

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND SECTIONS 138-2.101, 138-2.200, 138-2.203, 138-2.302, 138-4.300, 138-4-4.00, 138-4.423, 138-4.424, 138-4.426, 138-4.436, 138-4.439, 138-4.440, 138-5.202, 138-6.303, 138-7.105, 138-7.107, 138-8.200, 138-9.205 AND 138-11.302 AND CHAPTER 1 ARTICLE 10 OF CHAPTER 138, ZONING, OF THE CODE OF ORDINANCES OF THE CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN, TO CLARIFY LANGUAGE RELATED TO DISCRETIONARY DECISIONS, ALLOW PERSONAL SERVICE BUSINESSES IN THE O-1 DISTRICT, TO CLARIFY REQUIREMENTS RELATED TO STATE LICENSED RESIDENTIAL FACILITIES, TO CONFORM TO STATE REGULATIONS FOR OUTDOOR PLAY AREAS AT CHILD CARE CENTERS, TO CLARIFY REGULATIONS RELATED TO FLOOR AREA REQUIREMENTS FOR ASSISTED LIVING AND CONVALESCENT/NURSING FACILITIES, TO ADD REGULATIONS FOR THE TEMPORARY OUTDOOR DISPLAY AND SALE OF GOODS, TO ADJUST THE NOMENCLATURE OF ITEMS IN THE PLANNED UNIT DEVELOPMENT PROCESS, TO CHANGE HOTELS FROM A PERMITTED TO A CONDITIONAL USE IN THE FB-3 OVERLAY DISTRICT, TO CLARIFY REGULATIONS FOR ACCESSORY STRUCTURES AND TO ENSURE CONSISTENCY ACROSS VARIOUS ORDINANCE SECTIONS; TO, REPEAL CONFLICTING OR INCONSISTENT ORDINANCES, AND PRESCRIBE A PENALTY FOR VIOLATIONS.

THE CITY OF ROCHESTER HILLS ORDAINS:

**SECTION 1.** Section 138-2.101 of Chapter 138 of the Code of Ordinances of the City of Rochester Hills is hereby modified as follows:

**Section 138-2.101 City Council**

The City Council shall have the following responsibilities and authority pursuant to this ordinance.

- A. – C. [Unchanged.]
- D. **Conditional Land Use.** City Council review and approval is required for all Conditional Land Uses.

**SECTION 2.** Section 138-2.200 of Chapter 138 of the Code of Ordinances of the City of Rochester Hills is hereby modified as follows:

**Section 138-2.200 Site Plan Review**

- A. [Unchanged.]
- B. **Type of Review Required.** Four levels of site plan review are required by this ordinance: site plan review not required; administrative review; sketch plan review; and site plan review.
  - 1. – 4. [Unchanged.]

The following table summarizes what kind of site plan review is required for various development activities.

**Table 1. Type of Review Required**

| DEVELOPMENT ACTIVITY | Not Required | Administrative Review | Sketch Plan | Site Plan Review |
|----------------------|--------------|-----------------------|-------------|------------------|
|                      |              |                       |             |                  |

| USE – CHANGES IN and ESTABLISHMENT OF   |   |   |   |   |
|---|---|---|---|---|
| Accessory open air businesses   |   | • |   | - |
| Change in use to a similar or less intense use, provided that significant changes in the existing site design, facilities, structures or amenities are not required |   | • |   |   |
| Change in use to a similar or less intense use, when significant changes in the existing site design, facilities, structures or amenities are required              |   |   | • |   |
| Establishment of a conditional <del>land</del> -use   |   |   |   | • |
| Family child day care homes, as licensed by the State of Michigan   | • |   |   |   |
| Re-occupancy of a building that has been unoccupied for more than 30 days   |   | • |   |   |
| Substitution of a nonconforming use for a more conforming use, or a change in the use of a nonconforming site   |   |   | • |   |

**SECTION 3.** Section 138-2.203 of Chapter 138 of the Code of Ordinances of the City of Rochester Hills is hereby modified as follows:

**Section 138-2.203 Standards for Site Plan Approval**

The following criteria shall form the basis upon which a site plan is reviewed and approved, approved with conditions or denied:

- A. – N. [Unchanged.]
- O. Additional Standards. Site plan decisions shall also take into account the standards for discretionary decisions in Section 138-2.302.**

**SECTION 4.** Section 138-2.302 of Chapter 138 of the Code of Ordinances of the City of Rochester Hills is hereby modified as follows:

**Section 138-2.302 Standards for Conditional Use Approval and Other Discretionary Decisions**

[Unchanged.]

- A. – E. [Unchanged.]

**SECTION 5.** Section 138-4.300 of Chapter 138 of the Code of Ordinances of the City of Rochester Hills is hereby modified as follows:

**Section 138-4.300 Table of Permitted Uses by District**

**Table 4. Permitted Uses by Zoning District**

| Office and Service Uses   | R <sup>A</sup> | RM-1 <sup>B</sup> | B-1 <sup>B</sup> | B-2 <sup>B</sup> | B-3 <sup>B</sup> | B-5 <sup>D</sup> | O-1 <sup>E</sup> | ORT | REC-W | REC-C | REC-I | REC-M | I | SP | Additional Standards   |
|---|----------------|-------------------|------------------|------------------|------------------|------------------|------------------|-----|-------|-------|-------|-------|---|----|--|
| Dry Cleaners  | -              | -                 | P                | P                | P                | -                | -                | -   | -     | -     | P     | P     | - | -  | Service only, not plants   |
| Funeral Homes   | C              | -                 | -                | -                | -                | -                | P                | -   | -     | -     | -     | -     | - | -  | <i>Section 138-4.412</i>   |
| Hotels, Motels and Residential Inns   | -              | -                 | -                | -                | C                | -                | -                | C   | P     | P     | -     | -     | - | -  | <i>Section 138-4.427</i> (ORT district only)   |
| Medical Offices and Clinics   | -              | -                 | P                | P                | P                | -                | P                | P   | P     | P     | P     | P     | P | -  | <i>Section 138-4.427</i> (ORT district only)   |
| Personal Service Establishments   | -              | -                 | P                | P                | P                | -                | P                | -   | -     | -     | P     | P     | - | -  | <i>Section 138-4.427</i> (ORT district only)   |
| Professional Offices  | -              | -                 | P                | P                | P                | -                | P                | P   | P     | P     | P     | P     | P | -  |  |
| Retail Businesses Normally Associated with and Complementary to Office Districts (e.g. stationery shops, office supplies, coffee shops, etc.) | -              | -                 | -                | -                | -                | -                | P                | -   | -     | -     | -     | -     | - | -  | <i>Entrances or exits directly to the outside of the building from the retail businesses shall not be permitted.</i> |
| Research and Development and/or Technical Training, including Data Processing and Computer Centers  | -              | -                 | -                | -                | -                | -                | P                | P   | P     | P     | P     | -     | P | -  | <i>Section 138-4.427</i> (ORT district only)   |
| Studios or Instruction Centers for Music, Art, Dance, Crafts, Martial Arts, etc.  | -              | -                 | P                | P                | P                | -                | -                | -   | -     | -     | P     | P     | - | -  |  |

**SECTION 6.** Section 138-4.400 of Chapter 138 of the Code of Ordinances of the City of Rochester Hills is hereby modified as follows:

**Section 138-4.400 Adult Regulated Businesses**

- A. – D. [Unchanged.]
- E. An adult motion picture theater, adult bookstore or video store or adult cabaret shall be permitted only by special land use approval granted by the City Council after review and recommendation of the Planning Commission and after public hearing pursuant to the discretionary decisions in Section 138-2.302 pertaining to special and conditional ~~land~~ uses. The special land use shall be approved only if the following criteria are satisfied:
  - 1. – 3. [Unchanged.]

**SECTION 7.** Section 138-4.423 of Chapter 138 of the Code of Ordinances of the City of Rochester Hills is hereby modified as follows:

**Section 138-4-.423 Nursery Schools, Day Nurseries and Child Care Centers**

- A. – C. [Unchanged.]
- D. Outdoor play areas shall be in the side or rear yard in the amount ~~required by the Licensing Rules for Child Care Centers as set forth by the State of Michigan. of 100 square feet for each child cared for, but at least a minimum of 1,200 square feet.~~ **required by the Licensing Rules for Child Care Centers as set forth by the State of Michigan.**
- E. - K. [Unchanged.]

**SECTION 8.** Section 138-4.424 of Chapter 138 of the Code of Ordinances of the City of Rochester Hills is hereby modified as follows:

**Section 4-4.424 Nursing Homes, Convalescent Homes and Assisted Living Facilities**

Nursing homes, convalescent homes and assisted living facilities are subject to the following requirements, which shall supersede any other applicable requirements of this ordinance.

- A. **Setbacks.** All buildings shall be set back 60 feet from any adjacent one-family residential district or 25 feet from any other zoning district.
- B. **Building Height.** The maximum building height shall be 40 feet, except that buildings located within 100 feet of an R One Family District shall have a maximum height of 30 feet.
- C. **Landscaping.** A type D buffer shall be provided along any one-family residential district or property used for one family residential purpose. A type B buffer shall be provided along any property line adjacent to a zoning district other than one-family. Refer to Section 138-12.300.B for landscaping and buffering requirements.
- D. **Parking.** Parking shall be provided at the rate of the one parking space for every 2 beds in the facility.
- E. **Floor Area.** For Assisted Living Facilities, a all studio or efficiency units shall have a minimum floor area of 300 sq. ft., one bedroom units shall have a minimum floor area of 400 sq. ft. and 2 or more bedroom units shall have a minimum floor area of 550 sq. ft.
- F. **Common Areas and Facilities.** Common areas (exclusive of corridors, entrance vestibules and hallways) that are incidental to and/or enhance any primary use shall be provided and shall amount to a minimum of 50 square feet per dwelling unit or bed in the facility. Such facilities may include, but are not limited to, recreational rooms, meeting or social rooms, common kitchen areas, exercise facilities, laundry areas or storage rooms for the use of residents.

**SECTION 9.** Section 138-4.426 of Chapter 138 of the Code of Ordinances of the City of Rochester Hills is hereby modified as follows:

Section 138-4.426 **Outdoor Display and Sales of Goods**

~~The outdoor sales of goods in the B-1, B-2 and B-3 districts shall require a special events permit from the Building Department, and must comply with all applicable City codes and ordinances. For standards regulating the outdoor display and sales of goods see Section 138-4.439 Roadside Stands/Markets, Christmas Tree Sales, and Temporary Outdoor Display and Sales of Goods.~~

**SECTION 10.** Section 138-4.439 of Chapter 138 of the Code of Ordinances of the City of Rochester Hills is hereby modified as follows:

Section 138-4.439 ~~Roadside Stands and Markets; Christmas Tree Sales~~ **Roadside Stands/Markets, Christmas Tree Sales and Temporary Outdoor Display and Sales of Goods**

A. **In General**

1. Hours of operation shall be limited to 7:00 a.m. through 9:00 p.m.
2. Any lighting shall be directed and controlled so as not to become a nuisance to adjacent property owners or motorists. A permit shall be obtained from the building department before any lighting is installed.
3. The sale shall not require or involve the erection of any capital improvements of a permanent structural nature and shall not require or involve any outdoor storage of items not related to the sale.
4. Adequate sanitary facilities shall be available for persons tending to the sale.

5. One sign located on the premises where the sale is located shall be permitted. The sign shall be located on private property outside of the public right-of-way and shall be limited to six (6) feet in height and twelve (12) square feet in area. The sign shall be removed from the premises when the activity ceases. No balloons, festoons, inflatables or other similar devices designed to attract attention to the site or use shall be permitted.
6. An adequate trash receptacle for the disposal of refuse generated on site shall be required and refuse shall not be allowed to accumulate on site for more than 24-hour periods.
7. The sale shall not take place in the public right-of-way within the City, and adequate off-street parking and ingress and egress shall be provided and maintained in a usable and dust-free condition.
8. Except as otherwise provided in this Section, the operation shall be located on property owned or leased by the operator.
9. The operation must comply with all otherwise applicable laws and ordinance regulations of this Code.

**B. Roadside Stands/Markets and Christmas Tree Sales**

It is the intent of the City not to allow the establishment of permanent commercial operations in noncommercial districts. However, seasonal roadside stands and markets for the sale of produce and flowers when sold with produce and Christmas tree sales, including wreaths, boughs, grave blankets and garlands, may be permitted on a temporary basis by obtaining a permit from the building department. The permit shall be subject to the following conditions:

1. **Limitations.** Roadside stands and markets and Christmas tree sales may be permitted in any district, subject to the following exclusions:
  - a. Christmas tree sales shall not be permitted on property that is part of a recorded residential subdivision or one-family residential detached condominium development.
  - b. Roadside stands and markets shall be permitted on property that is part of a recorded residential subdivision or one-family residential detached condominium development only if all of the produce to be sold shall be or was grown on the immediate property and there is an occupied residential dwelling on the property.
2. **Restrictions.** The following restrictions shall govern the issuance of permits:
  - a. If a portable roadside stand or market is to be located on property that is part of a recorded residential subdivision or one-family residential detached condominium development, the permit shall be restricted to the owner of that property, and the roadside stand or market shall be operated and staffed only by the owner and/or resident of that property. The permit may be issued for an initial two-month period between May 1 and October 31 within a calendar year, and it may be renewed once for one additional one-month period between May 1 and October 31 of the same calendar year. There shall be no fee for this renewal. A roadside stand or market shall not be operated on property that is part of a recorded residential subdivision or one-family residential detached condominium development for more than three months between May 1 and October 31 of a calendar year.

- b. ~~Except as otherwise provided in this Section 138 4.439, a permit for a portable roadside stand, market or Christmas tree sales (including associated items such as wreaths or roping) shall be restricted to the owner or the lessee of the property where the roadside stand, market or Christmas tree sales is to be located.~~ A permit may be issued for roadside stand or market only for the period from May 1 to October 31 of a calendar year. A permit for Christmas tree sales may be issued only for the period from November 15 to December 31 of a calendar year. Storage, display and sale of Christmas trees and associated items shall be permitted only during this period.
- c. Any structure used for the sale of produce or Christmas tree sales shall be portable and shall be removed from the roadside upon expiration of the permit for a roadside stand or market or Christmas tree sales. If the property is undeveloped, any portable structure shall be removed from the property upon expiration of the permit. Written authorization from the owner of the property shall be required prior to the City issuing a permit.
- d. ~~The sale of produce in a portable roadside stand or market or Christmas tree sales shall not take place in the public right of way of any thoroughfare within the City, and adequate off-street parking and ingress and egress shall be provided and maintained in a usable and dust-free condition for the roadside stand or market or Christmas tree sales.~~ Christmas tree sales shall not be located within 100 feet of a residential dwelling, other than a dwelling on the property on which the trees are sold. Roadside stands or markets selling any produce that was not grown on the immediate property shall not be located within 200 feet of a residential dwelling, other than a dwelling on the property on which the roadside stand or market is located.
- e. ~~A bond in an amount set by resolution of the City Council shall be filed and maintained in order to obtain a permit to ensure compliance with the City ordinances and that the property is cleaned up at the expiration of the permit period. Any inspection fees or other enforcement costs may be deducted from the bond, in which case the permit holder shall forthwith pay an amount equal to any deduction in order to maintain the bond at the proper level.~~
3. ~~Hours of operation shall be limited to 7:00 a.m. through 9:00 p.m.~~
4. ~~Any lighting shall be directed and controlled so as not to become a nuisance to adjacent property owners or motorists. A permit shall be obtained from the building department before any lighting is installed.~~
5. ~~A permit for a portable roadside stand or market or Christmas tree sales shall not be issued unless adequate sanitary facilities are available for persons tending the roadside stand or market or Christmas tree sales.~~
6. ~~One sign located on the premises where the roadside stand or market or Christmas tree sale is located shall be permitted. The sign shall be located on private property outside of the public right of way and shall be limited to six feet in height and 12 square feet in area. The sign shall be removed from the premises when the activity ceases or when the permit expires.~~
7. ~~An adequate trash receptacle for the disposal of refuse generated on site shall be required for any roadside stand or market, and refuse shall not be allowed to accumulate on site for more than 24 hour periods.~~

~~8. A bond in an amount set by resolution of the City Council shall be filed and maintained in order to obtain a permit to ensure compliance with the City ordinances and that the property is cleaned up at the expiration of the permit period. Any inspection fees or other enforcement costs may be deducted from the bond, in which case the permit holder shall forthwith pay an amount equal to any deduction in order to maintain the bond at the proper level.~~

**C. Temporary Outdoor Display and Sales of Goods**

Except as regulated in Section 138-4.439, for purposes of this section, temporary outdoor sales events, commonly referred to as 'tent sales', that meet all of the following criteria are permitted on zoning lots in the B-1, B-2 and B-3 districts. The outdoor display and sales of goods shall require a special events permit from the Building Department. For purposes of this section, the term "temporary outdoor sales event" shall have the meaning ascribed to it in Section 79-2 of this Code.

1. The temporary outdoor sales event must be accessory to an existing principal use on the same property as the event is held.
2. The operator of the temporary outdoor sales event must obtain a license under Chapter 79 of this Code.
3. The temporary outdoor sales event shall not exceed more than fourteen (14) consecutive days and a total of twenty-eight (28) days during any twelve (12) month period.
4. The temporary outdoor sales event shall have up to 5 days to establish the temporary use including the erection of tents, placement of merchandise and placement of temporary signs.
5. A temporary outdoor sales event may include up to one (1) primary temporary tent plus one (1) additional temporary tent or temporary storage container or trailer. Sales and storage shall be limited to the approved tent(s) and, when provided, storage container. No tent shall exceed 2,400 square feet in area nor shall it be greater than twenty (20) feet in height.
6. If a temporary outdoor sales event has a tent, storage container or trailer for the purpose of temporary storage of related merchandise, sales or a combination of storage and sales, the exterior design, appearance and color scheme of the tent and/or container/trailer shall be in keeping with the general color scheme of the surrounding development or a neutral color. For example, a bright yellow or orange tent and/or container/trailer located in a shopping center with a brick façade shall not be permitted. When both a container/trailer and tent are proposed, the container/trailer shall not be placed closer to the street than the tent.

**SECTION 11.** Section 138-4.440 of Chapter 138 of the Code of Ordinances of the City of Rochester Hills is hereby modified as follows:

**Section 138-4.440 State Licensed Residential Facilities**

~~In addition to meeting all of the requirements of Section 138-4.415.A,~~ The following regulations apply to all state licensed residential facilities, as defined by this ordinance and as licensed by the State of Michigan; and to all other managed or state licensed residential facilities.

State licensed residential facilities with fewer than 7 residents include family day care homes, foster family homes, foster family group homes and adult foster care family homes.

State licensed residential facilities with more than 6 but not more than 12 residents include group child day care homes and adult foster care small group homes.

A. – D. [Unchanged.]

**SECTION 12.** Section 138-4.436 of Chapter 138 of the Code of Ordinances of the City of Rochester Hills is hereby modified as follows:

**Section 138-4.436 Privately Operated Recreational Facilities on Publicly Owned Parkland**

Privately operated recreational facilities located on publicly owned park properties, which shall be limited only to those uses set forth in the City master recreation plan, may be permitted in any zoning district subject to the following conditions:

B. – E. [Unchanged.]

F. A loudspeaker or public address system may be permitted by the City Council following the procedures for a conditional ~~land~~-use where it is deemed that no public nuisance or disturbance will be established.

**SECTION 13.** Section 138-5.202 of Chapter 138 of the Code of Ordinances of the City of Rochester Hills is hereby modified as follows:

**Section 138-5.202 Height Exceptions**

A. **Exempt Structures.** The height limitations of this ordinance shall not apply to farm buildings, chimneys, church spires, flagpoles, or public monuments; provided, however, that the City Council may specify a height limit for any such structure when such structure requires authorization as a conditional ~~land~~ use or as a use not otherwise included within a specific use district. The City Council shall only give approval if the total height is not adverse to the character of the area; detrimental to the use and/or value of the surrounding properties; and not injurious to the health, safety, and welfare of the City. In addition, any height requirement, variance, or waiver in excess of 70 feet shall require mandatory approval of the Federal Aviation Administration.

B. – C. [Unchanged.]

**SECTION 14.** Section 138-6.303 of Chapter 138 of the Code of Ordinances of the City of Rochester Hills is hereby modified as follows:

**Section 138-6.303**

In the CI commercial improvement district, there shall be compliance with all of regulations pertaining to the B-2 district as contained in Article 5, Schedule of Regulations, except as modified as follows:

A. – D. [Unchanged.]

E. **Parking Spaces.** For all properties in the district, parking space size requirements may be reduced to nine feet by 18 feet and maneuvering lane width may be reduced to 22 feet for 90-degree parking.

F. **New Development.** New developments shall provide the number of parking spaces required by

Section 138-8.600, based on intended use. ~~The size of the parking spaces may be reduced to nine feet by 18 feet and maneuvering lanes for 90-degree parking may be reduced to 22 feet.~~

**SECTION 15.** Section 138-7.105 of Chapter 138 of the Code of Ordinances of the City of Rochester Hills is hereby modified as follows:

**Section 138-7.105 Submittal, Review and Approval Process**

The submittal, review and approval process shall consist of the following two steps:

**A. Step One: PUD option application and ~~concept~~preliminary plan.**

1. [Unchanged.]
2. Submittal of proposed PUD ~~concept~~preliminary plan. Application shall be made to the planning department for review and recommendation by the Planning Commission. The application shall include the following:
  - a. – d. [Unchanged.]
3. Planning commission review and public hearing. The Planning Commission shall hold a public hearing in accordance with Section 138-1.203, report its findings and make a recommendation to the City Council concerning the PUD option application and ~~concept~~preliminary plan. The Planning Commission shall review the proposed PUD ~~concept~~preliminary plan for compliance with the following objectives and requirements:
  - a. – c. [Unchanged.]
4. City Council review. Upon receipt of the Planning Commission recommendation, City Council shall review the PUD option application and ~~concept~~preliminary plan and make the final determination on the applicant's fulfillment of the above stated objectives and requirements.
  - a. ~~If City Council approves the application, it shall require the applicant to prepare a PUD contract, conforming to Section 138-7.107 below, setting forth the conditions upon which the City's approval is based. After review and recommendation by the City attorney, Planning Commission and subsequent approval by the City Council, the contract shall be executed by the City and the applicant. Approval shall be granted only if the City Council determines all provisions of this ordinance have been met and that the proposed development will not adversely affect the public health, safety and welfare.~~
  - b. Once an application for PUD and the ~~concept~~preliminary plan have been approved by the City Council, no development or other use may take place on the property within the PUD except in accordance with the approved ~~concept~~preliminary plan or in accordance with an approved amendment thereto.
  - c. [Unchanged.]

**B. Step Two: Submission of final ~~plats~~, site plans and schedule for completion of the approved PUD.**

1. If City Council approves the application, it shall require the applicant to prepare a PUD agreement, conforming to Section 138-7.107 below, setting forth the conditions upon which the City's approval is based. After review and recommendation by the City attorney, Planning Commission and subsequent approval by the City Council, the agreement shall be executed by the City and the applicant. Approval shall be granted only if the City Council determines all provisions of this ordinance have been met and that the proposed development will not adversely affect the public health, safety and welfare.
2. ~~1.~~ Prior to the issuance of any permits for activity within the PUD area, final ~~plats or~~ site plans and open space plans for a project area shall be submitted to the planning department for review and recommendation by the Planning Commission and final City Council approval based on the following:
  - a. Review and approval of site plans shall comply with this section except as otherwise modified in the approved PUD plan. Review and approval of plats shall comply with Act No. 288 of the Public Acts of Michigan of 1967 (MCL 560.101, et seq.), as amended, and applicable ordinances of the City.
  - b. Before approving any final ~~plat or~~ plan, the Planning Commission shall determine that:
    - i. All portions of the project area shown upon the approved plan for the PUD for use by the public or the residents within the PUD have been dedicated to such use in the PUD ~~contract~~agreement;
    - ii. The final ~~plats or~~ site plans are in conformance with the approved PUD ~~contract~~agreement and PUD plan;
    - iii. In accordance with the PUD ~~contract~~agreement, provisions have been made to guarantee open space and common area improvements shown on the final plan, and that maintenance of such improvements is assured in accordance with the PUD ~~contract~~agreement.
3. ~~2.~~ Plans for tree removal permit and wetland permit review shall be submitted at the time of step two review.
4. ~~3.~~ Final ~~plats or~~ site plans for the PUD area must be submitted and approved within two years of the execution of the PUD ~~contract~~agreement, or such other period of time stated in the PUD ~~contract~~agreement. If such ~~plats or~~ plans have not been submitted and approved within the prescribed time, the right to develop under the approved plan may be terminated by the City.
5. ~~4.~~ If development of approved final ~~plats or~~ site plans is not substantially completed in three years (or such other period of time stated in the PUD ~~contract~~agreement) after approval, further final submittals under the PUD shall cease until the development of part in question is completed or cause can be shown for not completing same. An applicant may request up to two one-year extensions of PUD approval subject to City Council approval.

**SECTION 16.** Section 138-7.107 of Chapter 138 of the Code of Ordinances of the City of Rochester Hills is hereby modified as follows:

Section 138-7.107 **PUD Contract Agreement**

The PUD **contract agreement** shall contain, at a minimum, the following information:

- A. The permitted uses of the property.
- B. The permitted density and/or intensity of use.
- C. Dimensional provisions, including but not limited to building floor areas, setbacks, and building height.
- D. Provisions for reservations or dedications of land for public purposes, if applicable.
- E. Conditions, terms, restrictions and requirements on which approval is based, including phasing requirements, requirements for on-site or off-site improvements and contributions to improvements to public facilities.
- F. A timeframe for commencement and completion of improvements associated with the PUD, including both public infrastructure improvements and internal site improvements, along with the means of ensuring that all public improvements are constructed and maintained.
- G. A statement indicating that, except as otherwise provided by the **contract agreement**, regulations governing permitted uses of land, density, design, improvement and construction standards and specifications applicable to development of the property shall be the regulations in force at the time. The PUD **contract agreement** shall not prevent the City from applying new or amended regulations that do not conflict with the PUD **contract agreement**.
- H. A requirement that if changes in federal or state laws or regulations enacted after the **contract agreement** has been executed operate to prevent compliance with parts of the **contract agreement**, or render compliance impractical or unreasonably difficult, the inconsistent provisions of the agreement shall be modified, deleted or suspended as necessary to conform to such changes in federal or state law.
- I. Procedures for amending the PUD **contract agreement**.
- J. Penalties for violating the PUD **contract agreement** or failing to complete improvements included in the PUD.

**SECTION 17.** Section 138-8.200 of Chapter 138 of the Code of Ordinances of the City of Rochester Hills is hereby modified as follows:

Section 138-8.200 **Permitted Uses**

The following Table 8 lists the uses that are permitted as principal, conditional and accessory uses in the FB Overlay districts. If a use is not listed in the following table, it is not permitted in the FB Overlay districts. Refer to Section 138-8.700 on page 24 for a description of the uses in Table 8.

Table 1. Permitted Uses in Flex Business Districts

| Use   | Key:             |                    |                        |
|---|------------------|--------------------|------------------------|
|   | P: Permitted Use | C: Conditional Use | [-]: use not permitted |
|   | FB-1             | FB-2               | FB-3                   |
| <b>Residential Uses</b>   |                  |                    |                        |
| Dwelling unit in a mixed-use building   | P                | P                  | P                      |
| Live/work unit  | P                | P                  | P                      |
| Multiple-family dwelling unit   | P                | P                  | P                      |
| One-family detached dwellings   | P                | C                  | --                     |
| State licensed residential facilities (all types)                                   | P                | P                  | P                      |
| <b>Lodging Uses</b>   |                  |                    |                        |
| Bed & breakfast   | P                | P                  | P                      |
| Inn   | C                | C                  | P                      |
| Hotel   | --               | C                  | PC                     |
| <b>Commercial Uses</b>  |                  |                    |                        |
| Alcoholic beverage sales (for on-premises consumption) accessory to a permitted use | C                | C                  | C                      |
| Drive-through facility accessory to a principal use                                 | C                | C                  | C                      |
| Entertainment and recreation  | --               | P                  | P                      |
| General commercial  | --               | P                  | P                      |
| Open air retail   | --               | C                  | C                      |
| Place of assembly   | --               | P                  | P                      |
| Restaurant  | C                | P                  | P                      |
| <b>Office Uses</b>  |                  |                    |                        |
| Office  | P                | P                  | P                      |
| <b>Civic Uses</b>   |                  |                    |                        |
| Childcare center  | P                | P                  | P                      |
| Community facility  | P                | P                  | P                      |
| Place of worship  | C                | P                  | P                      |
| Recreational facility   | P                | P                  | P                      |
| Essential services  | P                | P                  | P                      |
| Public parking  | P                | P                  | P                      |
| Transit facilities  | P                | P                  | P                      |
| <b>Education Uses</b>   |                  |                    |                        |
| Learning center   | P                | P                  | P                      |
| Research facility   | P                | P                  | P                      |
| School  | P                | P                  | --                     |
| Special training/vocational   | P                | P                  | P                      |

SECTION 18. Section 138-9.205 of Chapter 138 of the Code of Ordinances of the City of Rochester Hills is hereby modified as follows:

## Section 138-9.205 **Review Procedures and Submittal Requirements**

- A. **Reviewing Authority.** The Planning Commission shall be the reviewing authority for any steep slope permit that is required in conjunction with a site plan, conditional ~~land~~ use, or plat. The Engineering Services Department shall be the reviewing authority for all other applications, including single-family plot plans.
- B. – C. [Unchanged.]

**SECTION 19.** Chapter 1 of Article 10 of Chapter 138 of the Code of Ordinances of the City of Rochester Hills is hereby modified as follows:

### Article 10 **General Provisions**

#### Chapter 1 **Accessory Structures and Buildings**

Accessory structures, except as otherwise permitted in this ordinance, shall be subject to the following:

##### Section 138-10.100 **General Standards for all Accessory Structures**

- A. **Appearance.** The exterior façade materials and architectural design of all accessory structures shall be similar to and coordinated with those of the principal building on the lot. The overall appearance of the structure shall be in accordance with the purpose of the district where it is located.
- B. **Temporary Accessory Structures.** Temporary accessory structures that do not require permanent attachment to the ground, but have similar characteristics as an accessory structure including but not limited to inflatable swimming pools and moveable carports shall comply with the setback requirements for detached accessory structures.
- C. **Area.** The combined floor area of detached and attached accessory structures shall not exceed the floor area of the first and second floor of the main building.

##### Section 138-10.101 **Attached Accessory Structures**

###### A. **Compliance with standards for the main building**

1. Where the accessory structure is attached to a main building, it shall be considered a part of the main building and shall be subject to the area, lot coverage and setback regulations of this ordinance applicable to main buildings.
- ~~2. For the purpose of determining lot coverage and setback, an accessory structure located within 10 feet of a main building shall be considered "attached".~~ An accessory structure is considered attached when:
  - a. The accessory structure is attached by a common wall through which a doorway provided direct access from the principal building into the accessory structure; or
  - b. The accessory structure is attached by a breezeway with a floor area of 70 square feet or greater. The distance between the main structure and the accessory structure attached by a breezeway shall not be greater than ten (10) feet.
3. The maximum height for attached accessory structures shall be the maximum height permitted in the zoning district or the height of the principal structure, whichever is less.

~~B. **Breezeway attachment.** Accessory structures that are attached by a breezeway or similar device and accessory structures which are not physically attached to the main building, but are considered attached under subsection A of this section by virtue of being located within 10 feet of the main building shall conform to the maximum height and floor area limitations applicable to detached accessory structures.~~

~~An accessory structure that is attached by a common wall through which a doorway provides direct access from the principal building into the accessory structure is considered an attached accessory structure.~~

#### Section 138-10.102 Detached Accessory Structures

D. **Area.** Detached structures accessory to a residential or non-residential building may be located in the side or rear yard. Such structures shall not be located in the front yard ~~and shall not exceed the total square footage of the main building.~~ The combined floor area of all detached accessory buildings on a single parcel shall not exceed the limits set forth in the following table, so long as total building area of all structures does not exceed the maximum lot coverage as provided in Section 138-5.100:

| Lot or Parcel Size | Maximum Permitted Combined Accessory Structure Floor Area |
|--------------------|---|
| 0.01 – 0.99 acres  | 1,000 square feet   |
| 1.00 – 1.99 acres  | 1,200 square feet   |
| 2.00 – 2.99 acres  | 1,400 square feet   |
| 3.00 – 3.99 acres  | 1,600 square feet   |
| 4.00 – 4.99 acres  | 1,800 square feet   |
| 5.00 or more acres | 2,000 square feet   |

For purposes of this subsection, floor area of an accessory structure shall be defined as the exterior footprint of the structure supporting a roof area within an accessory structure's walls, measured from the exterior of the exterior walls, assembly or structural supports. A structure shall be considered detached when it is completely separate from the main structure and when it does not meet one of the conditions noted in Section 138-10.101.A.2 above. ~~or connected by a breezeway with a floor area less than seventy (70) sq. ft. or less.~~

E. **Setbacks.** A detached structure accessory to a residential building on properties less than two (2) acres shall be located no closer than five (5) feet to any side or rear lot line. A detached structure accessory to a residential building on properties two (2) acres or larger shall be located no closer than twenty (20) feet to any side or rear lot line. A detached structure accessory to a non-residential building shall be located no closer than ten feet (10) to any side or rear lot line. A detached accessory structure shall not be located in any required side yard.

F. **Height.**

1. No detached accessory structure in an RE, R-1, R-2, R-3, R-4, RM-1, RMH or RCD district shall exceed one story or 14 feet in height when the roof pitch of the accessory structure is less than 4/12. If the roof pitch is 4/12 or greater, the maximum building height is 16 feet.
2. Detached accessory structures in all zoning districts except for those listed in Section 138-10.102.F.1 above may be constructed to equal the permitted maximum height of structures in such districts, subject to site plan review requirements.

**Section 138-10.103 Height**

- A. ~~Residential Districts. No detached accessory structure in an RE, R-1, R-2, R-3, R-4, RM-1, RMH or RCD district shall exceed one story or 14 feet in height when the roof pitch of the accessory structure is less than 4/12. If the roof pitch is 4/12 or greater, the maximum building height is 16 feet.~~
- B. **Other Zoning Districts.** Accessory structures in all other zoning districts may be constructed to equal the permitted maximum height of structures in such districts, subject to site plan review requirements.

Section 138-10.10~~3~~<sup>4</sup> **Corner Lots** [Unchanged.]

Section 138-10.10~~4~~<sup>5</sup> **Exceptions**

A building accessory to a residential building may be constructed with a floor area or height greater than otherwise permitted, subject to the following limitations:

- A. ~~Accessory building on lots greater than 2 acres. Where the accessory building is located on a lot exceeding two acres, 200 additional square feet of floor area is permitted for each additional acre or fraction thereof comprising the lot, provided that the combined floor area of all accessory structures located on the lot shall not exceed the floor area of the main building or 1,520 square feet, whichever is less. The maximum height for accessory buildings on a lot exceeding two acres is 18 feet.~~
- B. **A. Land division.** Whenever a residential lot is divided or partitioned, the accessory structures located on such lot shall be removed or reduced in size in order that accessory structures located on the resultant parcels will conform to the maximum area and height limitations of this section.
- C. ~~Side yard setback for exempted accessory building. An accessory building constructed pursuant to this subsection to a size greater than otherwise allowable by this Section 138-10.105 shall be set back at least 20 feet from any side or rear lot lines.~~
- D. **B. Historic districts.** In regard to an accessory structure which is located on a lot designated under article II of chapter 118 of the City Code of Ordinances as a historic district, the Zoning Board of Appeals may permit the accessory structure to be constructed to a height greater than what is otherwise allowed under this section, subject to the following limitations:
1. The accessory structure may not exceed the height of the main building;
  2. The accessory structure may not exceed the structure height limitation applicable to the zoning district under Section 138-5.100;
  3. The Historic Districts Commission must first approve the accessory structure and submit to the approving authority a written recommendation explaining specifically why the

commission believes increased height is necessary in order to further the purpose and objectives of the commission and article II of chapter 118 of the Code of Ordinances;

4. A greater height shall only be allowed if the accessory structure is built in the exact location on the property as shown on the site plan or application for a height increase.

Section 138-10.10~~5~~<sup>6</sup> **Decks and Patios** [Unchanged.]

Section 138-10.10~~6~~<sup>7</sup> **Gazebos** [Unchanged.]

Section 138-10.10~~7~~<sup>8</sup> **Fences** [Unchanged.]

**SECTION 20.** Section 138-11.302 of Chapter 138 of the Code of Ordinances of the City of Rochester Hills is hereby modified as follows:

**Section 138-11.302 Parking Layout**

The layout of off-street parking facilities shall be in accordance with the following Table 16.

**Table 16. Parking Layout**

| Parking Pattern (degrees) | Maneuvering Lane Width | Minimum Space Width | Minimum Space Length |
|---------------------------|------------------------|---------------------|----------------------|
| <b>0° (parallel)</b>      | 24 feet (two-way)      | 8.5 feet            | 22 feet              |
| <b>0° to 29°</b>          | 12 feet (one-way)      | 10 feet             | 18 feet              |
| <b>30° to 53°</b>         | 12 feet (one-way)      | 10 feet             | 18 feet              |
| <b>54° to 74°</b>         | 15 feet (one-way)      | 10 feet             | 18 feet              |
| <b>75° to 90°</b>         | 24 feet (two-way)      | 10 feet             | 18 feet              |

- A. The depth and width of parking spaces and the width of maneuvering lanes shall be measured from the face of the curb, or when no curb is proposed, parking spaces and maneuvering lanes shall be measured from the edge of pavement. If any fixed objects, including, but not limited to, bollards, posts, building edges, bumper posts and light poles, are located within the pavement area of a parking space or maneuvering lane, the depth and width of the parking space and the width of the maneuvering lane shall be measured from the edge of the fixed object.
- B. The minimum parking space width may be reduced to 9 feet from employee spaces or other parking spaces that are intended for long-term parking and that are not intended for use by the general public or customer traffic or subject to frequent turnover. Any parking space width reduction shall require approval by the reviewing authority for the application.
- C. All maneuvering lane widths shall permit one-way traffic movement, except that the 90-degree and parallel pattern may permit two-way movement.
- D. Fire hydrants shall not be located closer than five feet from the back of the curb adjacent to any parking space, loading area, fire lane or maneuvering lane.
- E. Parking aisles shall not exceed 300 feet without a break in circulation.

- F. All parking lots shall be provided with curbs, wheel stops or bumper guards so located that no part of parked vehicles will extend beyond the lot boundaries, into required screening or landscaping, or across sidewalks or pedestrian pathways.
- G. Parking structures may be built to satisfy off street parking regulations when located in other than residential districts subject to the area, height, bulk and placement regulations of such district in which it is located.
- H. When a wall extends to an alley which is a means of ingress and egress to and from an off-street parking area, it shall be permissible to end the wall not more than ten feet from such alley line in order to permit a wider means of access to the parking area.
- I. Each entrance and exit to and from any off-street parking lot located in an area zoned for other than single-family residential use shall be at least 20 feet distant from any adjacent property located in any single-family residential district.
- J. Two (2) feet of required adjacent walkways at least seven (7) feet in width and landscape areas may be part of the required parking space length. The requirements of Section 138-12.301.A.5 shall apply.

SECTION 21. Severability. This ordinance and each article, section, subsection, paragraph, subparagraph, part, provision, sentence, word and portion thereof are hereby declared to be severable, and if they or any of them are declared to be invalid or unenforceable for any reason by a court of competent jurisdiction, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

SECTION 22. Penalty. All violations of this ordinance shall be municipal civil infractions and upon a determination of responsibility therefore shall be punishable by a civil fine of not more than \$500, or as otherwise prescribed herein.

SECTION 23. Repeal, Effective Date, Adoption.

- (1) Repeal. All regulatory provisions contained in other City ordinances, which are inconsistent with the provisions of this ordinance, are hereby repealed.
- (2) Effective Date. This ordinance shall become effective on \_\_\_\_\_, 2018, following its publication in the *Oakland Press* on \_\_\_\_\_, 2018.
- (3) Adoption. This ordinance was adopted by the City Council of the City of Rochester Hills at a meeting thereof held on \_\_\_\_\_, 2018.

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Bryan K. Barnett, Mayor  
City of Rochester Hills

CERTIFICATE

I HEREBY CERTIFY THAT THE FOREGOING ORDINANCE WAS ADOPTED BY THE CITY COUNCIL OF THE

CITY OF ROCHESTER HILLS AT A MEETING THEREOF ON \_\_\_\_\_, 2018.

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Tina Barton, Clerk  
City of Rochester Hills

PLANNING COMMISSION DRAFT