - ii. The commission may require that the additional stories be set back from the outer wall of the first four stories of the building to ensure that adequate light and views are maintained. This provision may be applied to any facade of the building to ensure proper building scale and massing relative to surrounding buildings and uses.
- g. Building appearance.
 - 1. Building material.

- i. Buildings located within the downtown shall be constructed with decorative face brick on all sides of the building which will be visible from a public space, including road rights-of-way, sidewalks, parks, etc.
- ii. The rear of the building which abuts an alley, parking or future parking area shall also be constructed of decorative face brick, similar to that of the front facade.
- iii. The planning commission may approve alternative materials such as stone, glass, metal, etc., when it can be shown that the alternative material provides architectural interest and is found to be consistent in architectural design of those buildings on the same block (either side of street).

2. Entranceway.

- i. A building entry shall be oriented on the front facade of the building. Additional building entries are encouraged to be provided on the side or rear of the building as well to encourage additional pedestrian access.
- ii. The front entranceway shall generally be recessed from the remainder of the front facade.
- iii. Garage doors or other similar service doors shall not be permitted on the front facade of the building.

3. Windows/transparency.

- i. A minimum of 60 percent of the front first floor facade shall consist of windows or doors which are transparent.
- ii. Window signs within the downtown may only cover a maximum of 25 percent of the window area.
- iii. Window signs shall not be solid or opaque in nature. Window signs shall be individual letters and/or graphics applied to the window. Signs such as "open" or those providing hours of operation shall not be subject to this provision.

4. Roof design.

- i. All rooftop mounted equipment shall be shielded from public view by parapets, roof extensions, etc., which are architecturally consistent with the remainder of the building.

h. Improvements within a public right-of-way.

1. All improvements within a public right-of-way shall meet the established guidelines for the DDA.

(3) Parking.

a. Parking lot location.

1. Parking shall not be permitted between the front facade of the building and the right-of-way(s) that the building fronts upon.
2. Parking which abuts a residential district shall be set back a minimum of five feet from the property line. The five-foot setback shall be planted with screening trees and shrubs which include evergreens.

b. Parking lot connection.

1. Each parking lot shall be designed in a manner in which the interconnection of parking lots is feasible through the use of stubbed maneuvering lanes. A cross access and use agreement shall also be provided guaranteeing access to adjoining properties.

c. Parking lot screening.

1. All parking areas shall provide a three-foot tall decorative brick wall between the parking area and the adjacent way. This provision shall not apply to those parking areas which are adjacent to public alleys.
2. The decorative brick wall shall be accented with landscape plantings which soften the transition from parking space to the pedestrian space of the sidewalk.
3. The planning commission may approve other alternative means of providing the same level of screening. This may also include breaks or openings in the wall to allow for pedestrian access to the parking lot or adjoining sidewalk.
4. Where a parking lot is located adjacent to a residential district a six-foot tall decorative brick wall shall be located along the mutual property line between the parking lot and the residence for the full extent of the parking lot/property line.

d. Parking requirements.

1. Because this district is intended to encourage pedestrian/transit friendly design and compact mixed-use development that requires less reliance on automobiles, the parking required by this chapter may be reduced or waived by the planning commission as follows:
 - i. Providing shared parking whereby the planning commission may reduce the total parking required by multiple uses upon a showing that the required parking is not necessary due to overlap of uses.
 - ii. By providing a payment or a fee in lieu for the creation of a more centralized parking structure. The fee for each parking space shall be established by resolution of the city council and may be adjusted from time to time based on current land and development costs.
 - iii. Where an off-street parking garage is in proximity to the site as determined appropriate by the planning commission.
 - iv. Driveway access to off-street parking lots shall be provided via the existing public alley system or through cross access agreements where available. If neither is available, driveways shall be located to provide safe separation from street intersections. Driveways shall be aligned with driveways on the opposite side of the street or offset to avoid turning movement conflicts when permitted.

e. Parking structure.

1. Those facades that front a public thoroughfare shall provide an architectural scheme similar to a traditional storefront.
2. Access to the parking structure shall be limited to side streets or alley ways where ever feasible. If side street or alley access is not permissible, the planning commission may allow for a driveway access to either Gratiot Avenue or Nine Mile Road upon review of proper driveway spacing, clear vision, and stacking area being provided.
3. The parking structure shall meet all requirements of the zone in which it is located, including: setback, building height, etc.

(4) Sidewalks.

- a. Sidewalks of a minimum of ten feet in width (along Gratiot Avenue) and five feet in width along all other streets shall be provided. The sidewalks shall be consistent with the design and standards required by the city and the DDA shall be provided along the entire lot width of the property.
- b. Sidewalks shall not be required in those areas where the DDA has already constructed pedestrian sidewalks which are consistent with their adopted standards.

(5) Bicycle facilities.

- a. All sites shall be designed to accommodate bicycle travel. This shall include the provision of bike racks near each entrance of the building and/or near the designated parking lot area. Bicycle rack parking shall be provided at a rate of one rack space for each ten automobile spaces that would normally be required by ordinance and the design of the racks shall be generally consistent with those provided by the DDA.

(6) Community amenities.

- a. Other community amenities such as benches, informational kiosks, artwork, etc. shall be permissible in public spaces and shall be consistent with the adopted standards and guidelines of the DDA.

(7) Signs.

a. Awning and canopy signs.

1. Awning and canopy signs shall be permitted on awnings and canopies subject to the following controls:
 - i. Letters and logos on awnings or canopies shall be regulated as wall signs and shall meet all applicable requirements for wall signs.
 - a. The following minimum vertical clearance above a sidewalk or pavement area shall be provided:
 1. Store front awning or canopy, eight feet.
 2. Freestanding canopy, 14 feet.
 - b. The written message or logo must be affixed flat to the face of any awning or canopy.

b. Projecting and marquee signs.

1. Projecting and marquee signs shall be permitted subject to the following controls:
 - i. The written message must be affixed flat to the vertical face of any marquee.
 - ii. A minimum vertical clearance of 14 feet shall be provided beneath any projecting or marquee sign which is located in a parking area or projects over a driveway. In all other areas, a minimum vertical clearance of ten feet shall be provided beneath any projecting or marquee sign.
 - iii. Limitations imposed by this article on projection of signs from the face of the wall of a building or structure shall not apply to projecting or marquee signs.

- iv. The total sign area shall not exceed that of a wall sign permitted for the same building.
- v. A projecting or marquee sign shall be permitted in lieu of a freestanding sign on the same premises.
- c. Wall signs.
 - 1. The permissible square footage of wall signage may be split amongst more than one sign provided the maximum square footage of all signs does not exceed that permitted and all signs are coordinated in terms of appearance and design.
 - 2. Wall signs shall not be permitted on the side of a building which abuts a residentially used or zoned property.
 - 3. The planning commission may permit an increase of up to an additional 15 percent of the total permissible area for wall signage. The reasons for any increase shall be documented in the planning commission decision and shall generally be based on the architectural compatibility, sign placement, sign visibility, etc.
- (8) Outdoor eating areas (of more than ten persons), subject to the following requirements:
 - a. They are located and maintained entirely on privately owned land (not within the public right-of-way or other public property, see (9) below).
 - b. They are accessory to a sit-down restaurant on the same premises.
 - c. They shall be reviewed and approved by local or county health agencies.
 - d. They shall be fenced with an appropriate fence, wall, or other acceptable means as determined by the planning commission.
 - e. The outdoor eating area is made part of the license of the principal use.
 - f. Outdoor seating areas of ten persons or less may be approved administratively subject to the above conditions.
- (9) Sidewalk sit-down restaurants or cafes. The city may issue a revocable permit to an eating and drinking establishment, on a limited portion of the public sidewalk adjacent to the business or otherwise located on city-owned property or right-of-way, provided:
 - a. The sidewalk on which the cafe is to be located is flat, is in good repair and is physically separated from the abutting street by a raised curb;
 - b. The location of the cafe on the sidewalk will not interfere with the clear vision of motorists on the adjoining street, particularly at any intersection of the sidewalk with another street or alley;
 - c. The location of the cafe on the sidewalk will not unduly encumber clear and safe passage of pedestrians on the sidewalk;
 - d. All tables and chairs shall be located inside the approved area on the sidewalk towards the building to which it is accessory;
 - e. All construction involved in the establishment and maintenance of a sidewalk cafe shall be of a temporary nature and subject to review and approval by the city, or by the jurisdiction in control of the right-of-way;
 - f. All eating areas shall be provided with trash receptacles. The property owner or operator of the establishment shall keep the area clean and free of all paper, trash, refuse and debris;
 - g. The eating area may be covered by a temporary structure such as a canopy or awning, or umbrella-type

shades affixed securely to a table or to the sidewalk, in a manner acceptable to the city or the jurisdiction in control of the right-of-way. Any such temporary structure or umbrella shall be completely within the area on the sidewalk approved for the cafe;

- h. The seating area of the sidewalk cafe must satisfy the applicable requirements of the state construction code with respect to the amount of seating, spacing and points of ingress and egress;
- i. No outdoor cooking will be permitted in any sidewalk cafe permitted in this subsection;
- j. Materials used in conjunction with a sidewalk cafe, including tables, chairs and wait stations shall be fully and completely removed from the sidewalk and kept elsewhere, when the cafe is closed for the season;
- k. Applications to establish a sidewalk cafe shall be the responsibility of the applicant. The application shall be submitted to the building department for review and approval. In conducting its review, the building department may require submittal of a scaled drawing of the proposed sidewalk cafe, including the location and area of the sidewalk involved, the arrangement of tables and chairs, wait stations, etc.;
- l. Application for a sidewalk cafe shall not be approved by the building department until approval to operate the use in the public right-of-way has been received in writing from the city or the jurisdiction in control of the right-of-way; and
 - 1. The applicant has executed a statement agreeing, at the applicant's expense, that the city, its officials, employees and its consulting agents and agencies, are held harmless from, and indemnifying them for and defending them (with legal counsel acceptable to them through any appellate proceedings they wish to pursue until a final resolution, settlement or compromise approved by them) from any liability for loss, damage, injury or casualty to persons or property caused or occasioned by or rising from any act, use, or occupancy or negligence by or of the applicant and any of its agents, agencies, servants, visitors, licenses, or employees occurring during the term of this agreement or any extended term;
 - 2. The applicant has furnished the city with a certificate or other evidence indicating that the applicant has a policy or policies of insurance against damage to public property, against bodily injury, including death, to one person and against more than one person, in amounts agreeable to the city. The certificate of insurance shall show the city as a certificate holder and an insured and shall provide that coverage may not be terminated without 30 days prior written notice in the city. Such insurance must provide coverage of the city and its officials, employees and its consulting agents and agencies for any occurrence during the term of the permit. Upon request, the applicant shall provide the city with a copy of the insurance policy or policies; and
 - 3. The applicant has secured and is maintaining all legally required works disability compensation and unemployment compensation insurance.
- m. A sidewalk cafe may display on the sidewalk in conjunction with the sidewalk cafe, a temporary freestanding sign which shall not be more than five feet in height and which shall not have more than six square feet of display area per side. The sign shall display only the name of the cafe and the menu of the day. The sign shall be placed within the area designated for the sidewalk cafe.
- n. Prior to issuance of a permit by the building department, a permit fee in an amount established by the city council shall be paid by the applicant to the city. The permit shall include the dates and duration of the sidewalk cafe. Any permits so issued shall be subject to revocation by the city for the applicant's failure to

meet or to maintain the area of the sidewalk cafe in strict accordance with all applicable state, county or local requirements.

- (10) *Required conditions.* The following conditions, where applicable, shall apply to all uses permitted in this district:
- a. Except as may be otherwise permitted in this district, uses permitted in the B-2 Downtown District shall contain all storage of goods and materials for sale and/or distribution within the building.
 - b. Business establishments in the B-2 Downtown District shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced.
 - c. All business, servicing or processing, except for off-street parking, loading and unloading and those open air uses permitted in the district, shall be conducted within completely enclosed buildings.
 - d. The parking of commercial used or licensed vehicles will be permitted in the rear yard only and any such vehicle shall be clearly incidental to the permitted use. The parking of any such vehicle shall be limited to operable vehicles which are moved off the site on a regular basis and shall not include those used for storage, sales and/or advertising.
 - e. Parking or storage of disabled vehicles in any off-street parking lot is hereby prohibited.

Downtown Redevelopment Initial Steps

Downtown Redevelopment (Step 2)

Downtown Redevelopment (Step 3)

Downtown Redevelopment (Step 4)

(Ord. No. 1080, 4-16-2013; Ord. No. 1121, § 1, 5-19-2015)

Sec. 50-93. - B-3 General Business District.

- (a) *Intent.* The B-3 General Business District is designed to provide sites for more diversified business uses which would often be incompatible with the types of more limited uses permitted in the other commercial districts. Many of the business uses permitted in the district are thoroughfare oriented and as such, generate greater volumes of traffic and activities which must be specifically considered to minimize adverse effects on adjacent properties.

- (b) *Regulations (also see Schedule of Regulations).*

Lot	In Feet
Minimum lot size	n/a
Minimum lot width	n/a
Setbacks	
Front	
Eight Mile, Gratiot and Kelly	102 feet from centerline
Nine and Ten Mile Roads	60 feet from centerline
Toepfer and Stephens Avenues	43 feet from centerline

Each Side	0
Rear	20 (If the rear yard of a lot in any of these districts abuts an improved (hard-surfaced) public alley right-of-way, and any required screening barrier is, or will be, located on the opposite side of the alley, the alley right-of-way may be used in satisfying the minimum rear yard setback requirement of the district.)
Parking setbacks	
Front	Five
Each side	n/a
Rear	n/a
Building	
Height	35
Stories	n/a

(c) *Principal uses permitted.* In the B-3 General Business Districts, no building or land used for outdoor sales shall be used, except for one or more of the following specified uses, unless otherwise provided in this chapter:

- (1) Any retail business or service establishment permitted in the B-1 community business district as a principal permitted use.
- (2) Automatic pull through car wash when completely enclosed in a building.
- (3) Public transit stations.
- (4) Wholesale business or service establishments.
- (5) Laundry and dry-cleaning establishments performing their operations on the premises.
- (6) Veterinary hospitals or clinics as well as dog day care facilities, provided all activities are conducted within a totally enclosed and soundproof building.
- (7) Tattoo parlors and the like.
- (8) Gun sales and repair.

- (9) Outdoor eating areas either on private or public property or right-of-way as regulated in the B-2 district.
 - (10) Other uses similar to those above.
 - (11) Residential units, provided that no dwelling unit shall be located on the ground floor of any building and subject to the following minimum floor area requirements:
 - a. Efficiency unit: 450 square feet.
 - b. One bedroom: 500 square feet.
 - c. Two bedroom: 600 square feet.
 - d. Three or more bedrooms: 700 square feet, plus 200 square feet for each bedroom over three.
 - (12) Accessory structures and uses customarily incidental to any above permitted uses.
- (d) *Special land use approvals.* The following uses shall be permitted in the B-3 General Business Districts, subject to the conditions hereinafter imposed for each use, and subject further to review and recommendation of approval by the planning commission to the city council.
- (1) Any special land use approvals in the B-1 District, not otherwise listed in the B-3 District, subject to the conditions specified for each use in the district.
 - (2) Tire, battery, muffler, quick change oil and undercoating stores, including stores which provide tire repair, wheel balancing, shock absorber replacement and wheel alignment, but not including general or major motor vehicle repair, subject to the following conditions:
 - a. There shall be no outside display of any parts and/or products.
 - b. Any repair and/or replacement activity shall be conducted within a totally enclosed building.
 - c. All new, used and/or discarded parts shall be stored within a completely enclosed building or within an area that is screened from view in accordance with the applicable requirements of article XX of this chapter.
 - d. The outside parking of vehicles awaiting service shall be limited to two vehicles per service bay, and any vehicles awaiting repair that are parked outside shall be kept within an area that will screen the vehicles from view. In no case shall a vehicle be kept for more than seven continuous days.
 - (3) General motor vehicle repair as defined in this chapter, including undercoating and towing services. The outside parking of vehicles awaiting service shall be limited to two vehicles per service bay, and any vehicles awaiting repair that are parked outside shall be kept within an area that will screen the vehicles from view. In no case shall a vehicle be so kept for more than seven continuous days.
 - (4) Drive in, fast food carry-out and fast food sit-down restaurants as defined in this chapter, subject to the following conditions:
 - a. A setback of at least 60 feet from the right-of-way and/or property line of any existing or proposed street must be maintained. The planning commission may reduce the required setbacks upon a finding that the reduction will not impact the surrounding properties and neighborhood and that appropriate screening and buffering has been provided.
 - b. Access points shall be located at least 60 feet from the intersection of any two streets as measured from the road right-of-way line. The planning commission may reduce the required setbacks upon a finding that the reduction will not impact the safety of the abutting roadways.
 - (5) Veterinary hospitals or clinics as well as dog day care facilities with outdoor activities.

- (6) Plant material nurseries for the retail sale of plant materials not grown on the site and sales of lawn furniture, playground equipment, garden supplies, etc. provided further that such uses shall comply with the following requirements:
- a. The use may extend to any interior side or rear lot line, except when those lot lines abut a residential district then no such use shall extend into any required setback for a principal building.
 - b. No part of the use shall extend into any required front or exterior side yard setback requirements of the district.
 - c. Such outdoor sales are limited to the retail sale of plant material, lawn furnishings and landscaping amenities, play equipment, garden supplies, including lawn care and gardening appliances, and other similar materials as determined by the building official and/or planning commission;
 - d. Space may be provided in conjunction with a permitted outdoor sales area for the loading of customer vehicles only, except when area is in a yard that abuts a residential district;
 - e. The entire area shall be enclosed with building walls that shall represent a physical extension of the principal building, including the same exterior building wall materials and same color material as the principal building, except for the purposes of display and to provide light and air to the interior display area; exterior walls of the accessory outdoor sales area may also consist of decorative ornamental metal fencing material. Except where gates are provided, all such fencing shall be placed on top of a continuous wall structure, the height of which shall not be less than three feet; and
 - f. To aid in its review of a site plan for an accessory outdoor sales area, the planning commission may require the submittal of drawings to clearly depict and identify the type of decorative ornamental fencing materials that will be used in conjunction with such area.
- (7) Gasoline service stations for the sale of gasoline, oil and general motor vehicle repair, including oil change, lubricating services and towing services, subject to the following conditions:
- a. The curb cuts for access to a service station shall not be permitted at locations that will tend to create traffic hazards on the abutting streets. Entrances shall be not less than 25 feet from a street intersection (measured along the road right-of-way line) or from any adjacent residential districts. The planning commission may limit the number of access drives based on the proximity and alignment to other adjacent driveways.
 - b. The servicing of vehicles shall be limited to those which may be serviced during a normal workday. The parking of any vehicle overnight, outside a completely enclosed building, is not permitted. The foregoing restriction shall not apply to operable vehicles of those employees working at the station plus two service vehicles utilized solely by the service station.
 - c. The outside parking of vehicles awaiting service shall be limited to two vehicles per service bay, and any vehicles awaiting repair that are parked outside shall be kept within an area that will screen the vehicles from view. In no case shall a vehicle be so kept for more than seven continuous days.
 - d. No disabled or damaged vehicles are parked or stored on the premises;
 - e. All pump islands are placed no closer than 20 feet from any required frontage lawn panel or right-of-way line; and
 - f. All canopy structures are placed no closer than ten feet to any street or alley right-of-way line, and have a ground to ceiling clearance of at least 13 feet.
- (8) Self storage facilities, subject to the following conditions:

- a. All access to the facility will be from a major thoroughfare as designated on the city's master land use plan for future land use map, as amended, the Long Range Master Plan of the Macomb County Department of Roads, or the State of Michigan Long Range Transportation Plan.
 - b. No direct access to a storage unit shall be provided on those facades of a building which directly front a property line.
 - c. An office area may be provided on the property.
 - d. Except for trash receptacles, no outdoor storage of any kind shall be permitted either as the principal use or as a use accessory to the principal use.
- (9) Commercial recreational uses of an outdoor nature (i.e., baseball, softball, tennis, racquetball, motocross, skateboard, amusement parks, etc.)
- a. All access to the facility will be from a major thoroughfare as designated on the city's master land use plan for future land use map, as amended, the Long Range Master Plan of the Macomb County Department of Roads, or the State of Michigan Long Range Transportation Plan.
 - b. The location of the facility will not adversely affect the development and/or utilization of adjacent land use areas;
 - c. All exterior site lighting will be directed downward and into the property and away from any abutting residential land use;
 - d. All exterior site noise generated by participants, equipment or traffic within the site shall be controlled in such a manner that these characteristics of a commercial recreation use shall not impact any adjacent land use;
 - e. The hours of operation will be compatible with adjacent land use; and
 - f. The screening requirements of this chapter shall apply to the extent that all outdoor activities associated with the use shall be effectively screened from view from any adjacent land use.
- (10) Adult entertainment.
- a. Location regulations.
 - 1. No adult entertainment use shall be located within 1,000 feet of any other adult entertainment use or within 600 feet of any of the following uses:
 - i. All class C establishments licensed by the state liquor control commission.
 - ii. Pool or billiard halls.
 - iii. Coin-operated amusement centers.
 - iv. Teenage discos or dancehalls.
 - v. Ice or roller skating rinks.
 - vi. Pawnshops.
 - vii. Indoor or drive-in movie theaters.
 - viii. Any public park.
 - ix. Any church.
 - x. Any public or private school having a curriculum including kindergarten or any one or more of the grades one through 12.

- xi. Any public building.
 - xii. Any other regulated use as defined herein.
2. Such distance shall be measured along the center line of the street or address between two fixed points on the center lines determined by projecting straight lines at right angles from the part of the uses set forth in this subsection nearest to the contemplated location of the structure containing the adult entertainment use and from the contemplated location of the structure containing the adult entertainment use.
 3. No adult entertainment use shall be located within 600 feet of any area zoned residential. Such required distance shall be measured by a straight line between the nearest point of the boundary line of a residential zoning district to the nearest building wall or contemplated building wall of the building intended to house an adult entertainment use.
 4. Any adult entertainment use shall be contained in a freestanding building. Enclosed malls, commercial strip stores or, common wall structures and multiple uses within the same structure, do not constitute freestanding buildings.
 5. No adult entertainment use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas from any public way or from any property not regulated as an adult entertainment use. This subsection shall apply to any display, decoration, sign, show window or other opening.
- b. Intent. It has been demonstrated that the establishment of adult entertainment businesses in business districts which are immediately adjacent to and which serve residential neighborhoods has deleterious effects on both business and residential segments of the neighborhood, causing blight and a downgrading of property values. A prohibition against the establishment of more than two regulated uses within 1,000 feet of each other serves to avoid the clustering of certain businesses, which, when located in close proximity to each other, tend to create a marginal atmosphere. However, such prohibition fails to avoid the deleterious effects of blight and devaluation of both business and residential property values resulting from the establishment of adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult motion picture arcades, adult motels, adult massage parlors, adult model studios, adult sexual encounter centers and adult cabarets in a business district which is immediately adjacent to, and which also serves adjoining residential neighborhoods. Concern for the pride in the orderly planning, development and preservation of the integrity of a residential neighborhood should be encouraged and fostered by those businesses and those persons who might otherwise comprise the business and residential integrity of the neighborhood. The planning commission and the city council should therefore be guided by the expressed will of those businesses and residences which are immediately adjacent to the proposed location of, and therefore, most affected by, the existence of any adult bookstore, adult motion picture, adult mini-motion picture theater, adult cabaret, etc.
- c. The council may waive the limiting regulations of this section if all of the following are found:
1. The proposed use will not be contrary to the public interest or injurious to the nearby properties, and the spirit and intent of this chapter will be observed.
 2. The proposed use will not enlarge or encourage the development of an undesirable area.
 3. The person seeking to establish the adult entertainment use shall include a petition which affirmatively

demonstrates the approval of the proposed adult entertainment use by at least 50 percent of the persons owning or occupying premises within a radius of 600 feet of the proposed use. The petitioner shall attempt to contact all occupied premises within this radius, and must maintain a list of all addresses at which no contact was made. The person who circulates the petition requesting approval shall subscribe to a sworn affidavit attesting to the fact that the petition was circulated, that the person who circulated the petition personally witnessed the signatures on the petition and that, to the best of his or her knowledge, the same were affixed to the petition by the person whose name appeared thereon. The city council shall not consider the application until such petition has been filed and verified to the satisfaction of the city council.

(11) Arcades.

- a. Any such use shall not be located closer than 100 feet to any residential district.
- b. All access to the facility will be from a major thoroughfare as designated on the city's master land use plan for future land use map, as amended, the Long Range Master Plan of the Macomb County Department of Roads or the State of Michigan Long Range Transportation Plan.
- c. The location and hours of operation of the facility, together with its users, shall not adversely affect the development and utilization of adjacent and neighboring properties. Particular concern shall be given to adverse effects resulting from congregation and/or loitering on the premises, including areas outside the building. The applicant, together with the owner of the building, shall agree that all necessary measures shall be taken to avoid any adverse effects and that any problems relating to the arcade operation that persist for more than a total of 30 days will result in immediate revocation of the certificate of occupancy for the arcade.

(12) Outdoor sales space including repair facilities for the sale of new or used automobiles, camper trailers, recreational vehicles, the rental of trailers, motor vehicles including watercraft, and mobile and modular homes shall be permitted only in the B-3 General Business District, subject to the following conditions:

- a. The surface area dedicated for sales of such vehicles, trailers and homes shall be constructed of either asphalt or concrete and shall be properly drained.
- b. The site shall be located on Eight, Nine, or Ten Mile Roads or Gratiot Avenue. Further, a new outdoor sales space shall not be permitted to be located within 500 feet (as measured from property line to property line) from another outdoor sales location regulated under this section unless the facility is located on a divided highway.
- c. The minimum square footage of a lot utilized for the purposes of outdoor sales space as regulated by the section shall be 10,000 square feet.
- d. Ingress and egress points shall be located at least 60 feet from the intersection of any two streets.
- e. Any servicing of vehicles, including major motor repair and refinishing shall be subject to the following requirements:
 1. All such activities shall occur within a completely enclosed building.
 2. Partially dismantled and/or damaged vehicles, along with any new or used or discarded parts and supplies shall be stored within a completely enclosed building or within an area in the rear yard that is screened from view.
 3. There shall be no external evidence, beyond the building, by way of dust, odor, vibration or noise, of any

operations conducted on the premises.

- f. Adequate off-street parking spaces which are separate from any display, sale or storage areas shall be provided.
- g. Areas dedicated or otherwise utilized for the display of vehicles shall be designed in accordance with the requirements for a standard parking area in terms of parking space size, access, and maneuvering lane width, including adequate maneuvering lanes for access and emergency purposes as reviewed and approved by the city.
- h. Adequate maneuvering for delivery trucks shall be provided to and from the site which does not require backing in or out from the street or the blocking of any travel lanes.
- i. Devices for the transmission or broadcasting of voices and/or music shall be prohibited.
- j. The outside parking of vehicles waiting service shall be limited to two vehicles per service bay, and any vehicles awaiting repair that are parked outside shall be kept within an area that will screen the vehicles from view, but in no case shall a vehicle be so kept for more than seven continuous days.

(13) Pawnbrokers.

- a. All access to the facility will be from a major thoroughfare as designated on the city's master land use plan for future land use map, as amended, the Long Range Master Plan of the Macomb County Department of Roads, or the State of Michigan Long Range Transportation Plan.
- b. Shall not be located within 1,000 feet of any other pawnbroker, nor within 300 feet of any of the following uses:
 - 1. All class C establishments licensed by the state liquor control commission;
 - 2. Pool or billiard halls;
 - 3. Coin-operated amusement device centers;
 - 4. Teenage discos or dancehalls;
 - 5. Ice or roller skating rinks;
 - 6. Adult entertainment uses;
 - 7. Indoor or drive-in movie theaters;
 - 8. Any public park;
 - 9. Any church;
 - 10. Any public or private school having a curriculum including kindergarten or any one or more of grades one through 12; and
 - 11. Residential uses;
 - 12. Any other regulated use as defined herein.

Such distance shall be measured along the center line of the street or address between two fixed points on the center line determined by projecting straight lines at right angles from the part of the uses set forth in this subsection nearest to the contemplated location of the structure containing the pawnbroker use and from the contemplated location of the structure containing the pawnbroker use.

- c. Shall be contained in a freestanding building. Enclosed malls, commercial strip stores, common wall

structures and multiple uses within the same structure do not constitute freestanding buildings.

- d. The location and hours of operation shall be such that the facility, together with its users, shall not adversely affect the development and utilization of adjacent and neighboring properties.
- e. The city council may waive the limiting regulations of this section if all of the following are found:
 - 1. The proposed use will not be contrary to the public interest or injurious to nearby properties, and the spirit and intent of this chapter will be observed.
 - 2. The proposed use will not enlarge or encourage development of an undesirable area.
 - 3. Persons seeking approval shall include a petition which affirmatively demonstrates the approval of the proposed use by at least 50 percent of the persons owning or occupying premises within a radius of 300 feet of the proposed use. The petitioner shall attempt to contact all occupied premises within this radius and must provide a list of all addresses in which no contact was made. The circulator of the petition requesting approval shall subscribe to a sworn affidavit attesting to the fact that the petition was circulated, that the circulator personally witnessed the signatures on the petition and that, to the best of his or her knowledge, the same were affixed to the petition by the persons whose names appeared thereon. The council shall not consider the application until such petition has been filed and verified to the satisfaction of the council.

(14) Dancehalls.

- a. No such building or use shall be closer than 100 feet to any residential district;
- b. Access to the site shall be directly from a major thoroughfare;
- c. The location and hours of operation of the facility, together with its patrons, shall not adversely affect the development and utilization of adjacent and neighboring properties. Particular concern shall be given to adverse effects resulting from congregation and/or loitering on the premises, including areas outside the building. The applicant, together with the owner of the building shall agree that all necessary measures shall be taken to avoid any adverse effects, and any problems relating to the dancehall operation that persist for more than a total of 30 days will result in immediate revocation of the certificate of occupancy for the dancehall.

(15) Towing services and ancillary storage facilities as a principal use.

(16) Charity poker rooms and other gambling type facilities.

(17) Hookah lounges and the like.

(18) Gun ranges and the like.

(19) Kennels, dog day care, and similar facilities.

(20) Wind energy systems (section 50-70(d)).

(21) Residential units 450 square feet or smaller, provided that no dwelling unit shall be located on the ground floor of any building.

(e) *Required conditions.* The following conditions shall apply to all uses permitted in this district:

- (1) Except as may be otherwise permitted in this district, uses permitted in the B-3 General Business District shall contain all operations and storage of goods and materials for sale and/or distribution within the building.
- (2) Unless otherwise noted, business establishments in the B-3 General Business District shall be retail or service

establishments dealing directly with consumers. All goods purchased on the premises shall be sold at retail on the premises where produced.

- (3) The parking of commercial used or licensed vehicles will be permitted in the rear yard only and any vehicle shall be clearly incidental to the permitted use. The parking of any vehicle shall be limited to operable vehicles which are moved off the site on a regular basis and shall not include those used for storage, sales and/or advertising.
- (4) Parking or storage of disabled vehicles in any off-street parking lot is prohibited.
- (5) Except where otherwise regulated in this section, see section 50-150 limiting the height and bulk of buildings, and building setbacks.
- (6) Consult article XIX of this chapter regarding compliance with the requirements of off-street parking, loading and layout standards.
- (7) Consult article XX of this chapter regarding compliance with the requirements of screening and landscaping.
- (8) Consult article XXI of this chapter regarding compliance with the requirements of nonconforming uses.
- (9) Consult article XXII of this chapter regarding exceptions to certain regulations of this chapter.
- (10) Consult article IV of this chapter regarding administration and enforcement.

(Ord. No. 1080, 4-16-2013; Ord. No. 1155, 7-24-2018)

Secs. 50-94—50-99. - Reserved.

ARTICLE XI. - INDUSTRIAL DISTRICTS

Sec. 50-100. - I-1 Light Industrial District.

- (a) *Intent.* The I-1 Light Industrial District is designed 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 structured to permit, along with any specific use, the manufacturing, compounding, processing, packaging, assembly or treatment of finished or semi finished products from previously prepared material. The processing of raw material for shipment in bulk form to be used in an industrial operation at another location shall not be permitted. The general goals of the I-1 District include, among others, the following specific uses:
- (1) To provide sufficient space, in appropriate locations, to meet the needs of the city's expected future economy for all types of light manufacturing and related uses.
 - (2) To protect abutting residential districts by separating them from manufacturing activities, and by prohibiting the use of such industrial area for new residential development.
 - (3) To promote manufacturing development which is free from danger of fire, explosion, toxic and noxious matter, radiation and other hazards, and from offensive noise, vibration, smoke, odor and other objectionable influences.
 - (4) To protect the most desirable use of land in accordance with a well considered plan.
 - (5) To protect the character and established pattern of adjacent development, to conserve, in each area, the value of land and buildings and other structures, and to protect the city's tax base.

(b) *Regulations (also see Schedule of Regulations).*

Lot	In Feet
Minimum lot size	n/a
Minimum lot width	n/a
Setbacks	
Front	Six feet
Eight Mile, Gratiot and Kelly	102 feet from centerline
Nine and Ten Mile Roads	60 feet from centerline
Toepfer and Stephens Avenues	43 feet from centerline
Each side	Ten feet
Rear	20 (If the rear yard of a lot in any of these districts abuts an improved (hard-surfaced) public alley right-of-way, and any required screening barrier is, or will be, located on the opposite side of the alley, the alley right-of-way may be used in satisfying the minimum rear yard setback requirement of the district.)
Parking setbacks	
Front	Six feet
Each side	Five feet
Rear	Five feet
Building	
Height	30 feet

Stories

Two

- (c) *Principal uses permitted.* In the I-1 Light Industrial Districts, no building or land shall be used, except for one or more of the following specified uses, unless otherwise provided in this section:
- (1) Any use charged with the principal function of basic research, design and pilot or experimental product development, when conducted within a completely enclosed building.
 - (2) Any of the following uses when the manufacturing, compounding or processing is conducted wholly within a completely enclosed building.
 - a. Warehousing and wholesale establishments.
 - b. The manufacture, compounding, processing, packaging or treatment of products such as, but not limited to, bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products, hardware and cutlery and tool, die, gauge and machine shops.
 - c. The manufacture, compounding, assembling or treatment of articles or merchandise from previously prepared materials.
 - d. The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.
 - e. Manufacture of musical instruments, toys, novelties, stamps or other molded products.
 - f. Manufacture or assembly of electrical appliances, electronic instruments and devices.
 - g. Manufacturing and repair of electric or neon signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves and the like.
 - h. Central dry cleaning plants or laundries, provided that such plants do not deal directly with retail consumers.
 - i. All public utilities, including buildings, necessary structures, storage yards and other related uses.
 - (3) Warehouse, storage and transfer, electric or gas service buildings and yards, public utility buildings, telephone exchange buildings, electrical transformer stations and substations, gas regulator stations, water and gas tank holders, railroad transfer and storage tracks, railroad rights-of-way and freight terminals.
 - (4) Municipal uses such as water treatment plants and reservoirs, sewage treatment plants and all other municipal buildings and uses, including outdoor storage.
 - (5) Greenhouses.
 - (6) Office buildings offering administrative, clerical or general services as the principal use of the property or as a use accessory to a principal permitted use.
 - (7) Other uses of a similar and no more objectionable character to the above uses.
 - (8) Accessory buildings and uses customarily incidental to any permitted uses.
- (d) *Special land use approvals.* The following uses shall be permitted in the I-1 Light Industrial Districts, subject to the conditions imposed for each use and subject to review and approval by the planning commission.
- (1) General and major motor vehicle repair subject to the following conditions:

- a. All operations are conducted in a completely enclosed building.
 - b. The outside parking of vehicles awaiting service shall be limited to two vehicles per service bay, and any vehicles awaiting repair that are parked outside shall be kept within an area that will screen the vehicles from view. In no case shall a vehicle be so kept for more than seven continuous days.
- (2) Buffing, polishing, and metal plating, subject to appropriate measures to prevent noxious results and/or nuisances.
 - (3) Indoor uses such as, but not limited to, general sports facilities, including; tennis, racquetball, gymnastics, as well as trade or industrial schools or industrial clinics.
 - (4) Accessory outdoor storage areas when such areas are screened from view in accordance with the applicable requirements of article XX of this chapter pertaining to screening and landscaping, and are setback at least 20 feet from any public right-of-way line to obscure any such storage area from any adjacent property and right of-way.
 - (5) Retail uses and services.
 - (6) Testing laboratories.
 - (7) Mortuary establishments.
 - (8) Kennels, dog day care, and similar facilities.
 - (9) Trucking facilities.
 - (10) Outdoor theaters subject to the specific requirements in the B-3 District for the use.
 - (11) Radio and television towers, public utility microwave and public utility television transmitting towers and their attendant facilities, but not including telecommunication towers.
 - (12) Telecommunications towers with the conditions set out in section 50-171.
 - (13) Junkyards and places for dismantling, wrecking and disposing or salvaging of the junk and/or refuse material of agricultural and motor vehicles, glass and other materials of a similar nature.
 - a. All laws of the city, county and state, as applied to these activities, shall be complied with.
 - b. No such use shall be allowed within 300 feet of any residential district.
 - c. Open burning of materials or the open burning of junk cars is hereby prohibited.
 - d. Any storage area shall be obscured from public view and entirely enclosed by an eight-foot high obscuring wall (it is noted that this exceeds typical permitted wall heights).
 - (14) Commercial recreational uses of an outdoor nature (i.e., baseball, softball, tennis, motocross, skateboard, amusement parks, etc.) subject to the specific requirements in the B-3 District for the use.
 - (15) Adult entertainment subject to the specific requirements in the B-3 District for the use.
 - (16) Pawnbrokers, secondhand dealers and junk dealers subject to the specific requirements in the B-3 District for the use.
 - (17) Gun ranges.
 - (18) Sales, warehousing and storage of consumer fireworks.
 - (19) Wind energy systems (section 50-70(d)).
 - (20) Other uses of a character similar to the above uses.
- (e) *Required conditions.* The following conditions, where applicable, shall apply to all uses permitted in this district:

- (1) Except as may be otherwise permitted in this district, uses permitted in the I-1 Light Industrial District shall contain a of goods and materials for sale and/or distribution within the building.
- (2) All business, servicing or processing, except for off-street parking, loading and unloading, shall be conducted within completely enclosed buildings.
- (3) The parking of commercial used or licensed vehicles will be permitted in the rear yard only and any such vehicle shall be clearly incidental to the permitted use. The parking of any such vehicle shall be limited to operable vehicles which are moved off the site on a regular basis and shall not include those used for storage, sales and/or advertising.
- (4) Parking or storage of disabled vehicles in any off-street parking lot is prohibited.
- (5) Except where otherwise regulated in this section, see section limiting the height and bulk of buildings, and building setbacks.
- (6) Consult article XIX of this chapter regarding compliance with the requirements of off-street parking, loading and layout standards.
- (7) Consult article XX of this chapter, regarding compliance with the requirements of screening and landscaping.
- (8) Consult article XXI of this chapter regarding compliance with the requirements of nonconforming uses.
- (9) Consult article XXII of this chapter regarding exceptions to certain regulations of this chapter.
- (10) Consult article IV of this chapter regarding administration and enforcement.

(Ord. No. 1080, 4-16-2013)

Sec. 50-101—50-109. - Reserved.

ARTICLE XII. - VEHICULAR PARKING DISTRICT

Sec. 50-110. - P-1 Vehicular Parking District.

- (a) *Intent.* The P-1 Vehicular Parking District is intended to permit the establishment of areas to be used solely for off-street parking of private passenger vehicles as a use accessory to a principal use. This district will generally be provided by petition or request to serve a use district which has developed without adequate off-street parking facilities. It can also serve, where applicable, as a district of land use transition between a nonresidential district and a residential district.
- (b) *Regulations (also see Schedule of Regulations).*

Lot	In Feet
Minimum lot size	n/a
Minimum lot width	n/a

Setbacks	
Front	25 feet
Eight Mile, Gratiot and Kelly	102 feet from centerline
Nine and Ten Mile Roads	60 feet from centerline
Toepfer and Stephens Avenues	43 feet from centerline
Each side	n/a
Rear	n/a
Parking setbacks	
Front	12 feet
Each Side	n/a
Rear	n/a
Building	
Height	Ten feet
Stories	n/a

- (c) *Principal uses permitted.* Premises in a P-1 Vehicular Parking District shall be used only for off-street vehicular parking areas and shall be developed and maintained subject to the regulations in this section.
- (d) *Special land use approvals.* In those instances where it can be clearly shown that the proper and functional use of a trash receptacle cannot be achieved on the same parcel as the principal use, the planning commission may permit a trash receptacle to be located in a developed or developing off-street parking lot in a P-1 District, provided the following conditions are met:
- (1) The trash receptacle will be used only by the principal use for which the off-street parking lot is provided.
 - (2) The trash receptacle is located next to the improved public alley or improved private access drive and can be accessed and serviced directly from the improved public alley or improved private access drive.

(3) Wind energy systems (section 50-70(d)).

(e) *Required conditions.* The following conditions, where applicable, shall apply to development in the P-1 District:

- (1) Parking areas in the P-1 Vehicular Parking Districts shall be accessory to, and for use in connection with, one or more business or industrial establishments located in adjoining business or industrial districts or in connection with one or more existing professional or institutional office buildings, institutions or multiple-dwelling developments.
- (2) Parking areas shall be contiguous to an RM-1 or RM-2 Multiple-Family Residential District or a nonresidential district. There may be a private driveway or public street or alley between the P-1 District and such contiguous districts.
- (3) The parking area shall be used solely for the parking of private passenger vehicles as defined in this chapter and shall not be used as a loading and unloading area or for the parking or storage of disabled vehicles.
- (4) No commercial repair work or service of any kind, or sale or display thereof, shall be conducted in such parking area.
- (5) No signs of any kind, other than signs designating entrances, exits and conditions of use shall be maintained on such parking area.
- (6) No building, other than one for the shelter of attendants, shall be erected upon the premises and it shall not exceed ten feet in overall height.
- (7) Application for P-1 District rezoning shall be made by submitting a dimensioned layout of the area requested showing the intended parking.
- (8) Consult section 50-150 regarding setbacks applicable to parking lots in the district.
- (9) Consult article XIX of this chapter regarding compliance with the requirements of off-street parking, loading and layout.
- (10) Consult article XX of this chapter regarding compliance with the requirements of screening and landscaping.
- (11) Consult article XXI of this chapter regarding compliance with the requirements of nonconforming uses as they may apply to various uses permitted in the district.
- (12) Consult article IV of this chapter regarding administration and enforcement.

(Ord. No. 1080, 4-16-2013)

Secs. 50-111—50-119. - Reserved.

ARTICLE XIII. - PLANNED DEVELOPMENT OPTION

Sec. 50-120. - PD planned development option.

- (a) *Intent.* It is the implied intent of the PD planned development option to encourage quality development by providing for a diversified mix of land use. It is further the intent of this mixed use option to encourage quality design innovation by minimizing specific height, bulk, density and area standards, giving the applicant freedom to configure buildings, parking and related site amenities in ways that would otherwise be discouraged or curtailed under the

standards of conventional zoning districts. Freedom from extensive layout controls is intended to encourage utilization of a site in ways that will more fully satisfy the site review criteria set forth in the PD option, so long as it is clearly understood that the absence of such regulatory standards in no way implies, or is to be interpreted to mean, that such critical site layout standards are excused or may be ignored with respect to development in the PD option. To the contrary, proper building setbacks and the thoughtful location and tasteful application of site amenities shall be considered as crucial design elements of any development proposed under the guidelines of the PD option and will be subject to careful review and evaluation by the city. Site plans which minimize or show little regard for such amenities will be subject to rejection by the city.

- (b) *Application process.* The PD planned development option shall be processed as a special land use request. An application for development under this section shall be made in accordance with the following procedures.
- (1) Submittal of an application for development under this option shall first be made to the planning commission for its review and recommendation to the city council. The process shall follow the procedures for special land use review.
 - (2) A recommendation from the planning commission to the city council to approve the planned development application may be made upon a finding that:
 - a. Development will consist of a mix and density of land use types when that type of mix and density is found by the planning commission and the city council to be appropriate for the property on which it is proposed; and
 - b. The specific types of land uses and densities proposed and the proposed layout of the site is acceptable to the city.
 - (3) Once the preliminary site plan has been approved by the council, no development shall take place therein and no use shall be made of any part thereof, until final site plan approval has been given by council, and then only in accordance with the approved site plan or in accordance with an approved amendment to that plan.
- (c) *Application content.*
- (1) The contents of an application submittal shall include:
 - a. A legal survey of the exact area being requested for development under this section;
 - b. Proof of ownership of the land or an option to purchase land being requested for development, with notarized documentation from the landowner approving of the rezoning request; and
 - c. A written report (including plans and graphics as necessary) containing an assessment of the impact that the development will have on the site, surrounding area and city in general. The report shall consist of at least the following:
 1. A statement as to the general vegetation characteristics of the site, in terms of type, coverage and quality and how those areas will be integrated into the site.
 2. A statement explaining in detail the full intent of the application, indicating the specifics of the type of development proposed for the site including details of the proposed residential number and types of units as well as the square footage of nonresidential use;
 3. A statement as to the effect the intended use of the property will have on adjacent properties in terms of line of sight, light, drainage, air, traffic, noise, hours of operation, etc.;
 4. The preliminary plan submitted shall show how the site conforms to any streets, roads or other public conveyances, as well as public utility layouts, including drainage course systems;

5. Preliminary drawings indicating the general architecture of the proposed building or buildings including overall design and types of exterior wall materials to be used and how the proposed architectural design and facade materials will be complimentary to existing or proposed uses within the site and on surrounding lands; and
6. A clear designation on each building depicted on the site plan of its specific use, i.e., residential, retail, commercial, service commercial, office, etc.

(d) *Review of preliminary planned development application.*

- (1) The planning commission, upon receipt of an application to develop under the PD planned development section, shall first set a public hearing date for review of the application.
- (2) Once the public hearing has been conducted, the planning commission, in considering a request to approve a preliminary planned development application, may recommend approval of the request to city council only after it finds that:
 - a. The request is being made with the full intent of developing the land in strict accordance with the requirements of the PD section and proper assurances are in place to guarantee such;
 - b. The uses proposed for development as presented on the submitted site plans are compatible with existing and planned uses on adjacent lands;
 - c. The area being requested for approval is either fully served by public utilities, including water and sanitary sewer, or will be fully served through the improvement of such public utilities to the site at the time of development; and
 - d. The preliminary site plan is in compliance with the review criteria set forth in this section and other applicable requirements of this chapter.
 - e. The application is consistent with the planning standards of section 50-49.
- (3) Further, the planning commission prior to approval shall find that the following conditions are met:
 - a. The plan satisfies the intent of this section with respect to the use of land and principal and accessory use relationships within the site, as well as with uses on adjacent sites.
 - b. All existing or proposed streets, roads, utilities and marginal access service drives, as may be required provide logical extensions of the existing systems.
 - c. The plan meets all applicable standards of this section relating to building height, bulk, dwelling unit density, building setback guidelines, off-street parking and preliminary site engineering requirements.
 - d. There exists a reasonably harmonious relationship between the placement of buildings on the site and buildings on adjoining lands, and there is functional compatibility between all structures on the site and structures within the surrounding area to ensure proper relationships between:
 1. One building to another, whether on-site or on adjacent land, i.e., entrances, service areas and mechanical appurtenances; and
 2. Street, road, parking areas and public utility layouts approved for the area.
 3. Upon review of the preliminary site plan by the planning commission, the planning commission shall forward its findings and recommendations, along with all plans and supporting documents, to the city council for its review.

- (4) The city council shall review the preliminary site plan with regard to the planning commission's recommendations and review requirements and conditions of this section. The city council may approve the preliminary site plan, provided the city council finds the application appropriate.

(e) *Review of final planned development application.*

- (1) A final detailed site plan shall be prepared and submitted to the planning commission for its review and recommendation to city council. The final site plan shall:
- a. Meet all the applicable requirements;
 - b. Include plans and drawings illustrating in detail all physical layouts as indicated on the approved preliminary site plan, as well as exterior building wall elevation drawings detailed parking plans, landscaping plans and other physical plan details such as exterior site lighting, signs, etc., being proposed. Supporting documentation in the form of building plans and schedules of construction may also be requested.
 - c. The planning commission, in making its review of the design and architecture, shall, be satisfied that there exists a reasonably harmonious relationship between the location of buildings on the site and on abutting properties and that there is reasonable design and architectural compatibility between all structures on the site and structures within the surrounding area to ensure proper relationships between:
 1. Building views and site lines as well as private and semi-private spaces;
 2. Landscape planting, off-street parking areas and service drives on adjacent lands; and
 3. The architecture of the proposed buildings, including overall design and building wall materials used. Architectural design and exterior building wall material should be complimentary to existing or proposed buildings within the site and the surrounding area. Care shall be taken to ensure that contrasts will not be out of character with existing building design and exterior building wall materials or create an adverse effect on the economic stability and value of the surrounding buildings.
- (2) The final site plan, along with all supporting documentation, shall accompany the planning commission's recommendations for final review by the city council. The council, in reviewing the final site plan, shall find that:
- a. The final site plan is in conformity with the preliminary site plan and meets the conditions of this section;
 - b. The dedication of public rights-of-way and/or planned public open spaces, where proposed on the site plan, or as may be otherwise required, shall be made or properly assured;
 - c. In residential use areas, any prorated open space has been irrevocably dedicated and retained as open space for park, recreation and related uses, and all such lands meet the requirements of the city; and
 - d. All master deed and other applicable legal documents (such as development agreements, easements, rights-of-way, etc.) have been reviewed and approved.
- (3) When the city council shall find that all such conditions are met, it may grant final site plan approval. The granting of final site plan approval shall constitute final approval of the planned development. Development under the PD option shall rely upon the plan submitted and all supporting documentation. The plan, therefore, is basic to the planned development approval. Approval by the council of the planned development application, the final approved site plan and all supporting documents shall be recorded with the subject property at the Macomb County Register of Deeds.

(f) *Amendments to an approved planned development application.*

- (1) Revisions to an approved preliminary or final site plan shall require the resubmittal of plan revisions to the

building department for an administrative review. The building department, in making its review, may require such revisions to be resubmitted to the planning commission and city council for review and approval when, in its opinion, such revisions constitute a major or significant change in the previously approved plans, or when it feels such changes may compromise the intent and review standards of the PD section. Significant changes include, by way of example only and not as a limitation, increased dwelling unit size or density, increased nonresidential use areas, loss of substantial amounts of parking or relocation of buildings. The planning commission and city council, in making a review of a revised site plan, shall find that all revisions forwarded to them for review and approval meet all applicable requirements and guidelines of this section, including its general intent. If approved, such amendments shall be recorded along with all original information at the Macomb County Register of Deeds.

(g) *Timeframe of approval of an approved planned development application.*

- (1) Approval of a preliminary site plan shall be effective for a period of one year from the date of preliminary approval by council. Approval of a final site plan shall be effective for a period of two years from the date of final approval by council. If substantial development is not evidenced on the site within two years from the date of final approval by council, all site plan approvals may be terminated. For the purpose of this section, the term "substantial" shall mean that at least 25 percent of the development shall be in place, or well under construction on the site, within two years from the date of final site plan approval by the city council.

(h) *Phasing of an approved planned development application.*

- (1) If development is to be undertaken in phases, the first development phase shall include not less than 25 percent of the total development proposed for the site, and shall include all infrastructure, including streets, relating to the phase, as well as all indoor and outdoor recreation facilities and community buildings that relate to the entire development. Each development phase shall be clearly identified on the site plan with a phase development line and identified as to which phase it is, i.e., phase 1, etc. All such data pertaining to each phase shall be clearly enumerated on the site plan by phase including the land area, in square feet or acres, which is involved in each phase.

(i) *Permitted uses.* The following specified uses shall be permitted in a planned development:

- (1) Single-family dwellings.
- (2) Multiple-family dwellings.
- (3) Planned commercial centers and retail uses.
- (4) Offices and office-related uses.
- (5) Office-research facilities, including experimental and testing laboratories, provided that no product shall be manufactured, warehoused or otherwise stored on site.
- (6) Convention or conference centers, including hotels, auditoriums, theaters, assembly halls, concert halls or similar places of assembly.
- (7) Banquet halls and restaurants.

(j) *Height, bulk, density and area standards.*

- (1) Standards that apply to all development permitted in the PD section are outlined in this section. Since it is the intent of the PD section to encourage quality development through flexibility in land uses, design, and use relationships, only the following specified development control standards, in addition to those specified in this section, shall specifically apply:

- a. The minimum distance between nonresidential buildings, between nonresidential buildings and multiple-family buildings, and between multiple-family buildings shall be subject to the formula provided in footnote (9) of section 50-151(a).
 - b. All buildings shall be located at least 25 feet from any public street right-of-way line and at least 30 feet from any single-family district.
 - c. Any setback requirements may be modified by the planning commission or by the city council at the time of site plan review if it is found that the height and/or bulk of a building is such that a greater or lesser setback would be warranted in the interests of promoting the general health, safety, welfare and common good of the community, or in the interests of improving the visual aesthetics of the site.
 - d. Multiple-family dwellings may be permitted, subject to the following applicable conditions:
 1. Except for housing intended solely for the elderly (senior citizen housing) and except for multiple-family dwellings occupying the upper floors of multi-story mixed-use buildings, no multiple-family dwelling building shall exceed a height of 35 feet or three stories.
 2. Multiple-family residential buildings of two stories or less shall be subject to the dwelling unit density limitations and floor area requirements of the RM-1 District as set forth in section 50-151.
 3. Multiple-family residential buildings consisting of three stories shall not exceed a maximum of 37 total rooms per acre which shall be the number used to apply the room assignment ratios set forth in footnote (8) of section 50-151(a).
 4. Multiple-family residential dwellings.
 - i. When established as a part of a mixed-use building, multiple family dwellings shall be located only in the upper floors of such buildings)
 5. Multiple-family dwellings, when occupied solely as housing for the elderly (senior citizen housing), shall be subject to the standards of sections 50-81 and 50-151; and
 6. Except for multiple-dwelling units in the upper floors of multi-story buildings, for which there is not maximum dwelling unit density, for the purposes of determining overall dwelling unit density, the dwelling unit density limitations shall apply to an area within the residential development of the site that is to be devoted to that particular type of multiple-family development. These areas shall be clearly delineated on the site plan, and the area in square feet of each of these multiple dwelling areas, along with the proposed dwelling unit density of each, i.e., the number of rooms proposed, shall be noted in a legend on the site plan.
 - e. No off-street parking shall be located closer than ten feet to any public street right-of-way line or any other peripheral site boundary.
- (k) *Required conditions.* The following conditions, where applicable, shall apply to all uses permitted and regulated in this section:
- (1) The applicant shall submit a detailed cost estimate for the installation of all public utilities, streets and stormwater retention systems proposed for the entire development for review by the city. The city council may require submittal of a surety bond or bonds in an amount or amounts equal to the costs estimated for each phase of the above improvements, plus ten percent, as a requirement necessary to receive final site plan approval from the council.
 - (2) All business, servicing or processing, except for off-street parking, loading and unloading, shall generally be

conducted within completely enclosed buildings.

- (3) The inconspicuous outdoor parking of commercially used or licensed vehicles will be permitted only when the vehicle is clearly incidental to a permitted use. The parking of any such vehicle shall be limited to operable vehicles which are moved off the site on a regular basis and shall not include those used for storage, sales and/or advertising.
- (4) Parking or storage of disabled vehicles in any off-street parking lot is prohibited.
- (5) Except where otherwise regulated in this section, see section 50-150 limiting the height and bulk of buildings, and building setbacks.
- (6) Consult article XIX of this chapter regarding compliance with the requirements of off-street parking, loading and layout standards.
- (7) Consult article XX of this chapter regarding compliance with the requirements of screening and landscaping.
- (8) Consult article XXI of this chapter regarding compliance with the requirements of nonconforming uses.
- (9) Consult article II of this chapter regarding administration and enforcement.

(Ord. No. 1080, 4-16-2013)

Secs. 50-121—50-129. - Reserved.

ARTICLE XIV. - GRATIOT AVENUE CORRIDOR OVERLAY ZONE

Sec. 50-130. - Gratiot Avenue Corridor Overlay Zone.

(a) The intent of the Gratiot Avenue Corridor Overlay Zone is to:

- (1) Improve traffic operations;
- (2) Reduce potential for crashes;
- (3) Improve pedestrian and transit environments; and
- (4) Preserve the vehicular carrying capacity of Gratiot Avenue through regulations on the number, spacing, placement and design of access points.

Published reports and recommendations by the Michigan Department of Transportation (MDOT) show a relationship between the number of access points and the number of crashes.

Recognizing the existing built character and downtown land use characteristics in the City of Eastpointe, this chapter intends to apply the MDOT access management standards where practical, but to allow flexibility in their application, given the unique needs of this more urbanized area. Development along Gratiot Avenue contains an interconnected, grid street pattern and urban building form that is highly conducive to downtown activity. This chapter intends to complement efforts to make Gratiot Avenue and Downtown Eastpointe more walkable by improving the transit and non-motorized environments by limiting the amount of direct access to Gratiot Avenue and thus the number of potential vehicle to pedestrian crashes. The segment of Gratiot Avenue within Eastpointe

is characterized by a median road design that naturally restricts turning movements to a single direction, which present unique traffic operations; therefore, this chapter places more emphasis on the design and spacing of driveways from signalized intersections and median crossovers.

- (b) This overlay zone shall apply to all land with frontage along Gratiot Avenue. The following applications must also comply with the standards of this section.
- (1) *New or enlarged building or structure.* Any new principal building or structure, or the enlargement of any principal building or structure by more than 25 percent.
 - (2) *Land division, subdivision or site condominium.* Any land division or subdivision or site condominium development, including residential development.
 - (3) *Change in use or intensity of use.* Any increase in intensity of use or any increase in vehicle trips generated.
- (c) The following regulations of this section shall be considered by the planning commission:
- (1) *Compliance with the corridor plan.* Access shall generally be provided as shown in the Gratiot Avenue Corridor Improvement Plan.
 - (2) *Number of access points.* The number of resulting access points shall be the fewest necessary to provide reasonable access to the site. Each lot shall be permitted one access point, which may consist of any individual driveway, a shared access with an adjacent use, or access via a service drive.
 - (3) *Additional access points.* Additional access points may be permitted by the planning commission upon a finding that all other standards are met and/or if a traffic impact study is submitted that justifies a need for additional access due to safety reasons or where a poor level of service will result from fewer access points.
 - (4) *Spacing and offset from intersections.* Access points shall be either directly aligned or spaced/offset as far from intersections as practical, especially signalized intersections. A minimum spacing or offset of 150 feet is preferred.
 - (5) *Consideration of median crossovers.* Access points along median sections of Gratiot Avenue shall be located in consideration of median crossovers. The city supports MDOT policies to limit the number of median crossovers to maintain traffic flow and reduce the potential for accidents. Access points shall directly align with or be offset a sufficient distance from median crossovers to allow for weaving across travel lanes and storage with the median. A minimum offset of 250 feet is preferred.
- (d) *Spacing of access points on same side of road.*
- (1) Access points shall provide the following spacing from other access points along the same side of the public street (measured from centerline to centerline as shown on the figure), based on the posted speed limit along the abutting road segment according to the following table, or where full compliance cannot be achieved, access shall be spaced as far apart as practical.

Posted speed limit	Along Gratiot Avenue	Along other roads
35 mph or less*	245 ft.*	150 ft.*
40 mph	300 ft.	185 ft.
45 mph	350 ft.	230 ft.
*Unless greater spacing is required by MDOT or required to meet other standards herein.		

(e) *Consideration of adjacent sites.*

- (1) Where the subject site adjoins land that may be developed or redeveloped in the future, the access shall be located to ensure the adjacent site(s) can also meet the access location standards in the future.

(f) *Shared driveways.*

- (1) Where direct access consistent with the above regulations cannot be achieved, access should be provided via a shared driveway or service drive. Where implemented, shared access or service driveways should be accompanied by an executed access agreement, signed by all the effected property owners.

(g) *Access design.*

- (1) Where practical given right-of-way constraints, access points shall be designed with radii, tapers and other geometrics as determined by MDOT that are required to minimize the impacts of inbound right turns on traffic flow.

(h) *Review procedure.*

- (1) Applications shall be reviewed according to the procedures set forth in article V.

(i) *Submittal information.*

- (1) Along with any other required information, developments subject to review shall submit:
 - a. Detailed information showing existing access points on adjacent sites; proposed access points; changes to existing access; and any information requested by the city that is needed to review site access.
 - b. The planning commission may require submittal of a traffic impact report, prepared by a qualified traffic engineer, to verify the need for additional access points or to justify a modification.
 - c. Where it is determined by the certain site plan submittal requirements are not necessary to the review and

understanding of the site, the planning commission may waive the site plan requirements and allow submittal of a scaled drawing that provides sufficient detail to review site access.

(j) *Modification of plan standards.*

- (1) The planning commission may waive certain requirements of this section upon consideration of the following:
 - a. The proposed modification is consistent with the general intent of the standards of this overlay zone and the recommendations of the Gratiot Avenue Corridor Improvement Plan and published MDOT guidelines.
 - b. MDOT staff endorses the proposed access design.
 - c. Driveway geometrics have been improved to the extent practical to reduce impacts on through traffic flow.
 - d. The modification is for an access point that has, or is expected to have very low traffic volumes (less than 50 in and out bound trips per day) and is not expected to significantly impact safe traffic operations.
 - e. Shared access has been provided, or the applicant has demonstrated it is not reasonable.
 - f. Such modification is the minimum necessary to provide reasonable access, will not impair public safety or prevent the logical development or redevelopment of adjacent sites and is not simply for convenience of the development.

(Ord. No. 1080, 4-16-2013)

Secs. 50-131—50-139. - Reserved.

ARTICLE XV. - REDEVELOPMENT READY SITES

Sec. 50-140. - Redevelopment ready sites.

- (a) Due to the age of many of the structures within the city, it is often necessary to create regulations which are flexible and allow for minor modifications in the strict enforcement of the zoning ordinance. In reviewing the redevelopment of nonconforming nonresidential sites which are being redeveloped or have otherwise been removed, destroyed, or otherwise substantially modified; the planning commission may modify the following requirements of the ordinance in finding that the modifications are appropriate and acceptable since the overall modifications or redevelopment bring the site closer to conformance with the intent and regulations of the zoning ordinance:
 - (1) A structure location which does not meet the required setback provided the location represents an overall reduction in the nonconformity and that no easements or rights-of-way are encumbered;
 - (2) Driveways, provided the driveway number, spacing, and general layout provide a more beneficial and safe layout and pattern for circulation for vehicles as well as pedestrians;
 - (3) Size, location and intensity of greenbelt and general landscape requirements;
 - (4) Parking lot and maneuvering lane paving and curbing requirements.
- (b) In modifying these requirements the planning commission shall clearly note as to what the site, economic or other conditions are which justify the waiving or modifying of the standard(s).
- (c) The planning commission and city council may place appropriate conditions or requirements on any waiver or modification of the requirements noted above.

(Ord. No. 1080, 4-16-2013)

Sec. 50-141. - Process.

Any site which seeks approval under this section of the zoning ordinance shall be considered a planned unit development and shall be processed as and follow the same review procedures of a special land use approval.

(Ord. No. 1080, 4-16-2013)

Sec. 50-142. - Consistency of uses.

Nothing in this section shall permit a use which is not otherwise permissible within the underlying zoning district.

(Ord. No. 1080, 4-16-2013)

Secs. 50-143—50-149. - Reserved.

ARTICLE XVI. - SCHEDULE OF REGULATIONS

Sec. 50-150. - Schedule of regulations.

Zoning District	Minimum Lot Size For Each Unit		Maximum Height of Structures		Minimum Yard Setback			Minimum Parking Setback			Max. % of Lot Area Covered	Min. Floor Area Per Dwelling Unit
	Area in Sq. Ft. or Acre	Width in Ft.	Stories	Ft.	Front	Each Side	Rear	Front	Each Side	Rear		
R-1	6,000 (a, b)	50 (a, b)	2	30	25 (c, p)	4 (13 total) (c, d, e, f, g)	30	—	—	—	35 (h)	(o)
R-2	3,500	30	2	30	25 (c, d, p)	10 (20	30 (d)	—	—	—	35 (h)	(o)

						total) (d, e, f, g)						
RT	I	—	2	30	25 (j, m, p)	10 (j)	30 (j)	25	—	—	30	(o)
RM-1	I	—	2½	30	25 (k, m, p)	10 (k)	30 (k)	25	—	(r)	30	(o)
RM-2	I	—	5	48	(k, l, m, p)	(k, l)	(k, l)	25	—	(r)	30	(o)
OS-1	—	—	1	15	5 (p)	(e)	20(n)	5(q)	—	(r)	—	—
B-1	—	—	1	15	(p)	(e)	20(n)	5(q)	—	(r)	—	—
B-2	—	—	See <u>50-92</u>	See <u>50-92</u>	See <u>50-92</u>	See <u>50-92</u>	See <u>50-92</u>	See <u>50-92</u>	See <u>50-92</u>	See <u>50-92</u>	See <u>50-92</u>	—
B-3	—	—	—	35	(p)	(e)	20(n)	5(q)	—	(r)	—	—
I-1	—	—	2	30	6 (p)	10	20(n)	6	5	5 (r)	—	—
P-1	—	—	—	10	25 (p)	—	—		—	(r)	—	—
PD	See <u>section 50-92</u>											

(Ord. No. 1080, 4-16-2013)

Sec. 50-151. - Footnotes to schedule of regulations.

- (a) The following footnotes shall apply to the schedule of regulations.
- (1) Those existing lots which do not meet the minimum site area and/or lot width requirements shall be considered legal nonconforming lots.
 - (2) Where front yards of greater or less depth than above specified exist in front of dwellings on more than 50 percent of the lots of record on one side of a street in any block in such district, the minimum required front yard setback for any building thereafter erected or placed on any lot in such block shall be not less, but need not be greater than, the average depth of the front yards of existing buildings along said frontage in the block.

Churches and church buildings shall set back from any property line one additional foot for every one foot the building or buildings that exceed the maximum building height limitations of the district.

Public or private colleges, universities and other such institutions of higher learning shall provide a building set back of not less than 25 feet from any property line. The building shall set back one additional foot (beyond the initial 25-foot requirement) for each foot it exceeds 25 feet in height.

- (3) In the R-1 district, lots of 50 feet or greater in width shall have a minimum of 13 feet between single-family detached dwellings.
- In the R-1 district, lots having at least 40 feet, but less than 50 feet of width at the minimum required front yard setback line, shall have a total side yard setback of 12 feet with a minimum of three feet on one side, but in no case shall the minimum distance between two dwellings be less than 12 feet.
- In the R-1 district, lots that are less than 40 feet wide at the minimum required front yard setback line may reduce their combined total side yard requirement by six inches for each one foot or that the lot is less than 40 feet wide. The width of each side yard shall not be reduced to less than three feet, except the minimum distance between any two single-family detached dwellings shall not be less than ten feet.
- In the R-2 districts, lots used for a one-family dwelling shall comply with the applicable standards of the R-1 district.

(4) In the following districts, the minimum exterior (street) side yard setback shall be provided:

District	R-1	R-2	OS-1	B-1	B-2	B-3	I-1
Setback	5 ft.	10 ft.	5 ft.	5 ft.	0 ft.	0 ft.	6 ft.

- (5) In the R-1 district, any accessory building on a corner lot shall be set back from the side street a distance equal to the setback of the dwelling on the interior lot.
- (6) In the R-1 district, except for an accessory building, every lot on which a nonresidential building or structure is constructed, a side yard of not less than 20 feet in width shall be provided. In addition, one additional foot of setback shall be provided for every five feet that the building or structure exceeds 35 feet in overall length along the side yard.
- (7) In the R-1 district, the percent of maximum lot coverage permitted for all buildings may be increased by one percent for every 100 square feet of lot area that the lot is less than 4,000 square feet. In no case shall the maximum amount of lot coverage for all buildings exceed 45 percent of the total area of the lot.
- (8) In the RT district, at least 3,000 square feet of land area shall be provided for each one bedroom dwelling unit.
- In the RM-1 district, at least 2,000 square feet of land area shall be provided for each one bedroom dwelling unit.
- In the RM-2 district, at least 1,200 square feet of land area shall be provided for each one bedroom dwelling unit.
- An additional 500 square feet of site area shall be provided for each additional bedroom.

(9) In the RM-1 and RM-2 districts, the minimum distance between any two buildings shall be regulated according to the height of buildings, but in no instance shall the distance be less than 25 feet.

Parking may be permitted within a required side or rear yard, but shall not cover more than 30 percent of the area of any required yard and no parking space; vehicle maneuvering lane or service drive shall be located closer than 15 feet from any exterior wall of a dwelling unit. Parking shall be permitted within garages or within the driveways of each individual unit.

The formula regulating the required minimum distance between two buildings in the RM-1 and RM-2 districts is as follows:

S	=	$\frac{L_a + L_b + 2(H_a + H_b)}{6}$	
		6	

where: S = Required minimum horizontal distance between any wall of building A and any wall of building B.

LA = Total length of building A.

LB = Total length of building B.

HA = Height of building A.

HB = Height of building B.

- (10) In the RM-2 district, the minimum building setback from any exterior property line shall be at least equal to the height of the building.
- (11) In the OS-1, the B-districts and the I-1 district, if the rear yard of a lot in any of these districts abuts an improved (hard-surfaced) public alley right-of-way, and any required screening barrier is, or will be, located on the opposite side of the alley, the alley right-of-way may be used in satisfying the minimum rear yard setback requirement of the district.
- (12) No one-family dwelling shall be erected or altered that has less than the following minimum floor area on the ground floor. Ground floor shall mean the first story or the building footprint at grade level: (For those units which do not have a basement, an additional 100 square feet is required.)

Dwelling Type	Minimum Square Footage	Ground Floor Minimum Square Footage
One story	880	880
One and one-half story	880	800

Two story	880	624
Two family	800	800

No building used as a multiple dwelling hereafter erected or whose bearing walls are structurally altered shall provide dwelling units with less than the following floor areas:

Dwelling Type	Square Feet Required
Efficiency	450
One bedroom	500
Two bedroom	600
Three bedroom	700
Four bedroom	800

(13) In no event shall the street wall of a building be established nearer to the street than:

Road	Setback
Eight Mile, Gratiot and Kelly	102
Nine and Ten Mile Roads	60
Toepfer and Stephens Avenues	43

- (b) Open space preservation option. This development option is offered as an alternative means of single-family residential development in all of the city's residential districts. The intent of the development option is to provide for the creation and preservation of open space areas within residential development as mandated in section 506 of Public Act No. 110 of 2006 (MCL 125.3506) This is to be achieved by allowing for a reduction in the minimum lot area

and lot width requirements of a residential district, or through the attaching of a one-dwelling unit to another over a limited portion of a common party wall. This modification shall be accomplished without any attended increase in the number of lots or dwelling units that would be permitted if the property were developed in the conventional manner.

- (1) Discretionary use of this option. Development of residential zoned property in the city under the development alternatives offered in this section shall be at the option of the property owner or developer.
- (2) Pre-application meeting. Prior to submitting an application to develop property under the guidelines of this option, the applicant shall request a pre-application meeting. The purpose of the meeting is to acquaint the applicant with how the option works and the potential advantages that may be gained from it. If the applicant has prepared a concept plan showing use of the option on the property, the plan may be presented at the pre-application meeting. The applicant and his or her engineer or designer shall attend the meeting along with city personnel,
- (3) Application. An application to develop land under the open space preservation option may be obtained from the city building department.
 - a. Application form. The application form shall include all information and plans requested on the form.
 - b. Existing conditions drawing. An existing conditions drawing, prepared at an appropriate engineers, by a registered land surveyor or registered civil engineer, showing in detail all the natural features on the site, including individual trees that are four inches or more in caliper chest high, topography at two-foot intervals (or less as appropriate), utility easements and other easements, along with all street and alley rights-of-way, driveways, buildings and structures.
 - c. Preliminary site plan. If the concept plan presented at the pre-application meeting was prepared as set forth in this subsection, it may be submitted as the preliminary site plan. The preliminary site plan shall:
 1. Be superimposed over the existing conditions drawing, and prepared by a registered land surveyor, registered civil engineer or a registered landscape architect.
 2. Show the location of all proposed streets and alleys and their rights-of-way, utility easements, individual lots or home sites and their individual size in square feet, or the building footprint for attached dwellings, a typical detailed drawing showing minimum required setback dimensions, the area of the open space in square feet or acres and the percent the open space makes up of the net usable property acreage.
 3. Provide all other applicable information and comply with all the applicable conditions set forth in article V and the city's site plan review check list.
 4. In the case of attached dwelling units, provide floor plans and exterior building wall elevation drawings of a typical dwelling unit showing its common wall relationship to the abutting dwelling unit, including any attached garages.
 5. Sufficient site data as required by the city to establish engineering feasibility for the development as proposed on the preliminary site plan.
 - d. Application submittal. The applicant shall pay to the city all applicable review fees as established by the city at the time of submittal of the application for review. The city shall make certain that the application forms are complete and the required number of plans has been submitted.
 - e. Preliminary plan review. If the application is in order, the city shall review the plans in accordance with its established site plan review procedures. Acceptance of an application does not guarantee site plan review at

the next planning commission meeting.

1. The applicable review personnel shall review the site plan and return their comments to the city in accordance with the city's review procedures.
2. Upon receipt of review comments from the review personnel, the city shall schedule the application for review by the planning commission, provided review personnel have determined that the plan is sufficient to be presented to the planning commission.
3. Following its review of the application, the planning commission may:
 - i. Grant preliminary plan approval. Preliminary approval may be conditioned on resolution of any concerns expressed by the city, its review personnel, or by the planning commission. Conditions shall be satisfied prior to final plan approval being considered.
 - ii. Table approval pending further changes if the planning commission determines after its review that too many critical or major concerns remain to be resolved, it may table its review pending the necessary changes being made to the application.

If tabled, the applicant shall make the necessary changes and resubmit a proper number of revised plans to the city for review. The procedure for reviewing a revised plan shall be the same as outlined herein for the initial review.
 - iii. Deny preliminary plan approval. The planning commission may deny the applicant preliminary site plan approval if compliance with any technical requirement of this chapter is not met.
4. The granting of preliminary site plan approval by the planning commission shall give the applicant leave to prepare a final site plan for review by the planning commission.
- f. Final plan review. Final plan approval shall not be granted until all of the following conditions are met:
 1. Any conditions attached to preliminary plan approval by the planning commission shall be satisfactorily resolved prior to submittal of a final site plan for review by the city.
 2. A sufficient number of final plans, as required by the city being submitted.
 3. Upon receipt of the final plans, the building department shall stamp the date of receipt on each plan and forward a copy of the stamped plans to the applicable review personnel for their review and comment.
 4. The applicable review personnel shall examine the final plans and forward their comments in writing to the building department.
 5. When the building department finds the final plans to be in order, it shall schedule the final plans for review by the planning commission.
 6. After reviewing the final plan, the planning commission may grant final plan approval, provided all conditions that may have been attached to preliminary site plan approval have been satisfactorily addressed. The planning commission may grant a conditional final plan approval if it deems appropriate based on the number and complexity of items which need to be addressed.
 7. The planning commission may table acting on the final plans pending any changes or revisions that need to be made to the plan before final approval will be given, or it may deny final plan approval if any technical concerns remain unresolved.
- g. Dwelling density limitations.

1. Dwelling density shall be based on the number of dwellings permitted in each single-family district as outline subsection. The area of the property that may be used to compute dwelling density shall be the gross area of existing peripheral public road or alley rights-of-way or other unbuildable areas.
 2. The number of single-family dwellings by zoning district is set forth as follows:
R-1 District 7.0 dwellings per acre.
- h. Lot area, lot width and building setback requirements. The following minimum lot area and lot width requirements shall apply:
1. Individual lots or home sites shall be subject to the following standards:
 - i. Lot area. The minimum area of each lot shall be not less than the minimum required to ensure that all the applicable building setback requirements of the district are met.
 - ii. Lot width. The minimum lot width of each lot shall be not less than the minimum required to ensure that all applicable building setbacks of the district are met.
 - iii. Building setbacks. The minimum applicable building setback requirements of the R-1.
 2. Attached dwelling units shall be subject to the following conditions:
 - i. Attached limitations. A dwelling unit may be attached to another dwelling unit so long as not more than two exterior walls of the dwelling unit and not more than 50 percent of each such wall may be in common with the wall of another dwelling unit. A garage attached to a dwelling unit may have one wall fully in common with the wall of another garage, so long as the garage wall that is attached to the dwelling unit it is intended to serve, does not exceed the common wall overlap limitation of this subsection. Dwelling units may also be attached one to another by means of an architectural feature or detail that does not form interior room space.
 - ii. Dwellings per cluster. Not more than three dwelling units shall be attached together in a cluster, unless otherwise permitted by the planning commission.
 - iii. Roof line limitations. Except where dwelling units are attached together over a portion of a common party wall, no other part or portion of the roof of a dwelling unit shall be in common with the roof of any other dwelling unit, except where a garage shares one wall fully in common with one wall of another garage, a continuous roof line may extend over both garages.
 - iv. Building setbacks. The minimum applicable building setback requirements of the R-1 District.
 - i. Interior street system. A system of interior streets shall be designed to provide for the safe and convenient circulation of motor vehicles within the development in accordance with the following requirements:
 1. All public streets shall be built to applicable local public street standards and shall be located in public street rights-of-way.
 2. When permitted by the city, private service drives shall be hard-surfaced drives built to applicable city requirements. The minimum width of a private service drive shall be 22 feet. A 27-foot wide private service drive may allow parking along one side, so long as such parking is clearly posted.
 - j. Open space preservation. Land to be placed in perpetuity as open space shall meet the following requirements:
 1. Land to be set aside as open space within the development shall comprise at least 20 percent of the land

area of the property used to compute dwelling density, as stipulated in Public Act No. 179 of 2001, as amended. Land reserved shall not include, land designated as a lot, unit or home site on the plan, subdivision plat, land within any minimum required building setback, land within any right-of-way, etc.

2. Land designated as open space within the development shall, to the extent practical, be located within convenient walking distance of a majority of the lots, or attached building envelopes.
 3. All land set aside as open space shall be set aside for that purpose and that purpose only. Once established and reserved as open space, no part of any open space so established shall thereafter be converted to land for development or for any other use without the express approval of the city and the residents living within the development. In no event shall any reduction in open space area result in less than 20 percent of the net usable land area of the property being reserved as open space or in more units than would normally be permitted in that zoning district.
 4. The open space portion of the property should include any ponds or streams, wetlands, woodlands or stands of timber, or areas of steep topography, but such features need not make up all the open space of the site.
 5. Open space shall extend to as many lots and home sites as possible. In those instances where open space in an existing development extends to a common property line of a proposed new development, at least a portion of the open space in the new development shall join the open space in the abutting development. Such open space connections shall not be dead-end open space areas, but shall be designed to allow pedestrian and bicycle riding access from one such development to another. When a residential open space preservation development abuts a commercial development, or undeveloped land that is zoned for commercial use, open space of sufficient width to permit connecting the two sites together via a trail or pathway, shall be provided.
 6. All open space shall be clearly stipulated in any covenants placed on the development as area or areas to be set aside in perpetuity as open space.
- k. Assurance of open space preservation. The area of the property to be preserved as open space shall be subject to the following preservation assurances:
1. Single-family site condominiums. The location of all open space areas shall be described by legal description in the master deed. A general description of what the open space areas contain will be included. These areas shall be set forth as open space areas which are to be preserved as open space areas.

Open space areas may be identified as common areas, as defined in Public Act No. 59 of 1978 (MCL 559.101 et seq.). All areas of any open space that will require maintenance shall be so identified in the master deed and the manner in which these areas will be maintained shall be clearly spelled out in the association's bylaws.
 2. Single-family subdivision plat. The location of all open space areas shall be described by legal description, along with a general description of what the open space areas will contain. These areas shall be set forth as open space areas to be preserved as open space in the form of protective covenants or deed restrictions. The covenants shall also require the forming of an association of home owners who shall be

governed by association bylaws. The bylaws shall clearly spell out the responsibilities of the homeowners' association, including how all open space areas required in subsection (b)(3)j. of this section, will be maintained by the association.

3. City approval. A master deed, protection covenants or deed restrictions, and the bylaws of the association of homeowners, as required in this subsection, shall be subject to review and approval by the planning commission. Of particular importance to the city shall be assurance that all open space areas are properly set aside for such purposes, and those elements of the open space areas that will require maintenance will be properly cared for. The city may refer such documents to the city attorney for review and comment. The city, at its discretion, may require the assigning of a second party to partner with the development in securing the open space areas. A second party could be a land conservancy or similar land preservation organization.
- I. Life of approvals. The granting of preliminary site plan approval by the planning commission shall be good for one year, commencing on the date of approval and terminating on the same date one year later. The granting of final site plan approval by the planning commission shall be good for one year, commencing on the date of approval and terminating on the same date one year later. If after the granting of preliminary site plan approval, but before the one year termination date, a revised site plan is submitted and approved by the planning commission, the one-year expiration date will be one year from the date of revised site plan approval. This same procedure shall apply to time limitations for final site plan approval as well.

(Ord. No. 1080, 4-16-2013; Ord. No. 1119, § 1, 5-19-2015)

Secs. 50-152—50-159. - Reserved.

ARTICLE XVII. - SUPPLEMENTAL REGULATIONS

Sec. 50-160. - Accessory uses.

- (a) *Accessory buildings.* Accessory buildings, except as otherwise permitted in this chapter, shall be subject to the following regulations:
 - (1) Where the accessory building is structurally attached to a main building, it shall be subject to all regulations of the main building.
 - (2) Accessory buildings shall only be permitted in the rear yard.
 - (3) In the single-family and two-family districts no more than two accessory buildings shall be permitted per residential lot. No accessory building or combination of accessory buildings on a single lot shall contain more than 900 square feet in total floor area.
 - (4) No detached accessory building shall be located closer than ten feet to any main building unless it is attached nor shall it be located closer than three feet to any side or rear lot line, except as otherwise provided for in the individual use districts.
 - (5) In no instance shall an accessory building be located within a dedicated easement or right-of-way.
 - (6) No detached accessory building in the R-1, R-2, RT, RM-1 and RM-2 Districts shall exceed one story and/or 15 feet

in height, measured from the ground at the base of the building to the ridge line of the roof. Accessory buildings in all other districts may be constructed to the permitted maximum height of structures in the district.

- (7) On corner lots, accessory buildings shall be placed at least two feet from the lot line opposite the side street line. On lots exceeding 40 feet in width, the entrance to the garage shall be not less than 18 feet from the side street line. Garages attached to and made structurally a part of the principal building shall not extend beyond the side of the building on the side street line.
- (8) These provisions shall be applied to all tent like or fabric structures which have poles which extend to the ground utilized for the purpose of providing shelter for additional living area, vehicle storage area, and the like. It shall not apply to tents utilized for overnight outdoor camping.
- (9) Either a zoning compliance permit or building permit shall be required for all accessory buildings.
- (b) *Accessory structures.* Accessory structures except where otherwise permitted and regulated in this chapter shall be subject to the following regulations:
 - (1) Accessory structures shall be located in the rear yard and shall meet the setback requirements of an accessory building.
 - (2) Flag poles shall be located no closer to a public right-of-way than one-half the distance between the right-of-way and the principal building and shall not be located in the required side or required rear yards.
 - (3) Ground-mounted private communication antennas shall:
 - a. Be located in the rear yard, except when it can be found such antennas will not be highly visible from a street, they may be located in a non required interior side yard.
 - b. Not exceed the height limitations of the district in which it is located when fully extended, and
 - c. Provide a setback equal to the height of the antenna from all property lines.In those instances where an antenna is also securely attached to a building, the required setback to the nearest property line may be reduced to a dimension equal to the height of the antenna as measured from the attachment to the building to the top of the antenna. Antennae may be attached to a pole, a tower or to a rooftop of a principal or accessory building, provided all applicable structural and electrical code requirements are met. Dish antennas located on the ground shall observe all setbacks pertaining to an accessory building.
 - (4) Solar energy panels, when located on the ground, shall observe all applicable electrical codes and all applicable requirements pertaining to an accessory building. When roof mounted they shall be mounted either flat against the roof surface or shall not project more than four feet outward from the roof measured from the surface of the roof where so affixed, to the farthest outward projection of the panel and shall not project above the maximum height permitted in the district.

(Ord. No. 1080, 4-16-2013)

Sec. 50-161. - Fences.

- (a) *Applicable to all fences.*
 - (1) Fences shall not contain barbed wire or any other type of sharp edged wire or have electric current or a charge of electricity.

- (2) No chain link or similar type fencing shall contain slats, webbing, synthetic materials or other fabric for the purpose of a privacy type fence.
- (3) Fences, over two feet in height (other than split rail and chain link) shall not be constructed within the clear corner vision triangle (section 50-164).
- (4) For fences erected along a lot line, a joint permit application shall be submitted and consent to install the fence provided by all property owners.
- (5) Except for a fence with a common end or corner post, no fence shall be attached to or touch a fence located on another property owner's lot or on the same lot.

(b) *Types of construction in residential areas.*

- (1) Fences may be constructed of metal, wire, iron, vinyl (or similar), composite, naturally durable wood or treated wood.
- (2) Hedges, ornamental shrubs, trees and bushes may be considered fences for the purpose of this chapter when placed in a manner or position to serve as such.

(c) *Residential district fences.* Fences erected in residential districts between residential properties shall be permitted as follows:

- (1) Fences on all lots which enclose property or are within the required side or rear yard shall not exceed four feet in height, measured from the natural grade of the lot except for privacy fences. Fences are not required to be constructed on the property line if the fence extends from the residence to the detached garage or from the residence and/or the garage to the side property line.
- (2) In addition to the provisions of this article, fences on corner lots shall not extend toward the front of the lot nearer than the front of the house or the required minimum front yard, whichever is greater.
- (3) All fences on corner lots shall be only non-privacy type fences, except that on city blocks that do not have houses fronting the street, a privacy fence may be erected along a side street property line which is in compliance with all provisions of this section regarding privacy fences.
- (4) No fence shall extend toward the front of the lot nearer than the front of the house or the required minimum front yard, whichever is greater. This provision shall not apply on lots having a lot area in excess of two acres and a frontage of at least 200 feet in all residential districts not included within the boundaries of a recorded plat.
- (5) All fence support posts shall be placed on the property line and shall face the property of the person erecting the fence. In the case of abutting property owners who elect to share the expense and erect a fence together, both shall be co-owners of the same and it shall be the responsibility of the property owners to determine the location of the posts in compliance with this chapter.

(d) *Business and industrial district fences.* Fences in business and industrial districts shall be permitted or required as follows:

- (1) No fence shall be erected where a wall, berm or greenbelt is otherwise required.
- (2) Unless considered by the planning commission no fence shall be erected between the building setback line and the front property line.
- (3) A fence which is constructed on a side lot line between neighboring commercial and/or industrial properties shall not exceed six feet in height.

(e) *Privacy fences.*

- (1) Privacy fences shall only be permitted in the side and rear yard along the property line. Privacy fences shall not be permitted within the front yard or closer to the street than the established front building line of the adjacent property whichever is greater.
- (2) All privacy fences shall be erected on the lot line and may be up to four inches off the ground. This requirement shall not apply to those privacy fences erected along a side street.
- (3) Privacy fences shall not exceed six feet four inches in height measured from the surface of the natural grade of the lot.
- (4) The posts for the privacy fence shall face the property of the person erecting the fence. The posts for privacy fences which front a street shall face the interior of the property.
- (5) Privacy fences, once erected, shall be of similar materials. A mixture of differing materials shall not be permitted unless otherwise dictated by existing neighboring fences.
- (6) Plantings in the area of a privacy fence shall not block the clear vision requirements set forth in this chapter (section 50-164) or exceed the lawful height of any fence allowed in this article.

(f) *Maintenance of fences.*

- (1) Fences erected between residential property and commercial or industrial property shall be maintained in a neat and safe condition at the expense of the owner of the commercial or industrial property in accordance with the terms of the zoning ordinance.
- (2) Provisions regarding fences erected on or between residential properties are as follows:
 - a. Fences erected on or between residential properties shall be maintained in a neat and safe condition at the expense of the owner constructing the fence or as may be mutually agreed upon with the adjoining property owner, except that the city shall not enforce any agreement regarding a mutual or separate payment for the costs of maintenance or repair.
 - b. Where ownership of the fence and obligation to maintain or repair is, in the opinion of the building department, not reasonably and readily ascertainable, the department shall have the authority to require that any or all property owners abutting the fence maintain or repair the same. The department shall not be required to have a property survey performed to discern ownership in any case.
- (3) Construction of fences shall comply with the state construction code.

(g) *Erection, alteration, relocation; permit required.* Unless otherwise provided, no person shall erect, re-erect, alter or relocate any fence unless a permit has first been obtained from the building department and a permit fee paid in accordance with the schedule adopted by resolution of the council, unless a review has been conducted by the city building department verifying no permit or fee is required.

(h) *Permit application and issuance.*

- (1) An application for a fence permit shall be submitted to the building department and shall include:
 - a. Plans and specifications showing the dimensions, materials and required details of erecting the fence;
 - b. Plans indicating the location of the parcel of land upon which the fence is to be erected, the property line and the position of the fence in relation to adjoining houses, buildings or structures (it shall be the responsibility of the person erecting the fence to identify the property lines);

- c. A plot plan or survey which shall be attached to the application and which shall show the property line; and
- d. Such other information as the building department may require showing full compliance with this and other applicable laws of the city and the state.

(2) The building department shall have the authority to issue a fence permit, provided the application satisfies all requirements of this article and other applicable laws of the city and the state.

(i) *Fence appeals.*

(1) Any party who has been refused a fence permit by the building department for a proposed fence erection may seek a variance from the provisions of this article by filing a claim of appeal to the zoning board of appeals. The zoning board of appeals shall follow its normal procedural requirements for variances.

(2) At the variance hearing, the zoning board of appeals may grant a variance from the provisions of this chapter upon a finding of all of the following:

- a. The particular physical surroundings, shape or topographical conditions of the property would render compliance with the provisions of this chapter difficult and would likely result in a particular hardship on the person erecting the fence as distinguished from inconvenience of the article requirements or a desire to increase financial gain or avoid the financial expense of compliance.
- b. Strict enforcement of the provisions of this article would be futile.
- c. The type of fence and the location proposed would not pose a significant risk to the public health, safety and general welfare.
- d. The benefit of the fence to the general public and/or the applicant under the circumstances outweighs any risk to the health, safety and general welfare of the residents of the city.
- e. A variance would be in the best interest of the city and not against the spirit and intent of this article.

(3) In issuing a variance from the strict letter of the provisions of this article, the zoning board of appeals may modify any fence requirement or place reasonable conditions or restrictions upon issuance of a permit.

(j) *Fees.* Fees for fence applications shall be paid in accordance with a schedule adopted by resolution of the council and must be paid to the building department at the time the application is filed.

(Ord. No. 1080, 4-16-2013; Ord. No. 1128, 2-2-2016)

Sec. 50-162. - Exterior lighting.

The intent of this section is to encourage site lighting that will be attractive to the eye while at the same time adequately illuminating a site for safety and convenience. It is further the intent of this section to discourage excessively bright and harsh site illumination that creates undesirable halo effects on the property, diminishes the residential environment and presents a potential hazard to vehicle and pedestrian traffic on abutting streets and sidewalks. All exterior site lighting designed and intended to light private property shall comply with the following applicable requirements:

(1) Exterior site lighting in nonresidential zoning districts shall comply with the following applicable standards:

- a. Freestanding light poles shall be subject to the following requirements:
 - 1. Poles shall be constructed of metal, concrete, wood laminates composite or other suitable materials and shall generally be of an architectural nature.
 - 2. Poles located 30 feet or less from a residential zoning district shall not exceed 15 feet in height.

3. Poles located more than 30 feet from a residential zoning district may extend to a maximum height of 20 feet.
4. Pole height shall be measured from the surface (ground or pavement) at the base of the lighting structure to the top of the fixture.
- b. Fixture requirements. All light fixtures shall be subject to the following requirements:
 1. Any light fixture attached to a pole shall not exceed the maximum pole height limitations of this section.
 2. Except as otherwise permitted in this subsection; all light fixtures shall be of a type that will contain the luminary completely within the interior area of the case or hull of the fixture. No part of any luminary shall extend outward or downward beyond or below the exterior surface of the case or hull of the fixture, except luminary housed in a fixture designed to light the underside of a canopy structure may extend below the ceiling of the canopy.
 3. All luminaries shall be oriented so that its light shall be cast directly downward and only onto the property it is intended to light.
 4. The planning commission may allow exceptions to these requirements in those instances where lights of the same character as those in the DDA are to be provided.
- c. Wattage limitations. All luminaries regardless of type shall be subject to the following wattage limitations:
 1. Luminaries located 30 feet or less from a residential district shall not generate more than 250 total watts per fixture.
 2. Luminaries located more than 30 feet from a residential district may generate up to a maximum of 400 total watts per fixture.
- d. Exterior building wall lighting. Exterior building wall lighting shall be subject to the following requirements:
 1. Wall lights intended to illuminate service areas, particularly service areas at the rear of buildings next to residential districts, shall be shielded to only cast light downward.
 2. Exterior building wall lighting shall not exceed a height of 12 feet measured from the surface (ground or pavement) at the base of the wall to the top of the fixture, on any building wall that faces into a residential zoning district.
 3. No light fixture shall project out from the wall of a building into any public right-of-way, including any public alley right-of-way, unless specifically approved by the city council.
- e. Architectural exterior lighting. Architectural exterior lighting designed to enhance the architectural appearance of a building or to highlight an architectural feature of a building or landscape feature shall consist of:
 1. A low wattage, non colored luminary designed to cast only a soft light on the subject; and
 2. A luminary that when directly visible from a fixture, shall not be an irritant to pedestrians, or vehicle traffic on adjacent streets, or to residents in any adjacent residential zoning district.
- f. Overall sight illumination. No property shall exceed four and one-half footcandles of maximum overall light intensity. No property shall exceed 0.5 footcandles of maximum light intensity along any residential zoning district line. Light intensity along a residential district shall be measured at a point four feet above the ground.
- g. Uniformity ratio. An overall uniformity ratio of 4:1 shall be maintained across all areas of the site intended to

be illuminated.

- (2) Exterior site lighting in the residential districts. Exterior site lighting in the multiple-family residential districts shall be subject to the following requirements:
- a. Exterior lighting may consist of a low wattage incandescent luminary contained in a decorative light fixture attached to the wall next to the door of each exterior entry to a dwelling unit.
 - b. Exterior lighting may also consist of a low wattage incandescent luminary contained in a decorative light fixture attached to the top of a low profile yard type of light pole. All wiring to pole fixtures shall be underground and shall comply with all applicable electric codes and ordinances.
 - c. Carports in a multiple-dwelling complex may be lighted so long as all such lighting is contained in the underside of the carport roof. The fixtures shall be placed no closer to the front of the roof structure than half the distance from the rear roofline to the front roofline. Luminary shall consist of not more than 100 watts and shall be housed in fixtures within clear lenses.

(Ord. No. 1080, 4-16-2013)

Sec. 50-163. - Residential entranceways.

In all residential districts, entranceway structures, including, but not limited to, walls, columns and gates, marking entrances to single-family subdivisions or multi-family housing projects may be permitted and may be located in a required yard, except such structure shall not be located in the road right-of-way, or as provided in section 50-164 provided that such entranceway structures shall comply with all codes of the city, shall be approved by the building department and shall have a permit issued.

(Ord. No. 1080, 4-16-2013)

Sec. 50-164. - Restricted clear corner vision limitations.

No fence, wall, shrub or other forms of landscaping, signs or any other obstruction to vision above a height of two feet, measured from the established centerline grades of the abutting street, shall be allowed within any of the following restricted clear corner vision:

- (1) Within a triangular area formed at the intersection of two or more streets in any zoning district by a straight line intersecting the two rights-of-way lines at a point 25 feet along from their point of intersection.

- (2) Within a triangular area formed at the intersection of a driveway serving a nonresidential or multiple family use with a street or alley right-of-way line, or interior property line, by a straight line extending between the right-of-way line or interior property line and the nearest edge of the driveway at a point 15 feet along the right-of-way

line, or interior property line and the intersecting driveway line.

- (3) Within a triangular area formed at the intersection of a driveway serving a single-family residential use with a street or alley right-of-way line, or an interior property line, by a straight line intersecting the right-of-way line or interior property line and the nearest edge of the driveway, six feet from the point of intersection.

(Ord. No. 1080, 4-16-2013)

Sec. 50-165. - Parking and storage of commercial and recreational vehicles.

- (a) *Commercial vehicles.* In all residential districts, the parking or storage of any commercial vehicle which contains or has affixed to it commercial hardware, including, but not limited to, a dump truck, snowplow or towing equipment, is hereby prohibited.
 - (1) Exception. A commercial vehicle parked or stored which contains or has affixed to it a snowplow shall be permitted between November 15 and April 1.
- (b) *Recreational vehicles.* Recreational vehicles, including, but not limited to, boats, jet skis, snowmobiles, truck camper bodies, travel trailers, off-road or other altered vehicles, motor homes and utility trailers, as well as their trailers for carriage or storage, may be parked or kept on any lot or parcel in any residential district subject to the following requirements:
 - (1) Recreational equipment parked or stored shall not have fixed connections to electricity, water, gas or sanitary sewer, and at no time shall such equipment be used for living, sleeping or housekeeping purposes.
 - (2) Any recreational vehicle not parked or stored in a garage shall be parked or stored in the rear or side yard, provided that a minimum of three feet of side or rear yard shall be maintained between the vehicle and the side or rear lot line, and except that such vehicle may occupy a front yard for loading and unloading purposes, not to

exceed 48 hours, so long as such location does not obstruct the view of driveways or vehicular and pedestrian traffic of adjoining properties. Any recreational vehicle stored in the rear or side yards shall also be subject to review by the building department and the fire department for compliance with safety requirements.

- (3) The storage of recreational vehicles on a residential lot or parcel for more than 48 hours shall be limited to only those vehicles owned by, and licensed or registered to, the occupant of the residential lot or parcel on which the vehicle is stored.
- (4) In the case of multi-family dwelling complexes, the city council may upon recommendation of the planning commission and after site plan review, require that a screened area, in addition to required off-street parking spaces, be provided on the site for the parking and storage of recreational vehicles.
- (5) Recreational vehicles shall be fully operable, shall be kept in good repair and shall display the current license plate and/or registration as may be appropriate under state law for the particular type of vehicle.
- (6) Recreational vehicles shall not be used to store any flammable or explosive fuels or material contrary to federal, state, or local regulations.

(Ord. No. 1080, 4-16-2013)

Sec. 50-166. - Frontage on public street required.

Unless otherwise provided in this chapter, no lot shall be created or shall be used for any purpose permitted by this chapter unless such lot abuts a public street, has sufficient frontage as required by this chapter, and the principal means of access to the lot is from the public street.

(Ord. No. 1080, 4-16-2013)

Sec. 50-167. - Vehicle access.

- (a) For uses making reference to this section, vehicular access shall be provided only to an existing or planned major thoroughfare, freeway service drive or collector street.
- (b) Exceptions. Access driveways may be permitted to other than a major thoroughfare, freeway service drive or collector street where:
 - (1) Such access is provided to a street where the drive is located immediately across from property that is zoned for multi-family use or any nonresidential use, is developed with permanent uses other than single-family residences or is an area which has been planned for nonresidential purposes in the future; or
 - (2) One or more nonresidential access driveways have been established prior to any redevelopment and are subject to final site plan approval as provided in article V.

(Ord. No. 1080, 4-16-2013)

Sec. 50-168. - Standards applicable to all residential dwelling.

- (a) *Plan submission.* It is not the intent of this section to discourage or nullify architectural variation, but to promote reasonable compatibility in the character of residential dwelling buildings, thereby protecting the economic welfare and property values of the surrounding residential dwelling buildings and the residential dwelling buildings in the city

at large. An applicant seeking to erect a new residential dwelling building in the city shall submit all necessary plans and drawings as required by the city for review by the building department and when required, by the planning commission of the city.

- (b) *Structural standards.* The following structural standards shall apply to all proposed new residential dwelling buildings and to all existing residential dwelling buildings proposed to undergo renovation or rehabilitation:

(1) Building configuration. A dwelling shall have a minimum width and front facade of 20 feet.

(Ord. No. 1080, 4-16-2013)

Sec. 50-169. - Exterior building wall materials and appearance.

The purpose of this section is to serve as a guideline for the establishment of a harmonious building wall appearance on all exterior walls of a building so as to create, enhance and promote a uniform and quality visual environment throughout the city.

(1) Uniform finish.

- a. To ensure that proper and effective attention will be given to the visual appearance of nonresidential buildings, all exterior building walls of a new building shall consist of the same uniform exterior building wall finish materials as the front wall of the building and all such materials used shall be recognized by the building department as acceptable finish materials. The color of the exterior building wall materials shall be like or similar to those on a majority of the buildings in the surrounding area.

(2) Whenever the exterior building wall materials standards set forth in this section shall apply, they shall be accompanied by a statement describing how the exterior building wall material, or combination of materials, along with the color of these materials, as set forth in this section, are consistent and not visually incompatible, with the materials on a majority of the same type of buildings in the surrounding area. For the purpose of this subsection, the following additional standards shall apply:

- a. A residential dwelling building shall be provided with roof designs, roofing materials, exterior finish materials, including doors and windows that are like or directly similar to that found on a majority of the residential dwelling buildings in the surrounding area.
- b. In the case of a nonresidential building in a residential zoning district, all of the exterior walls of the building shall consist of face brick materials and the color of the materials shall be like or similar to that of a majority of the buildings in the surrounding area.

(3) These exterior building wall materials guidelines shall apply to the following buildings:

a. Nonresidential buildings.

1. Except where otherwise regulated in this section, the exterior of a nonresidential building and any related accessory building shall consist of the following materials and/or combinations of materials, and which are like or directly similar to the exterior wall materials and color of a majority of the surrounding nonresidential buildings (provided they meet the following requirements).
- i. Face brick for nonresidential buildings on all exterior walls.
- ii. Glazed kiln-baked clay or shale ceramic masonry units, or cut stone or fieldstone, when these materials are used only in limited proportions as accent materials.
- iii. Precast concrete in form and pattern that may consist of its natural color or may be treated

(impregnated, not painted) with earth tone colors.

- iv. Finished cement like materials, including finished systems and stucco. The use of architectural masonry block such as split face, ribbed and rough hewn masonry units may be used only as accent materials and may not make up more than 25 percent of any exterior wall.
 - v. Metal materials, including flat sheets, standing seamed or ribbed panels, stainless steel and porcelain clad not in excess of 15 percent of the exterior building walls.
2. Expressly prohibited materials shall include:
- i. Standard smooth face concrete masonry units (CMU).
 - ii. Tarred paper products, felt, tin and corrugated iron.
 - iii. Pressed or laminated wood products.
 - iv. Similar products or materials.
3. For the purpose of determining the surrounding area, as referred to in this section, the same procedure shall apply as set forth in this chapter.
4. After review and approval by the building department, other materials not specifically prohibited may be substituted in place of, or in combination with, the materials set forth in this section. The building department may approve alternative materials only when it determines that such materials will:
- i. Be in direct harmony with the intent and purpose of this section and will stand to further promote the uniform and quality visual environment of the city.
 - ii. Meet all applicable requirements of federal, state and local building codes.

(Ord. No. 1080, 4-16-2013)

Sec. 50-170. - Access through residential zoning districts.

Access to a nonresidential use shall not be through or across land zoned for residential use.

(Ord. No. 1080, 4-16-2013)

Sec. 50-171. - Telecommunication towers.

- (a) *Purpose and intent.* It is the general purpose and intent of the city to carry out the will of the United States Congress by authorizing communication facilities needed to operate wireless telecommunication systems. However, it is the further purpose and intent of the city to provide for such authorization in a manner which will retain the integrity of neighborhoods and the character, property values and aesthetic quality of the community at large. In fashioning and administering the provisions of this section, attempt has been made to balance these potentially competing interests. Recognizing the number of providers authorized to establish and operate wireless telecommunication services and coverage, it is the further purpose and intent of this section to:

- (1) Facilitate adequate and efficient provision of sites for wireless telecommunication facilities.
- (2) Establish predetermined districts or zones of the number and shape, and in the location considered best for the establishment of wireless telecommunication facilities, subject to applicable standards and conditions.
- (3) Recognize that the operation of a wireless telecommunication system may require the establishment of facilities

in locations not within the predetermined districts or zones. In such cases, it has been determined that it is likely that there will be greater adverse impact upon neighborhoods and areas within the community. Consequently, more stringent standards and conditions should apply to the review, approval and use of such facilities.

- (4) Ensure that wireless telecommunication facilities are situated in appropriate locations and relationships to other land use, structures and buildings.
 - (5) Limit inappropriate physical and aesthetic overcrowding of land use activities and avoid adverse impact upon existing population, transportation systems, and other public services and facility needs.
 - (6) Promote the public health, safety and welfare.
 - (7) Provide for adequate information about plans for wireless telecommunication facilities, in order to permit the community to effectively plan for the location of such facilities.
 - (8) Minimize the adverse impact of technological obsolescence of such facilities, including a requirement to remove unused and/or unnecessary facilities in a timely manner.
 - (9) Minimize the negative visual impact of wireless telecommunication facilities on neighborhoods, community landmarks, historic sites and buildings, natural beauty areas and public rights-of-way. This contemplates the establishment of as few structures as reasonably feasible, and the use of structures which are designed for compatibility, including the use of existing structures and the avoidance of lattice structures that are unnecessary, taking into consideration the purposes and intent of this section.
 - (10) The city council finds that the presence of numerous support structures, particularly if located within residential areas, would decrease the attractiveness and destroy the character and integrity of the community. This, in turn, would have an adverse impact upon property values. Therefore, it is necessary to minimize the adverse impact from the presence of numerous relatively tall support structures having low architectural and other aesthetic appeal to most persons, recognizing that the absence of regulation would result in a material impediment to the maintenance and promotion of property values, and further recognizing that this economic component is an important part of the public health, safety and welfare.
- (b) *Permitted uses.* In the following circumstances, a proposal to establish a new wireless telecommunication facility shall be deemed a permitted use:
- (1) An existing structure which will serve as an attached wireless telecommunication facility within a nonresidential zoning district, where the existing structure is not, in the discretion of the building official of the city, proposed to be either materially altered or materially changed in appearance.
 - (2) A proposed colocation upon an attached wireless telecommunication facility which had been preapproved for such colocation as part of an earlier approval by the city.
 - (3) An existing structure which will serve as an attached wireless telecommunication facility consisting of a utility pole located within a right-of-way, where the existing pole is not proposed to be modified in a manner which would materially alter the structure and/or result in an impairment of sight lines or other safety interests.
 - (4) A wireless telecommunication support structure established within a right-of-way having an existing width of 204 feet or more.
- (c) *Special approval land uses.* Wireless telecommunication facilities may be authorized as special land uses in I-1 Light Industrial Districts. If it is demonstrated by an application that a wireless telecommunication facility may not reasonably be established as a permitted use and it is required to be established in either an I-1 Light Industrial

District or in another zoning district in order to operate a wireless telecommunication service, then wireless telecommunication facilities may be permitted as a special land use subject to the criteria and standards set forth below.

(d) *General regulations.*

- (1) All applications for wireless telecommunication facilities shall be reviewed in accordance with the following standards and conditions, and, if approved, shall be constructed and maintained in accordance with such standards and conditions. In addition, if the facility is approved, it shall be constructed and maintained with any additional conditions imposed by either the planning commission or city council in its discretion:
 - a. Facilities shall be found to not be injurious to neighborhoods or otherwise detrimental to the public safety and welfare.
 - b. Facilities shall be located and designed to be harmonious with the surrounding areas.
 - c. Wireless telecommunication facilities shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions.
 - d. Applicants shall demonstrate a justification for the proposed height of the structures and an evaluation of alternative designs which might result in lower heights.

(e) The following additional standards shall be met:

- (1) The maximum height of a new or modified support structure and antenna shall be the minimum height demonstrated necessary for a reasonable communication by the applicant and other entities to colocate on the structure, but not to exceed 120 feet in height, despite any other limitations regarding height set forth in section 50-150. The accessory building contemplated to enclose such things as switching equipment shall be limited to the maximum height for accessory structures within the zoning district.
- (2) The setback of the support structure from any residential district shall be at least the height of the highest point of any structure on the premises, the setback of the support structure from any existing or proposed rights-of-way or other publicly traveled roads shall be no less than the height of the structure.
- (3) Where the proposed new or modified support structure abuts a parcel of land zoned for a use other than residential, the minimum setback of the structure, and accessory structures, shall be in accordance with the required setbacks for main or principal buildings as provided in section 50-151 for the zoning district in which the structure is located.
- (4) 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 be needed to access the site.
- (5) The division of property for the purpose of locating a wireless telecommunication facility is prohibited unless all zoning requirements and conditions are met.
- (6) Where an attached wireless telecommunication facility is proposed on the roof of a building, if the equipment enclosure is proposed as a roof appliance on the building, it shall be designed, constructed and maintained to be architecturally compatible with the principal building. The equipment enclosure may be located within the

principal building or may be an accessory building. If proposed as an accessory building, it shall conform with all district requirements for principal, building, including yard setbacks.

- (7) The planning commission shall, with respect to the color of the support structure and all accessory buildings, review and approve the same so as to minimize distraction, and reduce visibility in its surroundings. It shall be the responsibility of the applicant to maintain the wireless telecommunication facility in a neat and orderly condition.
 - (8) The support system shall be constructed in accordance with all applicable building codes and shall include the submission of a soils report from a geotechnical engineer licensed in the state. This soils report shall include soil borings and statements confirming the suitability of soil conditions for the proposed use. The requirements of the Federal Aviation Administration (FAA), the Federal Communication Commission (FCC), and the state aeronautics commission, shall be noted.
 - (9) 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 long term, continuous maintenance to a reasonably prudent standard.
- (f) Applications for wireless telecommunication facilities which may be approved as special land uses shall be reviewed, and, if approved, shall be constructed and maintained in accordance with the standards and conditions of this section, and in accordance with the following standards:
- (1) The applicant shall demonstrate the need for the proposed facility to be located as proposed based upon the presence of one or more of the following factors:
 - a. Proximity to an interstate or major thoroughfare.
 - b. Areas of population concentration.
 - c. Concentration of commercial, industrial, and/or other business centers.
 - d. Areas where signal interference has occurred due to tall buildings, masses of trees, or other obstructions.
 - e. Topography of the proposed facility location in relation to other facilities with which the proposed facility is to operate.
 - f. Other specifically identified reasons creating facility need.
 - (2) The proposal shall be reviewed in conformity with the colocation requirements of this section.
- (g) *Application requirements.*
- (1) A site plan prepared in accordance with article V shall be submitted, showing the location, size, screening and design of all buildings and structures, including fences, and the location and size of outdoor equipment, and the location, number, and species of proposed landscaping.
 - (2) The site plan shall also include a detailed landscaping plan where the support structure is being placed at a location which is not otherwise developed, or where a developed area will be disturbed. The purpose of landscaping is to provide screening and aesthetic enhancement for the structure base, accessory buildings and enclosure. In all cases, there shall be shown on the plan, fencing, which is required for protection of the support structure and security from children and other persons who may otherwise access facilities.
 - (3) The application shall include a signed certification by a state-licensed professional engineer with regard to the manner in which the proposed structure will fall, which certification will be utilized, along with other criteria such as applicable regulations for the district in question, in determining the appropriate setback to be required for the structure and other facilities.

- (4) The application shall include a description of surety to be posed at the time of receiving a building permit for the facility to ensure removal of the facility when it has been abandoned or is no longer needed. In this regard, the surety shall, at the election of the applicant, be in the form of:
 - a. Cash;
 - b. A surety bond;
 - c. A letter of credit; or
 - d. An agreement in a form approved by the attorney for the city and recordable at the office of the register of deeds, establishing a promise of the applicant and owner of the property to remove the facility in a timely manner as required under this section, with the further provision that the applicant and owner shall be responsible for the payment of any costs and attorneys' fees incurred by the community in securing removal.
- (5) The application shall include a map showing existing and known proposed wireless telecommunication facilities within the city, and further showing existing and known proposed wireless telecommunication facilities within areas surrounding the borders of the city in the location and in the area, which are relevant in terms of potential colocation or in demonstrating the need for the proposed facility. If and to the extent the information in question is on file with the city, the applicant shall be required only to update as needed. Any such information which is a trade secret and/or other confidential commercial information which, if released, would result in commercial disadvantage to the applicant, may be submitted with a request for confidentiality in connection with the development of governmental policy, pursuant to MCL 15.243(f). This section shall serve as a promise to maintain confidentiality to the extent permitted by law. The request for confidentiality must be prominently stated in order to bring it to the attention of the city.
- (6) The application shall include the name, address and phone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated during the time the facility is on the premises.
- (h) For facilities which are not permitted uses under this section, and are proposed to be located outside of the Industrial District, an application may be reviewed and, if approved, facilities shall be constructed and maintained in accordance with the following additional standards and requirements, along with those above:
 - (1) At the time of the submittal, the applicant shall demonstrate that a location within the Industrial District or a colocation cannot reasonably meet the coverage and/or capacity needs of the applicant.
 - (2) Wireless telecommunication facilities shall be of a design such as, without limitation, a steeple, bell tower, flag pole, or other form which is compatible with the existing character of the proposed site, neighborhood and general area, as approved by the city.
 - (3) In single-family residential neighborhoods, site locations outside of the Industrial District and any permissible collocation area, shall be permitted on the following sites, not stated in any order of priority, subject to application of all other standards contained in this section:
 - a. Municipally owned site.
 - b. Other governmentally owned site.
 - c. Religious or other institutional site.
 - d. Public park and other large permanent open space areas, when compatible.
 - e. Public or private school sites.

f. Other locations, if none of the locations in this subsection are available.

(i) *Colocation.*

- (1) It is the policy of the city to minimize the overall number of newly established locations for wireless telecommunication facilities and wireless telecommunication support structures within the community, and to encourage the use of existing structures for attached wireless telecommunication facility purposes, consistent with the statement of purpose and intent set forth in this section. Each licensed provider of a wireless telecommunication facility must, by law, be permitted to locate sufficient facilities in order to achieve the objectives promulgated by the United States Congress. However, particularly in light of the dramatic increase in the number of wireless telecommunication facilities reasonably anticipated to occur as a result of the change in Federal law and policy in and relating to the Federal Telecommunications Act of 1996, it is the policy of the city that all users colocate on attached wireless telecommunication facilities and wireless telecommunication support structures in the interest of achieving the purposes and intent of this section, as stated above, and as stated in this section. If a provider fails or refuses to permit colocation on a facility owned or otherwise controlled by such provider, where colocation is feasible, the result will be that a new and unnecessary additional structure will be compelled, in direct violation of and in direct contradiction to the basic policy, intent and purpose of the city. The provisions of this subsection are designed to carry out and encourage conformity with the policy of the city.
- (2) Colocation shall be deemed to be feasible for purposes of this section when all of the following are met:
 - a. The wireless telecommunication provider under consideration for colocation will undertake to pay market rent or other market compensation for colocation.
 - b. The site on which colocation is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.
 - c. The colocation being considered is technologically reasonable, e.g., the colocation will not result in unreasonable interference, given appropriate physical and other adjustments in relation to the structure, antennas, and the like.
 - d. The height of the structure necessary for colocation will not be increased beyond a point deemed to be permissible by the city, taking into consideration the several standards contained in this section.

(j) *Requirements for colocation.*

- (1) A special land use permit for the construction and use of a new wireless telecommunication facility shall not be granted unless and until the applicant demonstrates that a feasible colocation is not available for the coverage area and capacity needs.
- (2) All new and modified wireless telecommunication facilities shall be designed and constructed so as to accommodate colocation.
- (3) The policy of the community is for colocation. Thus, if a person who owns or otherwise controls a wireless telecommunication facility fails or refuses to alter a structure so as to accommodate a proposed and otherwise feasible colocation, such facility shall not be altered, expanded or extended in any respect.
- (4) If a party who owns or otherwise controls a wireless telecommunication facility fails or refuses to permit a feasible colocation, and this requires the construction and/or use of a new wireless telecommunication support structure, the person failing or refusing to permit a feasible colocation shall be deemed to be in direct violation and contradiction of the policy, intent and purpose of the city, and, consequently, such persons shall take

responsibility for the violation, and shall be prohibited from receiving approval for a new wireless telecommunication support structure within the city for a period of five years from the date of the failure or refusal to permit the colocation. Such a person may seek and obtain a variance from the zoning board of appeals if and to the limited extent the applicant demonstrates entitlement to variance relief, which, in this context, shall mean a demonstration that enforcement of the five-year prohibition would unreasonably discriminate among providers of functionally equivalent wireless telecommunication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless telecommunication services.

(k) *Removal.*

- (1) A condition of every approval of a wireless telecommunication facility shall be an adequate provision for removal of all or part of the facility by users and owners upon the occurrence of one or more of the following events:
 - a. When the facility has not been used for 180 days or more. For purposes of this subsection, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals), shall be considered as the beginning of a period of nonuse.
 - b. Six months after new technology which is available at reasonable cost as determined by the city council, which permits the operation of the communication system without the requirement of the support structure.
- (2) The situations in which removal of a facility is required, as set forth in this section, may be applied and limited to portions of a facility.
- (3) Upon the occurrence of one or more of the events requiring removal, as specified in this section, the property owner or person who had used the facility shall immediately apply or secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the premises to an acceptable condition as reasonably determined by the building official.
- (4) If the required removal of a facility, or a portion thereof, has not been lawfully completed within 60 days of the applicable deadline, and after at least 30 days' written notice, the city may remove or secure the removal of the facility, or required portions thereof, with its actual costs and reasonable administrative charges to be drawn, collected and/or enforced from or under the security posted at the time application was made for establishing the facility.

(Ord. No. 1080, 4-16-2013)

Sec. 50-172. - Commercial television and radio towers, public utility microwave and public utility television transmitting towers.

Radio and television towers, public utility microwave and public utility television transmitting towers and their attendant facilities, but not including telecommunication towers, shall be permitted, provided:

- (1) Such uses shall be located on a continuous parcel of land of sufficient size to permit all building setback requirements of the district to be met from the fenced compound in which the tower is located, or from the anchors to which any guy wires may be extended to stabilize the tower structure, whichever creates the greater setback.
- (2) The tower and any buildings or equipment cabinets associated with the facility will be contained within a secured compound.
- (3) No fencing or other structure designed and intended to secure the facility shall extend into the minimum front yard setback requirement of the district.

- (4) Any off-street parking required for the use shall meet the numerical and parking layout standards of this chapter and all parking shall be contained within the secured area of the site.
- (5) All exterior lighting, except that required for the tower, shall be shielded and directed into the compound only, particularly when the use is on property abutting a residential zoning district.

(Ord. No. 1080, 4-16-2013)

Secs. 50-173—50-179. - Reserved.

ARTICLE XVIII. - SIGNS

Sec. 50-180. - Purpose.

The provisions contained in this article are enacted to provide for the establishment of signs that will promote and foster a business friendly community through viable commercial and industrial activity and the dissemination of messages regardless of content, but will not by reason of their size, location, spacing, construction, or manner of display, endanger life or limb, confuse or mislead traffic, obstruct vision necessary for traffic safety, or otherwise endanger the public health or safety. Furthermore, it is the intent of these regulations to preserve and improve the appearance of the city by preventing placement of (1) oversized signs that are out-of-scale with surrounding buildings and structures, and (2) an excessive accumulation of signs that would cause visual clutter. These regulations are further intended to regulate permitted signs in such a way as to create land-use patterns compatible with other major land-use objectives and to prevent such signs from causing annoyance or disturbance to the citizens and residents of the city.

(Ord. No. 1080, 4-16-2013)

Sec. 50-181. - Compliance required; existing signs rendered nonconforming.

- (a) No person shall erect, construct or alter any sign in the city without complying with the provisions of this article.
- (b) Any sign already established on the effective date of the ordinance rendered nonconforming by the provisions of this article or as a result of subsequent amendments shall be subject to the regulations concerning nonconforming signs.

(Ord. No. 1080, 4-16-2013)

Sec. 50-182. - Permits, applications and specifications.

- (a) Unless otherwise provided, no person shall construct, reconstruct, alter or relocate any sign without first obtaining a permit from the building official and paying all applicable permit and review fees.
- (b) Applications for sign permits shall be made upon forms provided by the city and shall be accompanied by the following:
 - (1) Plans and specifications showing the dimensions, materials and required details of construction;
 - (2) Plans indicating the location of the building, structure or parcel of land upon which the sign is to be placed, and the position of the sign on the building, structure, or parcel of land and the relationship to other nearby buildings, structures, property lines and existing or proposed rights-of-way;

- (3) An insurance policy (if required);
 - (4) When public safety requires, the certificate or seal of a registered structural or civil engineer; and
 - (5) Such other information as the building official may require showing full compliance with this and other applicable laws of the city and the state.
- (c) The application for a sign permit and all supporting plans and specifications shall be reviewed as follows:
- (1) When a sign permit application is submitted in conjunction with the proposed construction of a new building which must be reviewed by the planning commission, the sign permit application may be reviewed as a part of the site plan review.
 - (2) The building official shall review sign permit applications for conforming signs to be erected on a site or existing building where no other new construction is proposed.
 - (3) The building official may issue a sign permit, provided the application meets the approval of all reviewing authorities.
- (d) A sign that is altered in appearance or dimension in any manner, including a change in face, lettering, coloring or lighting, or moved to a new location, shall be subject to all restrictions applying to a new sign.

(Ord. No. 1080, 4-16-2013)

Sec. 50-183. - Exempted signs.

No permit shall be required for construction of any signs listed below, providing all requirements of this article are met.

- (1) Signs not visible beyond the boundaries of the lot or parcel upon which they are situated, or from any public thoroughfare or right-of-way;
- (2) Traffic and other official signs of any public or governmental agency, such as traffic control or directional signs, railroad crossing signs, trespassing signs, signs indicating danger, signs indicating the location of United States Geological Service (USGS) benchmarks or signs used as aids to service or safety;
- (3) Directional signs, including street signs required for the purpose of orientation when approved by the city, the county or the state;
- (4) Any flag, emblem or insignia of our nation, its governmental units or its schools;
- (5) Window signs in nonresidential districts;
- (6) Any sign which is located completely within an enclosed building and which is not visible from outside the building. If the sign is visible outside the building, it shall be regulated by the regulations of the most similar sign type;
- (7) Tablets, grave markers, headstones, statutory or similar remembrances of persons or events that are noncommercial in nature;
- (8) Temporary decorations or displays celebrating the occasion of traditionally accepted patriotic or religious holidays and special municipal and public school activities;
- (9) Public safety and routing signs used for transport in the normal course of a business which is not primarily the display of signs;
- (10) Signs on a bus, truck, trailer or other vehicle, while operated and used for transport in the normal course of a

business which is not primarily the display of signs;

- (11) Street address signs;
- (12) Nameplate and identification signs in residential districts;
- (13) Signs accessory to parking areas;
- (14) Open signs less than three square feet.

(Ord. No. 1080, 4-16-2013)

Sec. 50-184. - Prohibited signs.

Except as otherwise permitted, the following signs are prohibited:

- (1) *Balloon sign.* Any balloon or balloon sign, except those that have been specifically approved for a special event.
- (2) *Cloth and banner signs.* Cloth and banner signs, spinners, hula signs, and festoon signs, unless approved for a special event. Feather signs may be permitted as a part of an approved temporary sign permit.
- (3) *Flashing (instantaneous) or blinking signs.* Signs that have flashing, blinking or moving lights or exposed incandescent light bulbs, except mechanical (manual) or electronic changing letter or message signs may be permitted provided such signs shall have no pulsating or moving script messages and provided further that no such sign shall display the same message for more than 12 consecutive hours and the message shall not consume more than ten percent of the display area of the sign.
- (4) *Fluorescent sign.* Any sign using fluorescent or neon paint or color except outline tubing signs.
- (5) *Illegal sign.* Any sign that is unlawfully installed, erected or maintained, including:
 - a. Any sign attached to a standpipe, gutter, drain, fire escape, or any sign erected so as to impair access to a roof,
 - b. Any sign that projects above the parapet line of any roof, projecting or overhanging signs, except permitted wall signs which may project up to 18 inches out from the face of the wall to which it is affixed,
 - c. Any sign attached to a tree, fence, or utility pole, signs painted on or attached to a parked vehicle, trailer or other towed or demountable structure which is being used principally for advertising purposes, rather than for transportation purposes (the vehicle shall be currently licensed, not parked or stored for more than 48 hours in a single spot and shall be parked in an approved parking space), except that this restriction shall not apply to permitted temporary truck load sales, provided a permit is issued, and
 - d. Any other signs not specifically authorized by this article, as amended.
- (6) *Interfering or misleading sign.* Any sign that makes the words stop, or danger, or any other words or phrases, symbols or characters, colors, lettering or which includes any traffic sign or signal in such a manner as to interfere with, mislead, or confuse traffic.
- (7) *Obscene sign.* Any sign or other advertising structure containing profane, obscene, indecent or immoral matter of the type or kind prohibited by state law.
- (8) *Obstructing sign.* Any sign that obstructs a window, door or other opening that could be used for a fire escape.
- (9) *Advertising offsite business.* Signs that advertise a business located other than on the subject property.
- (10) *Portable sign.* Any sign that meets the definition of a portable sign as defined in this article.

- (11) *Sandwich signs*. Sandwich signs, except such signs may be allowed subject to section 50-200.
- (12) *String lights (not including Christmas lights)*. String lights when used for commercial purposes.
- (13) *Trailer sign*. Any sign that meets the definition of a trailer sign as defined in this article.
- (14) Signs located within or that extend into the vertical space of the road right-of-way or other similar public space, unless specifically permitted by this chapter.
- (15) Signs that contain visible moving, revolving or mechanical parts or movement, or other apparent visible movement achieved by electrical, electronic or mechanical means, including intermittent electrical pulsations, or by action of normal wind current.

(Ord. No. 1080, 4-16-2013)

Sec. 50-185. - Insurance certificates for projecting signs.

Concurrent with the issuance of a business license each year, the owner of a projecting sign which extends into or over public property, right-of-way or sidewalk shall submit to the clerk's office an insurance certificate naming the city as an additional insured on the owner's policy pertaining to the sign on an annual basis for a full year.

(Ord. No. 1080, 4-16-2013)

Sec. 50-186. - Illumination.

- (a) No sign shall be illuminated by any devices other than approved electrical devices which shall be installed in accordance with the requirements of this article and all applicable city ordinances and building codes. In no case shall any open spark or flame be used for display purposes unless specifically approved by the building official.
- (b) The following provisions shall also apply to the illumination of signs:
 - (1) Signs shall be illuminated only by steady, stationary, shielded light sources directed solely at the sign, or internal to it, without causing glare for motorists, pedestrians or neighboring premises. External lights shall be shielded downward or otherwise shielded to limit glare.
 - (2) All exterior sign illumination shall be shielded so as not to project onto adjoining property or thoroughfares.
 - (3) Direct exterior illumination and internally illuminated signs shall avoid the use of glaring undiffused lights or bulbs that could distract motorists.
 - (4) No sign shall be illuminated by the use of flashing, moving or intermittent lighting, unless otherwise provided in this section.
 - (5) Illuminated signs shall not produce more than one footcandle of illumination measured four feet from the signs.

(Ord. No. 1080, 4-16-2013)

Sec. 50-187. - Obsolete signs.

Obsolete signs, which include all signs that advertise a product that is no longer made or sold or that advertises a business that has closed, shall be removed (or in the case of a painted wall sign such sign shall be painted over entirely, non-advertising murals may remain) by the owner, agent or person having beneficial use of the building, structure or property upon which the sign is located, within 30 days after written notification from the building official. However, where a conforming sign structure

and frame are typically reused by the current occupant or business in leased or rented buildings, the building owner shall not be required to remove the sign structure and frame provided that the sign structure and frame are maintained in an acceptable condition, based on city code.

(Ord. No. 1080, 4-16-2013)

Sec. 50-188. - Removal of signs.

Whenever a sign is removed or is required to be removed by this article or by order of the building department, the entire sign and sign structure, including fastenings and anchorages, shall be removed.

(Ord. No. 1080, 4-16-2013)

Sec. 50-189. - Addresses.

- (a) For the purpose of public safety, the street number of every residential building shall be prominently displayed on the side of the building facing the street upon which it is addressed. Street numbers shall be a minimum of three inches in height.
- (b) Nonresidential uses shall provide addresses or a range of addresses on all freestanding signs in a prominent location. If no freestanding sign is provided, then the address or address range shall be displayed on the building facade. Address numbers shall also be displayed on the rear door(s) of the building. The numerals shall be a minimum of three inches in height and shall not exceed six inches.

(Ord. No. 1080, 4-16-2013)

Sec. 50-190. - Automobile dealer signs.

The following signs shall be allowed at all licensed automobile dealers that sell new and used automobiles:

- (1) Pennants, including American flag pennants, attached to automobile antennas which are made of nylon, cloth or a similar material, with sewn and reinforced stitching, not to exceed ten inches in width by 36 inches in length;
- (2) Vertical pole flags to be attached to flagpoles and/or light poles and made of nylon, cloth or a similar material, with sewn and reinforced stitching, not to exceed 42 inches by seven and one-half feet in size;
- (3) Rearview mirror tags attached to the rearview mirror of an automobile;
- (4) Signs attached to windows or under the hood of automobiles;
- (5) Magnetic signs or spring signs attached to the rooftops of automobiles not to exceed 17 inches in height by 36 inches in width.

(Ord. No. 1080, 4-16-2013)

Sec. 50-191. - Awning and canopy signs.

Signs shall be permitted on awnings and canopies in business, office service, and industrial districts, subject to the following controls.

- (1) Letters and logos on awnings or canopies shall be regulated as wall signs and shall meet all applicable

requirements for wall signs.

- (2) The following minimum vertical clearance above a sidewalk or pavement area shall be provided:
 - a. Store front awning or canopy, eight feet.
 - b. Freestanding canopy, 14 feet.
- (3) The written message or logo must be affixed flat to the face of any awning or canopy.
- (4) Awnings may project out from the building beyond 12 inches.

(Ord. No. 1080, 4-16-2013)

Sec. 50-192. - Billboards.

In addition to the stated purposes and intent of this article, the following provisions are intended to protect the public health, safety and welfare by regulating the location, size, height, spacing and other aspects of billboards. These provisions are necessary because billboards can reduce traffic safety by diverting the attention of motorists from the road, are often incompatible with other signs and land uses in surrounding areas and result in aesthetic deterioration. Where permitted, billboards shall be subject to the following restrictions:

- (1) Billboards shall be permitted in I-1 Light Industrial District as a special land use.
- (2) The total sign area of any billboard shall not exceed 200 square feet per face or 400 square feet total for all sign faces per sign structure.
- (3) No billboard shall be closer than 50 feet to a property line.
- (4) No billboard shall project over public property.
- (5) Billboards shall be spaced no closer than 1,000 feet between signs on the same side of the right-of-way and shall further comply with all requirements of the I-1 Light Industrial District (section 50-150).
- (6) The top of any billboard shall be no higher than 25 feet above grade.
- (7) The light rays of a billboard with external illumination shall be cast directly upon the billboard and shall not be visible to motorists, except as reflected from the billboard.
- (8) A billboard shall be self-supported and pole-mounted.

(Ord. No. 1080, 4-16-2013)

Sec. 50-193. - Changeable message sign.

A sign may contain a changeable message, but only under the following conditions:

- (1) *Electronically changeable messages.* Electronic changeable messages shall be part of the total square footage of display area permitted for the sign even if the message is contained in a separate cabinet, except the face of the message shall not consume more than 25 percent of the total permitted display area of the sign.
 - a. No digital sign shall be permitted to flash, blink, scroll, oscillate or have full animation, and is deemed a distraction/safety hazard to drivers or pedestrians. All digital signs shall have "instant" changes with no animated effects.
 - b. Any electronic message displayed shall remain unchanged for a minimum of ten seconds prior to switching messages.

- c. The digital sign may be full color but shall not display light of such intensity or brilliance to cause glare or otherwise impair the vision of the driver, or results in a nuisance to the driver.
- d. All digital signs shall maintain an automatic brightness control keyed to ambient light levels.
- e. Digital signs shall be programmed to go dark if the sign malfunctions.
- f. Signage should not be designed to emulate traffic safety signage.
- g. On those properties where a digital sign has been approved by the city, there shall be no other temporary signage.

Prior to the issuance of a sign permit, the applicant shall provide written certification from the sign manufacturer that the light intensity has been factory pre-set not to exceed the maximum permitted intensity level.

	Daytime	Nighttime
Brightness	500 nits	125 nits

- (2) *Manually changeable messages.* A manually changeable message sign shall be permitted, provided the area of the sign containing the message shall be part of the total square footage of display area permitted for the sign even if the message is contained in a separate cabinet, except the face of the message shall not consume more than 25 percent of the total permitted display area of the sign, and the message shall be displayed for at least 24 continuous hours before it is replaced by another message.

(Ord. No. 1080, 4-16-2013)

Sec. 50-194. - Church, school, public facilities, or signs for other nonresidential uses in a residential district.

Church or school signs subject to the following:

- (1) One church or school sign shall be permitted for each school or church, except that where a church or school has property fronting on two streets, two signs, one fronting on each street, shall be permitted.
- (2) Signs shall not to exceed 50 square feet in area.
- (3) The setbacks for signs in the underlying zoning district shall apply.
- (4) The sign shall not exceed ten feet in total height.
- (5) One wall sign not exceeding 32 square feet.

(Ord. No. 1080, 4-16-2013)

Sec. 50-195. - Freestanding signs.

- (a) The planning commission may permit an increase of up to an additional 15 percent of the total permissible area for freestanding signage. The reasons for any increase shall be documented in the planning commission decision and shall generally be based on the architectural compatibility, sign placement, and sign visibility.
- (b) The height of freestanding signs shall not exceed 20 feet.

(Ord. No. 1080, 4-16-2013)

Sec. 50-196. - Gasoline price signs.

Gasoline price signs shall be permitted in the business districts, subject to the following requirements:

- (1) One gasoline price sign shall be permitted as an integral part of the allowed display area of a freestanding accessory sign for a gasoline station.
- (2) No such price sign shall exceed 40 square feet and shall be part of the total allowed display area for a freestanding sign.

(Ord. No. 1080, 4-16-2013)

Sec. 50-197. - Marquees and projecting signs.

Marquees shall be permitted in the business districts and the planned development district subject to the following controls:

- (1) The written message must be affixed flat to the vertical face of any marquee.
- (2) A minimum vertical clearance of 14 feet shall be provided beneath any marquee sign which is located in a parking area or projects over a driveway. In all other areas, a minimum vertical clearance of ten feet shall be provided beneath any marquee.
- (3) Limitations imposed by this section on projection of signs from the face of the wall of a building or structure shall not apply to marquee signs. The sign shall not extend onto adjacent private property unless proper easements have been obtained.
- (4) The total sign area shall not exceed that of a wall sign permitted for the same building.
- (5) Marquee or projecting signs which extend above the roofline may be permitted only after special land use approval.
- (6) A marquee sign shall be permitted in lieu of a wall or freestanding sign on the same premises.

(Ord. No. 1080, 4-16-2013)

Sec. 50-198. - Menu signs.

The construction of menu board signs, vertical clearance signs, and other similar typical non-advertising signs which are constructed adjacent to or highly visible from an adjacent road right-of-way may be reviewed by the planning commission as advertising signage if the sign contains excessive text, logos, or is illuminated.

(Ord. No. 1080, 4-16-2013)

Sec. 50-199. - Murals.

Murals painted on the facade of a building or other structure onsite may be permitted and may not be counted against total permissible wall signage if after planning commission review, it has been determined that the mural is not intended for advertising or otherwise attracting attention to the business at which it is located.

(Ord. No. 1080, 4-16-2013)

Sec. 50-200. - Sidewalk board (sandwich) signs.

Sidewalk board signs shall be permitted subject to the following regulations:

- (1) The maximum message area shall be six square feet per side of sign with the maximum height being 42 inches. The sign board shall continue to the ground for detection by those who are visually impaired. The bottom two inches of the sign shall also have a strong color contrast with the grade below.
- (2) Acceptable primary sidewalk board signs shall be in good condition and consist of the following materials: stainless steel or other weather-resistant steel, iron, metal and wood or plastic.
- (3) There shall only be one sign at each customer entrance, regardless of the number of tenants on the premises and the sign cannot refer to off-premises locations.
- (4) The signs shall be placed so as to maintain a clear path of travel for the pedestrian and in a manner than maintains five feet in width between the sign and any fixed element on the sidewalk, and shall not be erected or maintained in a manner that prevents free ingress or egress from any door, window or fire escape.
- (5) The sign shall not unreasonably interfere with the view, access to, or use of adjacent properties.
- (6) A sidewalk sign permit is required prior to the placement of the sign. Only one sign permit for a sidewalk board sign is allowed per business and such permit is not transferable. Permits are valid for one calendar year beginning January 1 and ending December 31. If the sign is to be located within the public right-of-way, business owners shall sign a hold harmless agreement that indemnifies the city of any liability for use of said public right-of-way.
- (7) A sketch including dimensions, content, materials, and location of the sidewalk board sign must be attached to the permit application. The permit application must be approved and signed by the building official or his/her designee before the sidewalk board sign may be displayed. If a sign is displayed prior to obtaining a sidewalk board sign permit, the application may be denied.
- (8) The signs shall not be illuminated, nor shall they contain moving parts, movable letters, interchangeable letters, or have balloons, windsocks, pinwheels, streamers, pennants, or similar adornment attached to them. Attaching the signs to structures, poles, objects, signs, etc., by means of chains, cords, rope, wire, cable, etc., is prohibited. They shall be removed from public sidewalks if there is any snow accumulation (the sign may not be displayed until the snow is removed) except those located on private property.
- (9) Signs placed in violation of this section may result in immediate removal of the sign and the business' temporary sign permit privileges may be denied for the remainder of that year. Sidewalk board signs displayed without approved permits shall be disposed of at owner's expense.
- (10) 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.).

- (11) Each sign shall be placed outside only during the hours when the business is open to the general public, and shall be stored indoors at all other times.
- (12) All such signs shall be constructed of durable materials that complement the materials and design/style of the building where the proposed sign is located. The primary colors of such signs shall be compatible with the colors of the building where the proposed sign is located.
- (13) The sign shall have no sharp edges or corners. All surfaces shall be smooth and be free of protruding tacks, nails and wires. All parts, portions and materials of the sign shall be kept in good repair. The display surface shall be kept clean, neatly painted, and free from rust, corrosion and graffiti. Any cracked or broken surfaces, missing sign copy or other poorly maintained or damaged portion of a sign shall be repaired, replaced or removed. No glass, breakable materials or attached illumination shall be allowed.
- (14) The sign shall be removed when weather conditions create potentially hazardous conditions.

(Ord. No. 1080, 4-16-2013)

Sec. 50-201. - Special event signs.

Signs advertising a special event may be allowed for events that include, but are not limited to, grand openings, significant sales, vehicle shows/displays, craft shows, benefit rummage/bake sales and festivals. Special event signs:

- (1) May include, but are not limited too: A-frame signs, balloon signs, banners, festoon signs, inflatable signs, tear drop signs, streamers and the like.
- (2) May be issued for not more than 14 days and not more than four times within any 12-month period. Permits may be issued consecutively.
- (3) Shall not exceed 32 square feet in size.

(Ord. No. 1080, 4-16-2013)

Sec. 50-202. - Temporary event signs and temporary seasonal signs.

Temporary event signs or temporary seasonal signs, but not a temporary sign, shall be limited to designated locations in a public place or in a quasi-public place, subject to the following conditions.

- (1) Temporary event and seasonal signs.
 - a. Shall be placed at the site of the event no earlier than five days before the event and shall be removed no later than two days after the event has been concluded.
 - b. Shall be no larger than 32 square feet in area and shall have a uniform configuration.
 - c. Shall be placed immediately next to the event at the locations designated for such signs by the city manager's office or his/her designee.
 - d. Shall be placed in a location that will not block the participant's view of the event or the view of those attending the event.
- (2) Conditions applicable to all temporary event signs and temporary seasonal signs.
 - a. The message content of the sign shall be subject to review and approval by the city manager's office or his/her

designee.

- b. Shall consist of weatherproof, solid nonflexible materials with fully rounded edges and shall expose only a smooth display surface with no outward projections of any kind.
- c. Shall be secured to a designated structure in a public place or quasi-public place by fasteners that will firmly affix the sign to the structure and which shall not pose a threat of injury to those participating in the activity or event or to those watching the activity or event.
- d. No signs shall advertise any refreshment that contains alcohol, tobacco or other unlawful or illicit substances.
- e. No signs shall contain any electronic messages or carry electricity of any kind.
- f. A permit shall be required before any such sign will be placed on the lawn or grounds of any public place or quasi-public place and such permit shall be purchased at the office of the city manager or his/her designated department for a fee established by the city council. The office of the city manager or his/her designated department shall not issue a temporary event permit or temporary seasonal sign permit until all applicable fees have been paid and the sign has been reviewed and approved by the city manager's office or his/her designated department. In conducting its review the department shall determine that:
 - 1. All applicable requirements of this section have been met, including the content of the sign.
 - 2. A designated location for the sign has been assigned by the office of the city manager or his/her designated department and accepted by the applicant for the permit.
- g. The preparation (manufacture) and placement of a temporary event sign or a temporary seasonal sign shall be done at the expense of the applicant.
- h. It shall be the responsibility of the applicant to repair and refurbish, at his/her expense, the sign as needed so as to maintain an attractive sign. It shall be the responsibility of the applicant to remove the sign, within the designated time period. The applicant shall be responsible for repairing or replacing any element of the facility that may be damaged during placement or removal of the sign.

(Ord. No. 1080, 4-16-2013)

Sec. 50-203. - Temporary signs.

(a) Temporary signs include, but are not limited to the following:

- (1) An on-site real estate sign, advertising the premise for sale, rent or lease.
- (2) An off-site real estate sign for the purpose of providing direction to another premise that is offered for sale, rent, or lease.
- (3) An on-site sign advertising an on-going garage, estate or yard sale.
- (4) Non-commercial signs, which contain non-commercial informational or directional messages.
- (5) Political signs.
- (6) Holiday or other seasonal signs.
- (7) Construction signs for buildings under construction.

(b) All temporary signs must comply with all of the following regulations:

- (1) The total aggregate sign area of all temporary signs on any one site shall not exceed 16 square feet.

(2) Location of temporary signs:

- a. May be located in any zoning district.
- b. Temporary signs shall not be located in a dedicated right-of-way.
- c. Prior to the construction or placement of a temporary sign, the permission of the property owner where the sign is to be located must be secured.

(3) *Time limitations for temporary signs.* Each temporary sign shall be removed upon completion of the event or within 60 days of placement whichever is less.

(4) *Exceptions.* Where there is a valid contract for work on the premises that exceeds 60 days, then temporary signs shall be permitted on the premises for the length of the contract.

(Ord. No. 1080, 4-16-2013)

Sec. 50-204. - Wall signs.

- (a) The permissible square footage of wall signage may be split amongst more than one sign provided the maximum square footage of all signs does not exceed that permitted and all signs are coordinated in terms of appearance and design. The additional signs may be wall or marquee signs meeting ordinance requirements.
- (b) Wall signs shall not be permitted on the side of a building which abuts a residentially used or zoned property. If a wall sign wraps around the corner of a building onto a side street which may immediately face another commercial property but the remainder of the street is primarily residential, the sign shall go dark by 11:00 p.m.
- (c) The planning commission may permit an increase of up to an additional 15 percent of the total permissible area for wall signage on each facade. The reasons for any increase shall be documented in the planning commission decision and shall generally be based on the architectural compatibility, sign placement, sign visibility, etc.

(Ord. No. 1080, 4-16-2013)

Sec. 50-205. - Window signs.

Window signs shall be permitted in business or office service districts, provided that the total combined area of the signs does not exceed 50 percent of the total window area (of those windows abutting a roadway). All signs shall be affixed firmly to the window. Temporary window signs that are faded, yellowed, ripped or otherwise damaged shall be removed immediately.

(Ord. No. 1080, 4-16-2013)

Sec. 50-206. - Signs for nonconforming uses.

Each legal nonconforming nonresidential use in a residential district shall be permitted one wall sign which shall conform to the requirements of the most restrictive district in which the use is normally permitted, unless the nonresidential use already has other permanent signage. No new sign shall be illuminated.

(Ord. No. 1080, 4-16-2013)

Sec. 50-207. - Signs in residential districts and for residential uses.

The following signs shall be permitted in all districts zoned for residential use, including those districts zoned R-1 One-Family Residential, R-2 Two-Family Residential, RT Townhome Residential, RM-1 Multiple-Family Residential (low rise) and RM-2 Multiple-Family Residential (mid-rise) Districts.

- (1) Nameplate and identification signs, for home occupations and the like, shall be permitted in all residential districts. Nameplate and identification signs shall:
 - a. Indicate only the name and address of the occupant.
 - b. Be limited to one per residence.
 - c. Be either freestanding or attached to the building.
 - d. Be located at least six feet from all property lines.
 - e. Be no larger than two square feet.
 - f. Not exceed five feet in total height.
- (2) Permanent residential subdivision, townhouse or apartment entrance identification signs shall be permitted in residential districts, subject to the following controls:
 - a. Permanent residential identification signs shall bear only the name of the development or subdivision, the address of the building, if it is a multi-family structure and the name and address of the management, if applicable.
 - b. No sign shall exceed 32 square feet in area.
 - c. There shall be not more than one sign located at each entrance to the subdivision or development.
 - d. Shall not exceed five feet in total height.
 - e. Shall be located at least ten feet from any property line.
- (3) Church, school, public facilities, or signs for other nonresidential uses in a residential district.

(Ord. No. 1080, 4-16-2013)

Sec. 50-208. - Signs in OS-1 Office Service District and the I-1 Light Industrial District.

The following signs shall be permitted in the OS-1 Office Service District and the I-1 Light Industrial District:

- (1) *Freestanding sign.*
 - a. One freestanding sign containing only the name of the principal use may be permitted for a single building or planned grouping of buildings, except:
 - b. Freestanding signs for those uses served by a marginal access road shall be set back at least two feet toward the nearest building from the service drive.
 - c. No freestanding sign in the OS-1 Office Service District or the I-1 Light Industrial District shall exceed six feet in total height.
 - d. The display area of a freestanding sign in the OS-1 Office Service District or the I-1 Light Industrial District shall not exceed one square foot for every one foot of lot frontage along the frontage where the sign is permitted, or a maximum of 32 square feet whichever is less.
- (2) *Wall sign.*

- a. One wall sign containing only the name of the principal use may be permitted for a single building, or each unit in a grouping of buildings. The display area of any wall sign in the OS-1 Office Service District shall not exceed 15 percent of the front building facade of a building or unit to which it is attached, up to a maximum of 64 square feet in display area.
- b. Further, for each side other exposed (viewable) facade of the building the display area of additional wall signs shall not exceed five percent of the building facade it is to be located upon, up to a maximum of 100 square feet in display area.
- c. Each facade shall be calculated separately and allowable sign area shall not be transferrable between facades.
- d. In addition to a wall sign and a freestanding sign, one additional wall sign containing not more than four square feet of display space may be affixed to the wall next to each public access door and may be flush against the wall or project outward (but shall not impede any walkway).

(Ord. No. 1080, 4-16-2013)

Sec. 50-209. - Signs in B-1 Community Business District and the B-3 General Business District and PD Planned Development District.

The following signs shall be permitted in all B-1 Community Business Districts and the B-3 General Business District and PD Planned Development District.

(1) *Freestanding sign.*

- a. One freestanding sign may be permitted for a single building or planned grouping of buildings.
- b. Except as otherwise permitted in this subsection, no freestanding sign in the B-1 Community Business District, the B-3 General Business District and the PD Planned Development District shall exceed 20 feet in total height, measured from the ground at the base of the sign to the highest point of the sign.
- c. Except as otherwise permitted in this subsection, no freestanding sign in the B-1 Community Business District, the B-3 General Business District and the PD Planned Development District shall exceed one square foot of display area for each foot of frontage, except no such sign shall exceed 100 square feet in display area.

(2) *Wall sign.*

- a. The display area of any wall sign in the B-1 Community Business District, the B-3 General Business District and the PD Planned Development District shall not exceed 15 percent of the front building facade of a building to which it is attached. Further, for each other exposed side building facade, excluding any rear building facade, the display area for additional wall signage thereon shall not exceed 25 percent of the building facade to which it is attached.
- b. Each facade shall be calculated separately and allowable sign area shall not be transferrable between facades.
- c. One additional sign not exceeding six square feet in display area may be placed near the front entrance door. The sign shall be mounted perpendicular to the store front.

(Ord. No. 1080, 4-16-2013)

Sec. 50-210. - Signs in the B-2 Downtown District.

The following signs shall be permitted in the B-2 Downtown District:

(1) *Freestanding sign.*

- a. When only one principal wall sign will be used, one freestanding sign may be permitted for a single building or pl grouping of buildings, except:
- b. No freestanding sign in the B-2 Downtown District shall exceed six feet in total height, measured from the ground at the base of the sign to the highest point of the sign.
- c. The display area of a freestanding sign in the B-2 Downtown District shall not exceed one square foot for every foot of lot width, or length, along the frontage where the sign is permitted, except no such sign shall exceed a maximum of 48 square feet of display area.

(2) *Wall sign.*

- a. The display area of any wall sign in the B-2 Downtown District shall not exceed 15 percent of the front building facade of a building to which it is attached.
- b. Further, for each other exposed side building facade, excluding any rear building facade, the display area for additional wall signage thereon shall not exceed 25 percent of the building facade to which it is attached.
- c. Each facade shall be calculated separately and allowable sign area shall not be transferrable between facades.
- d. One additional sign not exceeding six square feet in display area may be placed near the front entrance door. The sign shall be mounted perpendicular to the store front.

(3) *Light pole signs.* Light pole signs shall be permitted in the B-2 Downtown District, subject to the following requirements:

- a. Light pole signs shall be limited to one per light pole. No more than one-third of a site's light poles shall have a sign. When calculating the number of permitted light pole signs in an individual parking lot, any calculation resulting in a fraction shall be rounded up to the next whole number.
- b. No more than three messages or advertisements shall be displayed on a site's light pole signs at any one time.
- c. Advertisements shall be limited to those businesses and services provided on the site in which the sign is located. No off-site advertising shall be permitted.
- d. No right of way or other street lighting poles shall be used for the installation of a light pole sign.
- e. Sign illumination is prohibited.
- f. Light pole signs shall have a consistent design, mounting location, and size throughout an individual site. Such signs shall be installed in a uniform manner throughout the parking lot and shall not project above the height of the light pole to which it is attached.
- g. Light pole signs shall not exceed one and one-half feet in width and three feet in height.

(Ord. No. 1080, 4-16-2013; Ord. No. 1122, § 1, 5-19-2015)

Sec. 50-211. - Signs in the P-1 Vehicle Parking Districts.

The following signs shall be permitted in the P-1 Vehicle Parking Districts:

- (1) Except as otherwise permitted in this section, one freestanding sign, subject to the following requirements:
 - a. The sign shall be limited to a single location in the minimum required front yard setback of the district, and shall not exceed four feet in total height, measured from the ground at the base of the sign to the highest point of the sign.

- b. The sign shall be limited to two display sides and each side shall not contain more than eight square feet of display.
- c. Except as otherwise permitted in this section, the sign shall display only the name of the store, company or organization for which the parking is intended.
- d. Freestanding directional signs shall be permitted so long as such signs are limited to only those necessary to properly direct traffic within the parking lot, provided such signs shall not exceed four feet in height and shall display only a symbol that gives direction, such as an arrow, or language to direct traffic, such as one way, or a combination of both. A directional sign shall not contain more than two sides and not more than two square feet of display area per side.

(Ord. No. 1080, 4-16-2013)

Secs. 50-212—50-219. - Reserved.

ARTICLE XIX. - OFF-STREET PARKING, LOADING AND LAYOUT STANDARDS

Sec. 50-220. - General parking requirements.

There shall be provided in all districts, at the time of construction or enlargement of any building or structure or any new or modified use on a site, off-street parking spaces with adequate access. The number of off-street parking spaces as required in this section shall be provided prior to the issuance of a certificate of occupancy, as prescribed in this article:

- (1) Except as permitted in the P-1 vehicular parking district, off-street parking shall not be permitted as the sole or principal permitted use in any zoning district.
- (2) Except as otherwise permitted or restricted, off-street parking spaces and associated vehicle maneuvering lanes may be located within a rear yard or within a side yard.
- (3) Off-street parking for other than a residential use shall be either on the same lot as the principal use, or within 300 feet of the building it is intended to serve. The distance shall be measured from the nearest point of the building to the nearest point of the off-street parking lot. All residential parking shall be located on the premises it is intended to serve.
- (4) No off-street parking for a use in a nonresidential district shall be permitted in a residential district, and no off-street parking lot in a nonresidential district shall be accessed through a residential district.
- (5) Ownership shall be shown for all lots or parcels intended for use as parking by the applicant.
- (6) Required off-street parking for single-family and two-family dwellings may be provided in a stacking configuration in a driveway or garage, or combination thereof.
- (7) Required off-street parking for all multiple family or nonresidential use shall consist of an unencumbered parking stall or strip, parking bay, vehicle maneuvering space, driveway or garage, or combination thereof. Parking garages or structures, when accessory to a principal use, shall be subject to the applicable provisions of section 50-160.
- (8) Minimum required off-street parking spaces shall not be replaced by any other use unless and until equal parking facilities are provided elsewhere.

- (9) Off-street parking existing on the effective date of the ordinance from which this chapter is derived, used in connect operation of an existing building or use, shall not be reduced to an amount less than hereinafter required for a simil building or new use. Any permitted expansion, alteration or change of use which increases the required number of p spaces shall require a corresponding increase in the number of spaces provided subject to appropriate review and a requirements.
- (10) Two or more buildings or uses may collectively provide the number of required off-street parking spaces, in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately. In the instance of dual function of off-street parking spaces where operating hours of buildings do not overlap, the planning commission may grant an exception to the total space requirement.
- (11) The sale, renting, leasing, storage or repair of any construction trailers, merchandise or motor vehicles, or trailers for sale or rent, is prohibited on off-street parking lots, except where law permits the sale of vehicles in an off-street parking lot owned by the owner of the vehicle that is for sale.
- (12) For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accordance with a use which the planning commission or building official considers being of a similar nature.
- (13) When units or measurements determining the number of required parking spaces result in a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one parking space.
- (14) For the purpose of computing the number of parking spaces required, the applicable definition of usable floor area (floor area, usable) shall apply.
- (15) Wherever the city council shall establish off-street parking facilities by means of a special assessment district or by any other means, the city council may determine, upon completion and acceptance of such off-street parking facilities, that all existing buildings and uses and all buildings erected or uses established thereafter within the special assessment district or districts, may be exempt from the requirements of this article for privately supplied off-street parking facilities.
- (16) The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following requirements. The planning commission may reduce the total number of parking or vehicle stacking spaces for drive thru facilities, being provided based on the type of use that is being conducted and the physical constraints of the property. The planning commission may also allow for a "payment in lieu of parking." The "fee" to be paid for each parking space shall be determined by city council and adopted by resolution. The fee may be reviewed and adjusted from time to time to reflect current market rates and estimated construction costs. The payment shall be dedicated for improving and developing parking spaces within the city's business and industrial districts.

Residential	Number of Minimum Parking Space per Unit of Measure
One and two-family	Two for each dwelling unit.
Townhome and multiple-family	Two for each dwelling unit plus one visitor parking

	space for every ten dwelling unit parking spaces.
Housing for the elderly	One for every three units, plus one for each employee in the largest working shift.
Institutional	
Place of worship	One for every four seats or persons permitted to capacity as regulated by local or state fire codes, or one for every six feet of pews in the main unit of worship, whichever is greater.
Group home	One for each employee in the largest working shift, plus one for every five resident occupants.
Homes for the aged, infirm and employee convalescent homes	One for every six beds, plus one for each in the largest working shift.
Hospitals	One for each bed, plus when out-patient services are provided, either within the hospital or as a detached adjunct to the hospital, the requirements for the professional offices of doctors or dentists and other similar professions shall apply.
Library, museum	One for every 300 square feet of usable floor area, plus one for each employee in the largest shift.
Nursery school or day care center	One for each staff person in the largest working shift, plus one for every ten cared-for occupants, plus off-street stacking space for four vehicles.
Private clubs or lodge halls	One for every 45 square feet of floor area in a banquet, conference or meeting room.
Private golf clubs, swimming pool clubs, tennis clubs or other similar uses	One for every two-member family or individual plus spaces required for each accessory use, such as a restaurant or bar

Stadium, sports arena, or other similar place of outdoor assembly	One for every four seats, or seven feet of beach length, whichever is the greater number.
Theaters and auditoriums	One for every four seats, or 55 square feet of floor area in an assembly room without fixed seats, whichever is the greater number, plus one for every two employees in the largest working shift.
Offices	
Banks	One for every 200 square feet of usable floor area. (Drive-thru stacking addressed below.)
Business offices or professional offices	One for each 250 square feet of usable floor space.
Professional offices of doctors, dentists or similar profession	One for every 200 square feet of useable floor area.
Federal, state or local offices providing services such as, but not limited to, social security and employment security offices, secretary of state offices for licensing, etc.	One for every 150 square feet of usable floor area.
Business and commercial	
Appliance center (major)	One for every 300 square feet of usable floor area.
Automobile wash (automatic)	One for each employee.
Automobile wash (self-service or coin-operated)	One space
Beauty parlor, barber shop, hair salon, etc.	Two spaces for each beauty or barber chair, plus one for each employee in the largest working shift.
Bowling alley	Three for each bowling lane plus spaces required for each accessory use such as a restaurant or bar.
Dancehall or roller skating rink	One for every three persons allowed at maximum capacity.

Dry cleaning pickup	One for every 500 square feet of useable floor area.
Exhibition or assembly hall	One for every 75 square feet of exhibition or assembly hall floor area, plus one for each employee in the largest working shift, plus accessory uses.
Furniture and neighborhood appliance store, household equipment, repair shops, show room of a plumber, decorator, electrician, shoe repair, and other similar uses	One for every 800 square feet of floor area.
Gasoline service or filling station	Two for each stall, rack, or pit, and one for each vehicle fueling terminal, plus one parking space for each employee in the largest work shift, plus one space for each 150 square feet of usable floor space in any retail store area.
Laundromats and coin-operated dry cleaners	One for each two washing and/or dry cleaning machines.
Miniature or "par-3" golf courses	One for each hole plus one for each employee.
Mortuary establishments	One for every 75 square feet of usable floor area.
Motel, hotel, or other commercial lodging establishments	One for each occupancy unit plus one for each one employee in the largest working shift, plus one-half the requirement for accessory uses.
Motor vehicle sales and service establishments	One for each 200 square feet of usable floor space in the sales room, plus two for each auto mechanical service stall, and one for each employee in the largest working shift.
New planned commercial or shopping center, wherein the occupants of the center are unknown at the time of site plan approval	Less than 50,000 square feet, one per 200 square feet of gross floor area; 50,000—100,000 square feet, one for every 250 square feet of gross floor area; 100,000—400,000 square feet, one for every 300 square feet of gross floor area; more than 400,000 square feet,

	one per 350 square feet of gross floor area.
Restaurant (drive-in)	One for each ten square feet of usable floor space in patron self-service area. In addition, should a dining room or seating area be provided, there shall be one space for each 25 square feet of usable floor space in the dining area.
Restaurant (sit-down)	One for every two seats in a restaurant, bar, lounge or tavern, plus one for every employee in the largest working shift.
Restaurant (fast food sit-down)	One space for every two seats plus one space for every employee in the largest working shift, plus vehicle stacking spaces.
Restaurant, fast food (carryout only)	One space for every 100 square feet of usable floor area, plus vehicle stacking space.
Retail stores except as otherwise specified herein	One for every 200 square feet of usable floor area.
Self storage facility	One for every 130 storage units, plus one for each employee in the largest working shift and two for a live-in resident.
Video store	See retail stores.
Industrial	
Industrial or research establishments and related accessory offices	One for every 300 square feet of office area, plus, either one per each 1,000 square feet of shop/storage area, or one per each employee at maximum shift.
Warehouses and wholesale establishments and related accessory offices	Three plus one for every one employee in the largest working shift, or three plus one for every 1,700 square feet of usable floor space, whichever is greater.
Vehicle stacking spaces:	

In addition to numerical off-street parking requirements of this section, wherever an accessory drive-up or drive-through window service is provided vehicle stacking shall be provided. Each vehicle stacking space shall be eight feet wide by 18 feet long and shall be located independently of any parking space, vehicle maneuvering lane or loading, unloading area. The following standards shall apply:	
Automatic carwash	Five times the maximum capacity of the auto wash. Maximum capacity of the auto wash shall mean the greatest number of automobiles possibly undergoing some phase of washing at the same time, which shall be determined by dividing the length in feet of each wash line by 20.
Automobile wash	One for each wash stall.
Banks, savings and loan, credit unions, ATM stations and the like	Five for each window or teller machine.
Fast food and fast food carryout	Eight spaces.
Gasoline station	One space for each pump island plus space for any accessory uses at the rate indicated herein.
Pharmacy drive-up window	Three spaces.
Other drive-up or drive-through facilities	Four spaces.

(Ord. No. 1080, 4-16-2013; Ord. No. 1146, 12-5-2017)

Sec. 50-221. - Off-street parking space layout standards, construction and maintenance.

Whenever the off-street parking requirements set forth in this chapter, require the establishment of an off-street parking lot, such off-street parking lots shall be laid out, constructed and maintained in accordance with the following standards:

- (1) No parking lot shall be constructed or an existing parking lot improved, until a site plan has been reviewed and approved in accordance with article V.
- (2) Except for single-family and two-family residential uses, adequate lighting shall be provided throughout nighttime hours when the parking area is in operation. All lighting shall conform to the requirements of section 50-162.
- (3) Adequate ingress and egress to the parking lot shall be provided and shall be designed in accordance with applicable local, county or state guidelines.
- (4) The planning commission may require the joining of parking lots in order to reduce the number of curb cuts onto a public street and to facilitate movement between sites. The planning commission may also require a joint access and/or cross access easement to be filed guaranteeing the rights of mutual access.
- (5) All parking spaces shall be clearly striped with all appropriate lines, symbols and markings.
- (6) Except for parallel parking, when the front of a parking space abuts a raised (curbed) private sidewalk that is not less than seven feet in width or a adequately sized landscaped area, two feet may be credited toward the total required parking space length.
- (7) Except for single-family and two-family uses, all parking spaces shall have access from clearly defined maneuvering lanes not less than 12 feet wide for a one-way lane and 22 feet wide for a two-way lane.
- (8) The required number, size, spacing and layout of handicapped parking spaces shall be determined by state rules and regulations.
- (9) Parking spaces, except for parallel spaces, shall be a minimum of nine feet in width and 20 feet in length. Parallel parking spaces shall be a minimum of 23 feet in length.
- (10) Backing directly into a public street right-of-way shall be prohibited. Backing directly into an alley right-of-way is permitted, provided the alley is hard-surfaced, in good repair and the width of the alley right-of-way is adequate to meet vehicle maneuvering.
- (11) Bumper stops, curbing, or wheel blocks, at least six inches in height, shall be provided to prevent any vehicle from damaging or encroaching upon any required wall, fence, buffer strips, parking lot landscape islands/areas, or upon any building adjacent to the parking lot. The use of commercial truck bumper blocks (i.e., blocks that exceed six inches in height) and freeway-type guardrails shall be prohibited.
- (12) All required parking spaces, drives and aisles shall be hard-surfaced with concrete or asphalt, except for such seasonal and transient uses as public or private parks, carnivals, and like uses.
- (13) Except for single-family residential uses, all new or reconstructed hard-surfaced parking areas shall be constructed with concrete curbs and gutters, at least six inches in height. If an existing parking area is being expanded and the existing parking area does not include curb and gutter, the planning commission may vary or waive the requirement.
- (14) All interior and abutting streets shall have rights-of-way of a sufficient width to accommodate the vehicular traffic generated by the uses permitted in the district or adequate provision shall be made at the time of the approval of the parking plan for such sufficient width of rights-of-way.
- (15) Off-street parking areas shall be drained so as to dispose of all surface water accumulated in the parking area to prevent drainage onto adjacent property or toward buildings. Parking lot drainage shall be reviewed based on acceptable and best management engineering practices by the city engineer.
- (16) Maneuvering lanes serving angle parking shall permit one-way traffic movements only. Lanes serving right angle

parking shall permit two-way movement. The mixing of one-way and two-way movements within a lot shall be permitted only in exceptional instances.

- (17) Dead-end off-street parking aisles are discouraged. Dead end aisles shall be no more than eight spaces deep on any side and may be used only when there is no reasonable alternative. If more than eight spaces deep on any side, the parking layout shall provide an adequate means for vehicles to turn around.
- (18) Upon review of a site plan, the planning commission may permit reduced parking space dimensions for off-street parking lots that are not used by the general public and in a controlled environment, including but not limited to vehicles in storage awaiting repair and subsequent pick-up by their owners, provided the following conditions are met:
 - a. The subject vehicles shall not be used by the general public and shall be located off-street;
 - b. Traffic and activity of the subject vehicles shall not result in the daily turnover of the site, including but not limited to valet parking lots; be of low-frequency;
 - c. Requests for parking space dimensional reductions shall be the minimum deviation possible from the ordinance; in no instance shall any parking space be less than eight feet by 18 feet;
 - d. The parking area where such vehicles are located shall be demarcated by an enclosure, landscaping, or similar barrier; and
 - e. Compliance with all other ordinance standards shall be met.

(Ord. No. 1080, 4-16-2013; Ord. No. 1120, §§ 1, 2, 5-19-2015; Ord. No. 1182, § 1, 3-17-2020)

Sec. 50-222. - Off-street loading and unloading.

On the same premises with every building involving the receipt or distribution of vehicles, materials or merchandise, or in an improved public alley that directly abuts the property, there shall be provided and maintained adequate space for loading and unloading in order to avoid undue interference with the public use of dedicated streets and parking areas. Such space shall be provided as follows:

- (1) All spaces shall be at least ten feet by 50 feet, with a clearance of at least 14 feet in height for uses in the B-1 Community Business District, B-2 Central Business District, B-3 General Business District and I-1 Light Industrial District. The planning commission may allow for a reduced loading space size and configuration based upon the type of use or trucks anticipated utilizing the site.
- (2) Loading dock approaches shall be asphalt or cement so as to provide a permanent durable and dustless surface. Dedicated loading spaces may be enclosed within a building.
- (3) Access to a loading space shall be arranged so as to provide sufficient off-street maneuvering space as well as adequate ingress to and from a street or service drive that will not require the backing of a truck directly onto or off of a public street right-of-way.
- (4) Unless otherwise indicated, loading space is permitted in a rear yard only. When it can be shown that a different location is necessitated by site conditions, loading spaces may be permitted in an interior side yard.
- (5) Loading spaces shall be distinct from, and shall not interfere with, parking aisles, maneuvering lanes, or parking spaces.
- (6) Loading and unloading spaces shall be effectively screened from view from any public street and from any office or residential zoning district in a manner acceptable to the planning commission; this may include landscaping, screen wall, fencing, etc.
- (7) In the B-1, B-2, B-3, I-1 and I-2 districts, off-street loading and unloading shall be provided according to the following provisions:
 - a. For uses with a gross floor area of less than 20,000 square feet, one loading space shall be provided.
 - b. For uses with a gross floor area from 20,000 to 100,000 square feet, one loading space shall be provided plus one space for each additional 50,000 square feet.
 - c. For uses with a gross floor area from 100,000 to 500,000 square feet, three loading spaces shall be provided plus one space for each 50,000 square feet in excess of 100,001 square feet.
 - d. For automobile service stations, required loading space may be located in any yard.
 - e. The planning commission may reduce or otherwise eliminate the requirement for a loading space upon a finding that the space cannot physically be located on the site or that the particular use does not require such a space.

(Ord. No. 1080, 4-16-2013)

Secs. 50-223—50-229. - Reserved.

ARTICLE XX. - SCREENING AND LANDSCAPING

Sec. 50-230. - Intent.

Walls, earth berms, planting screens or combinations, are intended to provide forms of buffering which will provide a more compatible, safer and visually attractive physical separation of various land use types. Where necessary, these devices are intended to create a definitive site improvement, thereby minimizing the impact that one type of land use may have on another. General landscaping enhances the appearance, character and value of property while having a positive impact on the community. Landscaping breaks up masses of paved and building area and provides a cooling effect, encourages the preservation of existing vegetation where possible, and can provide a physical separation between pedestrian and vehicle traffic.

(Ord. No. 1080, 4-16-2013)

Sec. 50-231. - Screening devices required.

A screening device or combinations of screening devices, as permitted and regulated in this section, are required for those zoning districts and uses listed in this section and whenever there is a change in ownership or tenancy, There shall be provided and maintained a screening device or combination of screening devices on those sides abutting or adjacent to a residential zoning district and between any off-street parking spaces and a public right-of-way.

District or Use	Required
P-1 Vehicle Parking District	6'-0" high wall along side and rear property lines next to a nonresidential use or zoning district, and a wall meeting the requirements of <u>section 50-234</u> along the front yard setback line
Nonresidential uses permitted in residential districts not otherwise specified.	6'-0" high wall
RM-1 Multiple Family Residential (low-rise) and RM-2 Multiple Family Residential (mid-rise) Districts	6'-0" high wall
OS-1 Office Service District	6'-0" high wall
B-1 Community Business, B-2 Central Business, and B-3 General Business	6'-0" high wall
I-1 Light Industrial District	6'-0" high wall
PD Planned Development District	As required by city council upon recommendation of the planning commission

Existing walls which exceed the above noted heights may be maintained and shall not be considered to be nonconforming in nature.

(Ord. No. 1080, 4-16-2013)

Sec. 50-232. - Screen walls.

Prior to the construction of any wall as required in this section, appropriate plans and specifications shall be provided for review and approval by the planning commission.

- (1) Screen walls shall consist of face brick, stone, colorfast poured in place concrete with brick etched exterior surfaces, or colorfast architectural masonry panels with matching concrete posts. The planning commission may approve other alternative materials upon a finding that the materials are of similar quality, durability and appearance.
- (2) Screen walls shall be located on the lot line. Exceptions may be made by the planning commission where underground utilities interfere. This chapter requires conformity with front yard setback lines in abutting residential districts or where the planning commission determines an alternative location is appropriate.
- (3) Required walls along the rear of a nonresidential zoning district that is separated from a residential zoning district by a public alley right-of-way shall be located on the residential side of the alley right-of-way along the inside edge of the public alley right-of-way or utility easement next to the residential property.
- (4) Except where a greater minimum setback is called for in the P-1 Vehicle Parking District, or by the restricted clear corner vision requirements of section 50-164. No screen wall shall extend closer than ten feet, to any property line intersected by any public right-of-way, driveway or any property line which lies adjacent to public right-of-way or driveway.
- (5) Screen walls shall have no openings for vehicular traffic or for other purposes, except as otherwise provided in this chapter.
- (6) All screen walls shall be maintained in a safe, upright and attractive condition.
- (7) Once a screen wall is constructed on a common line, all subsequently constructed screen walls shall be in compliance with the requirements of this chapter and shall consist of like materials and construction with the previously constructed screen wall unless the planning commission determines the existing wall type is undesirable to maintain and continue.
- (8) If it is determined that the residential district is a future nonresidential area, the planning commission may temporarily waive the screen wall requirements of this section for an initial period not to exceed 12 months. The granting of subsequent waivers may be permitted, provided that the planning commission shall again make the same determination for each subsequent waiver request.
- (9) A detail cross section drawing of the screen wall structure shall be submitted with any development plan proposing construction of a screen wall structure and shall identify the exterior building wall material to be used on the wall and the color of the material. Colors shall be of a colorfast nature and shall be limited to earth tone colors, or the color of the exterior building walls of the principal building on the site.

- (10) The planning commission may approve alternative screening mechanisms such as a fence, berm, landscaping, etc., in lieu of the construction of a wall. The alternative screening mechanism shall have the same screening effect as the construction of a wall.
- (11) The planning commission shall have the authority to review and approve minor amendments to the requirements for a masonry and/or screening wall required by this section. The planning commission, in determining whether to allow a minor amendment, shall follow the conditions outlined below:
- a. Minor amendments may include:
 1. The overall height (below that normally required) or the height in certain areas (below that normally required) where clear vision may be obstructed or a taller height may not be desirable due to lot or building configuration, no structure or use to screen, etc.
 2. The location and extent of the wall along a property line or right-of-way may justify a minor amendment.
 - b. The planning commission does not have the authority to waive the requirement for a wall in its entirety. The zoning board of appeals has the authority to vary the requirement for a screen wall in its entirety.
- (12) The building department shall give 15 days' notice prior to the planning commission meeting date of any proposed or required wall or similar screening mechanism to be constructed along a residentially used or zoned property. Notice shall be provided to the legal owner of the property.

(Ord. No. 1080, 4-16-2013)

Sec. 50-233. - Earth berms.

An earth berm screen may be used as an alternative to an architectural masonry screen wall, provided the earth berm is found by the planning commission to be at least an equally effective alternative to a masonry wall at the location it is proposed.

Berms may be constructed consistent with the following guidelines:

(Ord. No. 1080, 4-16-2013)

Sec. 50-234. - Screening between parking lots and public rights-of-way.

- (a) A minimum five-foot wide landscape greenbelt shall be provided between any parking lot and any road or street right-of-way. The planning commission may waive or modify this requirement based on existing site conditions or existing limited parking conditions.
- (b) Except as otherwise specified within the restricted clear corner vision triangle requirements of section 50-164 and in this section, the height of any permitted screening device or combination of screening devices, shall be in accordance

with the following guidelines.

Screening Device	Height
Masonry wall	3.0 feet
Earth berm	3.0 feet (requires additional width of greenbelt to accomplish)
Planting materials	Shall consist of low evergreen plants or dense shrubs which shall not exceed a height of three feet.

- (c) Where the width of a greenbelt may be increased to improve its continuity with a longer greenbelt, the height of the screening device may exceed the height limitations of subsection (b) of this section, except nothing in this section shall prohibit the planting of deciduous trees within the panel in addition to, but not in place of, any required screening device.

(Ord. No. 1080, 4-16-2013)

Sec. 50-235. - Aesthetically designed landscaping features.

- (a) At least ten percent of the net usable area of a development site (less area occupied by buildings) shall be devoted to landscaping. Any peripheral land area occupied by a required earth berm or landscape screening device used to satisfy the applicable site screening requirements of this article may be counted as part of the site area landscaping obligation.
- (b) In addition to, or in conjunction with the minimum percent of landscaped site area required in section 50-235(a), off-street parking lots shall provide one tree for every five parking spaces.
- (c) All parking lot and street frontage trees required by the standards of this section shall be large deciduous trees.
- (d) Parking lot trees generated by the standards of this section shall be distributed as evenly as physically possible throughout the parking area, but emphasis shall be given to placing the trees at the ends of parking rows to enhance traffic circulation within the parking lot.
- (e) Parking lot trees shall be located in raised curb planting beds containing at least 150 square feet of area, and no tree shall be planted in such a bed closer than four feet from any raised curb line.
- (f) All parking lot landscaping shall consist of live plant material and mulch. Mulch shall not include lava, pebbles, or any kind of stones or rocks.
- (g) Street trees shall be required to be planted at a rate of one tree for each 30 feet of street frontage, except that, along arterial or major collector streets, as defined by the city's master plan, the spacing shall be at a rate of one tree for each 40 feet of street frontage.
- (h) All other landscaping materials placed on property for aesthetic purposes and which are not required to satisfy any

planting requirements of this article, shall be placed on the property in a manner that will enhance the appearance of the site and not interfere with the safe and efficient flow of pedestrian and motor vehicle traffic.

- (i) On-site landscape features which may be counted towards meeting the minimum site landscaping area requirement set forth in subsection (a) of this section, may include architectural sidewalk treatments consisting of decorative brick pavers, etc., and which are used for more than merely gaining access to and from the site/building.
- (j) Where appropriate and feasible, landscape sprinklers shall be provided in all areas where live plant material is planned.
- (k) The planning commission may waive or modify these requirements based on existing site conditions or existing limited site and parking conditions. The planning commission may allow for a payment in lieu of tree planting, in an amount to be established by resolution of the city council, from time to time, to be used for tree planting elsewhere in the city. In doing so, it shall seek to achieve rough proportionality between the number of trees that would be required to be planted under this section and those that are actually being planted per the site plan.

(Ord. No. 1080, 4-16-2013; Ord. No. 1147, 12-5-2017)

Sec. 50-236. - Trash receptacles and climate control systems screening.

Any new or altered land use which has a need for a trash receptacle and exposed climate control equipment requires submittal of a site plan for review by the planning commission as set forth and regulated in this chapter and shall comply with the following applicable requirements:

(1) *Screening trash receptacles.*

- a. All refuse to be disposed of shall consist only of nonhazardous waste materials generated by the use or uses for which the trash receptacle is intended.
- b. All refuse shall be placed in an approved receptacle and the receptacle shall be kept within an approved screening structure.
- c. The screen wall structure shall be six feet in height. Gates shall consist of wood or composite materials. Permitted materials where possible, shall consist of the same material and the same color as the front facade of the principal use of the site, except in those instances where the trash receptacle screen wall is to be made an integral part of a required architectural masonry screen wall structure.
- d. In no instance shall any refuse be visible above the screen wall structure and no refuse shall be stored between the walls of a trash receptacle and the walls of its screening structure.
- e. The floor of a trash receptacle screen wall structure shall consist of a reinforced concrete material built to applicable city codes and shall extend outward from the front gate of the screen wall structure a distance of ten feet across the full width of the structure.
- f. Bollards and/or other protective measures shall be installed as needed to adequately protect the screen wall structure.
- g. Trash receptacles shall be restricted to locations within the rear yard, except in the case of a corner or double frontage lot, the receptacle may, with planning commission approval, be located within an interior side yard. If it becomes necessary to place a trash receptacle in an interior side yard, it shall be placed as far from any residential dwelling as physically possible.

- h. Trash receptacles shall be placed so that they can be efficiently approached and serviced.
- i. Trash receptacles shall be maintained in a clean and orderly manner as well as the screen wall structure and its interior area.

(2) *Screening climate control equipment.*

- a. When climate control equipment is placed on a flat roof of a building, it shall be located to the interior of the roof and out of sight from ground eye level. When climate control equipment must be placed at or near the edge of a flat roof building, it shall be screened from view with architectural screening material, but not including fencing, or by the upward continuation of the exterior building wall material along the wall edge the equipment will be next to or near, with the remaining sides screened with architectural material.
- b. When placed on top of a building with a pitched roof, all climate control equipment so located shall be effectively screened from view with architectural screening material, but not including fencing.
- c. When placed on the ground, climate control equipment shall be placed in the rear yard area next to the building it is designed to serve. In the instance of a corner or double frontage lot, climate control equipment may, with planning commission approval, be located in an interior side yard next to the building it is designed to serve.
- d. When placed on the ground all climate control equipment shall be effectively screened, including all electrical control panels and boxes, with the same masonry materials used on the exterior face of the building walls, or by screen planting materials. When landscape planting materials are used, they shall be of a type that will create an immediate, year-round screening device. All such landscaping materials shall be maintained in a living growing condition, neat and orderly in appearance.

(Ord. No. 1080, 4-16-2013)

Sec. 50-237. - Seasonal planting guidelines.

Whenever landscaping is required, either as part of a planting screen or as part of any general aesthetic site landscaping, all landscaping shall be planted in accordance with the following guidelines:

- (1) If a use is ready for occupancy between April 1 and September 30, a certificate of occupancy may be issued by the city. All landscape planting materials shall be planted within 30 days from the date of issuance of an occupancy permit. If a use is ready for occupancy between October 1 and March 31, a temporary certificate of occupancy may be issued by the city. If necessary, the city may allow all landscape planting materials be planted within 60 days after March 31. Failure to have all planting materials planted within these time frames shall be grounds for revoking or terminating the occupancy permit. If the occupancy permit has been revoked or terminated, no additional certificate of occupancy, either temporary or final, shall be issued until all required landscape planting materials have been planted.
- (2) A period of establishment shall start upon completion of all planting and shall continue through the succeeding summer growing season of May through September.
- (3) The city may require the submittal of cost estimates for the purchase and installation of all landscape planting materials as part of any financial surety the city may require guaranteeing installation of all approved planting materials.

(Ord. No. 1080, 4-16-2013)

Sec. 50-238. - Required conditions.

The following requirements where applicable shall apply to all landscaping whether part of any required planting screen or part of any aesthetic landscaping treatments:

- (1) All planting materials shall consist of living plant material that meets or exceeds the American Association of Nurserymen Standards.
- (2) All planting materials shall be nursery-grown, state department of agriculture approved and shall be commonly available in the hardiness zone five classification.
- (3) Landscape planting materials placed on a site shall consist of materials that are indigenous to southeast Michigan.
- (4) All landscape planting materials shall be balled in burlap or shall be container grown.
- (5) When planting materials are part of a permitted planting screen or buffer between non-like uses the following applicable standards shall apply:
 - a. Evergreen trees.
 - 1. Shall not be less than five feet high at the time of planting.
 - 2. Planting rate:

Screen Type	Spacing (maximum spacing)
Single row of evergreens	Ten feet on center
Double row of evergreens	15 feet on center
Natural setting	Equivalent to ten feet on center

- 3. Planting areas shall be sufficient to accommodate the trees at maturity.
- 4. If spaced farther apart, additional screen planting materials acceptable to the planning commission shall be used as in fill to achieve the required screening effect intended for a planting screen.
- b. Narrow evergreen trees.
 - 1. Shall not be less than five feet high at the time of planting.
 - 2. Planting rate:

Screen Type	Spacing (maximum spacing)
Single row of evergreens	Five feet on center
Double row of evergreens	Ten feet on center

Natural setting	Equivalent to ten feet on center
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3. If spaced farther apart, additional screen planting materials acceptable to the planning commission shall be used as in fill to achieve the required screening effect intended for a planting screen.
- c. Large shrubs.

1. Shall not be less than 30 inches high at the time of planting.

2. Planting rate:

Screen Type	Spacing (maximum spacing)
Single row of shrubs	Four feet on center
Natural setting	Equivalent to six feet on center

3. If spaced farther apart, additional screen planting materials acceptable to the planning commission, shall be used as in fill to achieve the required screening effect intended for a planting screen.
- d. Small shrubs.

1. Shall not have a spread of less than 18 inches at the time of planting.

2. Shall be planted not more than four feet on centers.
- e. Large deciduous trees.

1. Shall not be less than two and one-half inches in caliper.

2. Shall be planted not more than 30 feet on centers.
- f. Small deciduous trees.

1. Shall not be less than two inches in trunk caliper.

2. Shall be spaced not more than 15 feet on centers.

(6) Suggested planting materials should include, but not necessarily be limited to, the following:

- a. Evergreen trees: *Abies* (fir), *Picea* (spruce), *Pinus* (pine), *Pseudotsuga* (Douglas fir), *Tsuga* (hemlock). Exceptions: c
pendulous species/cultivars;
 - b. Narrow evergreen trees: *Juniperus* (juniper), *Thuja* (arborvitae). Exceptions: dwarf, globe, spreading
species/cultivars;
 - c. Large deciduous trees: *Acer* (maple, except Japanese), *Betula* (birch), *Frazinus* (ash), *Gleditsia* (honey locust,
thornless cultivars only), *Ginkgo* (ginkgo), *Platanus* (sycamore, linden), *Quercus* (oak);
 - d. Small deciduous trees: *Amelanchier* (juneberry), *Cercis* (redbud), *Cornus* (dogwood, tree form), *Crataegus*
(hawthorn), *Malus* (crabapple, disease resistant cultivars), *Prunus* (flowering plum, tree form), *Pyrus* (flowering
pear), *Sorbus* (mountain ash), *Syringa* (lilac, tree form);
 - e. Large deciduous and broadleaf evergreen shrubs, defined as plants maturing at five feet and up: *Cornus*
(dogwood, shrub form), *Cotoneaster* (cotoneaster), *Forsythia* (forsythia), *Lonicera* (honeysuckle), *Philadelphus*
(mock orange), *Prunus* (flowering plum), *Rhamnus* (buckthorn), *Rhus* (sumac), *Spiraea* (spirea), *Syringa* (lilac),
Viburnum (viburnum), *Weigela* (weigela);
 - f. Large evergreen shrubs: *Juniperus* (hertz, pfitzer, savin juniper), *Taxus Cuspidate* (pyramidal Japanese yew);
 - g. Small deciduous and broadleaf evergreen shrubs defined as plants maturing under five feet: *Berberis*
(barberry), *Buxus* (boxwood), *Chaenomeles* (quince), *Cotoneaster* (cotoneaster), *Euonymus* (euonymus),
Forsythia (forsythia), *Hydrangea* (hydrangea), *Ilex* (holly), *Ligustrum* (privet), *Lonicera* (honeysuckle), *Potentilla*
(potentilla), *Ribes* (currant, willow), *Spiraea* (spirea), *Spiraea* (syringa), *Lilac* (viburnum), *Weigela* (weigela);
 - h. Small evergreen shrubs: *Abies* (fir), *Chamaecyparis* (false cypress), *Juniperus* (low spreading junipers), *Picea*
(spruce), *Pinus* (pine), *Taxus* (globe, spreading, upright yew), *Thuja* (globe, dwarf arborvitae).
- (7) Landscape planting materials that are discouraged include the following materials:
- a. Box elder;
 - b. Elm;
 - c. Willow;
 - d. Tree of heaven;
 - e. Poplar;
 - f. Horse chestnut (nut bearing);
 - g. Catalpa; and
 - h. Buckeye.
- (8) Planting materials shall be maintained in a healthy, growing condition. All unhealthy and dead material shall be replaced within one year, or the next appropriate planting season.
- (9) Whenever any planting materials shall approach a street or alley right-of-way or driveway entrance, the restricted clear corner vision requirements of section 50-164 shall be observed.
- (10) Planting materials with root systems that are known to cause damage to public utilities, sidewalks and streets shall not be placed closer than 12 feet from the street, utility or sidewalk.
- (11) Top pruning or other severe pruning or maintenance practices involving landscape materials, that result in stunted, abnormal, or other unreasonable deviation from the normal healthy growth of trees, shrubs and other landscaping materials, shall be considered as destroying such materials and replacement shall be required.

- (12) Existing trees may be used to fulfill the landscape planting requirements, so long as they meet the minimum application spacing requirements set forth in this article and are in a healthy, living condition.
- (13) No approved landscaped area shall be removed, diminished or destroyed, without first receiving approval of a revised landscape planting plan.
- (14) The location of any architectural masonry screen wall, shall be shown on the site plan and a detailed cross section drawing shall be provided. The detail cross section shall be drawn to scale and shall show the height of the wall, the type of exterior building wall material that the wall will consist of and its color. Like information shall be provided on a site plan for any trash receptacle or climate control screen wall structure. When a required screening device consists of a landscaped earth berm or landscape planting screen, the location of the screening device shall be shown on a site plan along with a detail cross section of the earth berm or planting screen. They shall be drawn to scale and shall depict the location of all planting materials as well as identifying them by name, and giving their size at the time of planting and their expected height at maturity. When a landscaped earth berm is involved, topographic contours of the earth berm shall be provided at one foot intervals.
- (15) All landscaped areas shall be provided with an in ground automated irrigation system, or when acceptable to the planning commission, another form.
- (16) In addition to providing the necessary information for a landscaped earth berm screen or a planting screen, an accurate cost estimate for creating the berm and all associated landscaping and irrigation materials, shall be submitted for review and approval by the building official. Submittal of a financial surety in an amount at least equal to the estimated cost of the landscaping improvements plus ten percent may be required of the applicant by the building official prior to issuance of a building permit if the landscaping improvements have not been put in place.

(Ord. No. 1080, 4-16-2013)

Sec. 50-239. - Reserved.

ARTICLE XXI. - NONCONFORMING USES

Sec. 50-240. - Intent.

It is the intent of this chapter to permit legal nonconforming lots, structures or uses to continue until they are removed. However, it is also the intent of this chapter to provide for their gradual elimination. It is recognized that there exist within the districts established by this chapter and subsequent amendments thereto, lots, structures and uses of land and structures which were lawful before this chapter was passed or amended which would be prohibited, regulated or restricted under the terms of this chapter or future amendments. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that nonconforming uses shall not be enlarged upon, expanded or extended, nor used as ground for adding other structures or uses prohibited elsewhere in the same district. Moreover, a nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this chapter by the attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would not be permitted in the district involved. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans,

construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of the adoption or amendment of this chapter and upon which actual building construction has been diligently carried on. Actual construction includes placing construction materials in a permanent position and fastening them in a permanent manner, except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

(Ord. No. 1080, 4-16-2013)

Sec. 50-241. - Nonconforming lots.

Except as may be otherwise permitted if any lot in a subdivision plat of record on the date of enactment of this chapter does not meet the minimum area and bulk requirements as stated herein, such lot may receive a building permit under hardship conditions so long as all other applicable requirements of this chapter are met.

However, if contiguous vacant lots are commonly owned, no hardship condition shall exist based on this section and a proper combination of the lots, or portions thereof, must be made in order to create a building site or sites which meet the minimum area and bulk requirements for the district. If any lot or lots, or any portion or portions thereof, are included within the boundaries of a building site for the purpose of securing issuance of a building permit under this section, no portion shall at any time be taken into consideration in the calculations of minimum area and bulk requirements for any other building site.

(Ord. No. 1080, 4-16-2013)

Sec. 50-242. - Nonconforming uses of land.

Where, at the effective date of adoption or amendment of this chapter, a lawful use of land exists that is made no longer permissible such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such nonconforming use shall be enlarged or increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of the ordinance.
- (2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcels occupied by such use.
- (3) If a nonconforming use of land ceases for any reason for a period of 12 consecutive months or for 18 months during any three-year period, any subsequent use of such land shall conform to the regulations specified for the district in which the land is located.

(Ord. No. 1080, 4-16-2013)

Sec. 50-243. - Nonconforming structures.

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

- (1) Except as otherwise permitted in the section, no such structure may be enlarged or altered in a way that will

increase its nonconformity, but may be enlarged or altered in a way that does not increase its nonconformity.

- (2) Except as otherwise permitted in this section, should a nonconforming structure be destroyed by any means to an extent of more than 50 percent of its true cash value, exclusive of its foundation, the nonconforming portion of the structure shall be removed and the structure may be reconstructed only in a way that conforms with the applicable requirements of this chapter.
- (3) In the instance where a nonconforming element of an otherwise conforming structure, such as but not necessarily limited to, a front or rear porch, alcove, raised deck, or structure erected to accept the physically handicapped, is destroyed, or is rebuilt, remodeled or replaced, it may be replaced by a like or different structure, that is serving the same purpose, so long as the horizontal shape and size of the replacement will not exceed the horizontal size and shape of the structure it is replacing.
- (4) Should a nonconforming structure, or any nonconforming element of a structure be moved for any reason, it shall thereafter conform to the applicable requirements of this chapter.

(Ord. No. 1080, 4-16-2013)

Sec. 50-244. - Nonconforming uses of structures and land.

If a lawful use of a structure, or of a structure and land in combination, exists at the effective date of adoption or amendment of this chapter the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No existing structure or land devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- (2) Any nonconforming use of a structure and/or land may be changed to another nonconforming use of the same or more restricted classification, provided that the zoning board of appeals, either by general rule or by making findings in the specific case, finds that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the board may require conditions and safeguards in accordance with the purpose and intent of this chapter. Where a nonconforming use of a structure and/or land is hereafter changed to a more conforming use, it shall not be changed back to a less conforming use.
- (3) Any structure and/or land, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which it is located, and the nonconforming use may not be resumed.
- (4) When a nonconforming use of a structure or structure and land in combination is discontinued or ceases to exist for 12 consecutive months or for 18 months during any three-year period, the structure or structure and land in combination shall not thereafter be used, except in conformance with the regulation of the district in which it is located. Structures occupied by seasonal uses shall be excepted from this provision, unless such a use is not utilized during a normal seasonal use period.
- (5) When a nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

(Ord. No. 1080, 4-16-2013)

Sec. 50-245. - Repairs and maintenance.

- (a) On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding 50 percent of the assessed value of the building.
- (b) Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

(Ord. No. 1080, 4-16-2013)

Sec. 50-246. - Change of tenancy or ownership.

There may be a change of tenancy, ownership or management of any existing nonconforming use of land, of structures or of structures and land in combination.

(Ord. No. 1080, 4-16-2013)

Sec. 50-247. - Purchase or condemnation.

The city may acquire, by purchase, condemnation or otherwise, private property or an interest in private property, for the removal of nonconforming uses. The cost and expense, or a portion thereof, of acquiring the private property may be paid from general funds or assessed to a special district in accordance with the applicable statutory provisions relating to the creation and operation of a special assessment district for public improvements in the city. The elimination of the nonconforming uses and structures in a zoning district is declared to be for a public purpose and for a public use. The city council may institute and prosecute proceedings for condemnation of nonconforming uses and structures under the power of eminent domain in accordance with Public Act No. 110 of 2006 (MCL 125.3101 et seq.)

(Ord. No. 1080, 4-16-2013)

Secs. 50-248—50-249. - Reserved.

ARTICLE XXII. - GENERAL EXCEPTIONS

Sec. 50-250. - Canopies and awnings.

Canopies and awnings which extend into a public right-of-way or required yard, may be considered for approval subject to the following conditions:

- (1) Canopies and awnings extending into a public right-of-way are subject to the following requirements:
 - a. No canopy or awning shall extend closer than 24 inches to any vehicular parking space or moving vehicle lane.
 - b. No canopy or awning shall conflict with necessary sight distances for proper vehicular and pedestrian movements.
 - c. No canopy or awning shall conflict with any existing or proposed landscape feature, traffic control device, adjacent properties and signs or pedestrian movement.

- d. The height, location, materials, construction and signage shall specifically be subject to review and approval by the official.
 - e. The canopy or awning shall be maintained in such a manner as to continue its original appearance and provide proper safety to the persons and property it may affect.
 - f. The city and its officials, employees and representatives shall be guaranteed full protection against any liability or damages resulting from the construction and existence of any such structure. The nature of such protection and its continuous effect shall be subject to city council determination.
 - g. The appropriate road agency shall have granted their approval for the construction of the canopy or awning.
- (2) Canopies and awnings extending into a required yard are subject to the following requirements:
- a. Such approval shall only be granted by the zoning board of appeals.
 - b. No canopy or awning shall conflict with necessary sight distances for proper vehicular and pedestrian movements.
 - c. No canopy or awning shall conflict with any existing or potential development on adjacent property.
 - d. The height, location, materials, construction and signage shall specifically be subject to review and approval.
 - e. The canopy or awning shall be maintained in such a manner as to continue its original condition and provide proper safety to the persons and property it may affect.

(Ord. No. 1080, 4-16-2013)

Sec. 50-251. - Essential services.

Essential services serving the city shall be permitted as authorized and regulated by law and other applicable ordinances of the city. Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the city shall receive the review and approval of the planning commission after the appropriate public hearing is held in accordance with section 50-37. The planning commission shall consider the effects and impacts on those properties and uses that abut the proposed easements, rights-of-way, overhead lines, poles and towers as well as the orderly appearance of the city.

(Ord. No. 1080, 4-16-2013)

Sec. 50-252. - Voting places.

The provisions of this chapter shall not interfere with the temporary use of any property as a voting place in connection with a public election.

(Ord. No. 1080, 4-16-2013)

Sec. 50-253. - Height limitation; exceptions.

- (a) The height limitations of this chapter shall not apply to farm buildings, chimneys, church spires, water towers, flag poles and public monuments, provided that the city council may specify a height limit for any such structure when such structure requires authorization as a conditional use or a special use.
- (b) Antennas, excluding satellite dish antennas, windmills and wind generators in residential districts may be constructed to a height of 35 feet, provided the structure is located so that the base of the structure is no closer to any property

line than the height of the structure. No such structure shall be placed in a front yard.

(Ord. No. 1080, 4-16-2013)

Sec. 50-254. - Lots adjoining alleys.

In calculating the area of a lot that adjoins an alley, for the purpose of applying lot area and setback requirements of this chapter, one-half of the width of such alley abutting the lot shall be considered to be a part of such lot.

(Ord. No. 1080, 4-16-2013)

Sec. 50-255. - Porches.

An open, unenclosed and uncovered porch or paved terrace may project into a required front yard or required rear yard for a distance not exceeding ten feet. Fixed or extending canopies shall not be permitted to extend into the required yard beyond the requirements of section 50-250.

(Ord. No. 1080, 4-16-2013)

Sec. 50-256. - Projections into yards.

Architectural features such as roof overhangs and bay windows, which do not extend to the ground and do not including vertical projections, may extend or project into a required yard not more than two inches for each one foot of width of such yard.

(Ord. No. 1080, 4-16-2013)

Sec. 50-257. - Access drives.

Access drives meeting the requirements of the city or other applicable agency may be placed in the required front or side yards so as to provide access to designated parking, service or storage areas. These drives shall not be considered to be structural violations in front and side yards. Further, any walk or pedestrian entranceway which is constructed at grade, shall, for the purpose of this chapter, not be considered to be a structure and shall be permitted in any required yard.

(Ord. No. 1080, 4-16-2013)