

City of **Rochester Hills**
ZONING ORDINANCE

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ARTICLE 1 ADMINISTRATION and ENFORCEMENT

CHAPTER 1. PURPOSE, VALIDITY AND SCOPE

SECTION 138-1.100 Title

This ordinance, enacted under the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended), governing the incorporated portions of the City of Rochester Hills, Oakland County, Michigan, is to regulate and restrict the locations and use of buildings, structures and land for trade, industry, residence and for public and semipublic or other specified uses; and to regulate and limit the height and bulk of buildings, and other structures; to regulate and determine the size of yards, courts and open spaces; to regulate and to limit the density of population; and for such purposes to divide the City into districts and establish the boundaries thereof; to provide for changes in the regulations, restrictions and boundaries of such districts; to define certain terms used in this ordinance; to provide for enforcement; to establish a Zoning Board of Appeals; and to impose penalties for the violation of this ordinance.

SECTION 138-1.101 Preamble

Pursuant to the authority conferred by the Public Acts of the State of Michigan in such case made and provided and for the purpose of promoting and protecting the public health, safety, peace, morals, comfort, convenience and general welfare of the inhabitants of the City by protecting and conserving the character and social and economic stability of the residential, commercial, industrial and other use areas; by securing the most appropriate use of land; preventing overcrowding the land and undue congestion of population; providing adequate light, air and reasonable access; and facilitating adequate and economical provision of transportation, water, sewers, schools, recreation, and other public requirements; and by other means, all in accordance with an adopted comprehensive plan, the City has ordained this ordinance.

SECTION 138-1.102 Scope

No building or structure or part thereof shall be erected, constructed or altered and maintained, and no new use or change shall be made or maintained of any building, structure or land or part thereof, except in conformity with the provisions of this Ordinance. No yard or open space surrounding any building shall be encroached upon or reduced in any manner, except in conformity with the regulations established for the district in which such building is located, unless otherwise addressed.

SECTION 138-1.103 Short Title

This Ordinance shall be known as the Zoning Ordinance of the City of Rochester Hills, and will be referred to herein as "this Ordinance."

SECTION 138-1.104 Validity and Severability

Sections of this ordinance shall be deemed to be severable and should any section, paragraph, or provision hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this ordinance as a whole or any part hereof, other than the part so declared to be unconstitutional or invalid.

SECTION 138-1.105 Adoption and Effective Date

- A. **Repeal of Prior Ordinance.** The Zoning Ordinance adopted by the City of Rochester Hills City Council on October 29, 1986, and all amendments thereto, is hereby repealed insofar as it conflicts with this Ordinance. The repeal of the ordinance and all amendments does not affect or impair any act done, offense committed or right accruing, accrued or acquired or liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted or inflicted.

ADMINISTRATION and ENFORCEMENT

B. **Adoption and Effective Date.** This ordinance, which specifically includes the Zoning District Map, is hereby ordered to be given immediate effect and be in force from and after the earliest date allowed by law, and this Ordinance is hereby ordered to be published, in the manner provided by law, in the _____, on _____, the ____ day of _____, 2008.

This Ordinance was adopted by the City Council of Rochester Hills by authority of Act 110 of the Public Acts of Michigan, 2006 (as amended) at a meeting thereof duly called and held on _____, the _____ day of _____, 2008 and ordered to be published in the manner provided by law.

SECTION 138-1.106 Conflicting Provisions

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

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

SECTION 138-1.107 Vested Right

Nothing in this ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein and they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety and welfare. EXCEPTION: if a site plan or plat has been submitted for general review under the site plan or plat review procedure on or before the effective date of this ordinance, the provisions of this ordinance shall not apply so far as they are more stringent or require more than the requirements in effect at the time of the site plan or plat was submitted for general review. All other requirements of this ordinance shall be in effect and followed from and after the effective date of this ordinance.

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CHAPTER 2. ADMINISTRATION

SECTION 138-1.200 Amendments

- A. **Initiation of Amendment.** The City Council may, from time to time, on recommendation from the Planning Commission or on its own motion or on petition, amend, supplement, modify or change this ordinance in accordance with the authority of Public Act No. 110 of 2006 (as amended). Upon presentation to the City of a petition for amendment of such ordinance by an owner of real estate to be affected, such petition shall be accompanied by a fee as provided in section 110-438. The amount of such fee shall be set by resolution of the City Council and shall be used to defray the expense of publishing the required notices and the expense of such Planning Commission.
- B. **Amendment Review Procedure.** The amendment and application materials shall be prepared in accordance with the provisions of this Section, and shall be reviewed in accordance with the following procedure. Amendments or application materials that do not meet the stipulated requirements shall be considered incomplete and shall not be eligible for consideration by the Planning Commission:
1. **Technical Review.** Prior to Planning Commission consideration, the proposed amendment and application materials shall be distributed to appropriate City officials and staff for review and comment. The proposed amendment and application materials may also be distributed to applicable outside agencies and designated City consultants for review.
 2. **Public hearing.** The Planning Commission shall hold a public hearing for all proposed amendments in accordance with the procedures set forth in the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended) as summarized in Section 138-1.203.
 3. **Planning Commission consideration of the proposed amendment.** Subsequent to the hearing, the Planning Commission shall review the proposed amendment, together with any reports and recommendations from staff, consultants, other reviewing agencies and any public comments. The Planning Commission shall identify and evaluate all factors relevant to the petition, including the appropriate criteria listed in this Section, and shall report its findings and recommendation to the City Council.
 4. **City Council action on the proposed amendment.** Upon receipt of the report and recommendation from the Planning Commission, the City Council shall consider the proposed amendment. If determined to be necessary, the City Council may refer the amendment back to the Planning Commission for further consideration. In the case of an amendment to the official Zoning Map, the City Council shall approve or deny the amendment, based upon its consideration of the criteria contained herein this Section.
- C. **Re-application.** Whenever an application for an amendment to this Ordinance has been denied by the City Council, a new application for the same amendment shall not be accepted by the Planning Commission for consideration for a period of three hundred sixty five (365) days, unless, upon recommendation by Staff, the Planning Commission determines that one or more of the following conditions has been met:
1. There is a substantial change in circumstances relevant to the issues or facts considered during review of the application that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed in the application.
 2. New or additional information is available that was not available at the time of the review that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed.

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3. The new application is materially different from the prior application.

D. **Criteria for Amendment of the Official Zoning Map.** In considering any petition for an amendment to the official zoning map, the Planning Commission and City Council shall consider the following criteria in making its findings, recommendations, and decision:

1. Consistency with the goals, policies and objectives of the Master Plan and any sub-area plans. If conditions have changed since the Master Plan was adopted, consistency with recent development trends in the area shall be considered.
2. Compatibility of the site’s physical, geological, hydrological and other environmental features with the uses permitted in the proposed zoning district.
3. Evidence the applicant cannot receive a reasonable return on investment through developing the property with one (1) or more of the uses permitted under the current zoning.
4. Compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.
5. The capacity of City’s utilities and services sufficient to accommodate the uses permitted in the requested district without compromising the health, safety and welfare of the City.
6. The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.
7. The boundaries of the requested rezoning district are reasonable in relationship to surroundings and construction on the site will be able to meet the dimensional regulations for the requested zoning district.
8. If a rezoning is appropriate, the requested zoning district is considered to be more appropriate from the City’s perspective than another zoning district.
9. If the request is for a specific use, rezoning the land is considered to be more appropriate than amending the list of permitted or conditional uses in the current zoning district to allow the use.
10. The requested rezoning will not create an isolated or incompatible zone in the neighborhood.

SECTION 138-1.201 Uses Not Listed

A land use that is not cited by name as a permitted use in a zoning district may be permitted upon a determination by the City Council that such a use is clearly similar in nature and compatible with the listed or existing uses in that district. In making such a determination, the City Council shall seek the advice of and recommendation by the Planning Commission. Consideration shall be given to the following:

- A. **Determination of Compatibility.** In making the determination of compatibility, the City Council shall consider specific characteristics of the use in question and compare such characteristics with those of the uses that are expressly permitted in the district. Such characteristics shall include, but are not limited to, traffic generation, types of service offered, types of goods produced, methods of operation, and building characteristics.
- B. **Conditions.** If the City Council determines that the proposed use is compatible with permitted and existing uses in the district, the Council shall then decide whether the proposed use shall be permitted by right, by special approval, or as a permitted accessory use. The proposed use shall be subject to the review and approval requirements for the district in which it is located. The City Council shall have the authority to establish additional standards and conditions applicable to the use.

No use shall be permitted in a district under the terms of this section if the use is specifically listed as a use permitted by right or special approval in any other zoning district.

SECTION 138-1.202 Prohibited Land Uses

Uses that are not specifically listed in and permitted by this Ordinance, or otherwise determined to be similar to listed and permitted uses, are hereby determined to be prohibited uses.

SECTION 138-1.203 Public Hearing Procedures

The body charged with conducting a public hearing required by this Ordinance shall, upon receipt of a completed application, select a reasonable time and place for such hearing. Such hearings shall be subject to the procedures set forth in the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended). The public hearing procedures of PA 110 in effect at the date of adoption are summarized as follows. Any further amendments to PA 110 that alter the public hearing procedure requirements following the date of adoption of this Zoning Ordinance will supersede the following procedures.

- A. **General Public Hearing Procedures.** The following procedures are applicable to all public hearings except zoning ordinance text and map amendments, which are described in subsection B, below.
1. **Publication in a Newspaper of General Circulation.** Notice of the request shall be published in a newspaper of general circulation not less than 15 days before the date the application will be considered for approval.
 2. **Personal and Mailed Notice.**
 - a. Notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered.
 - b. Notice shall be sent to all persons to whom real property is assessed within 300 feet of the property, regardless of municipal jurisdiction.
 - c. Notice shall be given to the occupants of all structures within 300 feet of the property regardless of municipal jurisdiction. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area leased by different persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains more than 4 dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance(s) to the structure.
 - d. All notice delivered by mail or personal delivery must be given not less than 15 days before the date of the public hearing. Notice shall be deemed given when personally delivered or when deposited during normal business hours for delivery with the US postal service or other public or private delivery service. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice.
 - e. The City shall prepare a list of property owners and occupants to whom notice was mailed.
 3. **Content.** Any notice published in a newspaper or delivered by mail shall:
 - a. Describe the nature of the request.
 - b. Indicate the property that is the subject of the request.
 - c. Include a listing of all existing street addresses within the property. If no such addresses exist, other means of identifying the property may be used.
 - d. When and where the public hearing will occur.

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e. When and where written comments may be submitted concerning the request.

B. Zoning Ordinance Text and Map Amendments.

1. Map or Text Amendments Affecting 10 or Fewer Parcels. If the proposed map or text amendment will impact 10 or fewer parcels, notice shall be given as specified in Section 1.204.A.
2. Map or Text Amendments Affecting 11 or More Parcels. If the proposed map or text amendment will impact 11 or more parcels, notice shall be given as specified in Section 1.204.A, with the exception that the notice need not list street addresses of properties that will be impacted by the map or text amendment.
3. Notice to Other Entities. Notice of the time and place of the public hearing shall also be given by mail to any of the following entities that have registered their name with the City Clerk for the purposes of receiving public notice: any electric, gas, or pipeline public utility company; each telecommunication service provider; each railroad operating within the district or zone affected; and the airport manager of each airport.
4. Additional Information Required in Notice. Any notice required under this section shall include the places and times at which the proposed text or map amendment may be examined.

ACTIONS REQUIRING A PUBLIC HEARING

| Section | Action | Reviewing Body |
|----------------------|---|----------------|
| Section 138-1.200.B | Ordinance amendments | PC |
| Section 138-2.207.D | Rescinding site plan approval | PC |
| Section 138-2.301 | Conditional use review | PC |
| Article 2, Chapter 4 | Variances and appeals - various actions | ZBA |
| Section 138-4.414.D | Home occupation violation determinations | ZBA |
| Section 138-4.434.A | Private stables | PC |
| Section 138-4.435.B | Raising & keeping of animals - nuisance determination | ZBA |
| Section 138-5.101.H | Rear yard setback modification in B-3 district | PC |
| Section 138-7.105.A | PUD review process | PC |
| Section 138-9.205.C | Steep slope permit review | PC |
| Section 138-10.400.E | Height modification for small wind energy systems | PC |

CHAPTER 3. PERMITS and CERTIFICATES

SECTION 138-1.300 Duties, Powers, and Limitations

- A. The building department shall have the power to grant zoning compliance and occupancy permits, and the building and public services, and fire departments shall have the authority to make inspections of buildings or premises necessary to carry out their respective duties in the enforcement of this ordinance.
- B. The City shall have the authority to conduct inspections as necessary to assure that landscaping and irrigation systems are installed according to approved plans and permits.
- C. The building and public services, and fire departments are under no circumstances permitted to make changes in this ordinance or to vary the terms of this ordinance in carrying out their duties.

SECTION 138-1.301 Plot Plan

The building official shall require that all applications for building permits shall be accompanied by plans and specifications including a plot plan, in duplicate, drawn to scale, showing the following:

- A. The actual shape, location and dimensions of the lot.
- B. The shape, size and location of all buildings or other structures to be erected, altered or moved, and of any building or other structures already on the lot.
- C. Dimensions between property lines and all existing and proposed structures.
- D. Natural features and existing trees measuring 6 inches or greater in diameter, measured 4.5 feet above grade level.
- E. The existing and intended use of the lot and of all such structures upon it including, in residential areas, the number of dwelling units the building is intended to accommodate.
- F. Such other information concerning the lot or adjoining lots as may be essential in determining whether the provisions of this ordinance are being observed.

SECTION 138-1.302 Permits

The following shall apply in the issuance of any permit under this ordinance.

- A. **Permits not to be issued.** No building permit shall be issued for the erection, alteration or use of any building or structure or part thereof, or for the use of any land, which is not in accordance with all sections of this ordinance.
- B. **Permits required.** No building or structure, or part thereof, shall be erected, altered, moved or repaired unless a building permit shall have been first issued for such work. The terms "altered" and "repaired" shall include any changes in structural parts; stairways; type of construction; type, class or kind of occupancy; light or ventilation; means of egress and ingress; or other changes affecting or regulated by the City building code, the housing law of the state, or this ordinance, except for minor repairs or changes not involving any of such features.
- C. **Temporary permits.** The building department may issue a temporary permit for a temporary building or use allowed in the zoning district for up to one year. The temporary permit may be renewed once by the Zoning Board of Appeals for a second one year period if the issuance of the permit would

avoid an unreasonable hardship and not cause any undue or unreasonable disturbances to surrounding properties or in the general area.

SECTION 138-1.303 Certificate of Occupancy

A. **Generally.** A certificate of occupancy is required before any person may occupy or allow occupancy of any land, building or part thereof whenever:

- 1. A building permit is required.
- 2. Site plan approval is required.
- 3. Additional parking in connection with the use is required.
- 4. A nonconforming use is changed to a conforming use.

If a certificate of occupancy is not required by this section, a change of occupancy or use of any land, building or part thereof may be made without obtaining a certificate of occupancy.

B. **Certificates including zoning.** A certificate of occupancy required for the erection or enlargement of buildings or structures; extension or alteration in whole or in part; or a change of use, occupancy, or a combination thereof shall also constitute a certificate of zoning as required by this ordinance. No such certificate shall be issued until there is compliance with all sections of this ordinance.

C. **Certificate for existing buildings and uses.**

- 1. Change of use or occupancy. A certificate of occupancy may be issued for a change of use or occupancy of existing buildings, structures, or parts thereof, if, after inspection, it is found that such buildings, structures or parts thereof, or such use of land, are in conformity with this ordinance.

A certificate of occupancy shall be obtained before there is any new use or modification of an existing use of a building or land or part thereof, or if any additional parking is required by Article 11 for the new or modified use. If additional parking is required by Article 11, the additional parking shall be provided and there shall be compliance with all of the requirements of this ordinance that are reasonably related to providing the additional parking. Paving of the entire parking area, as otherwise provided by this ordinance, shall not be required if the existing parking area is not paved and the number of the additional required parking spaces does not exceed the number of parking spaces existing on the property by more than 25 percent.

The Planning and Development Director and the directors of the building and public services departments may require a site plan in such detail as may be required to show compliance with this ordinance, and shall have discretion to determine what requirements of this ordinance shall apply.

- 2. Upgrading an existing building or improved land. Whenever an existing building or improved land is upgraded or otherwise improved, where a building permit or site plan is required, there shall be compliance with the provisions of this ordinance that are reasonably related to the improvement or changes being made.
 - a. Determination of which provisions of this ordinance shall apply shall be made by the Planning Commission if a site plan is required to be approved by the Planning Commission.
 - b. When a building permit is required but site plan approval is not required, the determination of which provisions of this Ordinance shall apply shall be made jointly by the planning and zoning director and the directors of the building and public services departments.

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- c. Any such determination shall be documented with a written statement of findings stating the reasons for the determination.
- d. A property owner may appeal an adverse determination by City Staff to the Planning Commission, and an adverse determination by the Planning Commission may be appealed to the City Council.

D. **Temporary certificates of occupancy.** A temporary certificate of occupancy may be issued if the property owner is entitled to a temporary certificate of occupancy under the building code, provided there is compliance with the additional requirements of this section. Any temporary certificate of occupancy issued shall specify a reasonable time for site improvements. Failure to comply with the time limit set forth shall be considered a violation of the time limit placed on the temporary certificate of occupancy for purposes of enforcing this ordinance and requiring completion of site improvements.

- 1. Duration of temporary certificate of occupancy. A temporary certificate of occupancy shall not be effective for more than six months. Thereafter, occupancy may only be authorized under a final certificate of occupancy.
- 2. Unfinished site improvements. All unfinished site improvements which are included on an approved site plan or which are otherwise required by this ordinance shall be constructed, installed or placed on the property and shall be approved by the City building or public services department within six months of obtaining a temporary certificate of occupancy. Failure to finish and obtain approval of such improvements shall constitute a violation of this ordinance giving rise to the penalties provided for in this ordinance and shall constitute a basis for relief in circuit court.
- 3. Cash, letters of credit and bonds. Whenever an applicant seeks occupancy of premises prior to the completion of all improvements and construction in accordance with an approved site plan and the requirements of the City's ordinances, or when the applicant occupies the premises at the time of application for a building permit and continued occupancy is contemplated during the time of construction, the applicant shall deposit cash, a certified check, an irrevocable bank letter of credit or a corporate surety bond forfeitable to the City in an amount equal to the estimated cost of the remaining improvements pursuant to such site plan and the requirements of this ordinance and the City ordinances and requirements.

The estimate of such cost shall be solely in the discretion of the building and public services departments. As used in this subsection, the term "improvements" means those features and actions associated with a project which are considered necessary by the body or official granting zoning approval to protect natural resources or the health, safety, and welfare of the residents of the City and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, and drainage. The term "improvements" does not include the entire project which is the subject of zoning approval.

This subsection shall not be applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been deposited pursuant to the land division act, PA 288 of 1967 (as amended) or the City drainage ordinance contained in article II of ordinance 114 of the City Code of Ordinances.

- 4. Administration of Sureties. Such cash deposit, certified check, irrevocable bank letter of credit or bond shall run to the City and shall be forfeitable by its terms and conditions, automatically, 15 days after notice to the applicant that the requirements of the site plan or this ordinance have not been met according to the terms of the temporary certificate or a time specified in the building permit in the case of occupancy at the time of applying for the building permit.

Such cash deposit, certified check, irrevocable bank letter of credit, or bond shall be considered posted with the condition that, upon passage of such 15 days after such notice in writing by first class mail at the last known address of the applicant, such amount shall automatically be

transferred to the City fund, or otherwise enforceable by the City by any means available. Thereafter the City shall be authorized to go onto the property and complete the construction in accordance with the site plan requirements with the funds available.

The City may retain ten percent of the cost of such completion as the City administrative expense and refund any balance to the applicant. No part of an irrevocable bank letter of credit or surety bond shall be released until all of the work is completed. In the case of a deposit of cash or a certified check, portions of such amount may be rebated as work progresses, at reasonable intervals, provided that at all times the amount on deposit equals the cost of the work to be completed.

- 5. Submittal of As-Built Drawings. When a property owner requesting a temporary certificate of occupancy has not yet made an initial submission of as-built drawings to the Department of Public Services, the property owner shall submit a minimum \$10,000 cash deposit or submit the as-built drawings prior to issuance of a temporary certificate of occupancy.
- E. **Final certificate of occupancy.** No final certificate of occupancy shall be issued until all on-site improvements required by an approved site plan and by this ordinance shall be constructed, installed, or placed on the property in accordance with the approved site plan and this ordinance and approval for such has been obtained from the building and public services departments. In no case shall a final certificate of occupancy be approved until final as-built drawings are submitted to and approved by the public services department.
- F. **Records of certificates.** A record of all certificates issued shall be kept on file in the office of the building departments.
- G. **Certificates for dwelling accessory buildings.** Buildings accessory to dwellings shall not require a separate certificate of occupancy but may be included in the certificate of occupancy for the dwelling when shown on the plot plan when completed at the same time as such dwellings.
- H. **Applications for certificates.** Application for certificates of occupancy shall be made in writing to the building department on forms furnished by the City, and such certificates shall be issued within ten days after receipt of such application if it is found that the building or structure, or part thereof, of the land use is in accordance with this ordinance. If such certificate is refused for cause, the applicant shall be notified of such refusal and cause thereof, within the ten-day period.

SECTION 138-1.304 Final Inspection

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

SECTION 138-1.305 Fees

Applicants for permits required by this ordinance shall pay to the City treasurer, at the time application for such permit is made, such fees as are set by resolution of the City Council.

CHAPTER 4. ENFORCEMENT

SECTION 138-1.400 Enforcement

The Mayor or his or her designee shall administer and enforce this Ordinance. In the exercise of their duties, the directors, employees, representatives and deputies shall have authority provided by law for the enforcement of ordinances, including, but not by way of limitation, the authority to issue and serve municipal civil infraction citations and municipal civil infraction violation notices, as provided by Public Act No. 12 of 1994 (MCL 600.8701 et seq., MSA 27A.8701 et seq.), and the right to enter private premises as provided by law.

SECTION 138-1.401 Municipal Civil Infraction

Any person violating any of the sections of this ordinance or the owner of any building, structure or premises or part thereof, where any condition in violation of this ordinance shall exist or be created, and who has assisted knowingly in the commission of such violation, shall be responsible for a municipal civil infraction, and upon a determination or admission of responsibility therefore shall be subject to a civil fine as provided in section 66-37, the costs of prosecution, and such other costs, damages, expenses, sanctions and remedies authorized by law.

SECTION 138-1.402 Public Nuisance

In addition to all other remedies, including the penalties provided in this article, the City may commence and prosecute appropriate actions or proceedings in a court of competent jurisdiction to restrain or prevent any noncompliance with or violation of any of the sections in this ordinance or to correct, remedy or abate such noncompliance or violation. Buildings erected, altered, razed or converted, or uses carried on in violation of any section of this ordinance or in violation of any regulations made under the authority of the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended) are hereby declared to be a nuisance per se, and the court shall order such nuisance abated.

SECTION 138-1.403 Cumulative Rights and Remedies

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

SECTION 138-1.404 Forbearance Not Condoned

Forbearance of enforcement of this ordinance shall not be deemed to condone any violation thereof.

SECTION 138-1.405 Each Day of Violation a Separate Offense

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

ARTICLE 2 ADMINISTRATIVE ORGANIZATION and PROCEDURES

CHAPTER 1. ORGANIZATION

SECTION 138-2.100 Overview

The Mayor or his or her duly authorized representatives as specified in this Article are hereby charged with the duty of enforcing the provisions of this Ordinance. Accordingly, the administration of this Ordinance is hereby vested in the following City entities:

- A. City Council
- B. Planning Commission
- C. Zoning Board of Appeals

SECTION 138-2.101 City Council

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

- A. **Adoption of Zoning Ordinance and Amendments.** In accordance with the intent and purposes of this Ordinance, and pursuant to the authority conferred by the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended), the City Council shall have the authority to adopt this Ordinance, as well as amendments previously considered by the City Council at a hearing or as decreed by a court of competent jurisdiction.
- B. **Setting of Fees.** The City Council shall have the authority to set all fees for permits, applications, and requests for action pursuant to the regulations set forth in this Ordinance. In the absence of specific action taken by the City Council to set a fee for a specific permit or application, the appropriate City administrative official shall assess the fee based on the estimated costs of processing and reviewing the permit or application.
- C. **Approval of Planning Commission Members.** In accordance with the Michigan Planning Enabling Act, Michigan Public Act 33 of 2008, as amended, members of the Planning Commission shall be appointed by the Mayor with the approval of the City Council.
- D. **Conditional Land Use.** City Council review and approval is required for all Conditional Land Uses.

SECTION 138-2.102 Planning Commission

- A. **In General.** As designated in article II of chapter 130, the Planning Commission is designated as the commission specified in Public Act No. 33 of 2008 and shall perform the duties of such commission as provided in the statute in connection with this ordinance.
- B. **Approvals.**
 - 1. When the Planning Commission is empowered to recommend approval for certain use of premises under this ordinance, the applicant shall furnish such surveys, plans or other information as may be reasonably required by such commission for the proper consideration of the matter.

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2. The Planning Commission shall investigate the circumstances of each such case and shall notify such parties, who may, in its opinion, be affected thereby, as required under its rules of procedure.

3. The Planning Commission may recommend imposing such conditions or limitations in recommending approval that, in its judgment, are necessary to fulfill the spirit and purpose of this ordinance.

C. **Zoning Commission.** The Planning Commission is hereby designated as the Zoning Commission specified in Article III of Public Act 110 of 2006, as amended, and shall perform the duties of said Commission as provided in the statute.

D. **Composition, Appointment, Terms, Vacancies and Compensation.** The Planning Commission shall consist of 9 members, as established by resolution of the City Council and pursuant to the provisions of Public Act 33 of 2008 (as amended).

The term of any ex-officio members shall be determined by the City Council and stated in the resolution selecting the ex-officio members, but shall not exceed the member’s term of office as a trustee of the City Council. A vacancy on the Planning Commission occurring for any reason other than the expiration of term shall be filled for the un-expired term by the Mayor (in the case of a member appointed by the Mayor) subject to approval by the City Council, and by the City Council (in the case of the ex-officio member selected by the City Council). The ex-officio member shall have full voting rights.

The Planning Commission shall elect its chairman from amongst the appointed members and create and fill such other of its offices as it may determine. The term of chairman shall be 1 year, with eligibility for reelection.

E. **Removal of a Member for Cause.** After a public hearing, a member other than the member selected by the City Council may be removed by the Mayor for inefficiency, neglect of duty, or malfeasance in office. The City Council may for like cause remove the ex-officio member selected by the City Council.

F. **Organization, Meetings, Records and Rules.** The Planning Commission may appoint such employees as it may deem necessary for its work, whose appointment, promotion, demotion and removal shall be subject to the same provisions of law as govern all other City employees. The Commission may consult with planners, engineers, architects, attorneys and other consultants for such services as it may require, as contracted by the City Council. The expenditures of the Commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the City Council, which shall provide the funds, equipment and accommodations necessary for the Commission’s work.

G. **Powers and Duties.** The Planning Commission shall have such powers concerning the preparation and adoption of a master plan consisting of future land use, street and thoroughfare plan, community facilities, public improvements programs, zoning ordinances, subdivision regulations, and other such rights, powers, duties and responsibilities as are expressly provided for in this Ordinance, the Michigan Planning Enabling Act, Public Act 33 of 2008, as amended, and the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

SECTION 138-2.103 Zoning Board of Appeals

The Zoning Board of Appeals (hereinafter referred to as “ZBA”) is created pursuant to the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended).

A. **Organization.**

1. The ZBA shall consist of seven (7) members and two (2) alternates who shall be appointed in accordance with Article VI of the Michigan Zoning Enabling Act, PA 110 of 2006, as amended.

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2. The ZBA shall be appointed by the City Council, and shall represent insofar as is possible the population distribution in the City, and different professions or occupations. The term of each member shall be for three years, expiring on March 31 in the year of expiration. The terms shall be staggered. Successors in office shall be appointed not more than one month after the term of the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term.
3. A member of the ZBA may be a member of the Planning Commission, and a member of the ZBA may be a member of the City Council whose terms shall be limited to the time they are members of the Planning Commission or City Council, respectively, or the period stated in the resolution appointing them, whichever is shorter. If appointments are made from the Planning Commission and/or the City Council, one or two of the terms shall be modified to facilitate these appointments.

B. Procedure.

1. The qualifications of members, the term of each member, filling of vacancies, compensation of members, and operation of the ZBA shall be in accordance with Act 110.
2. All meetings of the ZBA shall be held at the call of the chairperson and at such times as such board may determine. All hearings conducted by such board shall be open to the public. The board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicate such fact, and shall also keep records of its hearings and other official action. The board shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to the matters before it.
3. An alternate member may be called by the chairperson of the ZBA to sit as a regular member of the Zoning Board of Appeals in the absence of a regular member if a regular member is absent from or unable to attend two or more consecutive meetings of the ZBA or is absent for a period of more than 30 consecutive days. An alternate member may also be called by the chairperson to serve in the place of a regular member for the purpose of reaching a decision on a case in which a regular member has abstained for reasons of conflict of interest. Once an alternate member has been appointed the member shall serve in the case until a final decision has been made. An alternate member shall have the same voting rights as a regular member of the ZBA.
4. The ZBA shall not conduct business unless a majority of the ZBA is present. The concurring vote of a majority of the members of the ZBA, i.e. a minimum of three (3) affirmative votes, shall be necessary to reverse an order, requirement, permit, decision, or refusal made by an official, board, or commission.

C. Jurisdiction. The ZBA shall have the authority outlined in Section 138-2.400.

CHAPTER 2. SITE PLAN REVIEW

SECTION 138-2.200 Site Plan Review

A. **Purpose.** The site plan review procedures, standards, and required information in this Section are intended to provide a consistent and uniform method of review of proposed development plans, to ensure full compliance with the regulations and standards contained in this Ordinance and other applicable ordinances and laws, to achieve efficient use of the land, to protect natural resources, and to prevent adverse impact on adjoining or nearby properties. It is the intent of these provisions to encourage cooperation and consultation between the City and applicant so as to facilitate development in accordance with the City's land use objectives.

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. **Site Plan Review Not Required.** Site plan review is not required for the construction of single family dwellings and small accessory structures.

2. **Administrative Review** is required for certain small scale projects that do not impact neighboring properties. The Planning and Development Director shall have the authority to approve, approve subject to conditions, or deny any plan requiring administrative review. The Planning and Development Director or the applicant shall have the option to request Planning Commission consideration of plans eligible for administrative review. All appeals of administrative site plan decisions made by the Planning and Development Director shall be made to the Planning Commission. In such cases, the Planning Commission shall review the plan in accordance with the site plan review procedures set forth in this Section 138-2.103, C.

3. **Sketch Plan Review** is required for smaller scale projects and expansions or changes in use for existing sites. Less detailed information is required for sketch plan review compared to site plan review, and the level of information required is intended to be only that necessary to verify compliance with applicable Ordinance standards.

The application requirements and review procedures for sketch plan review are the same as those established for site plan review in Section 138-2.202.

4. **Site Plan Review** is required for larger and more intense projects, including most new developments, major expansions, and redevelopment. Site plan review procedures and requirements are listed in Section 138-2.202.

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

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Table 1. Type of Review Required

| DEVELOPMENT ACTIVITY | Not Required | Administrative Review | Sketch Plan | Site Plan Review |
|---|--------------|-----------------------|-------------|------------------|
| BUILDING IMPROVEMENTS | | | | |
| Accessory structures in any district, up to 200 sq. ft. in area | ● | | | |
| Accessory structures in any non-single family residential district, 200 sq. ft. in area or greater. Administrative review shall be required if Planning and Development Director determines the accessory building will not have detrimental impacts on the surrounding neighborhood. Otherwise, sketch plan review shall be required. | | ● | ● | |
| Construction of any non-residential, multiple-family, or manufactured housing community | | | | ● |
| Demolition of less than 50% of the existing footprint area of a building and reconstruction without expanding the building footprint by more than 10% | | ● | | |
| Demolition of less than 50% of the existing footprint area of a building and reconstruction that expands the building footprint by more than 10% | | | ● | |
| Demolition and reconstruction of more than 50% of the existing footprint area of a building | | | | ● |
| Minor modifications to a building façade or architectural features that do not significantly alter the appearance of the building, increase height | | ● | | |
| Single family dwelling and accessory structures on a single lot | ● | | | |
| INCREASE IN FLOOR AREA | | | | |
| Increases in floor area to existing multiple-family or non-residential buildings based on the cumulative total of expansions in the previous 5 years shall be reviewed as follows. Note that associated site improvements that are required due to the increase in floor area such as parking or landscaping may require a different level of review. | | | | |
| An increase of up to 10% of the existing floor area for an industrial or office building and up to 10% or 2,500 sq. ft., whichever is less for a retail building provided that the proposed addition: <ul style="list-style-type: none"> ● is located on a rear or side façade ● will not be visible from a major or minor thoroughfare ● will not negatively impact surrounding property in the opinion of the Planning and Development Director | | ● | | |
| An increase of up to 10% of the existing floor area for an industrial or office building and up to 10% or 2,500 sq. ft., whichever is less for a retail building whenever one or more of the following is true: <ul style="list-style-type: none"> ● the addition is located on a front façade ● the addition will be visible from a major or minor thoroughfare ● the addition may negatively impact surrounding property in the opinion of the Planning and Development Director | | | ● | |
| An increase of up to 15% of the existing floor area for an industrial or office building and up to 15% or 5,000 sq. ft., whichever is less for a retail building provided | | | ● | |
| An increase of more than 15% of the existing floor area for an industrial or office building and more than 15% or 5,000 sq. ft., whichever is less for a retail building | | | | ● |
| SITE IMPROVEMENTS OTHER THAN BUILDINGS | | | | |
| Changes to a site required by City for safety considerations | | ● | | |
| Improvements in outdoor recreation facilities and parks | | ● | | |
| Improvements to a site that has previously received site plan approval (e.g. entrance features, walls, landscaping, sidewalks, bike paths, fences, exterior lighting, relocation of driveways, road improvements, etc.) | | ● | | |

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| DEVELOPMENT ACTIVITY | Not Required | Administrative Review | Sketch Plan | Site Plan Review |
|---|--------------|-----------------------|-------------|------------------|
| Increase in parking and loading areas of less than 10% of the existing area or 6,000 square feet without any building changes, whichever is less | | • | | |
| Increase in parking and loading areas of more than 10% of the existing area or 6,000 square feet without any building changes, whichever is less | | | • | |
| Landscape changes to similar species consistent with the standards of this Ordinance that do not reduce the total amount of landscaping on the site | | • | | |
| Minor changes during construction due to unanticipated site constraints, or to improve safety, protect natural features or comply with unanticipated requirements of outside agencies | | • | | |
| Parking lot improvements, alterations to the internal layout, resurfacing or re-striping, or the installation of pavement and curbs to off-street parking lots | | • | | |
| Utility system improvements and modifications to upgrade a building to improve barrier-free design or to comply with the Americans with Disabilities Act or similar regulations | • | | | |
| 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 land 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 | | | • | |
| GENERAL | | | | |
| Any activity that, in the opinion of the Planning and Development Director, is not exempted from site plan review or that does not qualify for administrative or sketch plan review | | | | • |
| Projects and activities of a similar character and intensity to other projects and activities with the same required review procedure, as determined by the Planning and Development Director | • | • | • | • |

SECTION 138-2.201 Informal Review of Conceptual Plans

Applicants are encouraged to meet with the Planning Department for informal review of conceptual site plans. The purpose of this informal review is to discuss applicable standards and technical issues, comment on the project's compliance with the standards of this Ordinance, and determine the appropriate type of review process. The applicant or Planning and Development Director may also request input from other City staff or consultants.

Conceptual plans should, at minimum, include the proposed use, building footprint, existing conditions, general site layout and conceptual grading. Conceptual plan review comments are non-binding, and should be considered by the applicant to be suggestions and recommendations only. A review fee may be required for conceptual plan review, as determined by City Council resolution.

SECTION 138-2.202 Site Plan Review Procedure

Site and sketch plans shall be reviewed according to the following procedures:

- A. **Application.** The owner of an interest in land for which site plan approval is sought, or the owner's designated agent, shall submit a completed application form and sufficient copies of a site plan to the City. The site plan shall be prepared in accordance with the provisions of this Article, including all appropriate information required by Section 138-2.208 (Required Information). A site plan that does not meet the stipulated requirements shall be considered incomplete and shall not be eligible for consideration by the Planning Commission.
- B. **Technical review.** Prior to Planning Commission consideration, the site plan and application shall be distributed to appropriate City officials and staff for review and comment. If deemed necessary the plans shall also be submitted to applicable outside agencies and designated City consultants for review and comment.
- C. **Preliminary Site Plan Review.** The Planning Commission shall review the site plan, together with any reports and recommendations from staff, consultants and other reviewing agencies and any public comments. The Planning Commission shall then make a determination based on the requirements of this Ordinance and the standards of Section 138-2.203 (Standards for Site Plan Approval). The Planning Commission is authorized to postpone, approve, approve subject to conditions or deny the site plan as follows:
1. **Postponement.** Upon determination by the Planning Commission that a site plan is not sufficiently complete for approval or denial or upon a request by the applicant, the Planning Commission may postpone consideration until a later meeting.
 2. **Denial.** Upon determination that a site plan does not comply with the standards and regulations set forth in this Ordinance, or would require extensive revisions to comply with said standards and regulations, the site plan shall be denied. If a site plan is denied, a written record shall be provided to the applicant listing the reasons for such denial.
 3. **Approval.** Upon determination that a site plan is in compliance with the requirements of this Ordinance and other applicable ordinances and laws, the site plan shall be approved.
 4. **Approval subject to conditions.** The Planning Commission may approve a site plan, subject to one or more conditions necessary to address minor modifications to the site plan, ensure that public services and facilities can accommodate the proposed use, protect significant natural features, ensure compatibility with adjacent land uses, or otherwise meet the intent and purpose of this Ordinance. Such conditions may include the need to obtain variances or approvals from other agencies.
- D. **Final Site Plan Review.** The procedures for final site plan review are as follows:
1. **Planning Commission Review.** The Planning Commission shall review the final site plan, including items of information required by Section 138-2.208 (Required Information) for a final site plan and any requested reports and recommendations from City staff, consultants, and other reviewing agencies. The Planning Commission shall then make a determination based on the requirements of this Ordinance, the standards of Section 138-2.203 (Standards for Site Plan Approval), and the following considerations:
 - a. The proposed final site plan is consistent with the approved preliminary site plan in terms of building location and architecture, amount and quality of landscaping, site details such as lighting, parking, and circulation layout.
 - b. All conditions imposed during preliminary plan approval are met.
 - c. The engineering requirements applicable at final site plan approval are met.
 2. **Planning Commission Decision.** The Planning Commission is authorized to postpone, approve, approve subject to conditions or deny a final site plan in the same manner as a preliminary site plan.

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3. **Single-step site plan approval.** Nothing in this ordinance shall prohibit the Planning Commission from granting final site plan approval without first granting a preliminary site plan approval if the plans are in compliance with the requirements of this Ordinance for a final site plan.

E. **Outside agency permits or approvals.** The applicant shall be responsible for obtaining all necessary permits or approvals from applicable outside state and county agencies. All federal state and local laws and ordinances shall be met and no unresolved negative comments issued by any governmental agency or public utility shall exist prior to the issuance of a land improvement permit (see Article 11 of Chapter 114 of the City Code of Ordinances).

F. **Distribution of Approved Plans.** Approved site plans will be forwarded to the Building and Public Services Departments and any other department identified by the Planning and Development Director.

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. **Adequacy of information and compliance with Ordinance requirements.** The site plan includes all required information in a complete and understandable form that provides an accurate description of the proposed uses, structures and site improvements. The site plan complies with all applicable Ordinance requirements, including but not limited to minimum floor space, height of building, lot size, yard space and density.

B. **Site design characteristics.** All elements of the site design are harmoniously and efficiently organized in relation to topography, parcel configuration, adjacent properties, traffic operations, adjacent streets and driveways, pedestrian access, and the type and size of buildings. The site is designed in a manner that promotes the normal and orderly development of surrounding property for uses permitted by this Ordinance.

C. **Site appearance and coordination.** Site elements are designed and located so that the proposed development is aesthetically pleasing and harmonious with adjacent existing or future developments. All site features, including circulation, parking, building orientation, landscaping, lighting, utilities, common facilities, and open space are harmonious and coordinated with adjacent properties.

D. **Preservation of site features.** The site design preserves and conserves natural, cultural, historical and architectural site features, including architecturally or historically significant buildings, archeological sites, wetlands, topography, tree-rows and hedgerows, wooded areas and significant individual trees. Refer to Section 138-2.204 for specific environmental requirements.

E. **Pedestrian access and circulation.** The arrangement of public or common ways for pedestrian circulation connects to existing or planned sidewalks or bicycle pathways in the area, and is reasonably insulated from the vehicular circulation system. The site design complies with applicable federal, state, and local laws and regulations regarding barrier-free access.

F. **Vehicular access and circulation.** Drives, streets, parking, site access and other vehicle-related elements are designed to minimize traffic conflicts on adjacent streets and promote safe and efficient traffic circulation within the site.

G. **Building design and architecture.** Building design and architecture relate to and are harmonious with the surrounding neighborhood with regard to texture, scale, mass, proportion, materials and color. Proposed buildings should also comply with any adopted City building design guidelines.

H. **Parking and loading.** Off-street parking lots and loading zones are arranged, located and designed to accommodate the intensity of proposed uses, minimize conflicts with adjacent uses, enhance the

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character of the neighborhood, and promote shared-use of common facilities by adjoining properties.

- I. **Landscaping and screening.** Landscaping and screening are provided in a manner that adequately buffers adjacent land uses and screens off-street parking, mechanical equipment, loading and unloading areas and storage areas from adjacent residential areas and public rights-of-way.
- J. **Exterior lighting.** All exterior lighting fixtures are designed, arranged and shielded to minimize glare and light trespass, prevent night blindness and vision impairments, and maximize security in accordance with the requirements of Article 10, Chapter 2.
- K. **Impact upon public services.** The impact upon public services will not exceed the existing or planned capacity of such services, and adequate public services (including but not limited to utilities (water, sanitary & storm sewers, county drains, natural gas, electricity and telephone), streets, police and fire protection, public schools and sidewalks/bicycle paths) are available or provided to the site, and are designed with sufficient capacity and durability to properly serve the development. Refer to Section 138-2.205 for specific engineering requirements.
- L. **Drainage and soil erosion.** Drainage systems, stormwater facilities, and soil erosion, sedimentation and dust control measures are arranged, located and designed to promote shared-use of common facilities by adjoining properties. Adjoining properties, public rights-of-way and the capacity of the public storm drainage system will not be adversely affected by stormwater runoff and sedimentation.
- M. **Emergency access.** All sites and buildings are designed to allow convenient and direct emergency access, and the level of vulnerability to injury or loss from incidents involving hazardous materials or processes will not exceed the City's emergency response capabilities.
- N. **Energy Efficiency.** All sites and buildings shall be designed to incorporate, to the greatest extent possible, energy efficient design and sustainable site features, including alternative or distributed energy generation, LEED certification, stormwater management best management practices, and other similar measures.

SECTION 138-2.204 Environmental Requirements

- A. **Purpose.** The City has natural features and characteristics which must be preserved wherever possible. The City's rapid growth, development and increasing demands have and may encroach upon, despoil, pollute and eliminate many of the natural characteristics, features and resources including watercourses, wetlands, trees and vegetation, etc. If the natural features and characteristics are preserved and protected, as nearly as possible, in an undisturbed and natural condition, it will be in the best interest of the health, safety and welfare of the existing and future residents of the City as it will provide important physical, aesthetic recreational and economic benefits. Proper regulation and provisions for the protection and preservation of the environmental features of the City will provide for the absorption of air pollutants and contamination; reduce excessive noise and mental and physical damage related to noise pollution; protect against erosion, siltation and flooding; and preserve areas of natural beauty, recreation and irreplaceable heritage for existing and future residents, etc.
- B. **Official Maps.** The City Council, with the assistance of the Planning Commission, shall have the duty and authority to study and adopt, after public hearing, official maps designating wetlands, watercourses, floodplains, floodways and drainage courses, and steep slopes in the City. Such maps are to be adopted and revised according to the procedure and standards set forth in a City floodplains, watercourse and wetlands protection ordinance.
- C. **Construction in wetlands, floodplains, floodways, drainage courses, steep slopes and watercourses prohibited.** No uses nor the construction or location of any structures shall be allowed within any area designated on official City maps as wetlands, floodplains, floodways, drainage courses, steep

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slopes, or watercourses, except as may be allowed according to the requirements and provisions of any ordinances, standards and regulations of the City.

D. **Woodlands.** It being of extreme importance to protect woodlands and trees in the City, the applicant for any site plan and/or plat shall take appropriate action to preserve and replace trees. The following information shall be presented with any proposed site plan and/or plat:

1. Specification of the location of existing stands of trees, existing individual trees having a diameter measurement of six inches or greater at 4 1/2 feet above the ground. On multistem trees, the largest diameter stem shall be measured.
2. Specification of the location of trees to be retained.
3. Specifications for protection of the trees to be retained during development.
4. Specification for grading and drainage to ensure the preservation of the trees to be retained.
5. Details of steps to be taken for reforestation.

E. **Trees and Vegetation Near Watercourses.** No cutting, trimming or otherwise clearing of trees and other natural vegetation shall be allowed within 100 feet of rivers and free-flowing streams, or within floodplains and wetlands, as defined by the corps of engineers or official City maps, without the express written approval of the City Council.

F. **Conservation Easements.** Construction or development shall occur in compliance with any conservation easements located on or impacting a property.

G. **Environmental Impact Statement.** The applicant for any rezoning, site plan and/or plat shall submit with such site plan and/or plat an environmental impact statement which shall be according to the requirements adopted by the Planning Commission. The Planning Commission, as soon as is reasonably possible, shall adopt specific questions, guidelines and requirements which shall:

1. Provide relevant information on the environmental impact of applications for rezoning, platting, site plan approval and other actions which will have a significant effect on the environment.
2. Inject into a developer's planning process consideration of the characteristics of the land and the interest of the community at large as well as his or her own interest and the interests of his potential customers.
3. Facilitate participation of the citizenry in the review of community developments.

SECTION 138-2.205 Engineering Requirements

No person shall start building or construction of anything for which a site plan approval is required by this Ordinance until there has been compliance with the requirements of this Section 138-2.205. This section does not apply to lands being platted pursuant to the land division act, Public Act No. 288 of 1967 (as amended), and subject to article III of chapter 122 of the City Code of Ordinances. The department of public services shall have jurisdiction to enforce the provisions of this section. Any and all construction and development on a site requiring site plan approval shall be consistent with the approved site plan, unless a change conforming to this ordinance receives an additional approval, and subject to the following additional approvals and requirements:

- A. **Engineering Drawings Required.** After site plan approval and before commencement of construction, detailed engineering drawings for roads and utilities as may be required by the standards and specifications for roads and utilities shall be approved by the Engineering Services Division.
- B. **Land Improvement Permit.** After site plan approval and before commencement of construction, a land improvement permit shall be obtained pursuant to article II of chapter 114 of the City Code of Ordinances for drainage and grading of the site.

1. Internal. A graphic layout, superimposed on the topographic map, shall be filed clearly defining and delineating the area proposed to contribute surface drainage to each storm water structure where surface water is proposed to enter the drainage system.
 2. External. If drainage from areas outside the limits of the proposed development is to be accommodated, such areas shall be described and/or delineated and dimensioned in sufficient detail to provide for the location of the limits of such areas on a property line map of the area involved.
 3. Drainage map with computations. The topographic map relating to drainage facilities proposed to be utilized shall be accompanied by computations used in determining the adequacy of both existing and proposed drainage facilities, including an analysis of the adequacy of off-site outlet facilities proposed to be used.
- C. **Engineering Requirements.** All site plan and development of property shall conform to the following requirements:
1. Internal road systems. All internal road systems to be dedicated to the City shall conform to current standards and regulations established by the City.
 2. Rights-of-way. That portion of the proposed development, situated within the limits of the proposed right-of-way lines as set forth in the master right-of-way plan, shall be dedicated by the owner to the county road commission, state department of transportation, or the City, depending on which agency has jurisdiction over the affected road.
 3. Grading.
 - a. *Elevations adjacent to roads*. Areas adjacent to roads shall be graded to an elevation at the property line which is not lower than two feet below the centerline of the road nor higher than two feet above the centerline of the road, unless otherwise authorized by the City engineer.
 - b. *Slope away from roads*. The grading from the property line away from the road shall generally not exceed five percent, which equals one foot in 20 feet.
 - c. *Drainage considerations*. A minimum slope of two percent shall be provided to ensure drainage.
 - d. *Natural drainage courses*. Natural drainage courses shall not be diverted to cause damage to adjacent property. They shall not be filled unless provision is made to accommodate the surface drainage with proper ditch sections or enclosures approved by the City.
 - e. *Consideration of future road improvements*. Grading of properties abutting unimproved roads (roads without concrete or asphalt surfacing) shall indicate consideration of future vertical realignment of such roads.
 - f. *Meeting adjacent elevations*. Proposed grades shall meet elevations of adjacent properties.
 - g. *Erosion control*. A minimum depth of three inches of topsoil shall be replaced on all graded areas, and shall then be seeded or sodded with grass to control erosion.
 4. Stormwater retention/detention. Each development shall be responsible to provide stormwater retention/detention on site and/or proper conveyance by ditch or enclosure to natural drains or county facilities capable of receiving stormwaters. The off-site discharge of stormwater in excess of the capacity of existing downstream facilities will not be permitted. All stormwater

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management systems shall be designed in accordance with best management practices (BMP) adopted by the City.

5. Nonmotorized vehicle-pedestrian paths and sidewalks.
 - a. *Nonmotorized vehicle-pedestrian paths* Eight-foot asphalt nonmotorized vehicle-pedestrian paths shall be provided in all rights-of-way abutting the subject property which are either existing or planned rights-of-way of 120 feet in width or greater, as designated on the master thoroughfare plan of the City adopted by resolution of the City Council. **Nothing shall prohibit the construction of a nonmotorized pathway on a road with an existing or planned right-of-way of less than 120 feet.**
 - b. ***Natural Beauty Roads.* When a road has been designated a natural beauty road pursuant to Public Act No. 59 of 1995 (as amended), nonmotorized paths may be constructed in the right-of-way but are not required.**
 - c. *School access easements.* Except when a road has been designated a natural beauty road pursuant to Public Act No. 59 of 1995 (as amended), easements for walkways and walkways shall be provided for school access routes. The walkways shall conform to the requirements for nonmotorized vehicle-pedestrian paths.
6. Easements to the public. Easements shall be provided before the final occupancy permit is issued, in recordable form, and in a form satisfactory to the City attorney, and in conformity with the City design standards and specifications, for the following:
 - a. *Internal, undedicated roads or driveways.* Easements to the public on all internal, undedicated roads or driveways being used in common by the residents of the development for vehicular traffic, for access of emergency vehicles and other public services.
 - b. *Portions of the utility systems.* Easements to the public for such parts of the utility systems as shall be under public jurisdiction.
- D. **Occupancy Permit.** As a condition for the issuance of a temporary or final occupancy permit for any structure for any use, other than a model being used as a model, the following shall be required:
 1. Completion of utilities and improvements. Completion and acceptance of the installation of all utilities and improvements required by this ordinance for that structure for which an occupancy permit has been requested.
 2. Restrictive covenants. Presenting, in recordable form, and in a form satisfactory to the City attorney, such instruments as may be necessary to guarantee the maintenance and common control of areas to be used in common by the residents of the development.
 3. Dedication of road rights-of-way. Dedication of all road rights-of-way as are indicated on the site plan.
 4. Escrow Account. The escrow account for the application with the City shall be in good standing, without an outstanding balance.
- E. **Review and Inspection Fees.** Plan reviews and inspection costs shall be in accord with schedules adopted by the City Council currently in effect. The fee shall be deposited by the property owner at the time application is made for an approval or a building permit, as the case may be.
- F. **Additional Engineering Standards.** Authority is given for the City Council to adopt by resolution, from time to time, such engineering standards and specifications for utilities, drainage, grading, landscaping, roads, nonmotorized pedestrian pathways, sidewalks, and other similar aspects of

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development of property. All construction and development pursuant to this Ordinance shall be in conformity with such engineering standards and specifications.

- G. **Variance Not Permitted.** The Zoning Board of Appeals does not have jurisdiction or authority to grant relief from or variances to the requirements of this section. The City Council may authorize a variance from the requirements of this section when undue hardship may result from strict compliance. In granting any variance, the City Council shall prescribe only conditions that it deems necessary to or desirable for the public interest. In making its findings, the City Council shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed development and the probable effect of the proposed development upon traffic conditions in the vicinity. No variance shall be granted unless the City Council finds that:
1. There are special circumstances or conditions affecting such property such that the strict application of the provisions of this section would deprive the property owner of the reasonable use of his land.
 2. The variance is necessary for the preservation and enjoyment of a substantial property right.
 3. The granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which such property is situated.

SECTION 138-2.206 Use and Maintenance of Property in Accordance with an Approved Site Plan

- A. **Use.** No owner, tenant, occupant, or person shall use or allow to be used a part or all of any property which was the subject of an approved site plan, other than as set forth on such approved site plan, after completion and approval of the improvements required by the site plan and this ordinance. An example, but not by way of limitation, is using only areas designated for parking for parking purposes, and not some other area of the property.
- B. **Maintenance.** The owner, tenant, occupant or person responsible for any property which was the subject of an approved site plan shall maintain the property and the improvements thereon in accordance with the approved site plan or an approved amendment thereof. This responsibility shall include the duty to maintain in a condition substantially similar as approved, including the duty to replace, if necessary, all improvements such as, but not by way of limitation, all greenbelts, planting, walls, fences, paving, trash receptacles, handicapped parking areas, etc.

SECTION 138-2.207 General Provisions

- A. **Expiration of site plans.**
1. Preliminary site plans shall expire 365 days after the date of approval, unless the final site plan for the project has been submitted to the Planning Department for review.
 2. Final site plans shall expire 365 days after the date of final approval, unless building permits have been issued or construction has commenced. The date of final approval is established by the most recent date stamp on the final plans.
 3. If building permits have been issued or construction has commenced, final site plan approval shall continue for a period of five (5) years from the date thereof. If such construction lapses for more than 180 continuous days, said approval shall immediately expire.
 4. Upon written request received by the City prior to the expiration date, the Planning Commission may grant one (1) extension of up to 365 days to any site plan approval, either preliminary or final, provided that the approved site plan conforms to current Zoning Ordinance standards.

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- B. **Resubmission.** A site plan that has been denied shall not be resubmitted for a period of 365 days from the date of denial, except on grounds of new evidence or proof of changed conditions found by the Planning Commission to be valid.
- C. **Appeals.**
1. The Zoning Board of Appeals shall not have the authority to consider appeals of site plan determinations, except as defined in this Section.
 2. When the Planning Commission approves a site plan contingent upon approval of one or more variances from specific requirements of this Ordinance, the applicant shall initiate such a request to the Zoning Board of Appeals. The Planning and Development Director shall provide copies of the site plan, application materials and Planning Commission meeting minutes to the Zoning Board of Appeals. Zoning Board of Appeals consideration shall be limited to the specific variances identified as conditions of site plan approval by the Planning Commission. This shall not preclude the applicant from seeking a dimensional variance from the Zoning Board of Appeals prior to obtaining site plan approval.
- D. **Rescinding Site Plan Approval.** Approval of a site plan may be rescinded by the Planning Commission upon determination that the site has not been improved, constructed or maintained in compliance with approved permits, site plans, or conditions of site plan or conditional use approval. Such action shall be subject to the following:
1. Public hearing. Such action may be taken only after a public hearing has been held in accordance with the procedures set forth in Section 138-1.203 of this Ordinance (Public Hearing Procedures), at which time the owner of an interest in land for which site plan approval was sought, or the owner's designated agent, shall be given an opportunity to present evidence in opposition to rescission.
 2. Determination. Subsequent to the hearing, the decision of the Commission with regard to the rescission shall be made and written notification provided to the property owner or his or her designated agent.
- E. **Revisions to Approved Site Plans.** Minor revisions to an approved site plan may be administratively reviewed by the Planning and Development Director, provided that such changes do not materially alter the approved site design, intensity of use or demand for public services. Revisions to an approved site plan that are not considered by the Planning and Development Director to be minor shall be reviewed by the Planning Commission as an amended site plan.

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SECTION 138-2.208 Required Information

The following information shall be included with all site plan applications, except where the Planning and Development Director or the Planning Commission determines that certain information is not necessary or applicable to review of the site plan.

Table 2. Site Plan Required Information

| SITE PLAN REQUIRED INFORMATION | Preliminary Site Plan | Final Site Plan | Sketch Plan | Administrative Review |
|--|-----------------------|-----------------|-------------|-----------------------|
| DESCRIPTIVE INFORMATION: | | | | |
| Name, address, email (if available) telephone and facsimile numbers of the applicant (and property owner, if different from applicant) and firm or individual preparing the site plan, and the property location (address, lot number, tax identification number). | • | • | • | • |
| Total area of land in acres or square-feet. | • | • | • | |
| Existing and proposed use(s) of the site | • | • | • | |
| Zoning classification of the property and surrounding parcels (including across street rights-of-way). | • | • | • | |
| Legal description of the property. | • | • | | |
| Architect's, engineer's, surveyor's, landscape architect's, or planner's seal. | • | • | • | |
| SITE PLAN DATA AND NOTES: | | | | |
| Site plans shall be drawn to an engineer's scale of not less than one inch equals fifty feet (1" = 50'). A general plan sheet drawn at scale of not less than one inch equals two hundred feet (1" = 200') shall be provided if the project covers more than one plan sheet at 1" = 50'. | • | • | • | |
| Title block, including the scale, north arrow, revision date, name of the City, and a location map drawn at one inch equals 2,000 feet (1" = 2,000') showing surrounding land, water features and streets within one (1) mile of the site boundaries. | • | • | • | |
| Size and dimensions of proposed buildings, including gross and usable floor area, number of stories, overall height and number of units in each building, if applicable. | • | • | • | |
| Detailed parking (including accessible and van accessible parking), residential density and lot coverage calculations. | • | • | • | |
| Construction type and use group of all buildings as defined by the Michigan Building Code. If two or more uses not in the same occupancy classification are proposed, indicate if the structure is being designed for separated or non-separated uses. | • | • | • | |
| Indicate if the existing/proposed structure will have an automatic fire suppression system, and if so, show the location of the FDC. | • | • | • | |
| All plan sheets shall be labeled "not to be used as construction drawings." | • | • | • | |
| EXISTING CONDITIONS: | | | | |
| Location of soil types and existing drainage courses, floodplains, lakes, streams, drains and wetlands, with surface drainage flow directions, including high points, low points and swales. | • | • | • | |

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| SITE PLAN REQUIRED INFORMATION | Preliminary Site Plan | Final Site Plan | Sketch Plan | Administrative Review |
|---|-----------------------|-----------------|-------------|-----------------------|
| Existing topography on site and 50 feet beyond the site boundaries at two-foot contour intervals. | • | • | • | |
| Slopes greater than 20% with a 10' or greater elevation change. | • | • | • | |
| Buildings located within 100 feet of any property line. | • | • | • | |
| Dimensions of all lots and property lines, showing the relationship of the site to abutting properties. If the site is part of a larger parcel, the plan should indicate the boundaries of total land holding. | • | • | • | |
| Existing tree survey including the location of all trees 6" or greater d.b.h. The tree survey shall include a key showing the tag number, size, species, and condition of all trees located on the site. | • | • | • | • |
| Existing site features, including significant natural, historical, cultural and architectural features, buildings and structures, driveway openings, fences, walls, signs and other improvements. The site plan shall clearly note which features will be removed, altered or preserved and provide information regarding the method of preservation or alteration. | • | • | • | |
| Existing and proposed right-of-way lines and the centerline of adjacent roads. | • | • | • | |
| Driveways, sidewalks, paths, public transit routes, streets and curb cuts on the applicant's parcel and all abutting parcels (including across street rights-of-way). | • | • | • | |
| SITE PLAN DETAILS: | | | | |
| Location, outside dimensions, setback distances and proposed uses of all site improvements. | • | • | • | • |
| Gross and usable building floor areas. | • | • | • | • |
| Existing and proposed easements and rights-of-way (locations and descriptions) for utilities, access and drainage. | • | • | • | |
| An exterior lighting plan with all existing and proposed lighting locations, heights from grade, specifications, lamp types and methods of shielding. | | • | • | |
| A photometric grid overlaid on the site plan indicating light intensity throughout the site in foot-candles. | | • | • | |
| Specifications and details for each type of light fixture, including the total lumen output, type of lamp, and method of shielding. | | • | | |
| Waste receptacle locations and methods of screening. | • | • | • | |
| Transformer pad location and method of screening, if applicable. | | • | • | |
| Outdoor sales, display or storage locations and method of screening, if applicable. | • | • | • | |
| Locations, sizes, heights, types and methods of illumination of all proposed signs. | • | • | • | |
| BUILDING AND ARCHITECTURAL DETAILS: | | | | |
| General architectural drawings sufficient to convey the intended look and appearance of the building, and to indicate the type and color of building materials, detailing, and other architectural features. | • | | | |

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| SITE PLAN REQUIRED INFORMATION | Preliminary Site Plan | Final Site Plan | Sketch Plan | Administrative Review |
|--|-----------------------|-----------------|-------------|-----------------------|
| Detailed building façade elevations, drawn to an appropriate scale and indicating type and color of building materials, roof design, projections, canopies, awnings, window openings, entrance features, doors, overhangs, other architectural features and any building-mounted mechanical equipment, such as air-conditioning and heating units. | | • | | |
| Building floor plans with all exists clearly delineated. | | • | | |
| Entrance details, including signs and details of signs. | • | • | • | |
| Carport locations and details, if applicable. | • | • | | |
| ACCESS AND CIRCULATION: | | | | |
| Names of abutting streets, and the width, depth, type and curbing for all streets, parking lots, sidewalks and other paved surfaces. | • | • | | |
| Loading and unloading areas. | • | • | | |
| Designation of fire lanes and signs stating “no parking” and “fire lane.” | • | • | • | |
| Locations and dimensions of access points, including deceleration or passing lanes and distances between adjacent or opposing driveways and street intersections. | • | • | | |
| Location and dimensions of existing and proposed interior sidewalks and sidewalks or paths within public rights-of-way. | • | • | • | |
| Parking space and maneuvering aisle dimensions (including accessible parking space and access aisle dimensions), pavement markings, traffic control signage, designation of fire lanes and location and dimension of loading areas. | • | • | • | |
| Proposed accessible routes from accessible parking spaces to accessible building entrances, with sufficient grade information along the route to verify compliance with the Michigan Building Code. | • | • | • | |
| Accessible access aisle and ramp slopes by indicating point elevations at the perimeter of such areas. | • | • | • | |
| Details along the proposed accessible route(s), including accessible parking signs, curb ramps, ramps, and maneuvering clearances of accessible building entrances/doors, as applicable. | | • | • | |
| LANDSCAPING AND SCREENING: | | | | |
| Landscape plan, including location, size, quantity and type of proposed shrubs, trees, ground cover (including grass) and other live plant materials, and the location, size and type of any existing plant materials that will be preserved. All landscape plans shall be signed and sealed by a registered landscape architect. | • | • | • | |
| Planting list for proposed landscape materials with quantity, caliper-size and height of material, botanical and common names, and standards of installation. | • | • | • | |
| Location, dimensions, construction materials, cross-section and slope ratio for any required or proposed berms or greenbelts. | • | • | | |
| Proposed fences and walls, including typical cross-section, materials and height above the ground on both sides. | • | • | | |
| Complete irrigation system design. | | • | | |
| Cost estimate (including materials and labor) for all landscaping and irrigation improvements. | | • | | |

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| SITE PLAN REQUIRED INFORMATION | Preliminary Site Plan | Final Site Plan | Sketch Plan | Administrative Review |
|--|-----------------------|-----------------|-------------|-----------------------|
| A basic annual landscape maintenance program. | | • | | |
| UTILITIES, DRAINAGE AND THE ENVIRONMENT: | | | | |
| Grading plan, with existing and proposed topography at a minimum of two-foot (2') contour levels, drainage patterns and a general description of grades within 100 feet of the site to indicate stormwater runoff. | | • | | • |
| An environmental impact statement as required by Section 138-2.204. | • | • | | |
| A statement concerning trees and other vegetation, as required. | • | • | • | |
| General location of sanitary sewers and building leads upon which no structures or earth berms shall be located. | • | | | |
| Detailed location of sanitary sewers and building leads | | • | | |
| Water mains, hydrants and building services and sizes. | | • | • | |
| General stormwater runoff calculations and approximate size and location of retention basins | • | | | |
| Detailed storm sewers, site grading, drainage, detention basins, and/or other pertinent facilities. | | • | • | |
| ADDITIONAL REQUIRED INFORMATION: | | | | |
| Other information as requested by the Planning and Development Director, Planning Commission, or City Engineer to verify that the site and project are developed or improved in accordance with the spirit and intent of this Ordinance and the City's Master Plan. Such information may include use or environmental impact assessments, traffic impact studies, market analyses and evaluations of the demand on public facilities and services. The Planning and Development Director may also require that information listed in this table be submitted even if the table indicates that the information is not required for the particular type of review. | • | • | • | • |
| Community building details and method of fencing the swimming pool, if applicable. | | • | | |
| Propane tank locations and methods of screening, any overhead utilities, or any outside storage of materials, chemicals, gases, liquids, etc., if applicable. | • | • | • | |

CHAPTER 3. CONDITIONAL USE APPROVAL

SECTION 138-2.300 Intent

Conditional uses are uses that serve an area, interest or purpose that extends beyond the borders of the City, create particular problems of control in relation to adjoining uses or districts, may have detrimental effects upon public health, safety or welfare, or possess other unique characteristics that prevent such uses from being classified as principal permitted uses in a particular zoning district.

This Chapter is intended to provide a consistent and uniform method for review of conditional use applications, ensure full compliance with the standards contained in this Ordinance and other applicable local ordinances, and state and federal laws, achieve efficient use of the land, minimize or prevent adverse impacts on neighboring properties and districts, protect natural resources and facilitate development in accordance with the land use objectives of the Master Plan and any sub-area or corridor plans.

SECTION 138-2.301 Procedures and Requirements

- A. **Planning Commission Recommendation.** Prior to the City Council making a discretionary decision on a conditional use, the Planning Commission, or the Zoning Board of Appeals if specifically indicated, shall hold a public hearing, make a record of the public comment, make a recommendation and forward such record and recommendation to the City Council before the decision is made.
- B. **Public Hearing Notice.** The public hearing provided for in this subsection shall be held to comply with the requirements of the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended), as set forth in Section 138-1.203. The notice of the public hearing provided for in this section shall state a public hearing before the City Council may be requested by those persons indicated in the preceding sentence.
- C. **City Council Decision.** The City Council may deny, approve or approve with conditions a conditional use application. The decision on a conditional use shall be incorporated in a statement containing the conclusions relative to the conditional use specifying the basis for the decision, and any conditions of approval imposed on the application.
 1. **Approval.** Upon determination that a conditional use proposal is in compliance with the standards and requirements of this Ordinance and other applicable ordinances and laws, approval shall be granted.
 2. **Approval with Conditions.** The City Council may impose reasonable conditions with the approval of a conditional use. The conditions may include provisions necessary to insure that public services and facilities affected by a proposed conditional use or activity will be capable of accommodating increased service and facility loads generated by the new development, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:
 - a. Conditions shall be designed to protect natural resources, the health, safety, welfare, and social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 - b. Conditions shall be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.

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c. Conditions shall be necessary to meet the intent and purpose of the Zoning Ordinance, related to the standards established in the Ordinance for the land use or activity under consideration, and necessary to insure compliance with those standards.

3. Denial. A conditional use application shall be denied upon determination by the City Council that a conditional use proposal does not comply with the standards and regulations set forth in this Ordinance, or otherwise will be injurious to the public health, safety, welfare, or orderly development of the City.

The City Council decision on a conditional use shall be incorporated in a written statement of findings relative to the conditional use under consideration. Said findings shall specify the reasons for the decision and any conditions imposed.

D. Coordination with Site Plan Review.

1. When a two-step site plan review process is used, the Planning Commission shall consider the preliminary site plan and conditional use simultaneously, and shall act upon the preliminary site plan prior to making a conditional use recommendation to the City Council. A final site plan associated with a conditional use may not be approved until the conditional use has first been approved by the City Council.

2. If the applicant chooses a one-step site plan approval process, the Planning Commission shall act upon the final site plan prior to making a conditional use recommendation to the City Council, and any action to grant final site plan approval shall be conditioned upon the City Council granting conditional use approval.

E. Resubmission. A conditional use application that has been denied shall not be resubmitted for a period of 365 days from the date of denial, except on grounds of new evidence or proof of changed conditions found by the Planning Commission to be valid.

F. Appeals. The Zoning Board of Appeals shall not have the authority to consider appeals of conditional use determinations by the City Council.

G. Expiration of Conditional Use Approval. Conditional use approval shall expire 365 days after the date of approval, unless the use has been established on the site, or the final site plan associated with the conditional use has been submitted to the Planning Department for review. Conditional use approval shall also expire upon expiration of the approved final site plan associated with a conditional use. Upon written request received by the City prior to the expiration date, the Planning Commission may grant one (1) extension of up to 180 days, provided that the approved conditional use conforms to current Zoning Ordinance standards.

H. Rescinding Approval of Conditional Uses. Approval of a conditional use may be rescinded by the City Council upon determination that the use has not been improved, constructed or maintained in compliance with this Ordinance, approved permits, site plans, or conditions of site plan or conditional use approval. Such action shall be subject to the following:

1. Public hearing. Such action may be taken only after a public hearing has been held by the City Council in accordance with the procedures set forth in the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended) as summarized in Section 138-1.203, at which time the owner of an interest in land for which conditional use approval was sought, or the owner's designated agent, shall be given an opportunity to present evidence in opposition to rescission.

2. Determination. Subsequent to the hearing, the Council's decision regarding to the rescission shall be made and written notification shall be provided to the property owner or the owner's designated agent.

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SECTION 138-2.302 Standards for Conditional Use Approval

For decisions on conditional uses referred to in subsection (a) of this section and in all other instances in this ordinance where discretionary decisions must be made by a board, commission or official, including decisions on site plans, the requirements and standards as particularly set forth in this ordinance concerning the matter for decision shall be followed, and such discretionary decision shall also be based upon the findings that the conditional use will:

- A. Promote the intent and purpose of this ordinance.
- B. Be designed, constructed, operated, maintained and managed so as to be compatible, harmonious and appropriate in appearance with the existing or planned character of the general vicinity, adjacent uses of land, the natural environment, the capacity of public services and facilities affected by the land use, and the community as a whole.
- C. Be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainageways, refuse disposal, or that the persons or agencies responsible for the establishment of the land use or activity shall be able to provide adequately any such service.
- D. Not be detrimental, hazardous, or disturbing to existing or future neighboring uses, persons, property or the public welfare.
- E. Not create additional requirements at public cost for public facilities and services that will be detrimental to the economic welfare of the community.

The City Council shall grant the requested approval only upon determination of compliance with the standards in this subsection. In granting the requested approval, the City Council shall impose such requirements or conditions as it deems necessary to protect the public interest of the City and the surrounding property and to achieve the objectives of this ordinance.

SECTION 138-2.303 Operation and Maintenance in Accordance with Conditional Use Approval

It shall be the responsibility of the owner of the property and the operator of the use for which conditional use approval has been granted to develop, improve, operate and maintain the use, including the site, buildings and all site elements, in accordance with the provisions of this Ordinance and all conditions of conditional use approval until the use is discontinued. Failure to comply with the provisions of this Section shall be a violation of the use provisions of this Ordinance and shall be subject to the same penalties appropriate for a use violation.

The Mayor or his or her designee may make periodic investigations of developments for which a conditional use has been approved. Noncompliance with Ordinance requirements or conditions of approval shall constitute grounds for the City Council to rescind conditional use approval.

CHAPTER 4. VARIANCES and APPEALS

SECTION 138-2.400 Jurisdiction, Powers and Duties

- A. **Powers and Duties.** The Zoning Board of Appeals shall have the power and it shall be its duty to:
 - 1. Hear and decide on all matters referred to it by the provisions of this Ordinance.
 - 2. Hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by the building, planning, or public services department in the enforcement of this ordinance. See Section 138-2.404 for additional considerations.
 - 3. Interpret the text and map and all matters relating thereto whenever a question arises in the administration of this ordinance as to the meaning and intent of any provision or part of this ordinance. Any interpretations shall be in a manner as to carry out the intent and purpose of this ordinance and zoning map, and commonly accepted rules of construction for ordinances and laws in general. See Section 138-2.405 and Section 138-2.406 for additional considerations.
 - 4. Where there are practical difficulties or unnecessary hardships, within the meaning of state law and this ordinance, in the way of carrying out the strict letter of this ordinance, the Zoning Board of Appeals shall have the power upon appeal in specific cases to authorize such variation or modification of the provisions of this ordinance so that the spirit of this ordinance shall be observed, public safety and welfare secured and substantial justice done. See Section 138-2.407 and Section 138-2.408 for additional considerations.

- B. **Review Considerations.** In consideration of all appeals and all proposed variances to this ordinance the Zoning Board of Appeals shall, before granting any variance to this ordinance in a specific case, first determine that the proposed variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or endanger the public safety or unreasonably diminish or impair established property values within the surrounding area or in any other respect impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City.

- C. **Majority Vote Required.** Except for use variances, the concurring vote of a majority of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the building department, or to decide in favor of the applicant on any matter upon which it is authorized by this ordinance to render a decision.

- D. **Limitations of Authority.**
 - 1. Nothing contained in this section shall be construed to give or grant to the Zoning Board of Appeals the power or authority to alter or change this ordinance or the zoning map or to rezone, such power and authority being reserved to the City Council.
 - 2. Nothing in this section shall be construed to authorize the Zoning Board of Appeals to hear, review or decide any appeal from a decision of the City Council or Planning Commission to approve, approve with conditions, or deny a site plan or special use.

- E. **Conditions.** In authorizing a variance or taking any other action within its jurisdiction, the Zoning Board of Appeals may attach such conditions as may be deemed necessary in the furtherance of the purposes of this ordinance, provided any conditions are in compliance with the standards for imposing conditions as contained in the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended).

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SECTION 138-2.401 Exercising Powers

In exercising the powers described in Section 138-2.400, the Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may take such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the building department from whom the appeal is taken.

SECTION 138-2.402 Notice

The Zoning Board of Appeals shall make no recommendation except in a specific case and after a hearing conducted by such board. Notice such hearing shall be provided in the manner established in the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended).

SECTION 138-2.403 Effect of Actions**A. Expiration of Approval.**

1. No order of the Zoning Board of Appeals permitting the erection or alteration of a building, except in the case of an interpretation made by the Zoning Board of Appeals, shall be valid for a period longer than one year from the date of approval unless a building permit or site plan approval for such erection or alteration is obtained within such period and such erection and alteration is started and proceeds to completion in accordance with the terms of such permit or approved site plan.
2. No order of the Zoning Board of Appeals permitting a use of a building or premises, except in the case of an interpretation made by the Zoning Board of Appeals, shall be valid for a period longer than one year from the date of approval, unless such use is established within such period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit or site plan approval for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit or approved site plan.

- B. Resubmittal.** No request or appeal which the Zoning Board of Appeals has denied wholly or in part may be resubmitted to or reheard by the Zoning Board of Appeals for a period of one year following the effective date of the decision by the Zoning Board of Appeals, except where the Zoning Board of Appeals determines there is valid new evidence that was unavailable to the applicant at the time of the prior hearing or a substantial change in circumstances. Applications for a rehearing shall be in writing and shall be subject to the same rules and requirements as an original request.

SECTION 138-2.404 Appeals of Administrative Decisions

- A. Authority.** The Zoning Board of Appeals shall hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by the person or body charged with administration or enforcement of the Zoning Ordinance. Such appeals may be taken to the Board by the person, firm or corporation aggrieved, or by an officer, department, board or bureau of the City affected by the order, requirement, decision or determination, provided that a notice of appeal application is filed with Planning and Development Department within twenty-one (21) days of such action.
- B. Stay of Proceedings.** An appeal shall stay all proceedings in furtherance of the action appealed from, unless the building or public services department certifies to the Zoning Board of Appeals after the notice of appeal has been filed that by reason of facts stated in a certificate, a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed, otherwise than by a restraining order, which may be granted by the Zoning Board of Appeals or by a court of record on application, on notice to the building or public services department and on due cause shown.

- C. **Public Hearing.** The board shall select a reasonable time and place for the hearing of the appeal and shall give due notice in accordance with the public hearing requirements of the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended) as summarized in Section 138-1.203 and shall render a decision on the appeal without unreasonable delay. Any person may appear and testify at the hearing, either in person or by duly authorized agent or attorney.
- D. **Fee.** A fee shall be paid at the time the notice of appeal is filed to the City treasurer to the credit of the general revenue fund of the City. The fees to be charged for appeals shall be set by resolution of the City Council. The fee for appeals shall be as provided in section 110-437 for variance, interpretation or appeal of decision requests regarding alterations, modifications, additions or accessory buildings for existing single-family residences, and a fee as provided in section 110-437 for all other variance, interpretation, appeal of decision or approval requests.
- E. **Required Findings.** The Zoning Board of Appeals may reverse an administrative action only if it finds that the order, requirement, decision or determination was arbitrary or capricious, based upon an erroneous finding of a material fact, constituted an abuse of discretion, or based upon an erroneous interpretation of the Zoning Ordinance.

SECTION 138-2.405 Interpretation of Zoning District Boundaries

Where the actual lines of streets, alleys, or property boundaries vary from the portions indicated on the Zoning Map, or some ambiguity exists as to zoning district boundaries, the Zoning Board of Appeals shall have the power to interpret the Zoning Map in such a way as to carry out the intents and purposes of Zoning Ordinance and Master Plan.

SECTION 138-2.406 Interpretation of Zoning Ordinance Provisions

The Zoning Board of Appeals shall have the power to hear and decide requests for interpretations of Zoning Ordinance provisions in such a way as to preserve and promote the character of the zoning district in question, and carry out the intents and purposes of the Zoning Ordinance and Master Plan.

SECTION 138-2.407 Dimensional Variance

- A. **Authority.** The Zoning Board of Appeals may grant a dimensional (nonuse) variance to provide relief from a specific standard in this Ordinance relating to an area, a dimension or a construction requirement or limitation, upon the concurring vote of a majority of the members of the Zoning Board of Appeals.
- B. **Practical Difficulty.** A nonuse variance shall not be granted unless the Zoning Board of Appeals finds that there is a practical difficulty in the way of carrying out the strict letter of this ordinance. In determining whether a practical difficulty exists, the Zoning Board of Appeals must find that:
 1. Compliance with the strict letter of the restrictions governing area, setback, frontage, height, bulk, lot coverage, density or other dimensional or construction standards will unreasonably prevent the owner from using the property for a permitted purpose or will render conformity with such restrictions unnecessarily burdensome.
 2. A grant of the variance will do substantial justice to the applicant as well as to other property owners in the district, and a lesser variance will not give substantial relief to the applicant as well as be more consistent with justice to other property owners in the zoning district.
 3. The plight of the applicant is due to the unique circumstances of the property.
 4. The problem is not self-created.
 5. The spirit of this ordinance will be observed, public safety and welfare secured, and substantial justice done.
 6. There is compliance with the standards set forth in Section 138-2.400B.

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7. There is compliance with the standards for discretionary decisions as contained in Section 138-2.302 of this Ordinance.

SECTION 138-2.408 Use Variance

- A. **Authority.** The Zoning Board of Appeals may grant a use variance to authorize a land use which is not otherwise permitted by this ordinance in the district where the property is located, upon the concurring vote of two-thirds (2/3) of the members of the Zoning Board of Appeals.
- B. **Remedies Exhausted.** An application for a use variance shall not be submitted or considered unless the applicant has first received a written determination from the building department that the proposed land use is not permitted under this ordinance in the district where the property is located, and, second has received a final decision from the City Council denying a rezoning of the property to a zoning district where the proposed land use would be permitted under this ordinance.
- C. **Unnecessary Hardship.** A use variance shall not be granted unless the Zoning Board of Appeals finds, on the basis of substantial evidence presented by the applicant, that there is an unnecessary hardship in the way of carrying out the strict letter of this ordinance. In determining that an unnecessary hardship exists, the Zoning Board of Appeals must find that:
 1. The property in question cannot be reasonably used or cannot yield a reasonable return on a prudent investment if the property would be used only for a purpose allowed in the zoning district.
 2. The plight is due to unique circumstances peculiar to the property and not to general neighborhood conditions.
 3. The use to be authorized by the variance will not alter the essential character of the area and locality.
 4. The problem is not self-created.
 5. The spirit of this ordinance will be observed, public safety and welfare secured, and substantial justice done.
 6. There is compliance with the standards set forth in Section 138-2.400B.
 7. There is compliance with the standards for discretionary decisions as contained in Section 138-2.302 of this Ordinance.

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ARTICLE 3 NONCONFORMITIES

SECTION 138-3.100 Intent

Nonconformities are uses, structures, buildings, or lots which do not conform to one or more provisions or requirements of this Ordinance or a subsequent amendment, but which were lawfully established prior to the time of adoption of this Ordinance or amendment. Such nonconformities are not compatible with the current or intended use of land in the district in which they are located. Therefore, it is the intent of this Ordinance to permit such nonconformities to continue under certain conditions, but to foster the elimination of nonconformities by discouraging their expansion, enlargement, or extension. Accordingly, the purpose of this section is to establish regulations that govern the completion, restoration, reconstruction, extension, and/or substitution of nonconformities, and to specify the circumstances and conditions under which nonconformities shall be permitted to continue.

SECTION 138-3.101 General Requirements

- A. **Repairs and maintenance.** On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding **the state equalized value of the property**, provided that the floor area of the building as it existed on the effective date of this ordinance or amendment thereto shall not be increased.
- B. **Change of tenancy or ownership.** There may be a change of tenancy, ownership or management of any existing nonconforming uses of land, structures and premises, provided there is no change or a lessening in the nature or character of such nonconforming uses except in conformity with this ordinance.

SECTION 138-3.102 Nonconforming Lots

The following requirements shall apply to any legally created lot of record that does not comply with one or more of the dimensional requirements of this ordinance and that existed prior to the effective date of this ordinance or amendment thereto.

- A. **Construction permitted.** Notwithstanding limitations imposed by other sections of this ordinance, a permitted use may be erected on any single lawfully created lot of record in existence at the effective date of this ordinance or amendment thereto. This section shall apply even though such lot fails to meet the requirements for area or width or both that are generally applicable in the district, **provided that the lot can be developed in compliance with other dimensional requirements (such as setback requirements) without any adverse impact on surrounding properties or the public health, safety, and welfare.**
- B. **Contiguous lots under common ownership.** If two or more lots or combinations of lots and portions of lots with continuous frontage and single ownership are of record on the effective date of this ordinance, and if all or part of the lots do not meet the requirements for lot width and area as established by this ordinance, the lands involved shall be considered to be an undivided parcel for the purpose of this ordinance and no portion of such parcel shall be used or occupied which does not meet lot width and area requirements established by this ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this ordinance.

SECTION 138-3.103 Nonconforming Uses of Land

Where, on the effective date of the ordinance amendment thereto, lawful use of land exists that is made no longer permissible under the terms of this ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following:

NONCONFORMITIES

- A. **Expansion prohibited.** No nonconforming use shall be enlarged or increased or extended to occupy a greater area of land than was occupied on the effective date of this ordinance amendment thereto.
- B. **Relocation prohibited.** No nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use on the effective date of this ordinance or amendment thereto.
- C. **Period of nonuse before nonconformity shall cease.** If a nonconforming use of land ceases operation with the intent of abandonment for a period of more than six months, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.
- D. **Establishment of a conforming use.** In the event that a nonconforming use is superseded or replaced by a conforming principal use, the nonconforming use may not thereafter be resumed.

SECTION 138-3.104 Nonconforming Structures

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

- A. **Increase in nonconformity prohibited.** No such structure may be enlarged or altered in a way which increases its nonconformity. For example, an existing residence on a lot of a width less than required in this ordinance may add a rear porch, provided that other requirements relative to yard space and land coverage are met.
- B. **Expansion of one-family dwellings.** With respect to any structure which is considered nonconforming due to its noncompliance with a required side or rear yard setback, and notwithstanding subsection (A) of this section, any enlargement or alteration of the structure which involves the extension of the existing side or rear building line shall be permitted without need for a setback variance or variance to this section, provided that the enlargement or alteration:
 - 1. Is not located closer to the side or rear property line than the structure's existing nonconforming side or rear yard setback;
 - 2. Is attached to a one-family dwelling located within an R-1, R-2, R-3, R-4, or RE zoning district and is designed for use as enclosed or screened living space;
 - 3. Is not taller than 16 feet or one-story in height; and
 - 4. Complies with all other requirements of this ordinance and does not necessitate any other variances.
- C. **Reconstruction.** Nonconforming structures that are declared to be physically unsafe by the building official or otherwise damaged or destroyed by any means to an extent that the repair cost is greater than the state equalized value of the property shall not be restored, repaired, or rebuilt except in complete compliance with the requirements of this Ordinance. Buildings or structures that are listed on a local, state, or national register of historic buildings or places may be reconstructed provided that the nonconformity that existed prior to destruction is not increased.
- D. **Relocation.** If such structure is moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

SECTION 138-3.105 Nonconforming Uses of Structures and Land

If a lawful use of a structure or of structure and land in combination exists on the effective date of this ordinance or amendment thereto that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following:

- A. **Alteration prohibited.** No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- B. **Expansion within existing building permitted.** Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed on the effective date of the ordinance from which this ordinance derives or at the time of amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.
- C. **Nonconforming use superseded by conforming use.** Any structure or structure and land in combination in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations pertaining to the uses permitted in the district in which such structure is located, and the nonconforming use may not thereafter be resumed. Section 138-3.104 shall apply to any nonconformity relating to the structure.
- D. **Period of nonuse before nonconformity shall cease.** If such nonconforming use of land and structures ceases operation with the intent of abandonment for a period of more than six months, any subsequent use of such land shall conform to the regulations specified by this ordinance pertaining to the uses permitted in the district in which such land is located. Structures occupied by seasonal uses shall be excepted from this subsection only so long as seasonal uses shall continue.
- E. **Removal or destruction of structure.** Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

NONCONFORMITIES

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ARTICLE 4 ZONING DISTRICTS and PERMITTED USES

CHAPTER 1. GENERALLY

SECTION 138-4.100 Zoning Districts Established

For the purposes of this Ordinance, the City of Rochester Hills is divided into the following districts:

Table 3. Zoning Districts

| Symbol | Name |
|--------|--|
| R-1 | One-family Residential District |
| R-2 | One-family Residential District |
| R-3 | One-family Residential District |
| R-4 | One-family Residential District |
| RE | One-family Residential District |
| RCD | One-family Residential Cluster District |
| RM-1 | Multiple-Family Residential District |
| RMH | Manufactured Housing District |
| MR | Mixed Residential (overlay) District |
| B-1 | Local Business District |
| B-2 | General Business District |
| B-3 | Shopping Center Business District |
| B-4 | Freeway Service Business District |
| B-5 | Automotive Service Business District |
| CI | Commercial Improvement District |
| O-1 | Office Business District |
| ORT | Office, Research and Technology District |
| REC | Regional Employment Center District |
| I | Industrial District |
| SP | Special Purpose District |
| FB-1 | Flex Business (overlay) District |
| FB-2 | Flex Business (overlay) District |
| FB-3 | Flex Business (overlay) District |

SECTION 138-4.101 Zoning Map and District Boundaries

The boundaries of the zoning districts are established as shown on the zoning map. The map, all notations, references, and other information shown thereon is as much a part of this Ordinance as if fully described in this Article 4, provided:

- A. Unless clearly shown otherwise on the Map, the boundaries of the districts are:
 1. Lot lines;
 2. The centerlines of streets, alleys, roads, watercourses, or such lines extended; and
 3. The corporate limits of the City.

- B. Where, due to the scale, lack of detail, or illegibility of the zoning map accompanying this Ordinance there is any uncertainty, contradiction, or conflict as to the location of any district boundaries shown thereon, an interpretation concerning the exact location of district boundary lines shall be determined by the Building Official, upon written application or upon its own motion. Any decision of the Building Official in these matters may be appealed to the Zoning Board of Appeals as set forth in Section 138-2.405.

SECTION 138-4.102 Zoning of Rights-of-Way

All streets, alleys and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such streets, alleys or railroad rights-of-way. Where the centerline of a street or alley serves as a district boundary, the zoning of such street or alley, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such centerline.

SECTION 138-4.103 Zoning of Vacated Areas

Whenever any street, alley or other public way within the City is vacated by official governmental action and when the lands previously within the boundaries of the public way attach to and become a part of the land adjoining such street, alley or other public way, such lands shall automatically, and without further governmental action be subject to the same zoning regulations as are applicable to the land to which it attaches.

SECTION 138-4.104 Principal Uses and Conditional Uses

In all districts, no structure or land shall be used or occupied, except in conformance with Section 138-4.300 (Table of Permitted Land Uses by District), and as otherwise provided for in this Ordinance. Conditional uses may be permitted in accordance with Section 138-4.300 (Table of Permitted Land Uses by District), subject to a public hearing and approval by the Planning Commission in accordance with the procedures and conditions defined in Article 2, Chapter 3 (Conditional Uses).

SECTION 138-4.105 Prohibited Uses

Uses that are not specifically listed as a principal use or conditional use permitted by this Ordinance in a zoning district, or otherwise determined to be similar to a listed and permitted use, shall be prohibited in the district.

SECTION 138-4.106 Design and Development Requirements

All principal permitted uses and conditional uses shall comply with any applicable requirements of this Ordinance and other City Codes and Ordinances. No structure shall be erected, reconstructed, altered or enlarged, nor shall permits or certificates of occupancy be issued, except in conformance with this Ordinance and other City Codes and Ordinances.

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CHAPTER 2. PURPOSE of DISTRICTS

SECTION 138-4.200 RE, R-1, R-2, R-3, and R-4 One Family Residential Districts

The RE, R-1, R-2, R-3 and R-4 one-family residential districts are designed to provide for one-family, low density dwelling sites and residentially related uses in keeping with the master plan of residential development in the City. The uses permitted by right and on special condition as conditional uses are intended to promote a compatible arrangement of land uses for homes, with the intent to keep neighborhoods relatively quiet and free of unrelated traffic noises.

SECTION 138-4.201 RCD One Family Residential Cluster District

The intent of the RCD one-family residential cluster district is to permit the development of one-family residential patterns which, through design innovation, will introduce flexibility so as to provide for the sound physical handling of site plans in situations where the normal subdivision approach would otherwise be unnecessarily restrictive.

RCD one-family residential cluster districts are intended for those areas having at least one of the following characteristics:

- A. An area generally parallel to, and generally not to exceed, 360 feet in depth on those unsubdivided parcels of land abutting a major thoroughfare or freeway of at least 120 feet of right-of-way width as indicated on the current City Master Thoroughfare Plan, so as to provide transition between such major thoroughfare and adjacent one-family detached housing on platted lots. The density in the cluster area shall not exceed 3.9 dwelling units per acre, including all residential roads, except as provided in Section 138-6.206 pertaining to floodplains, subaqueous areas, or wetlands.
- B. An area generally parallel to, and generally not to exceed, 360 feet in depth on those unsubdivided parcels of land being so located as to provide transition between nonresidential or multiple-family districts and one-family development. The density in the cluster area shall not exceed 3.0 dwelling units per acre, including all residential roads, except as provided in Section 138-6.206 pertaining to floodplains, subaqueous areas, or wetlands.
- C. An unsubdivided area which is found to be of such an unusual shape or which is found to contain unstable or generally unbuildable soil conditions or which is characterized by some other unusual physical or development factor which would make sound physical development under the normal residential subdivision approach, including lot size variation and subdivision open space plan, impractical. The following conditions shall exist:
 1. The natural land forms are so arranged that the change of elevation within the site includes slopes in excess of 15 percent between these elevations. These elevation changes and slopes shall appear on at least 35 percent of the site rather than as exceptional or infrequent features of the site.
 2. The achieving of road grades of less than six percent is impossible unless the site were mass graded. The providing of one-family clusters will allow a greater preservation of the natural setting.
 3. The area in open space, including recreation areas and water, accomplished through the use of one-family clusters shall represent at least 25 percent of the horizontal development area of a one-family cluster development. This entire area may be used in computing density when preserved as open space.
 4. The overall permitted density within an unsubdivided parcel not located in relation to a major thoroughfare, as described in subsections (1) and (2) of this section shall not exceed 3.0 dwelling units per acre, averaged over the entire area included within the general development plan, except as defined in Section 138-6.206 pertaining to floodplains, subaqueous areas, or wetlands.

SECTION 138-4.202 RM-1 Multiple Family Residential District

The RM-1 multiple-family residential district is designed to provide sites for multiple dwelling structures with height restrictions compatible with single-family residential districts, to serve the limited needs for the apartment type of unit in an otherwise single-family residential community, and to provide zones of transition. The RM-1 district is intended generally for the development of a planned complex of buildings on acreage parcels.

SECTION 138-4.203 RMH Manufactured Housing District

The RMH manufactured housing districts are established primarily to provide for higher density manufactured housing in an otherwise lower density residential area of the City. Because manufactured housing parks are much higher in density than an otherwise typical single-family subdivision, and because they are developed with private street systems, they are otherwise not compatible with lower density single-family subdivisions. In this ordinance, manufactured homes are intended to serve as transitional uses between nonresidential districts and other residential districts.

SECTION 138-4.204 MR Mixed Residential (Overlay) District

The mixed residential (overlay) district is designed to permit the construction of varied residential development types on parcels greater than 10 acres. The mixed residential (overlay) district is intended to result in higher quality development by providing design flexibility in lot size, lot configuration, and building type within densities allowed by the Master Land Use Plan and existing zoning; to result in better buffers from major thoroughfares for residential development; the protection of natural features, and the creation of site amenities such as open space or parks.

SECTION 138-4.205 B-1 Local Business District

The B-1 local business districts are designed for the convenience shopping of persons residing in adjacent residential areas to permit only such uses as are necessary to satisfy those limited basic shopping and/or service needs which, by their very nature and size, are not related to the shopping pattern of the Citywide or regional shopping centers.

SECTION 138-4.206 B-2 General Business District

The B-2 general business districts are designed to cater to the needs of the larger consumer population than serviced by the B-1 local business district.

SECTION 138-4.207 B-3 Shopping Center Business District

The B-3 shopping center business districts are designed to cater to the needs of the larger consumer population than served by the B-1 local business district and the B-2 general business district and so are mapped typically in shopping center locations characterized by establishments so grouped as to generate larger volumes of vehicular and pedestrian traffic.

SECTION 138-4.208 B-4 Freeway Service Business District

The B-4 freeway service business districts are designed to provide for servicing the needs of automobile highway traffic at the interchange areas of feeder roads and freeway facilities. The avoidance of undue congestion on feeder roads, the promotion of smooth traffic flow at the interchange area and on the freeway, and the protection of adjacent properties in other zones from the adverse influence of traffic are prime considerations in the application of this district.

SECTION 138-4.209 B-5 Automotive Service Business District

The B-5 automotive service business districts are established to accommodate those uses which attract and generate a high volume of moving or standing vehicular traffic. These districts are designed to be located on major thoroughfares in the City, other than freeways, and are generally incompatible with residential vehicular traffic from secondary thoroughfares (86-foot right-of-way) and local thoroughfares (60-foot right-of-way).

SECTION 138-4.210 CI, Commercial Improvement District

The CI commercial improvement district is intended to apply to certain business properties in the City which require relaxation of site improvement requirements in order to allow and encourage the upgrading and improvement of those properties. The irregularities of the parcels, the closeness of existing buildings to the

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roadway and adjacent buildings, and the lack of space for on-site parking hamper investment in the properties. Improvement and growth of such areas is determined to be of importance to the City and the general welfare of the area.

SECTION 138-4.211 O-1 Office Business District

The O-1 office business districts are designed to accommodate office uses, office sales uses and basic personal services, particularly larger planned office complexes and office centers.

SECTION 138-4.212 ORT Office, Research and Technology District

The ORT district is established to:

- A. Permit the combination of certain uses that are complimentary to one another within the same structure or within the same zone.
- B. Provide for orderly and integrated planning, so as to avoid fragmentary, short term, or speculative investments and to avoid delay in achieving the highest and best use of the area.
- C. Optimize the city's tax base and encourage economic development.
- D. Provide a tool for redeveloping and revitalizing areas where existing buildings and infrastructure are located.
- E. Provide for satisfactory transitions to surrounding land use areas.

SECTION 138-4.213 REC Regional Employment Center District

The REC district is designed to provide for a range of business and employment uses such as light manufacturing, research and development, corporate office, professional office, and similar uses. The REC includes specific and detailed design standards to ensure that the physical development of areas zoned REC occurs in an attractive and rational manner while providing the greatest possible flexibility in the uses that may occur within the buildings themselves.

SECTION 138-4.214 I Industrial District

The I industrial districts are 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 district is so structured as to permit, along with any specified uses, the manufacturing, compounding, processing, packaging, assembly, and/or treatment of finished or semifinished products from previously prepared material, it being the intent of the district that the processing of raw material for shipment in bulk form, to be used in an industrial operation at another location not be permitted.

The general goals of this use district include, among others, the specific purpose to:

- A. Provide sufficient space, in appropriate locations, to meet the needs of the City's expected future economy for selected types of manufacturing and related uses.
- B. Protect abutting residential districts from the negative impacts of industrial land uses by separating them from manufacturing activities, and by prohibiting the use of such industrial areas for new residential development.
- C. Promote manufacturing development which is free from danger of fire, explosions, toxic and noxious matter, radiation, and other hazards and from offensive noise, vibration, smoke, odor and other objectionable influences.
- D. Promote the most desirable use of land in accordance with a well-considered plan.
- E. Protect the character and established pattern of adjacent development, and in each area conserve the value of land and buildings and other structures and protect the City's economic tax base.

SECTION 138-4.215 SP Special Purpose Districts

The SP special purpose district is established to provide for uses which cater to the general public and require substantially larger sites. These uses do not fit readily into other districts and must be given special consideration.

SECTION 138-4.216 FB-1, FB-2, and FB-3 Flex Business (Overlay) Districts

The FB districts are designed to permit a wider range of uses in areas already used for commercial purposes. The FB districts are an optional method of development that permits a mixture of uses that may include residential, public, institutional, office, business, and retail commercial uses, depending upon the FB district. The FB overlay districts establish specific and detailed design standards for the physical development of the districts, while permitting the wider range of uses.

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CHAPTER 3. LAND USE TABLE

SECTION 138-4.300 Table of Permitted Uses by District

Table 4. Permitted Uses by Zoning District

| Key: | P: Principal Permitted Use | C: Conditional Use | | | | | | | | | | [shaded]: Use not permitted |
|---|----------------------------|--------------------|------------------|------------------|------------------|------------------|------------------|------------------|-----|---|----|--|
| USES | DISTRICTS | | | | | | | | | | | ADDITIONAL STANDARDS |
| | R ^a | RM-1 | B-1 ^b | B-2 ^b | B-3 ^b | B-4 ^c | B-5 ^d | O-1 ^e | ORT | I | SP | |
| ANIMAL and AGRICULTURE USES | | | | | | | | | | | | |
| Agriculture | P | | | | | | | | | | | Section 138-4.401 |
| Kennels | C | | | | | | | | | C | | Section 138-4.418 |
| Pet boarding facilities | | | P | P | P | | | | | P | | Section 138-4.418 |
| Plant material nurseries | C | | | | | | | | | | | Section 138-4.431 |
| Private stables | P | | | | | | | | | | | Section 138-4.434 |
| Public Stables, riding academies and hunt clubs | | | | | | | | | | | C | Section 138-4.434 |
| Raising and keeping of animals | P | P | P | P | P | P | P | P | | P | P | Section 138-4.435 |
| Veterinary hospitals or clinics | | | P | P | P | | | C | | P | | Section 138-4.441 |
| COMMUNITY, PUBLIC, and RECREATION USES | | | | | | | | | | | | |
| Cemeteries | C | | | | | | | | | | | Minimum site size of 5 acres |
| Colleges, universities, or other institutions of higher learning offering courses in general, technical, or religious education | | | | | | P | | | P | | P | Section 138-4.425 (ORT district only) |
| Concert halls and auditoriums | | | | | | | | | | | C | |
| Facilities for community groups such as theatrical groups | | | | | | | | | | | P | |
| Fraternities and sororities | | | | | | | | | | | C | |
| Golf courses (may or may not be operated for-profit) | C | | | | | | | | | | | Section 138-4.412 |
| Hospitals | | | | | | | | | | | C | Section 138-4.415 |
| Libraries and museums | P | P | P | P | P | P | P | P | P | P | P | Section 138-4.425 (ORT district only) Section 138-4.430 |
| Municipal buildings and uses | P | P | P | P | P | P | P | P | P | P | P | Section 138-4.425 (ORT district only) |
| Nursery schools, day nurseries, and child care centers | C | C | P | P | P | | | P | | | | Section 138-4.422 |
| Places of worship | P | P | P | P | P | P | P | P | | P | P | Section 138-4.430 |
| Primary and secondary schools (public, private and parochial) | P | P | | | | | | | | | | |
| Private clubs, fraternal organizations, and lodge halls | | | | P | P | | | | | | | |
| Private recreation areas, swim clubs, and tennis courts | C | | | | | | | | | | | Section 138-4.432 |
| Privately operated recreational facilities located on publicly owned park properties | P | P | P | P | P | P | P | P | | P | P | |

| Key: | P: Principal Permitted Use | C: Conditional Use | | | | | | | | | | [shaded]: Use not permitted |
|--|----------------------------|--------------------|------------------|------------------|------------------|------------------|------------------|------------------|-----|---|----|---|
| USES | DISTRICTS | | | | | | | | | | | ADDITIONAL STANDARDS |
| | R ^a | RM-1 | B-1 ^b | B-2 ^b | B-3 ^b | B-4 ^c | B-5 ^d | O-1 ^e | ORT | I | SP | |
| Publicly owned buildings and public utility buildings | | | | C | C | | | P | | P | | Outdoor storage yards are permitted only in the I district |
| Transit passenger stations | | | P | P | P | P | P | P | | P | P | |
| Essential utilities | P | P | P | P | P | P | P | P | P | P | P | Section 138-4.440 |
| COMMERCIAL and RETAIL USES | | | | | | | | | | | | |
| Adult regulated businesses | | | | | C | | | | | | | Chapter 4 |
| Automotive gasoline service stations and associated retail uses | | | | | | P | P | | | | | Section 138-4.404 |
| Automotive service centers | | | | | C | | C | | | C | | Section 138-4.405 |
| Banks, credit unions, and similar uses | | | P | P | P | | | P | | | | Section 138-4.406 |
| Banquet halls/conference centers | | | | P | P | | | C | P | | | Section 138-4.425 (ORT district only) |
| Car washes | | | | | | | C | | | | | |
| Drive-through accessory to a permitted use | | | C | C | C | C | C | C | | | | Section 138-4.410 |
| Health or exercise clubs | | | P | P | P | P | | | C | | P | Section 138-4.425 (ORT district only) |
| Home improvement store | | | | C | P | | | | | | | No fabrication, processing, or manufacturing shall occur on site. |
| Indoor theatres, including movie theatres | | | | P | P | | | | | | | |
| New car office, sales or showroom. | | | | | P | | | | | | | Accessory bump shops incidental to the main business may be permitted by the Planning Commission if screened. |
| Office/showroom or workshop establishment. | | | P | P | P | | | | | | | No more than five persons may be employed at any time in the fabrication, repair and other processing of goods. |
| Open air businesses | | | P | P | P | | | | | | | Section 138-4.424 |
| Outdoor recreation, commercial | | | | | P | | | | | | | Section 138-4.427 |
| Outdoor sales of used cars, recreational vehicles, travel trailers, and manufactured homes | | | | C | C | | | | | | | Section 138-4.428 |
| Private indoor recreational facilities | | | | | | | | | | P | P | Section 138-4.419 |
| Restaurant, drive-in or drive-through | | | | C | C | C | | | | | | Section 138-4.437 |
| Restaurant, sit down | | | | P | P | P | | | P | | | Section 138-4.425 (ORT district only) |
| Retail sales establishments | | | P | P | P | P | | | P | | | Section 138-4.425 (ORT district only) |

| Key: | P: Principal Permitted Use | C: Conditional Use | | | | | | | | | | | [shaded]: Use not permitted |
|---|----------------------------|--------------------|------------------|------------------|------------------|------------------|------------------|------------------|-----|---|----|----------------------|--|
| USES | DISTRICTS | | | | | | | | | | | ADDITIONAL STANDARDS | |
| | R ^a | RM-1 | B-1 ^b | B-2 ^b | B-3 ^b | B-4 ^c | B-5 ^d | O-1 ^e | ORT | I | SP | | |
| Sales and service of food outdoors | | | | P | P | P | P | | | | | | Section 138-4.426 |
| INDUSTRIAL, RESEARCH, and TECHNOLOGY USES | | | | | | | | | | | | | |
| Airports, landing fields, heliports, platforms, hangars, masts and other aeronautical facilities | | | | | | | | | | | | C | Section 138-4.402 |
| Assembly and machining operations when adjunct to research and development activities occurring at the same location. | | | | | | | | | | | | C | Section 138-4.421 Section 138-4.425 |
| Auto racetracks, including midget, carting, and snow-manufactured tracks | | | | | | | | | | | | C | Section 138-4.403 |
| Automobile and machinery assembly plants | | | | | | | | | | | | P | Section 138-4.419 |
| Building material storage and sales | | | | | | | | | | | | P | Section 138-4.419 |
| Caretaker's or manager's residence | | | | | | | | | | | | P | Permitted only when accessory to a principal use. Residence may not exceed 750 square feet of total living area |
| Commercial communication towers, including commercial television, radio, and public utility transmitting and/or receiving towers and receiving microwave antennas | | | | | | | | | | | | C | Section 138-4.409 |
| Contractor's or builder's office including a storage equipment yard if related to the contracting or building business | | | | | | | | | | | | P | |
| Dry cleaning plants | | | | | | | | | | | | C | Section 138-4.420 |
| Equipment and trailer rental facilities | | | | | | | | | | | | P | |
| Freight yards and terminals | | | | | | | | | | | | C | |
| Gun clubs (for-profit or not-for-profit) | | | | | | | | | | | | C | Section 138-4.413 |
| Heating and electric power generating plants | | | | | | | | | | | | P | Section 138-4.420 |
| Junkyards | | | | | | | | | | | | C | Section 138-4.417 |
| Laboratories (experimental, film, or testing) | | | | | | | | | P | C | P | | Section 138-4.419 Section 138-4.425 (ORT district only) |
| Lumber and planing mills | | | | | | | | | | | | C | Such uses shall be completely enclosed and located in the interior of the district so that no property line shall form the exterior boundary of the I district |

| Key: | P: Principal Permitted Use | C: Conditional Use | | | | | | | | | | [shaded]: Use not permitted | | |
|---|----------------------------|--------------------|------------------|------------------|------------------|------------------|------------------|------------------|-----|---|----------------------|-----------------------------|-------------------|---|
| USES | DISTRICTS | | | | | | | | | | ADDITIONAL STANDARDS | | | |
| | R ^a | RM-1 | B-1 ^b | B-2 ^b | B-3 ^b | B-4 ^c | B-5 ^d | O-1 ^e | ORT | I | | SP | | |
| Manufacture, compounding, processing, packaging or treatment of finished or semi-finished products, articles, or merchandise where the external and physical effects are restricted to the site and will not impact neighboring land uses. | | | | | | | | | | | | P | Section 138-4.419 | |
| Manufacture, compounding, processing, or packaging of raw materials into finished or semi-finished products, or manufacturing, compounding, packaging or recycling operations that will generate external physical effects that will be felt to some degree by neighboring land uses. | | | | | | | | | | | | C | Section 138-4.420 | |
| Manufacture of scientific instruments, electrical or electronic prototypes, and specialized display and exhibit materials | | | | | | | | | | | | C | P | Section 138-4.425 (ORT district only) |
| Metal plating, buffing and polishing | | | | | | | | | | | | C | | Appropriate measures to control noxious odors and/or nuisances shall be provided |
| Media and entertainment production facilities | | | | P | P | | | P | P | | | P | | Such uses shall be primarily operated within an enclosed building, but may include an outdoor element provided that the use is operated in conformance with Section 138-10.310, Performance Standards |
| Painting and varnishing shops | | | | | | | | | | | | P | | Section 138-4.419 |
| Recreational vehicle storage yards | | | | | | | | | | | | P | | Section 138-4.436 |
| Tool, die, gauge and machine shops | | | | | | | | | | | | P | | Section 138-4.419 |
| Tractor and trucking facilities, including storage and repair | | | | | | | | | | | | C | | Outdoor storage of vehicles subject to the requirements of Section 138-4.436 |
| Undercoating shops | | | | | | | | | | | | P | | Section 138-4.419 |
| Warehousing and wholesale establishments | | | | | | | | | | | | P | | Section 138-4.419 |
| Waste lagoon ponds | | | | | | | | | | | | C | | Section 138-4.442 |
| Water supply and sewage disposal plants | | | | | | | | | | | | P | | |
| Water and gas tank holders | | | | | | | | | | | | P | | |
| OFFICE and SERVICE USES | | | | | | | | | | | | | | |
| Assembly and machining operations adjunct to research and development activities at the same location | | | | | | | | | | | | P | | |
| Dry cleaners | | | P | P | P | | | | | | | | | Service only, not plants |

| Key: | P: Principal Permitted Use | C: Conditional Use | | | | | | | | | | | [shaded]: Use not permitted |
|---|----------------------------|--------------------|------------------|------------------|------------------|------------------|------------------|------------------|-----|---|----|----------------------|---|
| USES | DISTRICTS | | | | | | | | | | | ADDITIONAL STANDARDS | |
| | R ^a | RM-1 | B-1 ^b | B-2 ^b | B-3 ^b | B-4 ^c | B-5 ^d | O-1 ^e | ORT | I | SP | | |
| Funeral Homes | C | | | | | | | | P | | | | Section 138-4.411 |
| Hotel, motel and residential inn | | | | | C | P | | | C | | | | Section 138-4.416 Section 138-4.425 (ORT district only) |
| Medical offices and clinics | | | P | P | P | | | P | P | P | | | Section 138-4.425 (ORT district only) |
| Personal service establishments | | | P | P | P | | | | | | | | |
| Professional offices | | | P | P | P | | | P | P | P | | | Section 138-4.425 (ORT district only) |
| Retail businesses normally associated with and complimentary to office districts (e.g. stationary shops, office supplies, coffee shops, etc.) | | | | | | | | P | | | | | No entrance or exit directly to the outside of the building from the retail businesses shall be permitted. |
| Research and development and/or technical training, including data processing and computer centers | | | | | | | | P | P | P | | | Section 138-4.425 (ORT district only) |
| Studios or instruction centers for music, art, dance, crafts, martial arts, etc. | | | P | P | P | | | | | | | | |
| RESIDENTIAL USES | | | | | | | | | | | | | |
| One-family detached dwellings | P | P | | | | | | | | | | C | <ul style="list-style-type: none"> Single family dwellings in the RM-1 district follow the requirements of the R-3 district. Single family dwellings in the SP district follow the requirements of the R-1 district |
| Attached dwelling units | | P | | | | | | | | | | | <ul style="list-style-type: none"> |
| Two-family dwellings | | P | | | | | | | | | | | Two family dwellings in the RM-1 district shall be constructed according to the requirements of the R-4 district. |
| Boarding and rooming dwellings | | P | | | | | | | | | | | |
| Nursing Homes, Convalescent Homes, and Assisted Living Facilities | | P | | C | C | | | | | | | P | Section 138-4.423 |
| State licensed residential facilities (6 or fewer residents) | P | P | | | | | | | | | | | Section 138-4.414 |
| State licensed residential facilities (7 or more residents) | | C | | | | | | | | | | | Section 138-4.414 |
| TEMPORARY, SPECIAL EVENT, and OTHER USES | | | | | | | | | | | | | |
| Accessory buildings and accessory uses customarily incidental to the permitted uses in this section | P | P | P | P | P | P | P | P | P | P | P | P | Article 10, Chapter 1 |
| Home occupations | P | | | | | | | | | | | | Section 138-4.414 |
| Outdoor storage | | | | P | P | | | | | P | | | Section 138-4.429 |

| Key: | P: Principal Permitted Use | C: Conditional Use | | | | | | | | | | [shaded]: Use not permitted |
|--|----------------------------|--------------------|------------------|------------------|------------------|------------------|------------------|------------------|-----|---|----|-----------------------------|
| USES | DISTRICTS | | | | | | | | | | | ADDITIONAL STANDARDS |
| | R ^a | RM-1 | B-1 ^b | B-2 ^b | B-3 ^b | B-4 ^c | B-5 ^d | O-1 ^e | ORT | I | SP | |
| Roadside stands and markets and Christmas tree sales | P | P | P | P | P | P | P | P | P | P | P | Section 138-4.438 |
| Temporary construction | P | P | P | P | P | P | P | P | P | P | P | Section 138-4.439 |
| Wireless telecommunication facilities | C | C | C | P | P | P | P | C | P | P | C | Section 138-4.443 |

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Footnotes to Table of Permitted Uses by District

- A. **R districts include RE, R-1, R-2, R-3, and R-4.**
- B. **All uses in the B-1, B-2, B-3, and CI districts are subject to the following conditions:**
 - 1. All business establishments 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.
 - 2. All business, servicing, storage and processing, except for off-street parking or loading, shall be conducted within a completely enclosed building.
- C. **All uses in the B-4 district are subject to the following conditions:**
 - 1. All development shall be physically separated from the adjacent public road by a curb and planting strip or other suitable barrier. Such barrier shall effectively eliminate unchanneled vehicle ingress or egress except for authorized accessways.
 - 2. Each separate use, grouping of buildings or grouping of uses as a part of a single planned development shall not have more than two accessways from an adjacent public road. Such accessways shall not be located closer than 300 feet to the point of intersection of an entrance or exit ramp baseline and the feeder road centerline. When the ramp baseline and the feeder road centerline do not intersect, no accessway shall be located closer than 300 feet from the point of tangency of the ramp baseline and the feeder road pavement. When properties fronting on a feeder road are of such width or are in multiple ownerships, and accessways to the property cannot be provided in accord with the minimum 300-foot distance from the intersection of the feeder road and entrance or exit ramps, a marginal access road shall be provided to service such properties.
- D. **All uses in the B-5 district are subject to the following conditions:**
 - 1. Entrances and exits shall adhere to the following standards:
 - a. Entrances and exits shall be no less than 35 feet from any two street right-of-way lines, with the exception that for car washes, entrances and exits shall be at least 75 feet from the intersection of any two street right-of-way lines.
 - b. Entrances and exits shall be no less than 50 feet from any residential district, with the exception that for auto laundries, entrances and exits shall be located at least 200 feet from any adjacent residential district.
 - 2. All principal uses and conditional uses permitted shall be located only on major thoroughfares of at least 120-foot right-of-way as indicated on the current City master right-of-way plan.
- E. **All uses in O-1 office business districts shall be subject to the following conditions:**
 - 1. The outdoor storage of goods or materials shall be prohibited, irrespective of whether or not they are for sale.
 - 2. Warehousing or indoor storage of goods or material, beyond that normally incident to the permitted uses in this division, shall be prohibited.

CHAPTER 4. DESIGN STANDARDS FOR SPECIFIC USES

SECTION 138-4.400 Adult Regulated Businesses

- A. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
1. Adult bookstore or video store means an establishment having a substantial or significant portion of its stock in trade in video cassettes, discs or films or media recorded, pressed, engraved or prepared for playback and books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or an establishment with a segment or section devoted to the sale, rental and/or display of such material.
 2. Adult cabaret means an establishment which features one or more dancers, strippers, male or female impersonators or similar entertainers, performers, wait staff or other persons who reveal or show specified anatomical areas of their bodies or who engage in, perform or simulate specified sexual activities.
 3. Adult motion picture theater means an enclosed building used for presenting motion picture films, videocassettes, cable television or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.
 4. Specified anatomical areas means:
 - a. Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and
 - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
 5. Specified sexual activities means:
 - a. Human genitals in a state of sexual stimulation or arousal.
 - b. Acts of human masturbation, sexual intercourse or sodomy.
 - c. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
 6. Used, in the definition of the term "adult motion picture theater" in this subsection, describes a continuing course of conduct of exhibiting specified sexual activities and specified anatomical areas in a manner which appeals to a prurient interest.
- B. It is determined necessary for the health, safety and welfare of the City to adopt this section pertaining to and regulating adult businesses for the following reasons:
1. Many parents are concerned about the influence of pornographic entertainment outlets and businesses and have chosen the City to raise their families because of the absence of such adult businesses, save one which existed on the effective date of the ordinance from which this section derives.
 2. Location of and easy availability of adult businesses in close proximity to homes, apartments, schools, churches and public parks give an impression of legitimacy to such uses and have adverse effects upon children, established family relations, respect for marital relationships and the concept of nonaggressive consensual sexual relations.

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3. Location of adult businesses in close proximity to houses, apartments, schools, churches and public parks will draw persons who are not known in the community and will create police and safety problems in areas of the City which should be free of such problems.
 4. Property values in areas adjacent to adult businesses will decline, thus causing a blight upon both commercial and residential areas of the City.
 5. Location of adult businesses near or within residential neighborhoods and commercial areas of the City would be disruptive to youth programs such as Boy Scouts, Girl Scouts, Campfire Girls and church youth groups.
 6. Location of adult businesses in close proximity to residential uses, schools, churches, parks and other public facilities will cause a degradation of the community standard of morality. Pornographic material has a degrading effect upon the relationship between spouses.
- C. An adult motion picture theater, adult bookstore or video store or adult cabaret shall not be located:
1. Within 1,000 feet of any residential zoning district (R-1, R-2, R-3, R-4, RE, RCD, RM-1 or RMH) or the property line of any single-family, two-family or multiple-family residential use. For purposes of this section, the term "multiple-family residential use" shall specifically include, but not by way of limitation, any retirement, convalescent or nursing home or facility or other housing for the elderly.
 2. Within 1,000 feet of the property line of any public or private school, college or university, or of any nursery school, day nursery or child care center.
 3. Within 1,000 feet of the property line of any church or other religious facility or institution.
 4. Within 1,000 feet of any public park.
 5. Within 1,000 feet of any other adult motion picture theater, adult bookstore or video store, or adult cabaret.
- The distances provided for in this subsection shall be measured by projecting a straight line, without regard for intervening buildings or structures, from the nearest point of the building, structure or tenant space within which the proposed use is to be located to the nearest point of the property line, specified use or zoning district boundary from which the proposed use is to be separated.
- D. An adult motion picture theater, adult bookstore or video store, or adult cabaret shall be located only within a B-3 shopping center business district.
- 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. There has been compliance with all provisions of this section and all other sections of this ordinance and the City Code of Ordinances.
 2. The establishment of an adult motion picture theater, adult bookstore or video store, or adult cabaret will not have a deleterious effect on the surrounding area or the City in general.
 3. There is compliance with the standards included in Section 138-2.302.

SECTION 138-4.401 Agriculture

Agricultural operations are permitted in the R-1, R-2, R-3, R-4, and RE districts subject to the following requirements:

- A. Agricultural operations are permitted only on those parcels of land separately owned outside the boundaries of either a proprietary or supervisor's plat, having an area of not less than five acres, and subject to the City health and sanitation provisions.
- B. Agriculture may be conducted on parcels of less than five acres but there shall be no keeping or raising of livestock, except as otherwise provided in this Ordinance.

SECTION 138-4.402 Airports

- A. The plans for such facility shall be given approval by the Federal Aviation Administration prior to submittal to the Planning Commission and City Council for their review and action.
- B. The standards concerning objects affecting navigable airspace, as provided in 14 CFR subchapter E, airspace, part 77, and any other amendments thereto shall be complied with. These standards shall be applied by the class of facility as determined by the FAA.
- C. The area of the clear zone as defined by the FAA shall be provided for within the land area under airport ownership, and in no instance shall the clear zone be above property zoned R-1, R-2, R-3, R-4, RE, RCD, RM-1, RMH or SP.

SECTION 138-4.403 Auto Racetracks

- A. Such uses shall be located adjacent to a major thoroughfare and on a parcel of land which is abutting land zoned for industrial purposes on all four sides of the parcel in question and no closer than 1,000 feet of a residential district
- B. All parking shall be provided as off-street parking within the boundaries of the development.
- C. All access to the parking areas shall be provided from a major thoroughfare.

SECTION 138-4.404 Automotive Gasoline Service Stations

- A. Major engine and body repair, steam cleaning, and undercoating are expressly prohibited.
- B. The storage of damaged or wrecked vehicles, or those waiting for minor repair or service, shall comply with the Property Maintenance Code and shall be obscured from public view in an area provided for such purpose on the site, and no vehicle of any kind shall be stored in the open for a period exceeding one week.
- C. In no instance shall more than five vehicles be allowed to accumulate on the site at any one time, and the storage area shall be kept free of trash and debris.
- D. Permanently installed and/or nonportable hoists, ramps or heavy equipment for the repair of vehicles shall be located inside an enclosed building.
- E. Underground storage tanks, gasoline pumps, air and water hose stands, and other appurtenances shall be set back not less than 20 feet from all existing and/or proposed street right-of-way lines.
- F. In the case of automotive gasoline service stations, the minimum lot area shall be 15,000 square feet and so arranged that ample space is available for vehicles which are required to wait. Lot frontage on the principal thoroughfare shall not be less than 100 feet.

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SECTION 138-4.405 Automotive Service Centers

- A. **In the B-3 District.** Automotive service centers (but not fueling stations) are permitted in the B-3 district only when physically attached and incidental to another permitted nonautomotive retail use that is part of a larger planned shopping center. Freestanding automotive service centers are not permitted in the B-3 zoning district.
- B. **In the I District.** Automotive service centers in the I district may conduct major mechanical repairs, collision work, undercoating and painting. The sale of gasoline and other fuels is prohibited.

SECTION 138-4.406 Banks

Banks with drive-in facilities are permitted only when drive-in facilities are incidental to a principal bank use on the site.

SECTION 138-4.407 Banquet Halls and Conference Centers

Banquet halls and conference centers in the O-1 district shall comply with the following requirements:

- A. Such uses shall have frontage on and access to a thoroughfare with an existing or planned right-of-way of at least 120 feet.
- B. Events open to the general public, such as brunches or dinners, shall be prohibited.

SECTION 138-4.408 Bowling Alleys

Bowling alleys shall be located at least 100 feet from any adjacent residential zoning district.

SECTION 138-4.409 Commercial Communication Towers

- A. The tower or antenna shall be located on the property so that, if collapse occurs, the structure will not fall on adjacent property or a public road right-of-way. In determining appropriate location on the property, the manufacturer's specifications shall be considered. In lieu of the manufacturer's specifications, a written opinion of a registered professional engineer attesting to the required fall radius based on structural design shall be provided.
- B. Soil borings shall be conducted by a registered professional engineer, who shall provide written evidence that soil conditions will provide sufficient stability for erection of the tower or antenna.
- C. Written evidence shall be provided indicating that the Federal Aviation Agency has no objection to the tower or antenna.
- D. The tower or antenna is not detrimental to the character of the area, it would not adversely affect the use or value of surrounding properties, and it would not be injurious to the health, safety and welfare of the City.

SECTION 138-4.410 Drive-Through Facilities

Any use or building that contains a drive-through facility that is designed to provide service to a patron who remains in their car shall comply with the following requirements:

- A. Drive-through uses must be built as an integral architectural element of the primary structure and use. Building materials shall be the same as those used in the primary structure. Drive-through facilities and structures separate from the primary structure are prohibited.
- B. Drive-through uses must be located to the rear or side of the primary structure, and set back a minimum of 10 feet from the front building wall of the primary structure.
- C. Drive-through uses shall be configured such that glare from headlights is obstructed from shining into a public right-of-way or neighboring residential use.

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- D. Unless a more intense buffer is required by Section 138-12.300, a type B landscape buffer shall be provided along rear and side lot lines of a drive-through use located adjacent to a residentially zoned or used property.

SECTION 138-4.411 Funeral Homes

- A. **Funeral homes located in R-1, R-2, R-3, R-4 or RE districts** shall comply with the following standards:
 1. The funeral home site shall be located on a separately owned parcel surrounded by an existing cemetery consisting of at least 50 acres, and which cemetery is a conforming use under this ordinance.
 2. Ingress and egress to and from the funeral home parcel shall be gained through the internal drive system of the cemetery in order to minimize possible conflicts between traffic on adjacent major thoroughfares and funeral processions or visitors entering or leaving the cemetery and the funeral home.
 3. The minimum lot area for the funeral home parcel shall be 25,000 square feet and shall be so arranged that an adequate off-street assembly area is provided for vehicles to be used in a funeral procession. This assembly area shall be provided in addition to any required off-street parking area.
 4. Wherever the parking area is designed so that automobile headlights will be directed toward any nearby residences, screening shall be provided to prevent headlights from shining onto adjacent or nearby residences.
 5. Loading and unloading areas used by ambulance, hearse, or other such service vehicles shall also be obscured from view from nearby residences.
 6. All structures on the funeral home parcel shall have a residential appearance compatible with residences in the general area.

- B. **Funeral homes located in O-1 districts** shall comply with the following standards:
 1. The minimum lot area shall be 25,000 square feet and so arranged that adequate assembly area is provided off street for vehicles to be used in a funeral procession. This assembly area shall be provided in addition to any required off-street parking area.
 2. The site shall be so located as to have at least one property line abutting a major thoroughfare of not less than 120 feet of right-of-way width, either existing or proposed, and all ingress and egress for the site shall be directly onto such major thoroughfare or a marginal access service road.
 3. Points of ingress and egress for the site shall be so laid out as to minimize possible conflicts between traffic on adjacent major thoroughfares and funeral processions or visitors entering or leaving the site.
 4. No building shall be located closer than 50 feet to the outer perimeter (property line) of the district when such property line abuts any residential district.
 5. A caretaker's residence may be provided within the main building of the mortuary establishment.
 6. Loading and unloading areas used by ambulance, hearse, or other such service vehicles shall be obscured from all residential view with a solid masonry wall six feet in height or alternate method of screening acceptable to the Planning Commission.

SECTION 138-4.412 Golf Courses

- A. Any such use developed and requiring a structure shall have such structure so located on the site as not to be closer than 200 feet from the lot line of any adjacent residential land.
- B. All ingress and egress from the site shall be directly onto a major thoroughfare having an existing or proposed right-of-way at least 86 feet as shown on the City's master right-of-way plan.
- C. Parking areas, and ingress and egress, shall be so located so as to not become a nuisance to any adjacent residential area.

SECTION 138-4.413 Gun Clubs

Gun clubs may be permitted only after review by the Planning Commission and approval of a conditional use permit by the City Council provided the following conditions are met:

- A. All federal, state, county and City codes and ordinances in regard to firearms shall be strictly adhered to.
- B. In no instance shall a firearm be discharged outdoors closer than 1,250 feet to an existing residence in the City or any adjacent community.
- C. In no instance shall a firearm be discharged on any range in any gun club without the presence of an employee of the gun club for supervision.
- D. A site plan for the range, whether indoor or outdoor, shall be submitted to the Planning Commission for review in compliance with Section 138-2.103, C and clearly indicating all provisions to ensure safety to the surrounding community.
- E. A six-foot vinyl coated chain link fence with conspicuous warning signs attached to the fence every 100 feet shall be provided around the entire gun club site to ensure that individuals will not unknowingly trespass on the property, particularly where firearms are being discharged.
- F. Any other provision which the City Council and Planning Commission deem necessary to ensure the health, safety and general welfare of the inhabitants of the City and adjacent communities.

SECTION 138-4.414 Home Occupations

- A. **Required conditions.** Home occupations are permitted in R-1, R-2, R-3, R-4, and RE districts provided that the home occupation:
 - 1. Does not create a nuisance to the surrounding neighborhood.
 - 2. Does not become more than an incidental function of the use of the dwelling for residential purposes.
 - 3. Does not draw truck traffic other than a delivery by a truck no more frequently than an average of once a week or by trucks or vehicles allowed under Section 138-10.308.
 - 4. Does not employ paid assistants or employees other than those living at the premises.
 - 5. Does not cause more than a nominal increase of traffic.
 - 6. Does not cause the erection or maintenance of any signs other than signs allowed on vehicles under Section 138-10.308.

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7. Does not take place outside of the dwelling and/or accessory buildings, so as to be a nuisance or not be in keeping with the residential nature of the surrounding residential area.

B. State Licensed Residential Facilities. In addition to meeting all of the requirements of subsection A, above, 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.

1. **Licensing.** In accordance with applicable state laws, all state licensed residential facilities shall be registered with or licensed by the State of Michigan, and shall comply with applicable standards for such facilities.

2. **Separation Requirements.** New state licensed residential facilities shall be located a minimum of 1,500 feet from any other state licensed residential facility, as measured between the nearest points on the property lines of the lots in question. The Planning Commission may permit a smaller separation between such facilities upon determining that such action will not result in an excessive concentration of such facilities in a single neighborhood or in the City overall.

3. **Compatibility with Neighborhood.** Any state licensed residential facility and the property included therewith shall be maintained in a manner consistent with the visible characteristics of the neighborhood in which it is located.

4. **Group Day Care Homes.** In addition to the preceding subsection, the following regulations shall apply to all group day care homes, as defined in this Ordinance.

a. **Outdoor Play Area.** A minimum of 150 square feet of outdoor play area shall be provided and maintained per child at the licensed capacity of the day care home, provided that the overall play area shall not be less than 5,000 square feet. The play area shall be located in the rear yard area of the group day care home premises and shall be suitably fenced and screened.

b. **Pick-Up and Drop-Off.** Adequate areas shall be provided for employee and resident parking, and pick-up and drop-off of children or adults, in a manner that minimizes pedestrian-vehicle conflicts and allows maneuvers without affecting traffic flow on the public street.

c. **Hours of Operation.** Group day care homes shall not operate more than 16 hours per day.

C. Bed and Breakfasts. In addition to meeting all of the requirements of subsection A, above, bed and breakfast operations shall conform to the following additional requirements:

1. No more than four sleeping rooms, and no more than 25 percent of the total floor area of the dwelling unit, shall be available for rent to transient guests.

2. Each sleeping room used for the bed and breakfast operation shall have a separate smoke detector, and each floor of the premises shall have a fire extinguisher. All are to be kept in proper working order, in compliance with applicable state law.

3. Adequate off-street parking shall be provided on site.

4. The maximum stay for any transient guest shall be 14 consecutive days.

D. Restrictions and enforcement. Operating a business or carrying on a business activity in excess of the limitations of a home occupation as defined and allowed in this Ordinance in a residential district is prohibited. The conducting of a business or a business activity which results in violations of the limitations or is not a home occupation as defined in this ordinance may be prosecuted in the district court, or may be enjoined in the circuit court.

As an alternative, the mayor or his or her designee may refer the matter first to the Zoning Board of Appeals if there is a reasonable question as to whether there is a violation. Whenever a complaint is received from a neighbor, the mayor shall make an investigation and either take action against the violator, refer the matter to the Zoning Board of Appeals or advise the complainant there is no violation and the reason for that determination.

If a question concerning a home occupation is referred to the Zoning Board of Appeals, that board shall hold a public hearing in accordance with Section 138-1.203 and shall determine whether there is, in fact, a home occupation and, if so, whether there are any violations of the limitations in this subsection. The Zoning Board of Appeals may take no further action or may issue a permit, renewable yearly, for the continuation of such use, with or without restrictions. If a hearing is held and a determination is made, the matter may not be reviewed at the complaint of a neighbor unless there has been a change of circumstances.

SECTION 138-4.415 Hospitals

- A. All such hospitals shall be developed only on sites of at least five acres in area.
- B. The proposed site shall have at least one property line abutting a major thoroughfare of at least 120 feet of existing or proposed right-of-way as indicated on the current City master right-of-way plan. At least two ingress routes shall be provided for the facility.
- C. The minimum distance of any main or accessory building from bounding lot lines or streets shall be at least 50 feet for front, rear and side yards for all two-story structures. For every story above two, the minimum yard distance shall be increased by at least 20 feet.
- D. Ambulance and delivery areas shall be obscured from all residential view with an obscuring wall or fence six feet in height. Ingress and egress to the site shall be directly from a major thoroughfare.
- E. All ingress and egress to the off-street parking area for guests, employees, staff or other users of the facility shall be directly from a major thoroughfare.

SECTION 138-4.416 Hotels, Motels, and Residential Inns

- A. No guest shall rent a unit at a motel or hotel for more than 30 days within any 12 consecutive months. This subsection shall not apply to residential inns.
- B. Each unit shall contain not less than 250 square feet of floor area.
- C. When reviewing developments complying with the requirements in this subsection, consideration shall be given to the effect created by the proposed use on existing and potential development patterns within the area. The construction of a hotel/motel or residential inn shall not conflict with and/or disrupt reasonable vehicular, pedestrian, building and user patterns characteristic of a planned commercial area and the principal uses permitted in this division.

SECTION 138-4.417 Junkyards

Such uses shall be entirely enclosed with an 8-foot obscuring wall. No burning on site is permitted. All industrial processes including the use of equipment for cutting, processing or packaging shall be conducted within a completely enclosed building.

SECTION 138-4.418 Kennels

- A. **Kennels.** The boarding, breeding, raising, grooming, or training of three or more dogs, cats, or other household pets of any age either 1) not owned by the owner or occupant of the premises, or 2) for commercial gain may be permitted only after review by the Planning Commission and City Council approval, provided the following requirements are met:

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1. Minimum Site Area. Such activity shall be permitted only on a parcel of land not less than five acres in area and provided, further, that such parcel shall not abut or be adjacent to any lot or parcel which is part of a recorded residential subdivision.
2. Enclosures. All animals shall be kept in pens or cages designed, constructed and maintained so as to be harmonious and appropriate in appearance with the character of the general area in which located, and such use will not affect the character of the same area in a negative way.
3. Enclosure Setbacks. All pens or cages shall be located not less than 100 feet from any property line, and all animals shall be kept therein or within a building. No animal shall be allowed to run at large.
4. Noise and Odor. Such activity shall be conducted so as not to be detrimental to any person, property or the general welfare by reason of excessive noise or odor.
5. Nuisance Prohibited. The keeping of the animals described in this subsection shall not constitute a nuisance to persons living in the surrounding area. Upon receipt of a written complaint filed by a neighbor with the City stating the animals constitute a nuisance, the Zoning Board of Appeals shall hold a hearing with notice to all property owners within 300 feet of the property where the animals are kept. The Zoning Board of Appeals shall determine if in fact the animals do constitute a nuisance.

If the Zoning Board of Appeals determines that the animals have and will likely continue to constitute a nuisance, the animals shall not be kept on the property after the date set by the Zoning Board of Appeals. If, in the opinion of the Zoning Board of Appeals, there is reason to believe that reasonable measures will be taken to alleviate the nuisance associated with the animals, the Zoning Board of Appeals may issue a permit, renewable yearly, for the keeping of such animals with or without restrictions. If a hearing is held and a determination is made, the matter may not be reviewed again on a complaint of a neighbor unless there has been a change of circumstances.

6. No person shall allow animals under such person's control or ownership to constitute a nuisance. The violation of this subsection may be prosecuted in the district court or may be enjoined in the circuit court. Notwithstanding anything to the contrary in this ordinance, this subsection shall not be a limitation on, lessen the effect of, or interfere with any other City ordinance pertaining to animals, and the enforcement of it.

B. Pet Boarding Facility. A pet boarding facility is a business for the temporary boarding and care of common household pets generally during daytime hours, but in some cases including overnight boarding. Pet boarding facilities may provide related services such as grooming or training, but no animals may be bred or sold at a pet boarding facility unless the pet boarding facility is accessory to a principal retail use. Pet boarding facilities are subject to the following requirements:

1. A maximum of 10% of the gross floor area of the building or lease space may be used for retail sales of goods related to pets.
2. Pets may be boarded at the facility for a maximum of 168 continuous hours (one week).
3. On-site vehicular circulation shall be configured to accommodate vehicles within the boundaries of the site. In no case shall vehicles awaiting drop-off or pick-up of a pet be allowed to encroach onto a public or private street.
4. Any pets being boarded overnight shall be confined to the building from the hours of 9 pm until 6:30 am.
5. Pet boarding facilities shall be constructed, maintained, and operated so that the sounds and smell of animals cannot be discerned outside of the building. Outdoor runs shall be maintained so that no odors are discernable from adjacent properties.

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- 6. Outdoor runs where pets will be permitted either on or off-leash shall be set back a minimum of 100 feet from any adjacent residential zoning district. The 100 foot setback notwithstanding, outdoor runs shall be located as far as practicable from any adjacent residential zoning district. Any outdoor runs where pets will be permitted off-leash shall be surrounded by a minimum 54-inch tall fence. If the fence will be visible from any adjacent residential district or road right-of-way, the fence shall be decorative in nature.
- 7. Outdoor runs shall be fully enclosed with a decorative fence.
- 8. The Planning Commission may require a landscaped buffer or solid wall to be provided between the outdoor run and any adjacent residential district if the location of the proposed outdoor run could negatively impact adjacent or nearby residential uses.

SECTION 138-4.419 Light Industrial Uses

- A. All activities shall comply with the Performance Standards in Section 138-10.310.
- B. Light industrial uses shall be conducted wholly within a completely enclosed building or within a designated area enclosed on all sides by a six-foot tall obscuring fence or wall on those sides abutting or adjacent to residential zoning districts.

SECTION 138-4.420 Heavy Industrial Uses

- A. **Performance Standards.** All activities shall comply with the Performance Standards in Section 138-10.310.
- B. **Site Area.** A minimum site area of 10 acres is required for heavy industrial land uses.
- C. **Setbacks.**
 - 1. A minimum setback of 1,500 feet is required between any building or outdoor area involved in the heavy industrial use and a one-family residential zoning district or a detached one-family residential dwelling unit.
 - 2. Offices and components of the use which are not characterized as or qualify as heavy industrial uses are not subject to the 1,500 foot setback requirement.
- D. **Outdoor Storage.** Outdoor storage of raw materials used in the operation may be permitted, provided that:
 - 1. Storage piles shall have a maximum height of 12 feet and shall be set back a minimum of 100 feet from any property line. The storage pile height may be increased to a maximum of 35 feet provided that 2.5 feet of additional set back is provided over and above the 100 foot minimum setback for each one foot of additional pile height.
 - 2. The perimeter of any material storage areas shall be surrounded by an obscuring masonry wall or wood fence of at least eight feet in height.
 - 3. Measures shall be taken to control dust, odor, or any other detectable impact of the materials being stored.
- E. **Hours of Operation.** The City Council may establish restrictions on the hours of operation as a condition of conditional use approval.
- F. **Internal Vehicle Use Areas.** All internal roads and vehicle circulation areas within the site shall be paved with asphalt or concrete.

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G. Existing Heavy Industrial Uses. Heavy industrial uses and operations that lawfully existed at the date of adoption of this Ordinance on properties zoned I-2 under the previous zoning ordinance are subject to the following regulations:

1. **Continuation of Use.** Such uses may continue as permitted uses on said formerly zoned I-2 properties. Such uses or operations, including any structures and equipment relating to such uses or operations, may be improved, repaired, relocated, replaced or expanded on the property without being required to meet the requirements of subsections 138-4.420 C.1, C.2, D.1, D.2, and F.
2. **Setbacks.** Buildings associated with a heavy industrial use that lawfully existed at the date of adoption of this Ordinance shall comply with the setback requirements of the former I-2 district, including a 100 foot front yard setback, 50 foot side yard setback, and 75 foot rear yard setback.
3. **Outdoor Storage.** Screening shall be provided for outdoor storage areas as required by footnote Q of the schedule of regulations.
4. **Review Process.**
 - a. **Activities Permitted by Right.** Any development activity on the property that requires administrative or sketch plan review under Table 1 on page 17 of this Ordinance shall be considered a permitted use, and shall be reviewed following the administrative or sketch plan review procedures, as the case may be.
 - b. **Activities Requiring Conditional Use Approval.** Any development activity on the property that requires site plan review under Table 1 on page 17 of this Ordinance shall be considered a conditional use requiring approval by the City Council under Article 2, Chapter 3 of this ordinance. The City Council may impose reasonable conditions in accordance with Section 138-2.301 in order to limit or restrict the off-site impacts of the heavy industrial uses and operations to those off-site impacts existing prior to the date of adoption of this Ordinance.

SECTION 138-4.421 Assembly and Machining Operations

- A. Assembly activity shall be limited to assembly of pre-manufactured finished objects or components and shall include only small volume nonroutine production of innovative products or equipment and shall not include or permit mass production or mass assembly of products or equipment.
- B. Machining shall be permitted on a limited basis and only for research and development activities, repair, demonstration, and/or training.

SECTION 138-4.422 Nursery Schools, Day Nurseries and Child Care Centers

- A. Such facilities shall be located on major thoroughfares with an existing or proposed right-of-way of 120 feet. Additionally, the facility shall be on a corner lot or shall directly abut nonresidential zoning on at least one side, and such zoning shall be on the same side of the major thoroughfare.
- B. Hours of operation shall not exceed 15 hours a day with closing time of not later than 9:00 p.m.
- C. All parking and child dropoff areas shall be in the side or rear yard only. This requirement may be waived when an existing building that has front yard parking or circulation is being occupied by a nursery school, day nursery, or child care center.
- D. Outdoor play areas shall be in the side or rear yard in the amount of 100 square feet for each child cared for, but at least a minimum of 1,200 square feet.

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- E. Parking, dropoff, and play areas shall be screened in a manner deemed sufficient by the Planning Commission to achieve the objective of screening and controlling noise levels.
- F. Any trash receptacle shall be screened with a six-foot-high obscuring fence or wall, with evergreen screening provided on the three sides of the enclosure without access gates.
- G. Lighting shall be shielded downward so as not to become a nuisance to abutting property.
- H. Front, side and rear elevations of the building shall be provided to ensure that the use will have the appearance and character of residences in the vicinity. If there are no residences within 200 feet, in making a determination on the compatibility of such uses, the following architectural features shall be reviewed:
 - 1. Roof pitch, overhang, and drainage.
 - 2. Window sills and other window features.
 - 3. Facade treatment (both material and appearance).
 - 4. Entrance features.
 - 5. Heating exhaust devices.
 - 6. Penthouses or similar mechanical rooftop features shall be prohibited unless completely screened from adjacent properties and the adjacent public right-of-way.
- I. Signs shall meet the requirements of chapter 134 of the City's Code of Ordinances.
- J. The facility shall comply with applicable state licensing requirements and regulations.
- K. Any other conditions which the Planning Commission and City Council deem necessary to ensure that the residential character of the neighborhood shall be maintained.

SECTION 138-4.423 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 0 for landscaping and buffering requirements.
- D. **Parking.** Parking shall be provided at the rate of one parking space for every 2 beds in the facility.
- E. **Floor Area.** 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 138-4.424 Open Air Business Uses

- A. Up to 1,000 square feet of outdoor sales space for open air businesses is permitted in the B-1 district.
- B. Up to 2,500 square feet of outdoor sales space for open air businesses is permitted in the B-2 and B-3 zoning districts. More than 2,500 square feet of open air sales space shall require conditional use approval by the Planning Commission.

SECTION 138-4.425 ORT Use Standards

All uses in the ORT district shall comply with the following standards:

- A. **Noise and Vibration.** All uses located in the ORT district shall be designed and operated so as to produce no sound, glare or vibration discernable at the property line in excess of the normal intensity of street or traffic noises or vibration noticeable at such points.
- B. **Retail and Restaurant Uses** may only be permitted in a building containing another non-retail or restaurant use. The total area devoted to restaurant and retail uses may not exceed 25% of the total floor area of the building. Parking requirements for restaurant and retail uses shall be calculated separately from the requirements for the other uses of the building.
- C. **Special Submission Requirements.** The applicant shall provide the following submissions with the site plan application for any use allowed in the ORT office, research, technology district:
 1. A development planning analysis, by a registered urban planner, architect or landscape architect, which describes the relation of the proposed project to existing uses and to the overall development of the ORT district, as envisaged in the city's master plan or in other official published planning materials. The analysis shall also set forth evidence that the proposed project, and the use or combination of uses proposed, will contribute to realization of the fullest economic potential of the district and demonstrate that the intent and purpose of this ORT district (i.e., intent) has been met. The analysis should include or be accompanied by a study or analysis showing the fiscal impact of the proposed project on the city and a market study with respect to the proposed uses. If a project is proposed to be developed in stages or phases, the development analysis shall take into account the time of each stage or phase.
 2. Traffic studies demonstrating that the anticipated maximum traffic, including pedestrian traffic that might be generated by the project can be efficiently and safely accommodated by existing, abutting major streets and walkways, or by any future street improvements planned and committed to by the city.
 3. Concurrency of facilities analysis demonstrating availability and adequacy of public utilities and infrastructure contemporaneously with the completion of the proposed development. If there are any deficiencies in the ability of the streets and walkways to accommodate the traffic generated by the proposed development or in the public utility systems the applicant shall submit plans and evidence of finance commitment to cure such deficiencies.

The planning commission may, in its sole discretion, waive any of the required submissions or portions thereof set forth in items 1-3 when it determines that it has available sufficient data to provide the necessary information or when it determines that the information is not necessary or relevant to its evaluation of the proposed project.
- D. **Underground utilities.** All lines for telephone, electric, television, and other similar services distributed by wire or cable shall be placed underground entirely throughout the development area, except for major thoroughfare right-of-way, and such conduits or cables shall be placed within private easements provided to such service companies by the developer or within dedicated public ways. All such facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All such facilities shall be constructed in accordance with standards of construction approved by the state public service commission.
- E. **Compatibility of uses, materials and signs.**

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1. Site layouts and orientation of structures shall be designed so as to minimize adverse, visual impacts on developments on contiguous ORT and R, RCD, RM-1 or RMH zoning districts. For example, blank walls should not be placed opposite from and in close proximity to windows in a building in a contiguous ORT development. The site plan should attempt to maximize light, air, and vistas, so long as such attempts do not unreasonably interfere with the proposed use.
2. Where lots in the ORT district and adjacent or abutting an R, RCD, RM-1 or RMH district are contiguous or in close proximity and if the planning commission determines that it would be beneficial to the lots as a whole and to the sound development of the district, the planning commission may develop and adopt standards relating to architectural treatment, materials and signage designed to achieve a compatible appearance. Such standards shall be determined based on the city's master plan, other related urban design studies, and on the particular site plan under consideration and as recommended by the city's planning department and/or planning consultant.

F. Vehicular and pedestrian circulation.

1. Access to the development shall be provided in such locations and number so as not to create unnecessary burden or unnecessary traffic hazards on exterior roadways, considering the need to provide safe and efficient internal traffic circulation.
2. The site plan shall be designed to provide safe and efficient internal traffic circulation and to protect pedestrians from unnecessary exposure to vehicular safety hazards.
3. Where the lot is contiguous to other ORT zoned land, the planning commission may, if it determines that there is a likelihood of vehicular or pedestrian traffic between the lot and such other contiguous land, require that provisions be made for safe and direct traffic connection between them.
4. Whenever existing, abutting major streets and walkways and any planned and committed improvements will not be adequate to efficiently and safely accommodate the anticipated maximum traffic reasonably expected by the proposed development, a condition for development may be imposed to require the applicant to provide passing, deceleration and acceleration lanes on abutting roads to cure any such deficiencies.

SECTION 138-4.426 Outdoor Dining

Outdoor dining and table service, including but not limited to patios and sidewalk cafes, are subject to the following requirements:

- A. The sales and service of food outdoors shall be incidental to a similar principal use indoors and adjacent to that principal use.
- B. Outdoor dining areas shall not obstruct the entrance to any building or sidewalk. If outdoor dining areas are located on a sidewalk in front of a building, a minimum 5-foot wide clear pedestrian travelway shall be maintained on the sidewalk or pathway.
- C. Temporary, manufactured or free standing food service providers are not considered outdoor dining uses.
- D. Encroachment onto the public right-of-way for the purposes of displaying merchandise is not permitted.
- E. The outside table service shall be located in a manner which will not interfere with visibility, vehicular or pedestrian mobility or access to City or public utility facilities. The determination of whether the outside table service (or any part thereof) interferes shall be made by The Planning Department at the time of application based on the characteristics of each proposed site.

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- F. The height of any barrier or installed landscaping shall not exceed three feet, six inches (3'6"). Any barriers permitted in a public right-of-way shall be entirely portable.
- G. Signs are not allowed in the outside table service area with the exception of a menu sign. Business names may be allowed on the valence of awnings and/or umbrellas.
- H. All outside table services must be readily accessible to and useable by individuals with disabilities.
- I. Approval of a right of way use permit by the agency with jurisdiction.
- J. Use and occupation of the public right-of-way which is allowed under this ordinance may be temporarily suspended, without prior notice or hearing, when, in the discretion of The Planning Department any such use, occupation or obstruction may interfere with public safety efforts or programs, special events, street improvement activities, construction activities, cleaning efforts, or other similar activities or with the health, welfare, or safety of the citizens of the City.

SECTION 138-4.427 Outdoor Recreation, Commercial

Commercial outdoor recreational space for amusement parks, miniature golf, golf driving ranges, athletic facilities and clubs are subject to the following requirements:

- A. All lighting shall be shielded from adjacent residential districts.
- B. Children's amusement parks must be fenced on all sides with a four-foot, six-inch wall or fence.
- C. Rebound tumbling facilities must be fenced on all sides used for trampoline activity. Such fence shall be no less than six feet high. Pits shall not exceed four feet in depth, shall be drained at all times and shall be filled with earth to grade when the use is discontinued. All manufacturers' specifications for spacing, safety and construction shall be complied with.
- D. No loudspeaker or public address system shall be used except by the written consent of the City Council where it is deemed that no public nuisance or disturbance will be established.

SECTION 138-4.428 Outdoor Sales of Used Vehicles

- A. All lighting shall be shielded from adjacent residential districts.
- B. Ingress and egress to the outdoor sales area shall be at least 60 feet from the intersection of any two streets.
- C. An obscuring wall or fence four feet six inches in height must be provided when abutting or adjacent districts are zoned for residential use.
- D. No major repair or major refinishing shall be done on the lot.

SECTION 138-4.429 Outdoor Storage

- A. There shall be no outdoor storage of any industrial or commercial equipment, vehicles and/or other materials, including wastes, unless otherwise provided by this Ordinance. Any storage shall be screened from public view from a public street and from adjoining properties by an enclosure consisting of a wall or fence not less than the height of the equipment, vehicles and all materials to be stored or 8 feet, whichever is less. Whenever such open storage is adjacent to a residential zone, special purpose or manufactured housing community in either a front, side or rear lot line relationship, whether immediately abutting or across a right-of-way from such zone, there shall be provided an obscuring masonry wall or wood fence of at least six feet in height.
- B. Such masonry wall or wood fence shall be repaired, maintained and kept in good condition by the owners.

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- C. When screening is required for trash receptacles or other outdoor storage of refuse or waste, an enclosure constructed of masonry material and sturdy obscuring wood gates shall be provided. The enclosure shall be at least six feet in height or equal to the height of the receptacle or waste material being stored, whichever is greater. If the enclosure is in a conspicuous location or visible from a public road or residential zoning district, the Planning Commission or official approving the site plan may specify the type and/or appearance of masonry material to be used to construct the enclosure.

SECTION 138-4.430 Places of Worship; Libraries and Museums

Churches and publicly owned and operated libraries and museums may be permitted in any zoning district subject to the following conditions:

- A. The site shall be so located as to provide for ingress to and egress from such site directly onto a major or secondary thoroughfare having an existing or planned right-of-way at least 86 feet in width as shown on the current City master right-of-way plan.
- B. Buildings of greater than maximum height as allowed by Section 138-5.100 of this Ordinance may be allowed, provided front, side, and rear yards are increased above the minimum required yards by one foot for each foot of building height that exceeds the maximum height allowed.
- C. Steeples, bell towers, and similar architectural features are exempt from the height requirements of this ordinance.

SECTION 138-4.431 Plant Material Nurseries

- A. The property shall contain at least five acres and shall be located so as to provide all ingress and egress directly from and onto a major thoroughfare.
- B. All required yards shall not be less than 50 feet wide when abutting an R residential district.

SECTION 138-4.432 Private Recreational Areas

- A. When the proposed site is not to be situated on a lot of record, the proposed site shall have one property line abutting a major thoroughfare of at least 120 feet as shown on the current master thoroughfare plan, and the site shall be so planned as to provide ingress and egress directly onto such major thoroughfare.
- B. Front, side and rear yards shall, respectively, be at least 40 feet wide and shall be landscaped in trees, shrubs, grass and terrace areas. All such landscaping shall be maintained in a healthy condition.
- C. All lighting used to light the grounds shall be shielded to reduce glare and shall be so arranged as to direct the light away from all residential lands which adjoin the site.
- D. All parking shall be surfaced as required in Article 11 of this Ordinance.
- E. Whenever the parking plan is so laid out as to beam automobile headlights toward any residentially zoned land, an obscuring wall or fence or an obscuring coniferous planting six feet in height shall be provided along that entire side of the parking area.
- F. Whenever a swimming pool is involved, such pool shall be provided with a protective fence six feet in height and entry shall be provided by means of a controlled gate or turnstile.

SECTION 138-4.433 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:

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- A. Buildings of greater than maximum height as allowed in Section 138-5.100 may be allowed provided front, side, and rear yards are increased above the minimum required yards by one foot for each foot of building height that exceeds the maximum height allowed.
- B. Front, side, and rear yards shall, respectively, be at least 50 feet wide and shall be landscaped in trees, shrubs, grass, and terrace areas. All such landscaping shall be maintained in a healthy condition. Where such facility directly or indirectly abuts residentially zoned property, adequate screening in accordance with the requirements of 0 shall be provided.
- C. All lighting used to light the grounds shall be shielded to reduce glare and shall be so arranged as to direct the light away from all residential lands which adjoin the site. Lighting shall comply with Article 10, Chapter 2 (Exterior Lighting).
- D. All parking shall be surfaced as required in the general provisions for off-street parking requirements.
- E. Whenever the parking plan is so laid out as to beam automobile headlights toward any residentially zoned land, an obscuring wall or fence or an obscuring coniferous planting six feet in height shall be provided along that entire side of the parking area.
- 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 138-4.434 Private and Public Stables

- A. **Private stables** may be permitted by the Planning Commission as an ancillary use to a private residence in a single-family district. Private stables shall be subject to the following:
 - 1. Prior to granting a permit the Planning Commission shall hold a public hearing to receive public comment regarding the effect that establishment of a private stable will have on the surrounding neighborhood. The public hearing shall be held in accordance with the procedures of Section 138-1.203.
 - 2. Two acres of land shall be provided for one horse, and for each additional horse stabled thereon one additional acre of land shall be provided. The property shall be under control or use of the permit holder with either title or lease.
 - 3. Confinement areas and/or stables shall, in all instances, be located in the rear and/or side yard. Horses shall be confined to fenced pastures, paddocks or stables unless harnessed and under the direct control of a person.
 - 4. Buildings or areas designated for the purpose of feeding and/or sheltering horses, excluding grazing areas, shall be located no less than 100 feet from the perimeter of the site. This 100-foot requirement may be waived by the Planning Commission if it determines the location of the building is not likely to create a sanitary or noise problem for adjacent residents.
 - 5. No storage of manure or odor-producing or dust-producing substances or any activity producing odor or dust shall be permitted within 100 feet of any property line.
 - 6. In each instance when the Planning Commission issues a permit for a private stable, the commission shall find that there has been compliance with the conditions of this subsection, that the activity will not or has not been a nuisance to residents in the area, is compatible with adjacent land uses and is consistent with the public health, safety and welfare of the City.
- B. **Public stables, riding academies, and hunt clubs**, where permitted, are subject to the following requirements:

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1. The uses may be permitted on parcels of land that are at least 40 contiguous acres or more in area.
2. Bridle paths, and all other riding areas, shall be within the confines of the proposed property.
3. The stable shall be so situated on the site so as to be at least 300 feet from any residences on abutting parcels or lots.
4. Paddocks, instruction areas, pastures, and areas for the purpose of feeding horses shall be confined to the site and shall be located at least 100 feet from the perimeter of the site
5. Ingress and egress to the stable area shall be provided solely through the parcel in question, which shall abut a public right-of-way.
6. Adequate off-street parking facilities shall be provided on the site, located at least 100 feet from the perimeter of the site.
7. Manure shall be kept in tightly covered boxes and shall be regularly sprayed or limed so as to control flies and other insects.
8. Floodlights or any other source of artificial lighting provided to facilitate night riding activities shall be properly shielded or directed away from residences or abutting properties.

SECTION 138-4.435 Raising and Keeping of Animals

- A. The keeping of the following animals will be allowed without a permit under the following circumstances in any zoning district, unless there are other sections in this ordinance which are in conflict, and the raising and keeping of such animals is not for the purpose of breeding or selling them as a source of income:
 1. Common household pets such as dogs, cats, etc., but not including fish or marine animals less than 20 pounds, as long as there are not more than three of any one species permanently boarded or kept. **The keeping of more than three common household pets of any one species shall qualify a house as a kennel, subject to the regulations of Section 138-4.418.**
 2. Livestock, as long as there are no more than three animals and the parcel or lot shall be at least two acres in size.
 3. Poultry, if there are no more than 12 and the parcel or lot is at least one acre in area.
 4. Litters shall be exempt from these requirements until weaned.
- B. The keeping of the animals mentioned in subsection A of this section shall not constitute a nuisance to persons living in the surrounding area. Upon receipt of a written complaint filed by a neighbor with the City stating the animals constitute a nuisance, the Zoning Board of Appeals shall hold a hearing in accordance with the procedures of Section 138-1.203. The Zoning Board of Appeals shall determine if in fact the animals do constitute a nuisance.
- C. If the Zoning Board of Appeals determines that the animals have and will likely continue to constitute a nuisance, the animals shall not be kept on the property after the date set by the Zoning Board of Appeals. If, in the opinion of the Zoning Board of Appeals, there is reason to believe that reasonable measures will be taken to alleviate the nuisance associated with the animals, the Zoning Board of Appeals may issue a permit, renewable yearly, for the keeping of such animals with or without restrictions. If a hearing is held and a determination is made, the matter may not be reviewed again on a complaint of a neighbor unless there has been a change of circumstances.

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- D. No person shall allow animals under the person's control or ownership to constitute a nuisance. The violation of this section may be prosecuted in the district court or may be enjoined in the circuit court. Notwithstanding anything to the contrary, this section shall not be a limitation on, lessen the effect of, nor interfere with any other City ordinance pertaining to animals and the enforcement of it.

SECTION 138-4.436 Vehicle and Equipment Storage Yards

Space may be rented for construction and contractor's equipment so long as all property lines shall abut land zoned I, industrial. The storage shall be enclosed within a building or within an obscuring wall or fence on those sides abutting a public thoroughfare. The extent of such obscuring wall or fence shall be as determined by the Planning Commission on the basis of the proposed and actual usage. The wall or fence shall be subject further to the requirements of Section 138-12.104.

SECTION 138-4.437 Restaurant, Drive-In or Drive-Through

- A. The minimum lot area shall be one acre, exclusive of existing public road right-of-way, and a minimum lot width of 150 feet at a required building setback line shall be provided. When the restaurant or other establishment is not on a separately owned lot, but is part of a larger development, such as but not limited to a shopping center, the area to be developed for the restaurant or other establishment shall meet these requirements.
- B. The site shall directly abut a major thoroughfare of 120 feet or greater as indicated on the City master thoroughfare plan.
- C. The location and design of driveways providing vehicular ingress to and egress from the site shall promote safety and convenience of vehicular and pedestrian traffic both within the site and on adjoining streets.
- D. On-site vehicle and pedestrian traffic circulation shall be provided in a manner that ensures safety and efficiency.
- E. Vehicle stacking spaces shall be provided as follows:
 - 1. A minimum of ten stacking spaces shall be provided. Stacking spaces shall have a minimum length of 18 feet and a minimum width of 10 feet.
 - 2. The lane containing the queuing spaces shall be separate and distinct from other access drives and maneuvering lanes for parking spaces. The queuing space lane shall have a clear width of ten feet and shall be physically separated from access drives, maneuvering lanes and parking spaces with a landscaped area five feet wide with raised curbs on all sides.
- F. Buffering shall be provided to prevent headlight glare from shining directly onto adjacent properties or a public or private street.

SECTION 138-4.438 Roadside Stands and Markets; 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:

- A. **Limitations.** Roadside stands and markets and Christmas tree sales may be permitted in any district, subject to the following exclusions:
 - 1. Christmas tree sales shall not be permitted on property that is part of a recorded residential subdivision or one-family residential detached condominium development.

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2. 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.

B. Restrictions. The following restrictions shall govern the issuance of permits:

1. 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.
2. Except as otherwise provided in this Section 138-4.438, 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.
3. 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.
4. 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 dustfree 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.
5. Hours of operation shall be limited to 7:00 a.m. through 9:00 p.m.
6. 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.
7. 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.
8. 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.

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- 9. 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.
- 10. 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.

SECTION 138-4.439 Temporary Construction

- A. Temporary construction buildings and/or construction activities shall be allowed in any zone for a period of one year, if a permit is obtained from the public services department. A second year may be allowed if there appears to be no unreasonable delay in the activities and there appears to be a necessity.
- B. Temporary construction activities with or without temporary buildings shall be defined as construction activities other than actual construction of buildings approved pursuant to a building permit. They include, but not by way of limitation, a construction yard for the development of a subdivision or multiple project, a cement- or asphalt-making operation for streets or roads in the City and other similar activities.
- C. The public services department shall determine, before issuing a permit, whether the proposed temporary construction building and/or construction activity is necessary and if it is necessary that it should be located at the proposed location. The public services department shall also find that the proposed activity does not place excessive use on the sanitary sewer and/or water system, nor create a hazardous fire condition. In granting the approval, the public services department may set such conditions as appear necessary to minimize disturbance to the area and the surrounding land uses. As a condition of approval, the public services department shall require the posting of a cash bond, corporate surety bond or letter of credit to guarantee compliance with this ordinance and all other applicable City ordinances, standards, rules and regulations, and a proper cleanup of the site at a time indicated in the permit. The fees to be charged for the issuance of the permit and for inspections by the City shall be as set by resolution of the City Council. The applicant shall also file with the City comprehensive liability insurance in amounts of \$100,000.00 per person and \$300,000.00 per occurrence.
- D. Activities allowed pursuant to this section shall conform to the following requirements:
 - 1. All roads used for hauling on the site or for ingress or egress, on and off the site, shall be kept dust free by use of a method, material or substance approved by the City public services department and department of public service.
 - 2. Work areas shall be kept clean and clear.
 - 3. Work areas shall be posted with the owner's and operator's names and phone numbers.
 - 4. Work yards shall be fenced or otherwise made safe.
 - 5. Truck crossings and other means of ingress and egress shall be posted 200 feet therefrom in either direction to warn motorists.
 - 6. Construction or associated construction activity shall be permitted only between 7:00 a.m. and 8:00 p.m., Monday through Saturday, exclusive of holidays. Construction on Sunday or a holiday shall be authorized only by special written permission granted by the mayor where, in his discretion, hardship is shown. For purposes of this subsection, the term "holiday" shall mean the day on which New Year's Day, Easter, Memorial Day, July Fourth (Independence Day), Labor Day, Thanksgiving or Christmas is officially celebrated.

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SECTION 138-4.440 Utilities

Utility and public service facilities and uses such as gas regulator stations and electrical substations, may be permitted in any zoning district when operating requirements necessitate the locating of such facilities in order to serve the immediate vicinity, and when the following conditions are met:

- A. Adequate screening in the form of a masonry wall, redwood fence, berm or greenbelt planting shall be provided to serve as a buffer between the utility and adjacent residential area. The type and quantity of screening landscaping is subject to The Planning Department approval.
- B. All requirements of Section 138-10.310 pertaining to performance standards.
- C. Outdoor storage yards are permitted in the I district, but are prohibited in all other zoning districts.

SECTION 138-4.441 Veterinary Hospitals or Clinics

- A. All activities shall be conducted within a totally enclosed building.
- B. Veterinary hospitals or clinics located in the B-2 district shall be set back at least 40 feet from any R, RCD, RM-1, or RMH zoning district with a Type C buffer provided along any common property line.

SECTION 138-4.442 Waste Lagoon Ponds

Because waste lagoon ponds are industrially oriented and permanent in character and because of technical treatments necessary for the proper operation of lagoon ponds, they may be permitted, provided the following conditions are met:

- A. In no instance shall a waste lagoon pond be closer than 500 feet to an existing or proposed street right-of-way or abutting residential district.
- B. An eight-foot fence shall be erected around the entire site or lagoon pond, at the property owner's option, and control gates, etc., shall be installed.
- C. In lieu of a wall or fence an earth embankment in the form of a berm with a minimum height of eight feet may be utilized at the discretion of the City Council upon recommendation by the Planning Commission.

SECTION 138-4.443 Wireless Telecommunication Facilities

Wireless telecommunication facilities shall conform and be subject to the following.

- A. **Wireless Telecommunicaiton Facility Support Structures.**
 - 1. Limitation on new support structures. It is the City's policy to minimize the proliferation of new wireless telecommunication facility support structures in favor of collocation of such facilities on existing structures. No new wireless telecommunication facility support structures shall be constructed unless the applicant for the new structure demonstrates, and the Planning Commission finds, that collocation on an existing structure is not adequate or is not reasonably feasible.
 - 2. Monopole design required. All wireless telecommunication facility support structures, unless otherwise provided, shall have a monopole, unipole or similar non-lattice, single vertical structure design and shall be further designed to accommodate at least four wireless telecommunication arrays of antennas or panels. The applicant shall submit an affidavit by a design engineer registered in the state attesting that the support structure can support at least four wireless telecommunication arrays of antennas or panels. The site plan for any new support structure shall expressly state that the support structure shall be erected and available

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for collocation, and shall also show the proposed location of the applicant's and collocators' equipment shelters and related facilities.

3. Maximum height. Wireless telecommunication facilities shall not exceed 185 feet in height, as measured from the average grade at the base of the support structure to the top of the antenna or panel. In no case shall the height exceed any applicable height limitation established by county, state or federal regulations.
4. One support structure per lot. Except in the I zoning district, not more than one wireless telecommunication support structure may be located on a single lot.
5. Location on lot. If located on the same lot as another permitted use, a wireless telecommunication facility shall not be located in a front yard or side yard abutting a street, except that the Planning Commission may approve a support structure utilizing camouflage or stealth design for location in a front or side yard abutting a street if the Planning Commission determines that location will better facilitate a satisfactory and harmonious relationship with existing and prospective development of contiguous land and adjacent neighborhood.
6. Setbacks. Wireless telecommunication facilities shall be set back from the lot line a distance not less than one-half of its height or 65 feet, whichever is greater. However, when wireless telecommunication facilities are located on premises which abut a lot that is residentially zoned, the minimum setback from the lot line abutting the residentially zoned lot shall be equal to the height of the facility. All setbacks shall be measured from the edge of the facility.
7. Maintenance and removal. Wireless telecommunication facilities shall be installed and maintained in accordance with manufacturers' specifications and the building code. Upon discontinuance or cessation of use, the facility shall be removed by the owner thereof.
8. Signs. No sign shall be attached to or displayed on a wireless telecommunication facility. No signals or lights or other means of illumination shall be permitted on a facility unless required by state or federal law or regulation. The facility shall have a neutral color intended to blend with the surroundings.
9. Equipment shelters. If the wireless telecommunication facility is located on a site which is already improved with another building or structure, and an equipment shelter is proposed, the equipment shelter shall be constructed with exterior facade materials similar to the principal building or structure on the site.

B. Colocation.

1. Existing structures. Wireless telecommunication antennas or panels may be installed on existing buildings or structures provided such antennas or panels, and their supporting structure, do not exceed the height limitation set forth in subsection A(3) of this section.
2. Exemption from setbacks. Any wireless telecommunication antenna or panel mounted on an existing building or structure which does not increase the height of the building or structure shall be exempt from the setback requirements of subsection A(6) of this section.

C. Wireless telecommunication facilities located in one-family residential zones shall meet one of the following requirements:

1. Existing non-residential building. The wireless telecommunication facility shall be mounted directly onto an existing, non-residential building in a manner that does not increase the height of the building. The facility shall consist of material or color which is compatible with the exterior treatment of the building;
2. Existing non-residential structure. The wireless telecommunication facility shall be located on an existing, non-residential support structure, pole or tower such as a public or private utility

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tower, pole or structure, but not on a building. Such facility shall consist of a material or color which is compatible with the tower, pole or structure. Antennas or panels may extend above the top of the tower, pole or structure not more than 30 feet; however, the height to the top of the antenna or panel may not exceed 165 feet; or

3. New support structure on public property. The wireless telecommunication facility shall be located on a new support structure situated on public property. Any facility located on public property which is used for passive recreation shall be designed to minimize the conspicuousness of the facility (e.g., utilizing camouflaged or stealth designed poles or existing environmental features as screening). All such facilities located on public property shall meet the setback requirements of subsections A(6) and B(2) of this section.

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ARTICLE 5 SCHEDULE OF REGULATIONS

CHAPTER 1. SCHEDULE OF REGULATIONS

SECTION 138-5.100 Schedule of Regulations

Table 5. Schedule of Regulations - RESIDENTIAL DISTRICTS

| District | Minimum Lot | | Maximum Building Height ^A | | Minimum Yard Setback (feet) | | | | Min. Floor Area (sq. ft.) | Max. Lot Coverage (all buildings) |
|----------|--|-------------|--------------------------------------|-----------------|-----------------------------|--------------------|-----------------|-----------------|---------------------------|-----------------------------------|
| | Area (sq. ft.) | Width (ft.) | Stories | Feet | Front | Side (each) | Side (total) | Rear | | |
| RE | 43,560 | 120 | 2 | 35 | 40 ^B | 15 ^{C, D} | 30 ^D | 35 ^T | 1,500 | 25% |
| R-1 | 20,000 | 100 | 2 | 35 | 40 ^B | 15 ^{C, D} | 30 ^D | 35 ^T | 1,500 | 25% |
| R-2 | 15,000 | 100 | 2 | 35 | 40 ^B | 15 ^{C, D} | 30 ^D | 35 ^T | 1,400 | 25% |
| R-3 | 12,000 | 90 | 2 | 30 ^U | 30 ^B | 10 ^{C, D} | 20 ^D | 35 ^T | 1,200 | 30% |
| R-4 | 9,600 | 80 | 2 | 30 ^U | 25 ^B | 10 ^{C, D} | 20 ^D | 35 ^T | 912 | 30% |
| RM-1 | See Article 6, Chapter 1 for multiple family district regulations | | | | | | | | | |
| RCD | See Article 6, Chapter 2 for one-family residential cluster district regulations | | | | | | | | | |
| RMH | See Article 6, Chapter 4 for manufactured housing park district regulations | | | | | | | | | |
| MR | See Article 6, Chapter 5 for mixed residential (overlay) district regulations | | | | | | | | | |

Table 6. Schedule of Regulations - NONRESIDENTIAL DISTRICTS

| District | Minimum Lot | | Maximum Building Height | | Minimum Yard Setback (feet) | | | | Min. Floor Area (sq. ft.) | Max. Lot Coverage (all buildings) |
|----------|--|-------------|-------------------------|-----------------|-----------------------------|-----------------------------|------------------------|--------------------------|---------------------------|-----------------------------------|
| | Area (sq. ft.) | Width (ft.) | Stories | Feet | Front | Side (each) | Side (total) | Rear | | |
| B-1 | (E) | (E) | 2 | 30 | 25 ^N | 0 ^{F, N} | 50 ^N | 50 ^I | -- | -- |
| B-2 | (E) | (E) | 2 | 30 | 50 ^N | 0 ^{F, N} | 50 ^N | 50 ^I | -- | -- |
| B-3 | 5 acres | 400 | 2 | 30 | 75 ^N | 25 ^{F, N} | 50 ^N | 75 ^{H, I} | -- | -- |
| B-4 | (E) | (E) | 2 | 30 | 75 ^{N, S} | 25 ^{G, N, S} | 50 ^N | 50 ^I | -- | -- |
| B-5 | (E) | (E) | 2 | 30 | 75 ^{N, S} | 25 ^{G, N, S} | 50 ^N | 50 ^J | -- | -- |
| O-1 | (E) | (E) | 3 ^V | 42 ^V | 35 | 0 ^F | 50 | 35 | -- | -- |
| ORT | (E) | (E) | 3 ^V | 40 ^V | 30 ^K | 0 ^{P, R} | 0 ^{P, R} | 30 ^{P, R} | -- | -- |
| I | (E) | (E) | 3 | 42 | 50 ^{L, N, O} | 50 ^{M, N, O, P, Q} | 100 ^{N, O, P} | 50 ^{N, O, P, Q} | -- | -- |
| SP | (E) | (E) | 2 | 30 | 50 | 50 | 100 | 50 | -- | -- |
| CI | See Article 6, Chapter 3 for commercial improvement district regulations | | | | | | | | | |
| FB | See Article 8 for flex business (overlay) district regulations | | | | | | | | | |

* Superscript text: see footnotes beginning on the following page.

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SECTION 138-5.101 Footnotes to the Schedule of Regulations

- A. **Building Height Measurement.** In the R-1 through R-4 and RE districts, building height shall be measured from the average grade on the front façade of the building.

- B. **Established Building Line.** In the event that there is an established building line along a street (as determined by the official reviewing the application), the front yard setback requirement shall be the established building line. The established building line is equal to the average front yard setbacks of adjacent dwellings within 200 feet and on the same side of the street as the subject parcel.

 The front setback of an adjacent structure shall be measured at the shortest distance between the structure's exterior surface and the front lot line. In the event that any of the parcels located within 200 feet of the subject parcel is vacant, the minimum setback required by Section 138-5.100 shall be used as the front yard setback for that parcel in calculating the average setback.

 In no case shall a front yard setback be reduced to less than 20 feet, regardless of the established building line, and in no case shall a garage door be located closer to the front property line than the minimum setback required in the zoning district by Section 138-5.200.

- C. **Corner Lots.** For corner lots, the side yard abutting upon a street shall not be less than 15 feet in the R-4 district and 25 feet in the R-1, R-2, R-3, and RE districts.

- D. **Reduced Side Yard on Narrow Lots.** If the lot or parcel is less than 60 feet in width, one side yard may be reduced to five feet providing the total of the two side yards shall be a minimum of 15 feet.

- E. **Nonresidential Lot Requirements.** Minimum size of lot and minimum width in feet shall be determined by the use meeting all minimum yard requirements and all other requirements of this ordinance.

- F. **Side Yard Setbacks.** Side yards shall comply with the following:
 - 1. If walls of structures facing interior side lot lines contain windows or other openings, the minimum yard requirements in the schedule of regulations shall be met.
 - 2. Where B-1 and B-2 districts abut R, RCD, RM-1 and MH districts, the minimum side yard requirement shall be 50 feet. This requirement shall not apply to the CI district.
 - 3. Where a B-3 district abuts R, RCD, RM-1, MH, SP and CI districts, the minimum side yard shall be 75 feet.
 - 4. Where an O-1 district abuts an R, RCD, RM-1 or MH district, the minimum side yard requirement shall be 30 feet.
 - 5. In B-1, B-2 and O-1 districts, a 25 foot setback is required for a side street yard on a corner lot and for the exterior side of parcel or lot on the exterior of the district.
 - 6. In the B-3 district a front yard setback shall be required on any street frontage and from any adjacent parcel not zoned B-3.

- G. **Side Yard Setbacks Adjacent to a Residential District.** Where a B-4 or B-5 district abuts R, RCD, RM-1 or MH districts, the minimum side yard requirement shall be 50 feet.

- H. **Rear Yard Setback Adjacent to a Residential District.** Where a B-3 district abuts an R, RCD, RM-1 or MH district, the minimum rear yard shall be 100 feet. The rear yard may be reduced to 50 feet with the approval of the Planning Commission after a public hearing in accordance with Section 138-

1.203 and submittal of a plan which ensures there will be no significant negative impacts on the adjacent property as a result of the rear yard reduction.

- I. **Rear Yard Setback Adjacent to a Nonresidential District.** Where a B-1, B-2, B-3, B-4 or district abuts B, O-1, I (industrial) SP or CI districts, the rear yard may be reduced to 10 feet with the approval of the Planning Commission, upon its determination that the requested reduction will allow for better development and will be compatible with adjoining properties.
- J. **Rear Yard Setback Adjacent to a Nonresidential District.** The rear yard setback in the B-5 district may be reduced to 25 feet with the approval of the Planning Commission upon its determination that the requested reduction will allow for better development and will be compatible with adjoining properties.
- K. **Front Yard Parking Prohibited.** Parking is prohibited in the required front yard setback area in the ORT zoning district.
- L. **Reduced Front Yard Setback.** The required front yard setback may be reduced to 30 feet on internal streets in industrial subdivisions, provided there is no front yard parking. The front yard, except for areas approved for parking as provided for in this ordinance, shall be landscaped or planted in lawn, and the entire front yard shall be kept in a neat condition.
- M. **Reduced Side Yard Setback.** The side yard in the interior of an industrial district may be reduced to 15 feet where there are no openings or windows, except for means of egress required by the building code, in the wall paralleling the side lot line, but where there are other openings or windows, the side yard shall not be reduced to less than 25 feet.
- N. **Building Spacing.** When there is more than one principal commercial or industrial building on a lot or parcel, or a combination of parcels included in a unified development, the minimum spacing between buildings shall be 25 feet unless otherwise provided for in this ordinance. On all corner lots in I (industrial) districts, the setbacks from the proposed or existing right-of-way lines, whichever is closer, shall be 50 feet, except as allowed in footnote L with both frontages to be considered as the front yard setback. On corner lots in the B-4 and B-5 districts, the setback from the proposed right-of-way line shall be 75 feet, with both frontages to be considered as the front yard setback.
- O. **Large Buildings.** In industrial districts, buildings in excess of 300 feet in length along any one side shall receive the approval of the Planning Commission, which approval shall be based upon compatibility with surrounding properties and buildings in reasonable attendance.
- P. **Parking in Required Side and Rear Yards.** Parking and loading spaces may be located in required side and rear yards in the I and ORT districts subject to Planning Commission approval. The Planning Commission shall approve such parking or loading only if sufficient access is provided to the building and that the location of the parking or loading spaces will not imperil the health, safety or welfare of employees in the building. Loading spaces that are thusly located and will be visible from a public thoroughfare or any adjacent property not zoned I or ORT shall be screened. Such screening shall be opaque to a minimum height of 6 feet.
- Q. **Outdoor Use Areas in the I District.** Required side yards may be utilized for loading, unloading, and storage provided that in such instances the Planning Commission shall review the plans for such area to ensure sufficient access to the building or any storage or related areas to provide for the health, safety and general welfare of employees in the building. All trash and storage areas shall be provided with adequate obscuring screening at least six feet in height, except it shall not be required on the interior of the district where the area is not visible from a thoroughfare or other zoning district
- R. **Yard Requirements when Adjacent to Residential Zoning Districts.** Any yard abutting an R, RCD, RM-1, or RMH zoning district shall be as established by the Planning Commission, depending on the similarity of the proposed use to uses permitted on the O-1 and I-1 zoning districts. In addition, a

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Type D landscaping buffer yard shall be provided in such yards in accordance with the requirements of Section 138-12.300 on page 202.

- S. **Freestanding Canopies.** In the B-4 and B-5 districts, freestanding canopies may be permitted within the required front yard and/or within the required side yard adjacent to a public road right-of-way subject to the following conditions:

1. Canopies shall be located not less than ten feet from a proposed right-of-way or side lot line, and not less than 20 feet from a rear lot line. The amount of lot area covered by canopies shall not exceed 40 percent.
2. Canopies shall not exceed 17 1/2 feet in height, and a minimum clearance of 14 feet from grade shall be maintained.
3. Canopies shall not be attached to any other building or structure.
4. Canopies shall be of a type readily demountable not requiring unusual demolition procedure.
5. Canopies shall be supported by columns and shall not be supported or enclosed by walls. **Canopy columns shall be faced in decorative materials such as brick.**

- T. **Rear Yards Adjacent to Parks or Open Space.** The minimum rear yard setback requirement may be reduced to 30 feet on lots that border on land permanently dedicated for park, recreation, and/or open space purposes, **provided that the dimension of the park, recreation, and/or open space land shall not be less than 100 feet measured in a straight line not more than 20 degrees off of perpendicular to the rear lot line of such lot.**

For purposes of this footnote, permanently dedicated open space shall be determined as provided in Section 138-5.201 for open space option subdivisions. As to other residentially zoned property, dedicated open space shall be land dedicated for park, recreation and/or open space within an approved planned unit development (PUD) by way of recorded plan, easement, agreement or other satisfactory evidence, that the open space use is intended to be permanent.

- U. **Increased Building Height.** In the R-3 and R-4 districts, the maximum building height may be increased up to 35 feet when all of the following conditions are met:

1. The building site shall contain at least 13,500 square feet of lot area.
2. Minimum side yard setbacks, including the total of two, shall be increased by one-half foot for each one foot or part thereof by which the proposed building height is in excess of **30** feet.
3. If an increase in building height is proposed on a lot which shares a common side yard with a lot occupied by an existing dwelling, the increased height of the proposed dwelling shall not be more than 190 percent of the height of a dwelling on a lot sharing a common side yard.

- V. **Increased Building Height.** The maximum height for buildings in the O-1 and ORT districts may exceed the maximum noted in Section 138-5.100 in accordance with the following requirements:

1. **Height modifications for projects located on sites with less than 5 acres shall require conditional use approval in accordance with the procedures of Article 2, Chapter 3 (Conditional Use Approval).**
2. **Height modifications for projects located on sites with 5 or more acres of land are subject to Planning Commission approval.**
3. For those buildings with a pitched roof, the maximum height may not exceed 55 feet as measured to the mid-point of the roof system.

- 4. Any structure in the O-1 or ORT district abutting land planned for one-family residential land uses on the Master Land Use Plan Future Land Use Map shall increase the required yard abutting the residential district by two (2) feet for every foot in height above 30 feet as measured to the top of the highest beam for flat roof systems or to the mid-point of pitched roofs.

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CHAPTER 2. SUPPLEMENTAL PROVISIONS and EXCEPTIONS

SECTION 138-5.200 Lot Size Variation

The intent of this subsection is to permit the subdivider or developer to vary lot sizes and lot widths so as to average the minimum size of lot per unit as required in Section 138-5.100 for each R-1, R-2, R-3 R-4, and RE one-family district. If this option is selected, the following conditions shall be met:

- A. **Lot Width.** In meeting the average minimum lot size, the subdivision shall be so designed as not to create lots having an area or width greater than ten percent below that area or width required in the schedule of regulations and shall not create an attendant increase in the number of lots.
- B. **Density.** In determining the maximum number of lots permitted, all calculations shall be predicated upon the districts having the following net densities (including roads):

| District | Net Density (dwelling units per acre) |
|----------|---------------------------------------|
| RE | 0.8 |
| R-1 | 1.7 |
| R-2 | 2.3 |
| R-3 | 2.9 |
| R-4 | 3.4 |

- C. **Phasing of Final Plat Approval Prohibited.** The technique of averaging minimum lot size shall be acceptable only when the entire preliminary plat, which has received City Council approval, is carried through a final plat and is then recorded in its totality. Recording of portions of a preliminary plat shall not be acceptable under this option.
- D. **Average Lot Area Requirement.** All computations showing lot area and the average resulting through this technique shall be indicated on the print of the preliminary plat. Such computations shall include the dimensions and area of each lot proposed on the preliminary plat, the total square foot lot area in all proposed lots, and the resultant average square foot area per lot. The average square foot area per lot shall not be less than the minimum lot size and area as required in this Article or elsewhere in this ordinance for the district in which the subdivision is located.
- E. **Exclusive Development Option.** The modifications permitted under this subsection pertaining to average lot sizes shall not be applied in conjunction with the modifications permitted Section 138-5.201.

SECTION 138-5.201 Subdivision Open Space Plan Option

The intent of this subsection is to permit one-family subdivisions to be planned as a comprehensive unit allowing, therefore, certain modifications to the standards as outlined in Section 138-5.100 to be made in the one-family residential districts. Development of a subdivision under these provisions shall be considered an option requiring the approval of the City Council, after recommendation of the Planning Commission, at or before tentative approval of the preliminary plat. The procedure and requirements for approval shall be as set forth in this section and as are provided for in article III of chapter 122 of the Code of Ordinances. The modifications to the standards may be made only when they shall comply with the following conditions:

- A. **Sanitary Sewer Required.** The open space plan technique shall be permitted only when public sewers are provided for the proposed subdivision.
- B. **Lot Area Reduction.** The lot area may be reduced up to 25 percent in the RE, R-1 and R-2 districts and up to 20 percent in the R-3 and R-4 districts, provided that the dwelling unit density shall be no

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greater than if the land area to be subdivided where developed in the minimum square foot lot areas as required for each one-family district under Section 138-5.100.

- C. **Maximum Density.** All calculations shall be predicated upon the one-family district having the following gross densities

| District | Net Density (dwelling units per acre) |
|----------|---------------------------------------|
| RE | 0.8 |
| R-1 | 1.7 |
| R-2 | 2.3 |
| R-3 | 2.9 |
| R-4 | 3.4 |

- D. **Lot Width.** In accomplishing the lot area reductions indicated in this subsection, lot widths shall not be less than the following:

| District | Width |
|----------|----------|
| RE | 100 feet |
| R-1 | 85 feet |
| R-2 | 80 feet |
| R-3 | 75 feet |
| R-4 | 70 feet |

The overall dimensions of each lot shall be sufficient to accommodate the proposed single-family dwelling unit and accessory buildings in addition to the minimum required yards as set forth in this subsection. Approval of a plat for the open space plan shall not permit a subsequent variance from the requirements of this section.

E. **Yard Requirements.** Each lot shall have at least the following minimum yards:

| Zoning District | Front | Sides | | Rear* |
|-----------------|-------|-----------|-----------|-------|
| | | Least One | Total Two | |
| RE | 30 | 10 | 25 | 35 |
| R-1 & R-2 | 30 | 10 | 20 | 35 |
| R-3 & R-4** | 25 | 7 | 15 | 35 |
| R-3-OS | 25 | 10 | 20 | 35 |
| R-4-OS | 25 | 10 | 20 | 35 |

*Rear yards may be reduced to not less than 30 feet when such lots border on land dedicated for park, recreation, and/or open space purposes as indicated in subsection (b)(3) of this section, provided that the width of such dedicated land shall not be less than 100 feet measured at the point at which it abuts the rear yard of such lot **measured in a straight line not more than 20 degrees off of perpendicular to the rear lot line of such lot.**

**Subdivisions in the R-3 and R-4 residential zoning districts receiving tentative approval of the preliminary plat under this section after January 23, 1980 shall be developed according to the requirements of R-3-OS if zoned R-3, and R-4-OS if zoned R-4, and shall be designated on the current zoning map as R-3-OS if zoned R-3, and R-4-OS if zoned R-4. Minimum yard setbacks and maximum percentage of lot coverage by all buildings requirements as set forth in this section for R-3-OS and R-4-OS shall apply.

F. **Lot Coverage.** The maximum percentage of lot coverage by all buildings in the RE, R-1, R-2, R-3-OS and R-4-OS districts shall not exceed 25 percent.

G. **Open Space Requirements**

1. Minimum Area. For each square foot of land gained, under subsection (B) of this section within a residential subdivision, through the reduction of the lot size below the minimum requirements as outlined in this section and Section 138-5.100, equal amounts of land shall be dedicated to the common use of the lot owners of the subdivision, and there shall be provisions ensuring adequate maintenance of areas. Dedication provisions and maintenance provisions shall be in a manner approved by the City. These dedications shall be retained as open space for park, recreation, and/or related uses.
2. Use of Open Space. The common area shall be dedicated only for park and/or recreation purposes. Each subdivision shall have at least one common area of at least four acres in size and shall be in a location and shape approved by the City Council in the first phase of a multiphase subdivision. When a subdivision is developed in phases, the common area required to reduce the lot sizes in any particular phase shall be in the plat to be recorded or already dedicated in an earlier phase. The four-acre requirement shall be on a one-time requirement for a phased development. Such land areas shall not include as a part of their minimum land area (see subsection (C) of this section) bodies of water, swamps, or excessive grades making the land unusable for recreation, and shall be so graded and developed as to have natural drainage. Fifty percent of the required open area may, however, be in the floodplain. A separate plan shall be submitted and approved before tentative approval of the preliminary plat for proposed open space areas depicting natural preservation areas, retention and detention areas and active recreation spaces, including what they might be used for such as playground equipment, etc. Common areas shall be generally distributed throughout the subdivision and shall be easily accessible from all parts of the subdivision. Any area to be used as common area which will be used for water retention shall be designed so that it will not be needed or used for holding water for more than a temporary basis 24 hours immediately after a rainstorm.

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- 3. **Open Space Layout.** Where the area to be dedicated to the common use of the subdivision consists of more than one separate parcel, at least one of these separate parcels shall contain not less than four acres in area, provided that no single park area shall be less than one acre. A parcel divided by a river or stream shall be considered as one parcel.
 - 4. **Access to Open Space.** Access shall be provided to areas dedicated for the common use of the subdivision for those lots not bordering on such dedicated areas by means of streets or pedestrian accessways of at least 20 feet in width.
- H. **Approval Criteria.** In approving an open space development, the City Council shall review the application for compliance with the following goals and objectives:
- 1. Provide a more desirable living environment by preserving the natural character of open fields, stands of trees, brooks, lakes, floodplains, hills and similar natural assets.
 - 2. Encourage developers to use a more creative approach in the development of residential areas.
 - 3. Encourage a more efficient, aesthetic, and desirable use of open areas while recognizing a reduction in development cost, and by allowing the developer to bypass natural obstacles.
 - 4. Encourage the provision of open space in all parts of the subdivision, and within reasonable distance of all lot development of the subdivision, and to further encourage the development of recreational facilities and areas.
- I. **Development Option.** This plan for reduced lot sizes shall be permitted only if mutually agreeable to the City Council and the subdivider or developer. This open space technique is offered as an alternate to the requirements of minimum lot size specified in this subsection. The modifications permitted under this subsection shall not be applied in conjunction with the modifications permitted by Section 138-5.200 (average lot sizes).
- J. **Open Space Dedication Required.** Under this subdivision open space plan approach, the developer or subdivider shall dedicate the total park area as set forth in this subsection at the time of filing of the final plat on all or any portion of the plat.

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. **Municipal and school buildings** with height greater than the maximum allowed in Section 138-5.100 (schedule of regulations) may be allowed, provided front, side and rear yards are increased above the minimum required yards by one (1) foot for each foot of building height that exceeds the maximum height allowed.
- C. **Mechanical Equipment Rooms.** With Planning Commission approval, mechanical equipment rooms such as penthouses may be permitted to exceed the height limitation by up to 12 feet. The architectural features shall be approved by the Planning Commission, which shall also determine the increase in height is not incompatible or detrimental to surrounding properties or the character of the area.

SECTION 138-5.203 Permitted Encroachments

- A. **Terraces.** An open, unenclosed paved terrace may project into a front yard for a distance not exceeding ten feet, but this shall not be interpreted to include or permit fixed canopies.
- B. **Projections into yards.** Architectural features, not including vertical projections, may extend or project into a required side yard not more than four inches for each one foot of width of such side yard, and may extend or project into a required front yard or rear yard not more than three feet. Architectural features shall not include those details which are normally demountable from the structure such as gutters.
- C. **Overhangs.** Overhangs of 24 inches or less, not including the gutter, may encroach into a required yard. When the overhang exceeds 24 inches, not including the gutter, the overhang must comply with setback requirements and setback measurements shall be taken from the edge of the overhang to the property line.

SECTION 138-5.204 Corner Clearance

No fence, wall, shrubbery, sign, or other obstruction to vision above a height of 30 inches from the established street grades shall be permitted within the triangular area formed at the intersection of any street right-of-way lines at a distance along each line of 25 feet from their point of intersection, or within the triangular area formed at the intersection of any non-residential driveway and a street right-of-way line at a distance along each line of 15 feet from the point of intersection between the driveway and the right-of-way. Canopy trees may be located in the corner clearance area provided that the first branch is a minimum of 8 feet above grade level.

SECTION 138-5.205 Standard Methods of Measurement

- A. **Required yards.** Attached accessory garages and other structures, and enclosed porches, patios, terraces and decks shall be deemed a part of such main building for the purpose of determining compliance with the yard requirements of this Ordinance.
- B. **Lot coverage.** Accessory garages and other structures, open and enclosed porches, patios, terraces and decks shall be deemed a part of such main building for the purpose of determining compliance with the lot coverage requirements of this Ordinance.
- C. **Buildable lot area, open space and recreation area calculations.**
 - 1. Lakes, ponds, state or federally regulated wetlands, utility easements, public street right-of-ways and private road easements are excluded from area calculations for buildable lot area.
 - 2. No area which, for the purpose of a building or dwelling group, has been counted or calculated as part of a side yard, rear yard or front yard building setback required by this Ordinance may be counted or calculated to satisfy any open space or recreation area requirement of this Ordinance.

SECTION 138-5.206 Frontage and Access Required

No building permit shall be issued for any construction located on any lot or parcel of land in the City that does not abut an approved public or private street, or that does not meet the minimum lot width requirement along an approved public or private street. All access to public or private streets shall be hard surfaced with concrete or plant-mixed bituminous material, and shall meet the requirements of this Ordinance and all other City ordinances.

SECTION 138-5.207 Building Grades

- A. No person, firm or corporation shall alter an established surface drainage grade to the extent that normal surface drainage is materially obstructed.

- B. Any building requiring yard space shall be located at such an elevation that a sloping grade shall be maintained to cause the flow of surface water to run away from the walls of the building. The balance of yard spaces shall be graded and adequate drainage provided where necessary to deflect proper drainage of surface waters from the said premises toward appropriate drainage collection systems.
- C. When a new building is constructed on a vacant lot between two (2) existing buildings or adjacent to an existing building, the yard around the new building shall be graded in such a manner to prevent surface water from flowing onto the adjacent properties.
- D. Grading may be restricted by the Steep Slope regulations of this Ordinance. Refer to Article 9, Chapter 2.

SECTION 138-5.208 Lots Adjoining Alleys

In calculating the area of a lot that adjoins a dedicated alley or lane, for the purpose of applying lot area requirements of this ordinance, one-half the width of such alley abutting the lot shall be considered as part of such lot.

SECTION 138-5.209 Yards

When yard regulations cannot reasonably be complied with, as in the case of a planned development in the multiple-family district, or where their application cannot be determined on lots existing and of record on the effective date of this ordinance, and on lots of peculiar shape, topography, or due to architectural or site arrangement, such regulations may be modified or determined by the Zoning Board of Appeals by the granting of a variance.

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ARTICLE 6 SUPPLEMENTAL DISTRICT STANDARDS

CHAPTER 1. RM-1 – MULTIPLE FAMILY RESIDENTIAL DISTRICTS

The following standards shall apply to all attached unit buildings and two-family (duplex) buildings in RM-1, Multiple Family Residential Districts.

SECTION 138-6.100 Density

- A. **Two-family (duplex) units.** Where development is exclusively of a two-family residential structure, there shall be provided a minimum lot area of at least 6,000 square feet of gross area for each unit (or 12,000 square feet per two-family residential structure).
- B. **Attached dwelling units.** The following minimum lot area per dwelling unit type shall be required in all RM-1 residential districts:

| Dwelling Unit Type | Area Per Unit (square feet) |
|--------------------|-----------------------------|
| Efficiency | 5,200 |
| One-bedroom | 5,600 |
| Two-bedroom | 6,000 |
| Three-bedroom | 6,400 |
| Four-bedroom | 7,000 |

Plans presented that include a den, library, or extra room shall have such extra room counted as a bedroom for purposes of this ordinance.

- C. **Natural features.** In RM-1 districts, land which is within a floodplain, watercourse, floodway, drainage course and/or wetlands, as defined and/or delineated as such by the U.S. Army Corps of Engineers, City Consultants, and/or official City maps adopted pursuant to this ordinance and the City floodplains, watercourse and wetland protective ordinances, and subaqueous land as is not otherwise delineated shall be counted for density computations on the basis of only 50 percent of such land.

In no event shall the development upon the remaining part of any parcel exceed an average density of 167 percent of the average density allowed in the schedule of regulations per remaining acre.

SECTION 138-6.101 Minimum Lot Standards

- A. **Two-family (duplex) units.** Two-family (duplex) units shall have a minimum lot width of 50 feet for each unit (or 100 feet per two-family residential structure).
- B. **Attached dwelling structures.** No attached unit structure (three or more dwelling units) shall be erected on a lot or parcel of land which has an area of less than one-half acre, or has a lot width of less than 150 feet.

SECTION 138-6.102 Setbacks

For the purpose of yard regulations, all attached unit buildings shall be considered as one building occupying one lot, and each attached unit building located on a parcel of land shall comply with each of the following setback requirements.

- A. **Perimeter setbacks.**
 - 1. Front yard. The minimum front yard setback is 30 feet.
 - 2. Rear yard. The minimum rear yard setback is 30 feet.
 - 3. Side yard. A minimum side yard setback of 30 feet shall be provided along each side property line. The side yard shall be increased by one foot for each ten feet or part thereof by which length the multiple structure exceeds 40 feet in overall dimension along the adjoining plot line provided that no attached unit structure shall exceed 180 feet in length along any one face of the building or 250 feet in total length.
 - 4. Any yard abutting a major thoroughfare in RM-1 districts shall have a minimum depth of 50 feet.
 - 5. Where any yard abuts an RE, R-1, R-2, R-3, R-4, RCD, MH or SP district, the minimum distance shall be 35 feet unless a larger setback is required by this Chapter.
- B. **Building separation.** The following minimum separation shall be provided between buildings in the RM-1 districts.

| Building Relationship | Overall Distance Between Buildings (Exclusive of Parking Area) |
|-----------------------|--|
| Front to side | 45 feet |
| Front to front | 50 feet |
| Front to rear | 60 feet |
| Rear to rear | 60 feet |
| Rear to side | 45 feet |
| Side to side | 30 feet |
| Corner to corner | 30 feet |

The front and rear of an attached unit structure shall be considered to be the faces along the longest dimension of such structure, with the front of the attached unit building being the direction faced by the living rooms of the dwelling units in such building, the rear of the multiple-family building shall be considered to be the direction faced by the service entrance of the dwelling unit in such building, and the side of the multiple-family building shall be considered to be the face along the narrowest dimension of the such building. Attached unit buildings may be considered to have 2 or more front façades and no rear façade if living rooms or building entrances are located on more than one façade of the building.

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SECTION 138-6.103 Minimum Floor Area

The minimum floor area for units in an attached unit building is as follows:

- A. **Efficiency unit.** The term "efficiency unit" shall mean a dwelling unit containing not over 500 square feet of floor area, and consisting of not more than one room in addition to kitchen, dining and necessary sanitary facilities. Any efficiency unit with an area greater than 500 square feet shall be considered a one-bedroom unit for the purposes of compliance with the density requirements for attached unit buildings.
- B. **One-bedroom unit.** The term "one-bedroom unit" shall mean a dwelling unit containing a minimum floor area of at least 600 square feet per unit, consisting of not more than two rooms in addition to kitchen, dining and necessary sanitary facilities.
- C. **Two-bedroom unit.** The term "two-bedroom unit" shall mean a dwelling unit containing a minimum floor area of at least 700 square feet per unit, consisting of not more than three rooms in addition to kitchen, dining, and necessary sanitary facilities.
- D. **Three or more bedroom unit.** The term "three or more bedroom unit" shall mean 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 150 square feet to the minimum floor area of 700 square feet.
- E. **Two-family (duplex) units.** Where two-family units are constructed within an RM-1 district the minimum floor area requirements of the R-4 one-family residential district shall be adhered to for each unit of the two-family structure.
- F. **Unit mixture.** In the RM-1 multiple-family districts, not more than ten percent of the total number of units shall be of the efficiency type. In no instance shall the number of one-bedroom units exceed 30 percent of the total number of units in the RM-1 districts.

SECTION 138-6.104 Design Standards

- A. **Building Height.** The maximum building height for any structure in an RM-1 district shall be 2.5 stories and 30 feet.
- B. **Architectural details.** Walls visible from a street or other residential uses shall include windows and architectural features similar to the front facade of the building, including, but not limited to awnings, cornice work, edge detailing or other decorative finish materials. All buildings shall have pitched roofs, which may include functional dormer windows and varying lines customary with gable or hip style roofing. Standing seam metal roofing is prohibited.
- C. **Garage Orientation.** Where attached unit buildings contain attached or detached garages that are accessory to the dwelling unit, no more than 25% of all garage doors may be located at or in front of the front building wall of the building, with all other garage doors being located at least 10 feet behind the front building wall of the unit or facing the side or rear of the unit. There is no limitation on the number or orientation of parking areas, garages and any other accessory structure or uses that may be located within the established rear yard, with access provided by an alley or access drive.
- D. **Front Door Orientation.** For attached dwelling types that have individual entrances directly to the exterior of the building (such as townhouse and stacked flat buildings), a minimum of seventy-five percent (75%) of the main entrances to the individual dwellings shall be located on the front façade of the building, and all shall include a front porch or stoop that is at least six feet (6') in width and depth with a minimum area of 36 square feet. The front porch or stoop may encroach into the front yard setback area provided that it remains unenclosed.
- E. **Street design and vehicular circulation.** Street connections shall be provided to adjacent neighborhoods and parcels in residential districts. Ingress and egress from the public streets shall be designed to minimize congestion and interference with normal traffic flow. All interior roads,

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drives, and parking areas within a multi-family development shall be hard surfaced and provided with curbs and gutters. Roadway drainage shall be appropriately designed such that storm water from the roadway will not drain onto the adjacent lots.

F. **Pedestrian circulation.** Minimum five-foot (5') wide concrete sidewalks shall be provided to connect parking areas, public sidewalks and recreation areas to all building entrances. Minimum six-foot (6') wide concrete sidewalks shall be provided along collector roads and streets within the development. Sidewalks or minimum 8-foot wide asphalt pathways shall be provided along streets adjacent to the development in accordance with adopted City plans and policies.

G. **Parking.**

- 1. On-street parking on interior streets shall count towards the minimum parking requirement. Where on-street parking is permitted, the street shall have a minimum clear circulation lane of 16 feet and parking stalls shall have a minimum width of 8 feet and a minimum length of 22 feet.
- 2. All off-street parking spaces must be screened from view of any public road, pedestrian path, or adjacent single family residential dwelling unit in compliance with Section 138-12.205, B (Landscape Requirements).
- 3. Off-street parking lots may occupy up to 50% of a required front yard and 75% of a required rear yard, provided that no portion of the parking lot is located closer than 15 feet to a perimeter property line.

H. **Recreation areas.** Passive or active recreation areas (including but not limited to seating areas, playgrounds, swimming pools, walking paths and other recreational elements in accordance with the intended character of the development) shall be provided at a ratio of at least five percent (5%) of the gross area of the development. The minimum size of each area shall be not less than 5,000 square feet, and the length to width ratio of each area, as measured along the perimeter, shall not exceed four to one (4:1). Such areas shall be centrally and conveniently located to be physically and visibly accessible to residents, and shall not be located within any required yard setbacks or building separations.

I. **Utilities.** All multiple-family dwellings shall be connected to the public sewer and public water system.

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CHAPTER 2. RCD – ONE-FAMILY RESIDENTIAL CLUSTER DISTRICTS

SECTION 138-6.200 Permitted Development

At the property owner's option, development in the RCD one-family residential cluster district may be according to the provisions and requirements of the R-3 residential district, or according to the provisions and requirements of this Chapter 1. If part or all of the property is developed according to the R-3 residential district requirements, the density of limitations and the other provisions of the R-3 residential requirements shall apply for that part of the property so developed.

SECTION 138-6.201 Attachment

No more than four units may be located in an attached unit building in the RCD district.

SECTION 138-6.202 Yards

Yard requirements in the RCD one-family residential cluster district shall be as follows:

- A. Front yards shall not be less than 25 feet.
- B. At least 20 feet of combined side yards shall be provided between buildings in an RCD district.
- C. Rear yards to one-family attached units shall be at least 35 feet.

SECTION 138-6.203 General Requirements

A site plan submitted under the RCD one-family residential cluster district shall comply with the following:

- A. All units that abut major thoroughfares of 120-foot right-of-way, or greater, shall have a rear yard or side yard relationship to such thoroughfares of at least 50 feet.
- B. A landscaped berm, at least five feet high, shall be provided along the entire property line abutting the major thoroughfare.
 1. This berm may be included within a required side or rear yard.
 2. The berm shall be landscaped with a minimum of one evergreen tree per 15 lineal feet and one deciduous canopy tree per 50 lineal feet.
 3. The slopes of such berms will be gentle enough so as not to erode when planted in grass and be suitable for mowing and typical lawn and landscaping maintenance.
 4. The design of the berm, as it relates to street intersections, will be such that the horizontal view of oncoming traffic is not obscured.
 5. The berm requirement may be waived by the Planning Commission if existing vegetation to be preserved will be sufficient to provide equal or greater screening than the berm.
- C. Street ingress and egress to the major thoroughfare shall be kept to a minimum, and, further, all main collector streets shall be dedicated road rights-of-way.
- D. Any area to be **dedicated to the City** for **public** park, recreation or open space purposes as a result of the application of this cluster approach shall be subject to the approval of the City Council, after review and recommendation by the Planning Commission, for minimum size, shape, location, access, the character of any improvements and assurance of the permanence of the open space and its continued maintenance.
- E. All other requirements of Section 138-2.103, C pertaining to site plan review.

SECTION 138-6.204 Change of Land

If the physical characteristics and the natural terrain and features which bring a parcel of land within the intent and provisions of this division are destroyed or substantially changed, the property shall not be developed according to the RCD provisions, but shall only be developed according to the provisions and requirements of the R-3 residential district. If such physical characteristics and natural terrain and features are destroyed and/or changed after the approval of a site plan, a stop work order may be issued by the City to all interested parties. At the written request of the property owners, the City Council shall hold a hearing to review the matter and to ascertain factually whether there was justification for the stop work order. The City may, at its option, apply to the circuit court for an injunction to prohibit further development pursuant to the approved site plan.

SECTION 138-6.205 Ancillary Uses

Ancillary uses in the RCD one-family residential cluster district are home occupations under the terms and conditions as set forth under Section 138-4.414.

SECTION 138-6.206 Floodplains, Subaqueous Areas or Wetlands

In RCD one-family residential cluster districts, other than a platted subdivision, land which is within a floodplain, watercourse, floodway, drainage course, and/or wetland, as defined and/or delineated as such by the U.S. Army Corps of Engineers, and/or official City maps adopted pursuant to this ordinance and the City floodplains, watercourse and wetland protective ordinances, and subaqueous lands as is not otherwise delineated, shall be counted for density computations on the basis of only 50 percent of such land. In no event shall the development of the remaining part of any parcel exceed an average density of five units per remaining acre.

SECTION 138-6.207 Area and Bulk Requirements

In the RCD one-family residential cluster district, all other requirements pertaining to height, bulk, and any other site improvements shall be controlled according to the requirements for the R-3 district set forth in Section 138-5.100 Schedule of Regulations.

CHAPTER 3. CI – COMMERCIAL IMPROVEMENT DISTRICTS

SECTION 138-6.300 Principal Uses Permitted

In the CI commercial improvement district, no building, structure or land shall be used and no building or structure shall be erected except for one or more of the uses permitted in the B-2 district as set forth in Section 138-4.300.

SECTION 138-6.301 Conditional Uses

Conditional uses permitted in the B-2 district as set forth in Section 138-4.300 may be permitted as conditional uses in the CI district.

SECTION 138-6.302 Required Conditions

All uses in the CI commercial improvement district shall be subject to the conditions contained in footnote B to the table of permitted uses in Section 138-4.300.

SECTION 138-6.303 Area, Bulk and Development Requirements

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

A. **Minimum yard setbacks.**

1. Front yard. Buildings may be located up to, but not in, any proposed right-of-way as contained in the City master right-of-way plan. However, for buildings existing prior to April 4, 1986 that are located within three feet of or in the proposed right-of-way, architectural features, such as canopies, awnings, false roofs or overhangs, may project beyond the front of the building provided such features do not project more than three feet beyond the front wall of the building and a minimum 8-foot clearance is maintained between the sidewalk and the bottom of the projection.
2. Rear yard. The rear yard setback shall not be less than 25 feet, provided that a roof overhang may extend up to four feet into the required rear yard.

3. Side yards. No side yard setback is required in the CI district.

- B. **Site Plan.** A site plan shall be submitted and be approved, unless any of the conditions given in subsection C of this Section 138-6.303 are not met. The detail and requirements for the site plan may be determined on a case-by-case basis by the City Planning and Development Director depending on the degree of site improvement or alteration proposed or required.

The City Planning and Development Director shall provide a written determination to the person who wishes to make the improvement or alteration. If a disagreement occurs with the determination provided by the Planning and Development Director, the determination may be appealed in writing to the City Council. There shall be no fee for this appeal, provided that the appeal is filed within ten days of the date of the determination. If the City Council finds that the determination provided by the City Planning and Development Director contains one or more requirements that the City Council determines to be inconsistent with the purpose and objectives of the CI commercial improvement district, namely encouraging desirable improvement of and growth in the district, especially if the proposed improvement or alteration might not occur should the determination be upheld, the City Council may modify or overrule the determination provided by the City Planning and Development Director. Site plan approval shall not be granted until there is compliance with this ordinance and all other applicable City ordinances.

- C. **Site Plan Not Required.** No site plan shall be required if one or more of the following conditions are met, provided there is compliance with all other requirements of this ordinance.

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1. The proposed improvement or alteration will not change the use of an existing building and will not increase the floor area of that existing building by more than 25%.
 2. The proposed improvement or alteration will change the use of an existing building from a nonconforming use or any conforming use to a principal permitted use allowed in the CI commercial improvement district, provided that the new use will not require more parking spaces than currently exist on the site and the proposed improvement or alteration will not increase the floor area of that existing building by more than 25%.
- D. **Site Plan Required for Existing Buildings.** For properties with existing buildings and when a site plan is required, the following shall apply:
1. Only the total number of parking spaces that may be laid out on the site shall be required for site plan approval. A new use that requires more parking than the previous use shall not occur unless sufficient parking can be provided based on the requirements for the new use pursuant to Section 138-11.204 pertaining to off-street parking requirements. No additions to existing buildings shall be allowed if the number of parking spaces that can be provided is less than required for the intended use of the property pursuant to Section 138-11.204.
 2. Surfaces for parking shall not be required to be paved. If surfaces are not paved, the surface shall contain gravel as specified and shall be constructed as required according to standards and specifications adopted by resolution of the City Council.
- 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 138-11.204, 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.
- G. **Loading/Unloading.** For all properties in the district, no loading/unloading zone shall be required.
- H. Whenever a site plan is required, the front yard provided and the area between the existing and proposed rights-of-way shall be planted in lawn and/or landscaped except in areas where sidewalks or parking areas are located.

SECTION 138-6.304 Signs

Signs shall be allowed in the CI commercial improvement district as permitted for the B-2 general business district, provided that for buildings located within one foot of or in the proposed right-of-way, a sign may be mounted on the vertical face of a building or on an architectural feature. In this case, the sign shall be parallel to the face of the building or architectural feature and shall not extend more than 12 inches beyond the vertical face of the building or architectural feature.

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CHAPTER 4. RMH – MANUFACTURED HOUSING PARK DISTRICT

SECTION 138-6.400 Relation to Manufactured Housing Commission Rules

The regulations established by state law (Michigan Public Act 96 of 1987, as amended) and the Manufactured Housing Commission Rules govern all manufactured home parks. When regulations in this Chapter 4 of O exceed the state law or the Manufactured Housing Commission Rules they are intended to insure that manufactured home parks meet the development and preliminary plan standards established by this Ordinance for other comparable residential development and to promote the health, safety and welfare of the City's residents.

SECTION 138-6.401 Occupancy of Manufactured Homes

The occupancy of a manufactured home shall be allowed in an RMH manufactured housing park district under the requirements of this Chapter 4 of O.

SECTION 138-6.402 Permitted Uses

- A. **Principal Permitted Uses.** The following uses are permitted by right in the RMH district:
 - 1. Manufactured home parks.
 - 2. Municipal buildings and uses.
 - 3. Primary and secondary schools (public, private and parochial).
 - 4. Publicly owned and operated parks and recreational facilities.
 - 5. Utilities, in accordance with the requirements of Section 138-4.440.

- B. **Conditional Uses.** The following uses may be permitted following conditional use approval:
 - 1. Nursery schools, day nurseries, and child care centers, in accordance with the requirements of Section 138-4.422.
 - 2. Places of worship, in accordance with the requirements of Section 138-4.430.
 - 3. Wireless telecommunication facilities, in accordance with the requirements of Section 138-4.443.

SECTION 138-6.403 Development Standards

Mobile home parks shall be subject to all the rules and requirements as established and regulated by Michigan law including, by way of example, Act 96 of 1987, as amended, and the Manufactured Housing Commission Rules and, in addition, shall satisfy the following minimum requirements:

- A. **Parcel Size for Overall Park.** The minimum parcel size for manufactured housing parks shall be fifteen (15) acres.

- B. **Minimum Site Size.** Mobile home parks shall be developed with an average site size of 7,200 sq.ft. Individual sites may be reduced to as small as 4,400 sq.ft. provided that for every square foot of land gained through such reduction, at least an equal amount of land shall be dedicated as open space for the collective use and enjoyment of all manufactured home park residents. This open space shall be in addition to the open space required under the Manufactured Housing Commission Rules in effect at the time the proposal is submitted.

- C. **Maximum Height.** In the RMH manufactured home park district, no structure shall exceed a height of 15 feet or one story. For community buildings and similar uses the maximum height may be two stories or 25 feet.

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- D. Setbacks.** Manufactured homes shall comply with the following minimum distances and setbacks:
1. For a home not sited parallel to an internal road, twenty (20) feet from any part of an adjacent manufactured home that is used for living purposes for the entire year.
 2. For a home sited parallel to an internal road, fifteen (15) feet from any part of an adjacent manufactured home that is used for living purposes.
 3. Seven (7) feet from any on-site parking space of an adjacent manufactured home site per Rule 125.194 (2) (b) of the Manufactured Housing Commission Rules.
 4. Ten (10) feet from any attached or detached accessory structure of an adjacent manufactured home that may not be used for living purposes for the entire year.
 5. Fifty (50) feet from any permanent community-owned structure such as community buildings or maintenance or storage facilities.
 6. One hundred (100) feet from any baseball, softball or similar recreational field.
 7. Twenty-five (25) feet from the fence of any swimming pool.
 8. Ten (10) feet from the edge of an internal road, provided that such road is not dedicated to the public. Mobile homes and other structures in the Residential D District shall be set back at least twenty (20) feet from the right-of-way line of a dedicated public road within the manufactured home park.
 9. Seven (7) feet from any parking bay off a home site.
 10. Seven (7) feet from a common sidewalk.
 11. All manufactured homes, accessory buildings and parking shall be set back not less than twenty (20) feet from any manufactured home park boundary line, except that a minimum setback of fifty (50) feet shall be provided from existing and future right-of-way lines of abutting streets and highways contained in the City's adopted Master Thoroughfare Plan.
 12. Fifty (50) feet from the edge of any railroad right-of-way.
 13. Twenty-five (25) feet from a natural or man-made lake or waterway.
 14. In an RMH manufactured housing park district, no manufactured home shall be located closer than 25 feet from any building within the park or any property line bounding the park. No building or manufactured home shall be located closer than 25 feet from any existing or proposed public street right-of-way, or less than 40 feet from any major arterial street.
 15. In addition, the manufactured home park site shall be enclosed by a masonry wall four feet eight inches high adjacent to all abutting properties and public rights-of-way and/or a 20-foot-wide greenbelt with adequate obscuring planting material unless the site abuts nonresidential districts. The wall and/or greenbelt shall be located within the manufactured home park site.
- E. Open Space.** Open space shall be provided in any manufactured home park containing fifty (50) or more manufactured home sites. A minimum of two percent (2%) of the park's gross acreage or 25,000 square feet of contiguous space, whichever is greater, shall be dedicated to well drained, usable open space.

SECTION 138-6.404 Service Drives

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In RMH manufactured housing park districts, service drives and walkways shall meet the minimum dimensional, design, and construction requirements in the Manufactured Housing Commission Rules and the following minimum requirements:

- A. The manufactured home park shall have direct access to a major thoroughfare of at least a 120-foot right-of-way as indicated on the master right-of-way plan of the county road commission by directly abutting thereon.
- B. Internal roads shall have access to a public thoroughfare or shall be connected to a public thoroughfare by a permanent easement. The easement shall be recorded before an internal road is approved by the Michigan Department of Consumer and Industry Services. Sole access by an alley is prohibited.
- C. An internal road shall be constructed of concrete, bituminous asphalt, or, where permitted by local regulations, compacted road gravel in compliance with the standards of the American Association of State Highway and Transportation Officials (AASHTO). The community developer may use other suitable materials of equal quality if approved by the Michigan Department of Consumer and Industry Services.
- D. Parking spaces on service drives shall be clearly marked.
- E. All service drives shall be provided with curbs and gutters and shall be properly drained.
- F. Streetlights and yard lights sufficient to permit safe movement of vehicles and pedestrians at night shall be provided and shall be so located and shaded as to direct light away from adjacent properties.

SECTION 138-6.405 Sidewalks

Concrete sidewalks having a minimum width of four (4) feet shall be provided on both sides of collector streets in the manufactured home park.

SECTION 138-6.406 Parking

- A. All manufactured home sites shall be provided with at least two (2) off-street parking spaces per Manufactured Housing Commission Rules.
- B. In addition, a minimum of one (1) parking space for every three (3) manufactured home sites shall be provided for visitor parking. Visitor parking shall be located within 500 feet of the home sites the parking is intended to serve. The 500 feet shall be measured along a sidewalk or street.
- C. Common areas for the storage of boats, motorcycles, recreation vehicles, and similar equipment may be provided in a manufactured home park, but shall be limited to use only by residents of the manufactured home park. If proposed, the location of such storage areas shall be shown on the preliminary site plan.

No part of any such storage area shall be located in any required yard on the perimeter of the manufactured home park. Such storage area shall be screened from view from adjacent residential properties with an opaque six (6) foot tall decorative vinyl fence or wall in accordance with the buffer requirements of Section 138-12.300. If a landscaped greenbelt is used, it shall consist of closely-spaced evergreen plantings (i.e., no farther than fifteen (15) feet apart) which can be reasonably expected to form a complete visual barrier that is at least six (6) feet above ground level at maturity.

Park owners who prohibit storage of boats, motorcycles, recreation vehicles, and similar equipment are not required to construct common areas for storage and parking. If boats, motorcycles, recreation vehicles and similar equipment are allowed in a park, park owners are required to provide storage for these vehicles.

SECTION 138-6.407 Water and Sewer Service

- A. **Municipal Water and Sewer.** All manufactured homes within such parks must be suitably connected to a municipal sewer and water service provided at each manufactured home site, where feasible, or a comparable central system, and shall meet the requirements of and be approved by the county health department and City engineer.
- B. **Sewer Design Standards.** All sanitary sewer facilities, including plumbing connections to each manufactured home site, shall be constructed so that all facilities and lines are protected from freezing, bumping by motor vehicles or creating any type of nuisance or health hazard. Sewer facilities shall be of such capacity to adequately serve all users of the park at peak periods. Running water from a state-tested and approved supply designed for a minimum flow of 200 gallons per day per manufactured home site shall be piped to each manufactured home. Sewer connections shall not exceed 30 feet in length along the ground, shall not be exposed to view, and shall have a minimum slope of 2%.
- C. **Storm Drainage.** Storm drainage facilities shall be so constructed as to protect those who will reside in the manufactured home park, as well as the property owners adjacent to the park. Such park facilities shall be of such capacity to ensure rapid drainage and prevent the accumulation of stagnant pools of water in or adjacent to the park.

SECTION 138-6.408 Fuel Oil and Gas Storage

In RMH manufactured housing park districts, any fuel oil, and/or gas storage shall be centrally located in underground tanks. Such tanks shall be at a distance away from any manufactured home sites, such distance to be determined by the fire department. All fuel lines leading to park and to manufactured home sites shall be underground and so designed as to conform to the City building code and any state code that is found to be applicable. When separate meters are installed, each shall be located in a uniform manner. The use of individual fuel oil or propane gas storage tanks to supply each manufactured home separately is prohibited.

SECTION 138-6.409 Disposal of Garbage and Trash

In RMH manufactured housing park districts, all garbage and trash containers shall be placed in a conveniently located, similarly designed, enclosed structures. The removal of trash shall take place not less than once a week. On-site incinerators shall be prohibited. The management shall provide the area and the method used for such removal, and it shall be approved by the state and inspected periodically by the county health department.

SECTION 138-6.410 Underground Wiring

- A. In RMH manufactured housing park districts, all local distribution lines for telephone or electric services, exclusive of main supply and perimeter feed lines when located on section or quarter section lines shall be placed entirely underground throughout the manufactured home park area; provided, however, that when a manufactured home park overlaps a section or quarter section line, main supply and perimeter feed lines located on such section or quarter section lines shall be placed underground.
- B. Conduits or cables shall be placed within private easements granted to the service companies by the proprietor and/or developer or within public ways. These telephones and electrical facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All telephone and electrical facilities shall be constructed in accordance with standards of construction approved by the state public service commission.

SECTION 138-6.411 Fire Protection

Every manufactured home park in an RMH manufactured housing park district shall be equipped at all times with fire extinguishing equipment in good working order of such type, size and number, and so located within the park to satisfy the regulation of the state fire marshal and City fire department. No open fires shall be left unattended at any time. Municipal water and fire hydrants must be on the park site and shall meet City standards.

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SECTION 138-6.412 Required Conditions

- A. There shall not be less than 600 square feet of floor space within each manufactured home.
- B. The front yard and any side yard adjacent to a street shall be landscaped and the park maintained at all times.
- C. No business of any kind shall be conducted in any manufactured home park except for separate, permanent structures which contain facilities such as the management's office, laundry and dry cleaning facilities or similar uses which are designed to serve only the residents of the park.
- D. All manufactured homes shall be skirted, and there shall be no storage beneath the manufactured home.
- E. All fences, other than the greenbelt surrounding the manufactured home park, shall be uniform in height, and shall not exceed 30 inches in height, and shall be constructed in such a manner as to permit access to all sides of each manufactured home.
- F. Each manufactured home site shall be provided with a concrete stand of not less than ten feet wide by 50 feet long and four inches in depth. In lieu of this requirement, concrete piers to frost depth shall be provided as follows: for single-side widths: 14 piers, 16 inches diameter; for doublewide widths: 28 piers, 16 inches diameter. In any instance all manufactured homes shall be appropriately anchored to the manufactured home stand or pier so as to withstand winds up to 100 miles per hour. Standards shall be in accordance with specifications as established by the manufacturer and acceptable to the City.
- G. Commercial display and sale of manufactured homes shall be restricted to appropriate commercial areas and shall not be allowed within manufactured home parks. Temporary models may be on display upon approval of the Zoning Board of Appeals.
- H. Public utility (water, sewer, electrical, etc.), cabinet design shall be approved prior to development by the City.

SECTION 138-6.413 Site Plan Review

Prior to the issuance of a permit for construction on a manufactured home park site, a site plan shall be submitted and reviewed in accordance with the requirements of Article 2 of this Ordinance.

SECTION 138-6.414 Performance Bond

After receiving approvals necessary under this division, the owner or representative shall furnish a performance bond to the City in the amount of 25 percent of the total site development cost, conditional upon compliance with this ordinance and construction permit requirements before any building permit is issued. The bond will be discharged upon the satisfactory compliance of the requirements of this ordinance and the City building code.

SECTION 138-6.415 Storage of Material

Each manufactured home park in an RMH manufactured housing park district shall be provided with a central storage area for the storage of miscellaneous equipment such as lawn mowers, recreational equipment, snow tires, barbecue grills, hoses, and the like. Such area shall be provided in the ratio of at least 200 square feet for each manufactured home site anticipated in the manufactured home park at capacity development. In addition, such storage area shall be screened with a protective fence or obscuring wall at least four feet six inches in height and shall be kept neat in appearance at all times.

SECTION 138-6.416 Ancillary Uses

Ancillary uses in an RMH manufactured housing park district shall be home occupations under the terms and conditions as set forth under Section 138-4.414.

CHAPTER 5. MR – MIXED RESIDENTIAL OPTION

SECTION 138-6.500 Applicability

The mixed residential development standards are a development option that may be exercised by a landowner or developer in areas zoned MR – Mixed Residential Overlay District. A proposed development using the mixed residential development standards shall be reviewed following the same procedures applicable to development of the site as permitted by the underlying zoning district.

SECTION 138-6.501 Permitted Uses

- A. **Principal Uses Permitted.** Any use permitted by right in the underlying zoning district shall be permitted by right in the MR district.
- B. **Conditional Uses.** The following uses may be permitted in the MR district subject to conditional use approval by the City Council:
 1. Any use listed as a conditional use in the underlying zoning district.
 2. Attached unit buildings.
 3. Nursing homes, convalescent homes and assisted living facilities, subject to the requirements of Section 138-4.423.

SECTION 138-6.502 General Requirements

The following requirements apply to all development in a MR district:

- A. **Parcel Area.** Development using the mixed residential option may only occur on a parcel with a minimum area of 10 acres located in a Mixed Residential Overlay District, unless the minimum area requirement is modified by the Planning Commission (see Section 138-6.507 below).
- B. **Density.** The maximum net density in the MR district is based on the underlying zoning district, and shall not exceed the following:

| District | Net Density (dwelling units per acre) |
|----------|---------------------------------------|
| RE | 0.95 |
| R-1 | 2.05 |
| R-2 | 2.75 |
| R-3 | 3.45 |
| R-4 | 4.25 |

- C. **Perimeter Setbacks.** The minimum setback requirements for buildings in a MR development from a perimeter lot line or a perimeter street are as follows:

| Building Type | Front | | Side | Rear* |
|---------------------|--------|-------|------|-------|
| | Street | Other | | |
| One-Family Detached | 30 | 35 | 15 | 60 |
| Attached Unit | 20 | 40 | 25 | 60 |

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D. **Interior Setbacks.** The minimum setback requirements for buildings in a MR development from an interior street, interior lot line, or other building within a MR development are as follows:

| Building Type | Front | Sides | | Rear* |
|---------------------|-------|-----------|-----------|-------|
| | | Least One | Total Two | |
| One-Family Detached | 20 | 5 | 15 | 35 |
| Attached Unit | 15 | 10 | 20 | 35 |

E. **Lot Area.** There is no minimum lot area or width requirement for detached dwelling units in a MR development.

F. **Building Height.** The maximum building height in a MR development is 2.5 stories and 30 feet.

G. **Garages.** A minimum one-car garage shall be provided accessory to each dwelling unit. No more than 25% of all garage doors may be located at or in front of the front building wall of the building. All other garage doors shall be located at least 10 feet behind the front building wall of the unit, or shall face the side or rear of the unit. There is no limitation on the number or orientation of parking areas, garages and any other accessory structure or uses that may be located within the established rear yard with access provided by an alley or access drive.

H. **Unenclosed front porches.** Unenclosed front porches that have an area of 80 square feet or greater and a roof may encroach up to 8 feet into a required front yard setback.

SECTION 138-6.503 Attached Unit Building Design Standards

All attached unit buildings in a MR development shall comply with the following standards:

A. **Individual Entrances Required.** All dwelling units shall have entrances that are directly accessible from the exterior of the building that include a minimum 30 sq. ft. unenclosed porch. No unit shall gain access from an interior hallway within a building. The primary exterior entrance to all units shall have a connection leading from the roadside sidewalk to the front entrance of the building.

B. **Maximum number of units.** No attached unit building shall contain more than 4 dwelling units.

C. **Stacked Flats Prohibited.** In no case shall stacked flats be permitted in a mixed residential development. All attached units shall be separated by common vertical walls. In no case shall dwelling units be separated by a common horizontal wall.

D. **Minimum Floor Area.** The minimum floor area required for any attached dwelling unit in a MR development shall be 1,250 square feet.

E. **Design Features.** Any street-facing façade that is visible from a public right-of-way or private road easement shall include features such as, but not limited to columns, cornices, pediments, articulated bases, and fluted masonry covering a minimum of 10% of the exterior wall area.

F. **Architectural Requirements.**

1. All walls that face a street other than an alley shall contain a minimum of 25% of the wall area in windows or doors (gabled roof areas are excepted).

2. Windows shall be provided with trim detailing or shall be recessed. Windows shall not be flush with the exterior wall treatment. Windows shall be provided with an architectural surround at the jamb.

- 3. Exterior finishes shall primarily consist of natural, durable materials such as brick or stone. Wood or vinyl siding may not consist of more than 33% of the wall area of any façade elevation (including gable ends). EIFS or stucco may not cover more than 10% of the area of any façade elevation.

SECTION 138-6.504 One-Family Dwelling Design Standards

- A. **Design Features.** One-family structures shall include a minimum of three of the following design features to provide visual relief along the front façade of the building:
 - 1. Dormers.
 - 2. Gables.
 - 3. Recessed entries, a minimum of three feet deep.
 - 4. Unenclosed front porches with a minimum area of 50 sq. ft. and a roof.
 - 5. Architectural pillars or posts.
 - 6. Bay window with a minimum projection of 24 inches.
- B. **Entry Feature.** Each one-family dwelling shall have a primary entrance feature such as a front door or front porch facing the street. The garage door shall not be the main entrance feature, and at a minimum, the front door should have the same prominence as the garage door.
- C. **Garage Doors.** Garage doors may not protrude more than 6 feet closer to the street than the front door of the house.

SECTION 138-6.505 Open Space Required

- A. **Formal or active open space.** A minimum of 5% of the gross lot area shall be dedicated to planned open space designed to complement the development. The planned open space may be in the form of a formal green or plaza, or may be designed as a park containing active recreational activities. Areas covered by bark, mulch, and other ground covers that do not provide a suitable surface for human use may not be counted towards the open space requirement.
- B. **Passive open space.** Any natural features determined by the Planning Commission to be of significant aesthetic or natural value that are located on the site shall be preserved as part of the MR development. If evidence is presented that such natural features were willfully destroyed or impaired prior to development being proposed using these MR standards, development on the site shall be disqualified from using the MR standards and shall comply with the requirements of the underlying zoning district.

SECTION 138-6.506 Landscaping and Screening

Development in a MR development shall comply with all applicable requirements of Article 13, and the following specific buffer requirements:

- A. A type C buffer shall be provided between any attached unit building and an adjacent one-family residential zoning district or use.
- B. A type B buffer shall be provided between any detached unit and an adjacent one-family residential zoning district or use.
- C. All other buffers shall be as required by Section 138-12.300 for the underlying zoning district.

SECTION 138-6.507 Modification of Standards

The Planning Commission may modify the dimensional requirements of this Article 6, Chapter 5 if it finds that another standard would be more reasonable due to existing site or neighborhood conditions, or because the site cannot physically comply with one or more of the requirements listed herein. In making a determination that a modification is warranted, the Planning Commission shall review the proposed development against the standards for approving a conditional use listed in Section 138-2.302.

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ARTICLE 7 PLANNED UNIT DEVELOPMENT

CHAPTER 1. NEW PUD PROJECTS

SECTION 138-7.100 Purpose and Applicable Regulations

- A. The Planned Unit Development (PUD) Option is intended to permit, with City Council approval subject to Section 138-7.105, private or public development which is substantially in accordance with the goals and objectives of the City's Master Land Use Plan.
- B. The development permitted under this article, planned unit development option, shall be considered an optional means of development only upon terms agreeable to the City. The provision of this option imposes no obligation on the City to encourage or foster its use. The decision whether to approve the use of this option shall be at the sole discretion of the City Council.
- C. The PUD option permits flexibility in the regulation of land development by encouraging innovation through an overall development plan to provide variety in design layout; to achieve economy and efficiency in the use of land, natural resources, energy and the provision of public services and utilities; to encourage the creation of useful open spaces particularly suited to the needs of the parcel(s) in question; and to provide appropriate housing, employment, service and shopping opportunities.
- D. It is further intended that the PUD option may be used to permit nonresidential uses of residentially zoned areas; to permit residential uses of nonresidential zoned areas; to permit densities or lot sizes that are different from the applicable district(s) and to permit the mixing of land uses that would otherwise not be permitted; provided that other objectives are met and the resulting development will promote the public health, safety and welfare.
- E. It is further intended that the development will be laid out so that the various land uses and building bulk will relate to each other and to adjoining existing and planned uses in such a way that they will be compatible, with no material adverse impact of one use on another.

SECTION 138-7.101 Definition

The term "planned unit development" means a specific parcel of land or several contiguous parcels of land, for which a comprehensive physical plan meeting the requirements of this Article, establishing functional use areas, density patterns, a fixed system of streets (where necessary), provisions for public utilities, drainage and other essential services and similar factors necessary or incidental to development has been approved by the City Council and which has been, is being, or will be developed in accordance with the approved final plan.

SECTION 138-7.102 Criteria for Qualification

The PUD option may be used in any zoning district classification; however, in order to qualify for the PUD option, it must be demonstrated that all of the following criteria will be met:

- A. The PUD option shall not be used for the sole purpose of avoiding applicable requirements of this ordinance. The proposed activity, building or use not normally permitted shall result in an improvement to the public health, safety and welfare in the area affected.
- B. The PUD option shall not be utilized in situations where the same land use objectives can be accomplished by the application of conventional zoning provisions or standards.

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- C. The PUD option may be used only when the proposed land use will not materially add service and facility loads beyond those contemplated in the master land use plan. The applicant must demonstrate to the satisfaction of the City that the added loads will be accommodated or mitigated by the applicant as part of the PUD.
- D. The PUD shall meet as many of the following objectives as may be deemed appropriate by the City:
 - 1. To preserve, dedicate or set aside open space or natural features due to their exceptional characteristics or their environmental or ecological significance in order to provide a permanent transition or buffer between land uses, or to require open space or other desirable features of a site beyond what is otherwise required in this ordinance.
 - 2. To guarantee the provision of a public improvement that would not otherwise be required to further the public health, safety or welfare, protect existing uses or potential future uses in the vicinity of the proposed development from the impact of a proposed use, or alleviate an existing or potential problem relating to public facilities.
 - 3. To promote the goals and objectives of the master land use plan and other applicable long range plans such as the master thoroughfare plan.
 - 4. To facilitate development consistent the Regional Employment Center goals, objectives, and design standards in the City's master land use plan.
 - 5. To preserve and appropriately redevelop unique or historic sites.
 - 6. To permanently establish land use patterns that are compatible with or will protect existing or planned uses.
 - 7. To provide alternative uses for parcels that can provide transition or buffers to residential areas and to encourage redevelopment of sites where an orderly transition or change of use is desirable.
 - 8. To enhance the aesthetic appearance of the City through quality building design and site development.

SECTION 138-7.103 Uses Permitted

- A. A land use plan shall be submitted for the area within the PUD. The land use plan shall be defined by the districts of the zoning ordinance that are to apply to the components of the PUD area.
- B. Principal uses permitted and special land uses permitted in the zoning ordinance shall be allowed within the districts identified on the PUD plan, except that City Council may prohibit some uses from districts designated on the PUD plan. City Council may also permit uses not otherwise permitted in the district if specifically noted on the PUD plan. Conditions applicable to principal uses permitted and special land uses permitted shall be used as guidelines for design and layout. Conditions may be waived or modified by the Planning Commission provided that such waivers or modifications are indicated on the PUD plan.

SECTION 138-7.104 Height, Bulk, Density, and Area Standards

The height, bulk, density and setbacks standards of each zoning district shall be applied to each specific district area designated on the PUD plan, except as specifically modified and noted on the PUD plan.

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 plan.**

1. Authorized applicant. A person owning or controlling the land may request consideration of the PUD option. The applicant shall submit a request for a determination as to whether the parcel qualifies for the PUD option under the criteria set forth, below, in subsection (c), Planning Commission Review.
2. Submittal of proposed PUD concept plan. Application shall be made to the planning department for review and recommendation by the Planning Commission. The application shall include the following:
 - a. A certified boundary survey of the exact acreage being requested prepared by a registered land surveyor (scale: not smaller than one inch equals 100 feet).
 - b. A topographic map of the entire area at a contour interval of not more than two feet. This map shall indicate all major stands of trees, bodies of water, wetlands and unbuildable areas (scale: not smaller than one inch equals 100 feet).
 - c. A proposed project land use plan identifying the following items of information. The project land use plan shall be drawn at a scale no smaller than one inch equals 100 feet:
 - i. Land use areas requested in the PUD option and identified or defined by the proposed zoning districts.
 - ii. Vehicular and pedestrian circulation, including major drives, the location of vehicular and pedestrian access points, non-motorized and pedestrian pathways, and cross sections and public or private streets.
 - iii. Transition treatment, including minimum building setbacks from property lines and land use boundaries within the PUD.
 - iv. The general location of nonresidential buildings and parking areas, estimated floor areas, building coverage, number of stories, building height, and proposed building facade elevations.
 - v. The general location and density of proposed residential unit types, including lot width and lot area for detached single-family residences.
 - vi. The general location of all woodlands, wetlands, water bodies and watercourses and proposed stormwater management facilities.
 - vii. The boundaries of open space areas that are to be preserved and reserved and an indication of the proposed ownership thereof.
 - viii. A schematic landscape treatment plan for open space areas, streets and border/transition areas within the PUD and along perimeter property lines.
 - ix. A preliminary grading plan, identifying the extent of grading and any areas that are not to be graded or disturbed.
 - x. A preliminary utility plan, including a contemplated water distribution, storm and sanitary sewer plan.
 - xi. Any deed restrictions or restrictive covenants associated with the property.
 - xii. All easement locations.

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xiii. A written statement explaining in detail the applicant's full intentions under the PUD option including the type of dwelling units or uses contemplated and resulting population, floor area, parking and supporting documentation, including the intended schedule of development.

d. **Written verification from the owner of the property that the applicant is authorized to pursue a PUD.**

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 plan. The Planning Commission shall review the proposed PUD concept plan for compliance with the following objectives and requirements:

- a. The proposed PUD promotes the land use goals and objectives of the City.
- b. All applicable provisions of this division shall be met. Where provisions of this division conflict with any other sections of this ordinance, the provisions of this division shall control and apply to the lands within a PUD area.
- c. There is, or will be at the time of initial development, adequate means of disposing of sanitary sewage and supplying the development with water, and the road system and stormwater drainage system are adequate.

4. City Council review. Upon receipt of the Planning Commission recommendation, City Council shall review the PUD option application and concept 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 plan has 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 plan or in accordance with an approved amendment thereto.
- c. No approved plan shall be terminated except with the approval of the City Council and the applicant, its successor or assign.

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

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:

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- 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;
 - ii. The final plats or site plans are in conformance with the approved PUD contract and PUD plan;
 - iii. In accordance with the PUD contract, 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.
- 2. Plans for tree removal permit and wetland permit review shall be submitted at the time of step two review.
- 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, or such other period of time stated in the PUD contract. 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.
- 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) 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 138-7.106 Fees

Fees for review of PUD plans under this ordinance shall be set forth in City Code Chapter 110.

SECTION 138-7.107 PUD Contract

The PUD contract 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, 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 shall not prevent the City from applying new or amended regulations that do not conflict with the PUD contract.
- H. A requirement that if changes in federal or state laws or regulations enacted after the contract has been executed operate to prevent compliance with parts of the contract, or render compliance

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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.
- J. Penalties for violating the PUD contract or failing to complete improvements included in the PUD.

SECTION 138-7.108 Amendments to PUD Plan

- A. Proposed amendments or changes to an approved PUD plan shall be submitted to the Planning Commission. The Planning Commission shall determine whether the proposed modification is minor in nature and does not to violate the area and density requirements or materially affect the overall character of the PUD plan. In such case, the Planning Commission may approve or deny the proposed amendment. If the Planning Commission determines the proposed amendment is material in nature, the amendment must be reviewed by the Planning Commission and approved by the City Council in accordance with the procedures applicable to final approval of the planned unit development.

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CHAPTER 2. EXISTING PLANNED NEIGHBORHOOD DEVELOPMENT PROJECTS

SECTION 138-7.200 Continuation

Only planned neighborhood development projects which were approved and not rescinded, vacated or denied, and which were actually in the process of construction under provisions of Ordinance No. 36, which ordinance was repealed on May 29, 1975, may continue to completion under the provisions of this article.

SECTION 138-7.201 Procedure for Completion

A. Effect of preliminary approval.

1. No development may take place in any area approved under Ordinance No. 36, before its repeal, except in accordance with the plan approved or in accordance with a City Council approved amendment thereto.
2. After the preliminary approval, the development shall progress without any unreasonable delay. If, in any one-year period, there is no filing of a final plan, and there is land which has not yet received final approval, the City Council may request a conference with the developer regarding the progress of the development. If it appears, after a hearing, for which notice shall be given to the developer, there is no reasonable likelihood the project will continue, the board may terminate the approvals previously given.

B. Submission of final plans. Before any building permits shall be issued for buildings and structures within the area of planned neighborhood development, a final plan for any given project area of not less than 50 acres shall be submitted to the City Council for review following a recommendation by the Planning Commission. If the open space for the entire planned neighborhood development has been irrevocably committed to that purpose, a final plan need not contain an area of at least 50 acres. The City Council may consider and approve a site plan of less than 50 acres if it appears in the best interest of the development and the objectives of this ordinance and if to do otherwise would cause a hardship. A final plan shall meet the following requirements:

1. A detailed site plan, fully dimensioned, showing a fully scaled plan view of all buildings other than detached single-family, all public roads rights-of-way and private streets, boundaries and acreage of each zone district and the proposed ultimate density thereof, parking areas, utilities, churches, schools and areas to be set aside for the use of the public or by residents within the development (scale: 1" = 50').
2. The proposed topography (contour interval of at least two feet) shall be superimposed on all site plans (scale: 1" = 50').
3. Typical floor plan for all principal buildings and structures, other than single-family detached dwellings, with a schedule of building types to be included in the final plan.
4. Approval of each functional use area within a project area shall be based on the area meeting the standards of this ordinance as to density. To accomplish this standard, open space and/or common areas of adequate size shall be shown with each project area being presented. This total land area shall then be used to compute density. Subaqueous or submerged bottomland of lakes or streams shall be excluded in computing the area of a parcel except that where the lands abutting such lakes or streams are developed in park or open space for the use of residents of the neighborhood, the surface area of such lakes or streams may be used to compute density.
5. The term "open space" shall be defined as areas without buildings other than those incidental to recreational activities having a nature of a park. The term "common areas" shall be those

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areas designated as such which are set aside for use, in common, by the residents of the project which shall include community centers, swim clubs, etc.

- C. **Approval of final submittal by City Council.** Approval of each project area shall be effective for a period of three years. If development is not completed in this period, further submittals under this planned neighborhood development approach shall cease until the project in question is completed or sufficient cause can be shown to the City Council for not completing the development. In reviewing and approving the final plans, the following conditions shall be set forth:
 1. Approval shall be granted by the City Council only after review and recommendation by the Planning Commission. Public hearings shall not be required.
 2. A dedication of all main collector roads shall be made so as to cause continuity of public access between the adjacent major thoroughfare and ingress and egress to all private development within the plan.
 3. Before approving any final plan, the City Council shall determine that:
 - a. All areas shown upon the comprehensive plan for the entire planned neighborhood development area for use by the public or the residents of land within the planned neighborhood development, in common, have been irrevocably committed to such uses by dedication, restrictive covenants or in some other manner satisfactory to the City Council.
 - b. The final plan is in general conformity with the original plan previously approved.
 4. Provisions, satisfactory to the City Council, have been made to provide for the financing of any improvements shown on the plan for open spaces and common areas which are to be provided by the applicant and that maintenance of such improvements is ensured by a means satisfactory to the City Council.
 5. Proceeding with a planned neighborhood development should be permitted only if it is mutually agreeable to the City Council and the developer or sponsor.

SECTION 138-7.202 Limits on Height, Bulk, Density, and Area by Land Use

- A. **Boundary Strip.** All of the standards of the schedule of regulations in section 138-1111, which were in effect at the time of the original approval of the project, for the applicable one-family district shall be applied to a strip at least 360 feet in depth around the outer boundaries of the area proposed for a planned neighborhood development where such area abuts a one-family district. Development of this strip shall be in complete conformity with the zoning requirements of the abutting one-family district and shall be developed only with one-family detached residential structures, provided that the strip may be penetrated by park, golf course, or other related open space, subject to the approval of the Planning Commission. All other uses permitted in the one-family districts shall be prohibited from this strip. The City Council may vary or eliminate this 360-foot requirement when the parcel in question cannot be practicably developed at this depth, due to topography, existing or proposed abutting development, or abutting heavily traveled major thoroughfares, existing or proposed. It may also be waived when the abutting land use does not require a buffer of single-family homes.
- B. **Density.** The overall maximum permitted density within any planned neighborhood development (PND) shall not exceed the following density:
 1. In those use districts zoned R-1-A or R-1-B one-family residential prior to approval of a plan was approved under section 1402(3) of Ordinance No. 36, the maximum density of the PND shall not exceed 3.9 dwelling units per acre, subject to subsection (b)(3) of this section.

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2. In those use districts zoned R-1-C or R-1-D one-family residential prior to approval of a plan that was approved under section 1402(3) of Ordinance No. 36, the maximum density of the PND shall not exceed 5.6 dwelling units per acre, subject to subsection (b)(3) of this section.
 3. The overall density of the PND shall be averaged for the entire PND area included within the proposed plan. Nonresidential use areas and subaqueous or submerged bottom land of lakes or streams, except as provided in Section 138-7.201B.4 shall be excluded in computing the area of the parcel and, therefore, the related density. Areas where a public or semipublic use is located or placed shall be included for density computation on the basis of 67 percent of the area. A semipublic use shall be defined as a use involving a major office or headquarters of a recognized charitable organization, a YMCA, church, etc.
- C. **One-Family dwellings required.** Not less than 65 percent of the area planned for residential development must be devoted to single-family detached dwellings; however, the board, after the recommendation of the Planning Commission, may vary this when the parcel in question cannot practically be developed on this basis.
- D. **Common areas.** On the final development plan of any one project area, the common areas and open spaces shown on the plan may be used to maintain the average density as required under subsection (b) of this section.
- E. **Yard requirements.** Except as set forth for the 360-foot strip around the outer boundary of the planned neighborhood development, all yards for one-family development may be reduced from the requirements of the schedule of regulations as follows subject to the review and approval of the Planning Commission: Front yards may be reduced by ten feet. At least 20 feet of combined side yards shall be provided between buildings.
- F. **Multiple family.** Only areas zoned for multiple-family residential on May 29, 1975 shall be developed under the schedule of regulations in effect at the time of the original approval of the project, with the inclusion of the open space and common areas in the computations of density. Any new areas rezoned to multiple-family residential after May 29, 1975, shall be developed under the schedule of regulations in effect at the time of development. Land area once used in computing density for one project shall not again be used to compute density in another. Where one-unit and two-unit structures are proposed, there shall be compliance with the following:
1. A property owner desiring to develop land zoned multiple-family residential with one-family and/or two-family dwelling units, other than as a subdivision which meets the requirements of the regulations for the R-4 single-family residential district, shall first obtain the approval of the City Council, after recommendation by the Planning Commission. Approval under these provisions shall allow the property owner certain latitude for innovative designs and concepts as an alternative to the normal setback requirements, etc. Therefore, special provisions for regulation of the development are necessary in order to ensure a harmonious development and the avoidance of potential problems after the project is completed.
 2. Before tentative approval of a preliminary plat shall be given, a site plan shall be presented and approved which meets the requirements of Section 138-2.103, C pertaining to site plan review.
 3. Before approval shall be given, the property owner of the total area approved for a planned neighborhood development and the City shall agree to the number of dwelling units allowed for the total planned neighborhood development, which shall include the designation of density limitations for specific areas of the development. The property owner and the City shall agree to a specific reduction in density for an area zoned multiple-family residential which is developed under these provisions for one-family and two-family dwelling units. Once an area is so developed under these provisions, another area of the planned neighborhood development may not be increased in density to compensate for the allowable units not used in the areas developed under these provisions for one-family and/or two-family dwelling units.

4. No more than 5.6 dwelling units per gross acre on the average of the acres with lots located thereon may be allowed for any area designated in a site plan and developed under these specific provisions for one-family and/or two-family dwelling units.
5. Before approval the property owner shall provide and the City Council shall approve a written agreement which will be recorded and will be binding upon and run with the land that will provide for an association which will be continuous and have the authority to enforce deed restrictions and/or covenants, and will ensure restrictions and/or covenants containing at least the following:
 - a. Prohibition of any accessory buildings.
 - b. Prohibition of swimming pools in any area except common areas.
 - c. Prohibition of any dwelling unit, once built, from being converted to any multiple-family building without the expressed written approval of the City.
6. With reference to Ordinance 36, section 1401, subsection (e) shall be modified to allow a reduction in the side-to-side minimum distance between buildings in accordance with the following formula but not less than "X."

Y (LA + LB)

T = 2 Where T equals the required minimum horizontal area between the sidewall of building A and the sidewall of building B.
 LA and LB as defined in subsection E.

X and Y shall be defined as follows and determined from the following table:

X = The minimum permissible distance, in any instance
 Y = The average distance

| Side-to-Side Relationship (in stories) | X (in ft.) | Y (in ft.) |
|--|------------|------------|
| One to one | 6 | 13 |
| One to more than one | 8 | 14 |
| More than one to more than one | 10 | 15 |

Where building distance formula are not applicable, the minimum distance may be reduced to 20 feet.

The minimum distance between windows in adjacent buildings shall be 13 feet.

7. The minimum floor area for a single level dwelling unit shall be 912 square feet. The minimum first floor area of multilevel, one-family and two-family dwelling units shall be 650 and 575 square feet, respectively. If a basement is not provided, an additional 100 square feet shall be added to the minimum required first floor area for utilities.
8. The platting of lots shall be permitted. Minimum yard setbacks, as stated in the schedule of regulations, need apply only to the peripheral bounding lot lines of the planned development, except where boundary lines are contiguous to planned open space, a 15-foot minimum setback shall be required; the intent is to allow flexibility in the placement of all lot lines within the site, provided the required minimum distances between buildings is maintained. Furthermore, the maximum percentage of lot coverage by all buildings, as stated in the schedule of regulations, shall apply to the entire planned development so platted and need not apply to individual lots. In locations where building walls are less than five feet from lot lines,

wall openings shall not be permitted and an easement provided so that a minimum of five feet is available for maintenance access.

SECTION 138-7.203 Scheduling of Construction

- A. Under this article, the entire neighborhood area shall be fully developed and/or platted and recorded within a period not to exceed ten years from the date of approval of the initial project area plan with the granting of subsequent one-year extensions by the Planning Commission being permissible.

- B. In the development of any planned neighborhood development, the percentage of platted and recorded single-family lots at any given time in relation to the number of multiple-family dwelling units approved for building permits shall be at least in proportion to the ratio between the total number of single-family units and the total number of multiple-family units planned for the entire development.

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ARTICLE 8 FLEX BUSINESS OVERLAY DISTRICTS

CHAPTER 1. ADMINISTRATION

SECTION 138-8.100 Intent

The Flex Business (FB) Overlay Districts are designed to foster vital, lively, and sustainable development that creates an imageable neighborhood identity for the various portions of the City located in one of the FB overlay zoning districts. The FB districts are adopted to implement the vision of the Master Land Use Plan.

These form-based zoning regulations are at a basic level similar to traditional use-based zoning techniques because they regulate the same characteristics of development. Both traditional use-based zoning regulations and the form-based regulations regulate four major components of development - use, site design, building design, and management. The difference between the form-based regulations and traditional use-based regulations is the emphasis and specificity of regulation placed on each of the four elements. Where traditional use-based zoning regulations emphasize the regulation of uses and contain much less specificity about design, the form-based regulations emphasize design and permit greater flexibility in use.

The intent of the form-based regulations is to create proper physical form through simple and clear regulations for the design of new development or redevelopment. For the purposes of this Article 8, proper physical form means development that permits a mixture of land uses in close proximity; streets that serve the need of pedestrians, velocipedes and motor vehicles equitably; provides places for informal social activity and recreation; and creates building frontages that define the public space of streets. With proper urban form, a wide range of uses within the building may be comfortably and naturally accommodated.

SECTION 138-8.101 Flex Business Overlay Districts Established

The FB overlay districts are optional overlay districts. Any land that is located within the boundaries of a FB overlay district will have two zoning designations, the FB Overlay and the standard underlying zoning district as shown on the Zoning Map.

Property in a FB overlay district may continue to be used as permitted by the standard zoning district. Any new development or major redevelopment in a FB overlay district may be accomplished following either the requirements of this Article 8 or the regulations applicable in the underlying zoning district.

Minor redevelopment of existing buildings and uses developed in accordance with the standards of the underlying zoning district may be permitted to redevelop according to the dimensional standards of this Article 8, even if those dimensional standards may violate the dimensional standards applicable in the underlying zoning district. In the case of such minor redevelopment, the Planning Commission shall determine which regulations of this Article 8 shall apply based on the size, scale, and location of the proposed minor redevelopment.

SECTION 138-8.102 Instructions

- A. **Application of Requirements.** The provisions of this Article 8 are activated by “shall” or “must” when required, “should” or “encouraged” when recommended, and “may” when optional.
- B. **Conflict.** Wherever there appears to be a conflict between the regulations of this Article 8 and other sections of the Zoning Ordinance (as applied to a particular development), the requirements specifically set forth in this Article 8 shall prevail. For development standards not addressed in this Article 8, the other applicable sections of this Zoning Ordinance shall be used as the requirement.

SECTION 138-8.103 Approval Process

FLEX BUSINESS OVERLAY DISTRICTS

Any proposed development using the FB overlay option shall require only site plan approval unless a use or design characteristic that requires conditional use approval as identified in this Article 8 is proposed as part of the development.

- A. **Site Plan Approval.** Site plan approval shall be required in accordance with the requirements of Section 138-2.103, C. The type of site plan review required shall be as identified in Section 138-2.200 and the site plan review process shall follow the procedures of Section 138-2.202. Site plans must contain all of the information required by Section 138-2.208.
- B. **Conditional Use Approval.** For any proposed development or establishment of use in a form-based district that requires conditional use approval, the application shall be reviewed following the procedures and review criteria of Article 2, Chapter 3.
- C. **Site Condominium and Subdivision Development.** Any proposed site condominium or subdivision in a form-based district shall be approved following the procedures contained in the City's site condominium or subdivision control ordinance with the exception that any design requirement contained in this Article 8 shall take precedence over any similar design requirement contained in the condominium or subdivision control ordinance.

SECTION 138-8.104 Permitted and Optional Regulations

Wherever in this Article 8 reference is made to permitted and optional improvements, permitted improvements shall be permitted by-right, while optional improvements shall require the approval of the reviewing body. An optional improvement or layout may be permitted by the reviewing body if it is consistent with the following criteria:

- A. The requested option is consistent with the intent of the form-based district as established in Section 138-8.100.
- B. The requested option is consistent with existing or planned development on adjacent or nearby parcels.
- C. The requested option will not negatively impact the potential of adjacent parcels to develop in accordance with the standards of this Article 8.
- D. The requested option will, in the opinion of the reviewing authority, result in a superior site design or layout than would a permitted improvement or layout.

SECTION 138-8.105 Existing Development in the Flex Business Overlay Districts

- A. Any development activity in the FB overlay districts that requires administrative or sketch plan review, or does not require development review per Section 138-2.200.B may be reviewed following the requirements of this Article 8. Site or building improvements shall be consistent with the provisions of this Article 8 to the greatest extent possible; however, complete compliance with the provisions herein is not required.
- B. Any development activity in the Flex Business Overlay districts that requires site plan approval shall comply with all of the requirements herein, except as may be modified per Section 138-8.604.

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CHAPTER 2. PERMITTED USES

SECTION 138-8.200 Permitted Uses

The following Table 7 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 144 for a description of the uses in Table 7.

Table 7. Permitted Uses in Flex Business Districts

| P: Permitted Use | C: Conditional Use | [shaded]: Not Permitted | | | |
|-------------------------|--------------------|---|------|------|------|
| | | USE | FB-1 | FB-2 | FB-3 |
| RESIDENTIAL USES | | | | | |
| | | 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 |
| LODGING USES | | | | | |
| | | Bed & Breakfast | P | P | P |
| | | Inn | C | C | P |
| | | Hotel | -- | C | P |
| COMMERCIAL USES | | | | | |
| | | Bar, Tavern, or other Alcohol Service Establishment | C | P | P |
| | | 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 |
| OFFICE USES | | | | | |
| | | Office | P | P | P |
| CIVIC USES | | | | | |
| | | 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 |
| EDUCATION USES | | | | | |
| | | Learning Center | P | P | P |
| | | Research Facility | P | P | P |
| | | School | P | P | -- |
| | | Special Training/Vocational | P | P | P |

CHAPTER 3. STREET DESIGN STANDARDS

This Chapter establishes the street design parameters applicable in the Flex Business Overlay Districts.

SECTION 138-8.300 Street Types

Each street in and adjacent to a form-based zoning district shall be assigned one of the following street functions. The street function will determine what kinds of buildings and uses can be located along that street, and how buildings will look and be placed along the street.

The following Table 8 describes the street types and their intended function. Perimeter streets are meant to carry large volumes of traffic and are primarily intended to serve the needs of vehicular traffic. Perimeter streets are major roads that already exist in the City and are defined as principal or minor arterials in the City’s Master Thoroughfare Plan. Interior streets are intended to carry vehicular traffic and to promote pedestrian activity, and will be new streets that are constructed within the development or existing collector or local roads.

For the purposes of determining building frontage and placement, along with street design standards for new streets, a development plan in a FB overlay district shall designate all streets using one of the following four categories:

Table 8. Street Types in the FB Overlay Districts

| | STREET TYPE | FUNCTION |
|-------------------|--------------|---|
| PERIMETER STREETS | FREEWAY | Long-distance, high-capacity, high-speed roadway traversing the City. M-59 is the only Highway located in Rochester Hills. |
| | ARTERIAL | Any principal or minor arterial, as defined in the City’s Master Thoroughfare Plan |
| INTERIOR STREETS | MAIN STREET | A “main street” within a development. A main street will typically be a new street that is not an arterial as defined in the City’s Master Land Use or Master Thoroughfare Plan. However, a main street may be a collector street as defined in City’s Master Thoroughfare Plan. Main streets are intended to serve as the principal interior streets in the FB overlay districts. If a development has interior streets, it must have at least one main street. |
| | MINOR STREET | Minor streets provide access to parking and service areas in the REC overlay district. Minor streets fill out the street network and form blocks, and may be upgraded to major streets in the future. Major circulation aisles in parking lots should be designed as minor streets. |

SECTION 138-8.301 Street Network and Blocks

Development in the FB overlay districts must provide an interconnected network of streets, drives, or other public passageways.

- A. **Blocks.** The street network in a form-based zoning district need not form an orthogonal grid, however, sufficient intersections shall be provided to create walkable and pedestrian scale development.

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1. Block Perimeter. The maximum block perimeter in a FB overlay district is 2,200 feet.
 2. Block Length. The portion of any block between intersecting streets may not exceed 500 feet without a dedicated pedestrian pass-through providing access through the block to another street.
 3. Pedestrian Pass-Throughs. Pedestrian pass-throughs shall have a minimum width of 8 feet, shall be designed so they cannot be enclosed or locked, and shall be designed to be safe and interesting for pedestrians. Security lighting sufficient to maintain a minimum light level of one foot candle measured one foot above grade level shall be provided in pedestrian pass-throughs.
 4. Interior Streets. Interior streets are not required to intersect at ninety degree angles, and may be bent or curved, but must connect to other streets. Jogs or centerline offsets shall be at least 100 feet for interior streets.
- B. Stub Streets and Culs-de-Sac.**
1. Stub Streets may be provided to facilitate continuation of the street network on adjacent developed or undeveloped parcels. A stub street intended to connect to future development shall not be considered a cul-de-sac if it is less than 200 feet in length.
 2. Culs-de-sac are not permitted in a form based zoning district except as an optional improvement where physical or natural boundaries such as freeways or protected natural areas create no practical expectation that the street network will be continued in the future.
- C. Perimeter Street Intersections.** Intersections of interior streets with an arterial street shall be separated by at least 330 feet along the perimeter street.
- D. General Requirements.**
1. Street Connectivity. Street connections for the continuation of the street network onto adjacent properties shall be provided when the potential exists for the continuation of those streets on adjacent parcels. A minimum of one future street connection shall be provided for each 600 feet or fraction thereof of common property line between two parcels.
 2. Public and Private Streets. Internal streets in the form-based districts should be dedicated to the public to ensure connectivity between adjacent parcels. Accordingly, public streets are permitted while private streets are an optional improvement. See Section 138-8.104 for approval procedures for optional improvements.
 3. Cross-Access. If private streets are proposed, blanket cross-access easements shall be provided for all private streets in a development to ensure that the internal street system may connect to the internal street system on adjacent parcels. The blanket cross-access agreement shall provide for reciprocal cross-access for connection to streets on adjacent parcels without limitation.
 4. Public Transit Nodes. Area shall be set aside to accommodate a public transit node every 1,500 feet along a perimeter street to accommodate future transit service.
 5. Pedestrian Circulation Network. Development in the form-based districts shall incorporate a pedestrian circulation network that connects all portions of the site with the regional pathway network via dedicated sidewalks or pedestrian pathways.

SECTION 138-8.302 Street Design

A. General Standards Applicable to All Internal Streets.

1. Design Speed. Internal streets in the form-based districts shall be designed with a maximum design speed of 25 miles per hour. In cases where an internal street is intended to serve as a collector street, has a length exceeding 2,640 feet and provides access to more than one perimeter street the design speed may be raised to 35 mph.
2. Alleys and Rear Access Lanes. Alleys and lanes that provide access to the rear of buildings are permitted. The intersection of alleys and rear access lanes with an interior street shall be set back a minimum of 100 feet from the centerline intersection of any two streets. Alleys and rear access lanes may only intersect with a street having a right-of-way of 66 feet or less.
3. Clear Vision Area. A clear vision area shall be maintained at all street intersections. The clear vision area shall be kept free of any objects or structures located between a height of 2 and 8 feet, and no parallel parking spaces may be located within a clear vision area. The clear vision area is defined as any area that is located in the right-of-way or road easement area of more than one interior street. (See Figure 1 at right.)
4. Curbs. Vertical curbs with a minimum height of 6 inches are required along all interior streets (except where an alternate treatment is permitted or recommended by this Article 8).

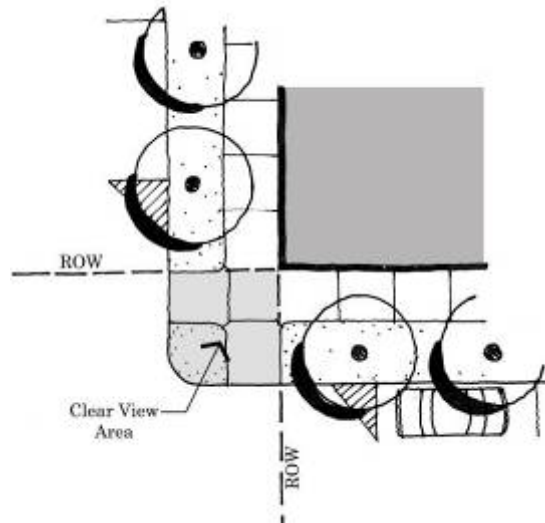


Figure 1. Clear Vision Area

5. Curb Radius.
 - a. Interior Streets in the FB Overlay Districts. The curb radius at the intersection of two interior streets in the Flex Business districts shall not exceed 15 feet (or 25 feet, if a corner bump-out is provided).
 - b. The curb radius at the intersection of an interior street and a perimeter street shall not exceed 30 feet unless a larger radius is required by the Michigan Department of Transportation or the Road Commission for Oakland County, as is applicable.
6. Effective Turning Radius. A service and emergency vehicle circulation plan that shows the effective turning radius for large vehicles at all corners shall be provided to demonstrate that the effective turning radius at all corners is sufficient to accommodate service and emergency vehicles. The street design standards listed in this section may be modified as necessary to provide emergency vehicle circulation routes through the development.
7. Sidewalks at Driveway Crossings. When a sidewalk crosses a vehicle driveway, the driveway shall retain the elevation of the sidewalk. The appearance of the sidewalk shall be maintained across the driveway to indicate that the sidewalk remains part of the pedestrian zone and that pedestrians have the right-of-way.
8. Crosswalks. Pedestrian crosswalks shall be distinguished in the parking and vehicle travelway zones through the use of pavement striping or a contrasting type of pavement (such as brick pavers or integrally colored scored concrete).

9. Traffic Calming Measures. The use of raised intersections, lateral shifts, and traffic circles are encouraged as alternatives to more conventional traffic calming measures such as speed bumps. If a raised intersection is proposed, bollards or other protective measures shall be used to separate vehicular and pedestrian areas in the intersection.
- B. **Street “Zones.”** Streets consist of three zones – the travelway zone, the parking zone, and the pedestrian zone. The elements that are included in each street zone are as follows (see Figure 2 on following page):
1. Travelway Zone. The travelway zone accommodates vehicles in transit, and consists of vehicle travel lanes, left turn lanes, public transit infrastructure (such as dedicated rapid bus lanes or light rail tracks) and boulevard medians.
 2. Parking Zone. The parking zone accommodates vehicles at rest and includes on-street parking lanes. The parking zone can also accommodate public transit elements by replacing some parking spaces with transit stops.
 3. Pedestrian Zone. The pedestrian zone is located between the curb and the edge of the right-of-way or road easement. The pedestrian zone is further separated into four sub-zones (see Figure 3 on following page):
 - a. *Edge Area.* The edge area is the space adjacent to and including the curb. The edge area is necessary to allow the doors of cars parked along the street to open and close freely, and must have a width of 2.5 feet. In general the edge area shall remain clear of obstructions, but streetscape elements such as parking meters, light posts, traffic control signs, and tree grates may be located in the edge area.
 - b. *Furnishings Area.* The furnishings area accommodates amenities such as street trees, planters, and sidewalk furniture. The furnishings area can be paved (with street trees located in tree grates), or it may be landscaped with a street lawn. Outdoor eating areas or other similar uses associated with a use in an adjacent principal building may be located in a furnishings area.
 - c. *Walkway Area.* The walkway area is the basic sidewalk area where pedestrians walk. The walkway area must remain clear of obstructions at all times to allow free pedestrian travel. No permanent structures or uses are permitted in the walkway area.
 - d. *Frontage Area.* The frontage area is the portion of the pedestrian zone adjacent to the edge of the right-of-way or road easement when a building is located at the lot line. When the building is set back from the lot line, the pedestrian zone will not have a frontage area, and any frontage area will serve as walkway area. The frontage area is intended to accommodate door openings, window shoppers, and the tendency of people to shy away from walls higher than waist height. The frontage area may also be used for outdoor eating areas or other similar accessory uses associated with a use in the adjacent principal building.

| | | | | | | | | | | | | | |
|-----------|-----------|------------|------------|------------|------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----|
| ARTICLE 8 | ARTICLE 9 | ARTICLE 10 | ARTICLE 11 | ARTICLE 12 | ARTICLE 13 | ARTICLE 1 | ARTICLE 2 | ARTICLE 3 | ARTICLE 4 | ARTICLE 5 | ARTICLE 6 | ARTICLE 7 | TOC |
|-----------|-----------|------------|------------|------------|------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----|

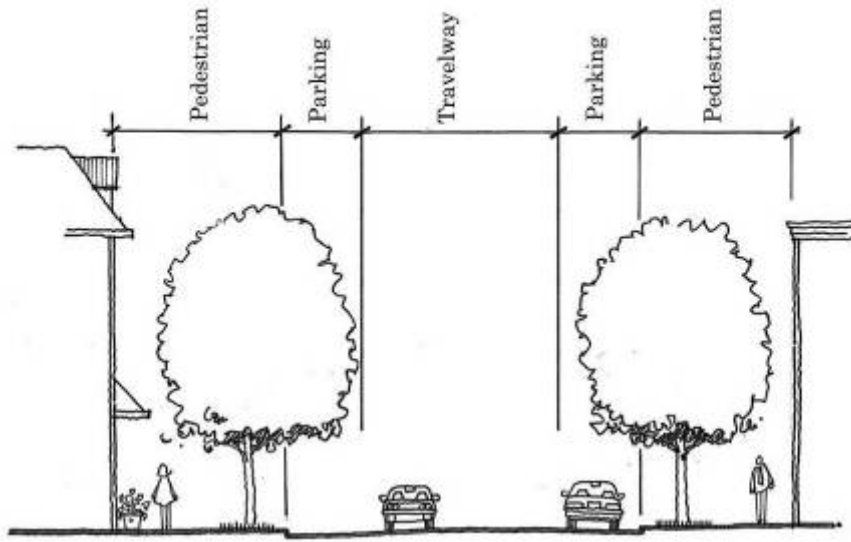


Figure 2. Street Zones

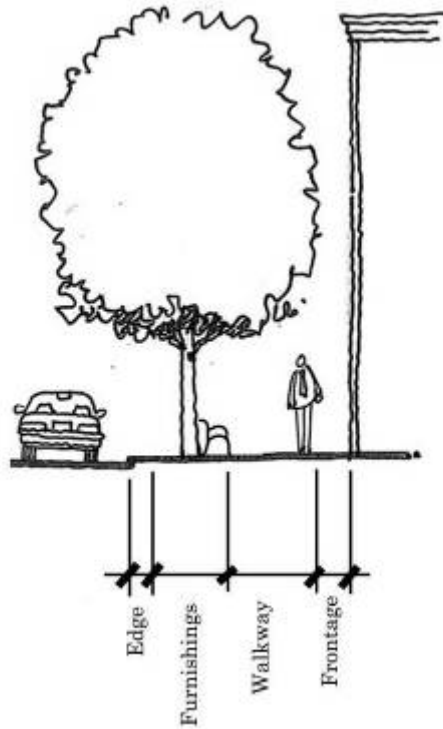


Figure 3. Pedestrian Zone

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C. **Interior Street Design Guidelines.** Interior streets in a form-based district shall comply with the guidelines in the following Table 9. The guidelines are designed to create streets that are compatible with the street function and building placement requirements of this Article 8.

Table 9. Interior Street Design Guidelines

| STREET TYPE | MAIN STREET | MINOR STREET |
|--------------------------------------|----------------------------|---|
| Character | Main Street | Residential or Parking Lot Access |
| Total Right-of-Way | 76 - 100 feet | 58 – 76 feet |
| Vehicle Zone | 20-54 feet | 20-22 feet |
| <i>Total Traffic Lanes Permitted</i> | 2 – 4 | 2 |
| <i>Traffic Lane Width</i> | 10 – 11 feet | 10 – 11 feet |
| <i>Left Turn Lane</i> | Optional | Optional |
| <i>Center Median</i> | Optional, 14-18 feet wide | Not permitted |
| On-Street Parking Zone | Required | Required |
| <i>Type of Parking Permitted</i> | Parallel, Angled | Parallel |
| <i>Parallel Parking Lane Width</i> | 8 feet | 7-8 feet |
| Pedestrian Zone (Each Side) | 12-13 feet | 11-12 feet |
| <i>Edge Area</i> | 2.5 feet | 2.5 feet or tree lawn |
| <i>Furnishings Area</i> | 3.5 – 6 feet | 3.5 – 6 feet or tree lawn |
| <i>Walkway Area</i> | 6 – 8 feet | 5 - 8 feet |
| <i>Frontage Area</i> | 0 – 2.5 feet | 2 – 3 feet |
| Street Tree Requirement | 35 feet o/c in tree grates | 35 feet o/c in tree lawn or tree grates |

CHAPTER 4. DIMENSION AND DESIGN STANDARDS

SECTION 138-8.400 In General

- A. **Lot Design Standards.** The lot design standards set forth where buildings, parking, and other improvements shall be placed on a lot. The lot design standards are based on the type of street (see Section 138-8.300) upon which the lot has frontage.
- B. **Building Entrances.** Buildings located on corner lots or lots that front upon two or more streets shall be required to have a principal entrance onto each street or a corner entrance oriented toward the intersection of the two streets.
- C. **Density.** There are no maximum or minimum density standards for residential dwelling units in the form-based overlay districts. The number of dwelling units that may be developed will be determined by lot design requirements such as the maximum height and minimum parking requirement for buildings.

SECTION 138-8.401 Setback Requirements

Buildings in the FB overlay districts shall comply with the following minimum and maximum setback requirements. When there is a minimum and a maximum requirement for a setback, the building must be located within the build-to area that is created by the minimum and maximum setback requirement.

The setback requirements for a building are based on what kind of street the lot has frontage on. If a lot has frontage on more than one kind of street, such as a corner lot at the intersection of a main street and an arterial street, the setback requirement shall be based on the type of street each side of the lot faces.

Table 10. Setback Requirements in the FB Overlay Districts

| Yard Type | Setback Requirement | | Minimum Building Frontage in Build-To Area |
|----------------------------------|-------------------------------------|----------------------------|--|
| | Minimum | Maximum | |
| Front Yard along Arterial Street | <i>permitted</i> <i>optional</i> | 15 ft. 25 ft. 70 ft. | 40% |
| Front Yard along Main Street | | 0 ft. 7 ft. | 90% |
| Front Yard along Minor Street | | 5 ft. 20 ft. | 70% |
| Side Yard | <i>interior</i> <i>perimeter</i> | none 25 feet | n/a |
| Rear Yard | <i>interior</i> <i>perimeter</i> | none 50 feet | n/a |

Notes to Table 10:

- Interior Yards are yards adjacent to a lot line that abuts land located in the FB overlay district with a non-residential underlying zoning district.
- Perimeter Yards are yards adjacent to a lot line that abuts land not located in the FB overlay district or land located in the FB overlay district that has a residential underlying zoning district.
- Building Frontage in Build-To Area is the width of the front façade of the building that is located in the build-to area (the area between the minimum and maximum setback requirements) divided by the lot width at the minimum setback line.

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SECTION 138-8.402 Front Yard Landscaping Requirements

All landscaping requirements of Article 12 shall apply in the form-based districts, with the exception that the front yard layout landscaping requirements shall supersede any conflicting requirement of Article 12. The front yard landscaping requirements of the following Table 11 shall be required between the property line and the building, and are in addition to any street tree planting requirements.

Table 11. Front Yard Landscaping Requirements in the FB Overlay Districts

| Front Yard Along | Minimum Buffer Width | Deciduous Trees per 100 linear feet | Ornamental Trees per 100 linear feet | Shrubs per 100 linear feet |
|--|----------------------|-------------------------------------|--------------------------------------|----------------------------|
| Arterial Street <i>(15-25' setback)</i> | 10 feet | 2 | 4 | 12 |
| Arterial Street <i>(70' or greater setback)</i> | 15 feet | 3 | 4 | 15 |
| Main Street | None | None | None | None |
| Minor Street | 5 feet | None | 3 | 8 |

CHAPTER 5. BUILDING STANDARDS

SECTION 138-8.500 Private Frontage Requirements

This Section 138-8.500 establishes private frontage standards for buildings in the FB overlay districts. The private frontage is the area between the building façade and the front property line. The design and treatment of the building façade and the private frontage area define the character of the building and how that building relates to the street. This, in turn, defines the character and context of the street itself. By way of example, when buildings are set back from the street with a lawn between the building and the street it creates a more residential feel along the street.

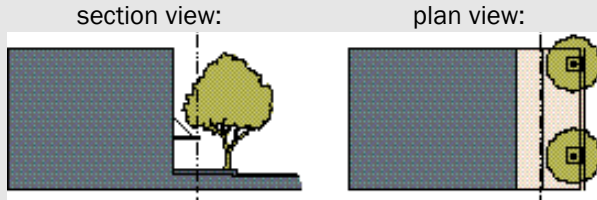
Buildings in the FB overlay districts shall comply with the requirements of one of the following private frontages. Note that any specific dimensional requirements included in this section are in addition to any other dimensional requirements of this Article or Ordinance.

A. Shopfront Frontage.

DESCRIPTION

A frontage where the building façade is located close to the front lot line with the building entrance at sidewalk grade. This frontage type is suitable for nonresidential uses on the first floor.

ILLUSTRATION



STREETS PERMITTED ALONG

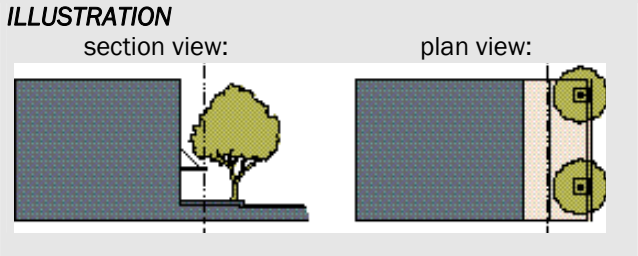
- Main Street
- Minor Street

REQUIREMENTS

- a. **Setback.** The building shall be set back a maximum of 7 feet from the front lot line.
- b. **Access and Entry.** Each unit or building subdivision, including upper story units or areas, shall have an entrance facing the street. A common ground floor entrance that serves many residential dwelling units is acceptable. Secondary entrances facing side streets or parking areas may also be provided.
- c. **Building Width.** Buildings shall be subdivided into bays not greater than 40 feet in width along the building's axis facing the street. Building bays shall be defined by vertical articulations such as changes in wall plane, vertical projections, materials, or other methods. Each bay shall have a minimum of one building entrance and buildings entrances shall be spaced not more than 50 feet apart.
- d. **Residential Dwelling Units.** Residential dwelling units shall be located on floors above non-residential uses. No non-residential use may be located on a floor above a residential dwelling use, and residential and non-residential uses located on the same floor shall be designed such that the hallways or entrances providing access to the different use areas of the building are physically separated.
- e. **Parking.** Off-street parking shall be located underneath or behind the building, or in a parking structure.

B. Courtyard Frontage.

DESCRIPTION
A frontage where a portion of the building façade is close to the front lot line with an interior portion set back from the front lot line. The courtyard may accommodate tree plantings or a vehicle drop-off area. This frontage is suitable for any building use, from residential units to corporate offices.

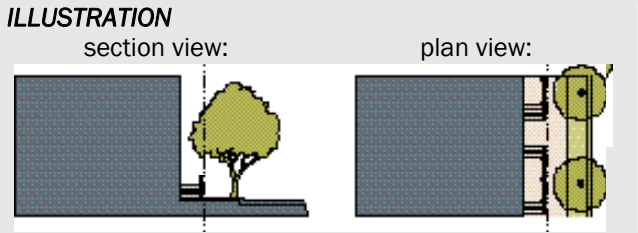


STREETS PERMITTED ALONG
- Arterial Street
- Main Street
- Minor Street

- REQUIREMENTS**
- a. **Setback.** The building shall be set back a maximum of 20 feet from the front lot line.
 - b. **Building Frontage.** The courtyard area shall be considered part of the front building façade for the purposes of determining compliance with the requirements of Table 10 on page 130.
 - c. **Maximum Floorplate.** Buildings shall have a maximum floor plate of 25,000 sq. ft.
 - d. **Parking.** Surface off-street parking shall be set back at least 40 feet from the front building façade, or located underneath the building or in a parking structure.
 - e. **Ground Floor Uses** along a main street shall include retail or restaurant uses or other uses that generate pedestrian traffic throughout the day. Offices or institutional uses should not be located on a ground floor along a main street.

C. Stoop Frontage.

DESCRIPTION
A frontage where the first floor is elevated above the sidewalk to provide privacy for first floor windows. The exterior entrance is usually from an exterior stair and landing. This frontage is suitable for ground-floor residential units in an attached building.



STREETS PERMITTED ALONG
- Minor Street

- REQUIREMENTS**
- a. **Setback.** The building shall be set back a minimum of 7 feet from the front lot line. The stoop or porch area shall be set back a minimum of 2 feet from the front lot line.
 - b. **Access and Entry.** The principal entrance to each unit shall be located at ground level and shall face a street. Secondary entrances facing the side or rear of the building are permitted.
 - c. **Exposure to Light and Air.** Each unit in a stoop frontage building shall have at least 2 sides exposed to the outdoors.
 - d. **Unit Disposition.** Units in a stoop frontage building may only have common sidewalls. In no case may one dwelling unit be located above another dwelling unit, although portions of units may be located above parking areas.
 - e. **Parking.** Garage doors may only face a secondary street or rear yard area, and all dedicated off-street parking shall be located

behind the building.

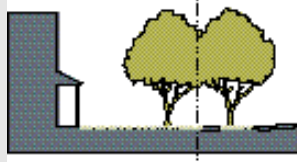
D. **Lawn Frontage.**

DESCRIPTION

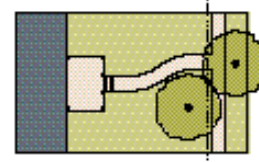
A frontage where the building is set back from the street with a landscaped front yard area. This frontage is suitable for any building use, but is most commonly used for prototype retail buildings, large format retail buildings such as big box stores, apartment buildings, and for detached single family dwelling units.

ILLUSTRATION

section view:



plan view:



STREETS PERMITTED ALONG

- Arterial Street
- Minor Street

REQUIREMENTS

- a. **Setback.** The building shall be set back a minimum of 15 feet from the front lot line. Unenclosed front porches shall be set back a minimum of 5 feet from the front lot line.
- b. **Access and Entry.** The principal entrance to the building shall be located at ground level and shall face a street. Secondary entrances facing the side or rear of the building are permitted.
- c. **Maximum Floor Plate.** The maximum floor plate for a lawn frontage building along a minor street is 20,000 sq. ft. There is no maximum floor plate for a building of this type along an arterial street.
- d. **Parking.** Parking may be located between the building and the street for when a building of this type is used solely for retail purposes along an arterial street, and when the building is set back more than 70 feet. Refer to Table 10 on page 130 for setback requirements.
- e. **Garages** shall be set back a minimum of 10 feet behind the primary street facing façade of the building.

SECTION 138-8.501 Building Height

Permitted building heights in the FB overlay districts are as follows:

- A. **FB-1 District.** 2 stories or 30 feet.
- B. **FB-2 District.** 2 stories or 30 feet. The maximum building height shall be 3 stories or 45 feet for development or redevelopment in FB-2 areas with at least 100 feet of frontage on Rochester Road, provided that buildings exceeding 2 stories in height are set back at least 100 feet from any single-family residential zoning district located outside of a form-based overlay district and 50 feet from any other conventional zoning district located outside of a form-based overlay district.
- C. **FB-3 District.** 3 stories or 45 feet. The maximum building height shall be 4 stories or 60 feet for development or redevelopment in FB-3 areas along Rochester Road, provided that buildings exceeding 3 stories in height are set back at least 125 feet from any single-family residential zoning district located outside of a form-based overlay district and 75 feet from any other conventional zoning district located outside of a form-based overlay district.

SECTION 138-8.502 Building Design Standards

- A. **Façade Transparency.** Buildings in the FB overlay districts shall maintain a minimum level of transparency on the ground and upper stories. All windows must be transparent, non-reflective glass.

1. Ground Floor Non-Residential Uses shall maintain a minimum of 70% façade transparency, measured between 2 feet and 8 feet above the sidewalk.
 2. Upper Floor Non-Residential Uses shall maintain a minimum of 30% façade transparency measured from floor to floor.
 3. Ground Floor Residential Uses shall maintain a minimum of 25% façade transparency measured from exterior grade level to the second story floor level.
 4. Upper Floor Residential Uses shall maintain a minimum of 20% façade transparency measured from floor to floor.
- B. **Building Materials.** Exterior materials that may be used on buildings in the FB overlay districts fall into two categories, primary and accent building materials. The building material requirement is based on the exterior wall surface area, excluding windows and doors. Primary building materials shall cover a minimum of 60% of the exterior wall surface area, while accent materials may be used on up to 40% of the exterior wall surface area.
1. Primary Building Materials include:
 - a. Durable natural building materials such as brick, stone, and other similar materials.
 - b. Exposed logs, timbers, or wood trim.
 - c. Any durable, relatively low-maintenance material that convincingly matches the appearance of the above natural building materials.
 2. Accent Building Materials include:
 - a. Decorative precast concrete block.
 - b. Metal panels and trim.
 - c. Glass.
 - d. Vinyl siding and non-durable building materials such as EIFS may be used as accent materials, but may cover a maximum of 10% of any exterior building façade's wall area.
 - e. Any other material except those specifically prohibited by the following subsection 3.
 3. Prohibited Building Materials include:
 - a. Plain concrete block (both painted and unpainted).
 - b. Plywood or T-111 panels.
 - c. Vinyl and aluminum siding.
 4. Compliance with LEED-NC Standards. LEED certification for new buildings is encouraged. Absent certification for the entire building, compliance with the following building material credits is encouraged: MR 4.1 or MR 4.2, MR 5.1 or MR 5.2, MR 6, and MR 7.
- C. **Ground Level Finished Floor Height.** The maximum ground floor finished floor height for a non-residential building or building use area in the FB overlay districts shall be 6 inches. Residential buildings should have a minimum ground floor finished floor height of 18 inches to provide privacy from people walking by on the sidewalk.

FLEX BUSINESS OVERLAY DISTRICTS

- D. **Ground Floor Ceiling Height.** Non-residential buildings or building use areas shall have a minimum ground floor ceiling height of 12 feet, with a height of 15 feet being preferred. Residential buildings or building use areas shall have a minimum ground floor ceiling height of 10 feet.

- E. **Encroachments.** Certain building elements may encroach into a setback area or right-of-way area. Building elements that may encroach into setback or right-of-way areas are as follows:
 - 1. Balconies. Balconies on upper stories may encroach up to 6 feet into any required setback area and up to 4 feet into any right-of-way area.

 - 2. Porches. Unenclosed covered front porches with a minimum depth of 8 feet may encroach into a front yard setback area, provided that the front porch maintains a minimum setback of 5 feet from any right-of-way line.

 - 3. Stoops. Unenclosed and uncovered front stoops may encroach up to 5 feet into a front yard setback area, provided that the stoop maintains a minimum setback of 5 feet from any right-of-way line.

 - 4. Awnings. Ground-story awnings may encroach up to 10 feet from the face of the building into a setback or right-of-way area. Awnings shall have a minimum of 8 feet clear space between the sidewalk and the bottom of the awning or any awning support structure. If an awning projection of 10 feet would conflict with the placement of any street lighting or street tree, the awning projection shall be reduced to resolve the conflict.

 - 5. Bay Windows. Bay windows on the ground story may encroach up to 3 feet into any required setback area, but shall not encroach into a right-of-way area. Bay windows on upper stories may encroach up to 3 feet into a setback or right-of-way area.

 - 6. Eaves. Roof eaves may encroach up to 3 feet into any setback or right-of-way area.

- F. **Service Areas.** All service areas, including utility access, above ground equipment, and dumpsters shall be located in side or rear yards and shall be screened from view from an internal or perimeter street.

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CHAPTER 6. GENERAL PROVISIONS

SECTION 138-8.600 Parking

The following parking requirements are applicable in the form-based districts, and replace similar requirements set forth in Article 11. Any requirement of Article 11 that is not superseded by one of the following parking requirements shall remain in effect in the form-based districts.

- A. **Minimum Parking Required.**
 - 1. 1.5 parking spaces per residential dwelling unit.
 - 2. 1 parking space per 400 square feet of nonresidential building space.

- B. **Maximum Parking Permitted.** The maximum surface parking requirement shall be 200% of the minimum parking requirement. The maximum parking requirement may be modified by the reviewing authority if the applicant can submit evidence that additional parking will be required to accommodate maximum parking demand on a typical day.

Parking spaces in parking garages are exempt from the maximum parking standard.

- C. **On-Street Parking** shall be counted toward the minimum parking requirement.

- D. **Parking Lot Layout.** Parking lot layout, maintenance, and construction shall comply with all of the requirements of Article 11.

The Planning Commission may modify the dimensional requirements of Article 11 based on evidence submitted by the applicant indicating that the modification will result in superior site design, will achieve the same purpose as if the parking lot were designed according to conventional standards, and will function in a safe and efficient manner.

- E. **Parking Lot Access.** Parking lots or parking structures may only be accessed off of a (SD) street.

- F. **Parking Structures.** Parking structures are permitted in the form-based districts, provided that they comply with the following requirements:
 - 1. Setback from Arterial and Main Streets. The parking structure and all parking spaces within shall be set back a minimum of 80 feet from any Arterial or Main street. If liner shops are located on the ground floor of a parking structure located along a main street, the building shall not be considered a parking structure, but rather shall be considered a shopfront building subject to the requirements of Section 138-8.500.A
 - 2. Setback from Minor Streets. Parking structures shall be set back a minimum of 7 feet from any minor street.
 - 3. Height. Parking structures may be no taller than any adjacent building located within 20 feet of the structure. Stand alone parking structures set back 20 or more feet from any adjacent building may not exceed the maximum height permitted for a building at that location within a form-based district, or the height of the tallest building within 150 feet of the parking garage, whichever is lower.
 - 4. Design Guidelines. Any parking structure façade that will be visible from a perimeter or interior street, civic/open space, or building shall comply with the following design guidelines:
 - a. The façade shall comply with the building material requirements of Section 138-8.502.

- b. The parking structure shall have the appearance of a flat-roofed building with a parapet cap type.
- c. The ground floor of the structure shall be differentiated from upper floors through the use of a horizontal expression line.
- d. Exterior elevator towers or stair wells shall be open to public view, or enclosed with transparent glazing.
- e. Views into the parking structure shall be minimized. Facades of parking structures shall be designed without continuous horizontal parking floor openings. Decorative trellis work or another architectural element that will screen the view of parked cars in the structure shall be provided on all exterior openings.

G. **Loading Space.** There are no specific loading requirements in the FB overlay districts; however, buildings and sites shall be designed such that trucks and large delivery vehicles may be accommodated on the site without encroaching onto a perimeter or interior street. Further, loading facilities such as truck docks shall be located and screened such that they are not visible from any perimeter or interior street.

SECTION 138-8.601 Outdoor Amenity Space

- A. **Outdoor Amenity Space Required.** All developments in the FB overlay districts shall provide outdoor amenity spaces with a minimum area of 2% of the gross land area of the development. The size and disposition of the amenity space shall be proportionate to the size and scale of the development. The emphasis of the amenity space requirement is on the quality rather than the quantity of the space.
- B. **Storm Water Management Facilities.** All storm water management facilities in FB overlay districts shall be attractively designed as a site amenity. However, storm water management facilities may not be used to satisfy the amenity space requirement. The area of a storm water management facility is defined as any area within 25 feet of the freeboard elevation of a detention pond.

SECTION 138-8.602 Landscaping and Buffering

All landscaping requirements of Article 12 shall apply in the FB overlay districts, with the exception that the front yard layout landscaping requirements in Table 11 on page 131 shall supersede any conflicting requirement of Article 12.

SECTION 138-8.603 Signs

The following exterior sign regulations are applicable in the FB overlay districts and shall supersede the sign requirements of Article VI of Chapter 134 of the Code of Ordinances of the City of Rochester Hills. Requirements of Chapter 134 not in conflict with the requirements of this Section 138-8.603 shall remain in effect in the form-based districts.

- A. **Design and Materials.**
 - 1. Exterior materials, finishes, and colors should be the same or similar to those used on the principal building.
 - 2. Signs should be professionally constructed using high-quality materials such as metal, stone, hard wood, and brass. The use of exposed neon tubing in conjunction with other types of materials to emphasize the business name or logo is permitted; however, internal neon lighting or any other use of neon tubing is prohibited.
 - 3. Internally lit plastic letters or plastic box signs are prohibited.
 - 4. To minimize irreversible damage to masonry, all mounting and supports should be inserted into mortar joints and not into the face of the masonry.

- B. **Multiple Story Buildings.** The following regulations are applicable to multiple story buildings:
1. Ground floor tenants shall place signs at the storefront level, below the expression line separating the ground floor from upper floors.
 2. Upper story tenants may only display window signs. Such window signs may not exceed 20% of the total window area appurtenant to the tenant's floor space.
 3. A directory sign shall be permitted at ground level entrances that provide access to upper story tenants.
 4. Permanent banner signs are permitted on the upper façade area of a multiple story building.
- C. **Permitted Signs.** The following types of sign are permitted in the form-based districts:
1. **Wall Signs.** A sign that is mounted flush and fixed securely to or painted on a building wall, projecting no more than 12 inches beyond the face of a building wall and not extending sideways beyond the building face or above the highest line of the building to which it is attached.
 - a. Wall signs should be located on the upper portion of the storefront, and should not exceed the width of the storefront bay.
 - b. Wall signs shall not exceed 15% of the area of the building façade on which they are mounted, placed, or painted.
 - c. Wall signs shall be placed in a clear signable area, which is an architecturally continuous area uninterrupted by doors, windows, or architectural details such as grillework, piers, pilasters, or other ornamental features.
 2. **Awning and Canopy Signs.** A sign that is printed on, painted on, or attached to an awning or canopy above a business door or window. Such signs are generally oriented toward pedestrians on the opposite side of the street.
 - a. Sign lettering or logos shall comprise no more than 30% of the total exterior surface of an awning or canopy.
 - b. Awnings or canopies with back-lit graphics or other kinds of interior illumination are prohibited.
 3. **Projecting Signs.** A sign that is affixed to the face of a building or structure that projects in a perpendicular manner from the wall surface of the building.
 - a. Projecting signs shall not be mounted above the second floor window sill in multi-story buildings.
 - b. Projecting signs shall be small in scale and provide a minimum vertical clearance of 8 feet between the lowest point of the sign and the sidewalk.
 - c. The entire sign area of the projecting sign shall fit inside an imaginary rectangle with a maximum area of 5 square feet.
 - d. Mounting hardware shall be attractive and an integral part of the sign design.
 - e. Marquee Signs are a form of projecting sign. A marquee sign is only permitted in conjunction with a theatre, cinema, or performing arts facility, and the sign may indicate the facilities name and a changeable copy portion of the sign highlighting current and

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future attractions. The permitted area of a Marquee Sign shall be determined by the Planning Commission.

4. Hanging Signs. A hanging sign is similar to a projecting sign, except that it is suspended below a marquee, awning or canopy. Hanging signs are smaller than projecting signs due to their lower mounting height.
 - a. Hanging signs shall fit within an imaginary rectangle with a maximum area of 4 square feet (excluding supporting rods, chains, or similar hangers).
 - b. Hanging signs shall maintain a minimum vertical clearance of 7.5 feet between the lowest point of the sign and the sidewalk.

5. Window Signs. A window sign is painted, posted, displayed, or etched on an interior translucent or transparent surface, including windows or doors.
 - a. Window signs shall not exceed 15% of the first floor window area so that visibility into and out of the window is not obscured.
 - b. Sign copy shall not exceed 8 inches in height.
 - c. Window signs should be applied directly to the interior face of the glazing or hung inside the window to conceal all mounting hardware and equipment.

6. Plaque Signs. A plaque sign is a small version of a wall sign that is attached to surfaces adjacent to store entries or tenant entries.
 - a. Plaque signs shall fit into an imaginary rectangle with a maximum area of 2 square feet.
 - b. Plaque signs may project a maximum of 3 inches from wall surfaces.

7. Restaurant Menu Signs. A restaurant menu sign is a sign that incorporates a menu for the restaurant. The purpose of restaurant menu signs is to assist customers in finding a restaurant they would like to patronize.
 - a. The maximum area for menu signs is 6 square feet.
 - b. Menu signs shall be located in a permanently mounted display box on the surface of the building adjacent to the entry.
 - c. Restaurant menu signs shall be provided for all restaurants with table service.

8. Monument Signs. A freestanding sign that is typically used for a building or series of buildings that are separated from adjacent streets by substantial setbacks.
 - a. The maximum area for a monument sign is 60 square feet.
 - b. The maximum height for a monument sign is 7 feet.
 - c. Monument signs shall be oriented towards a primary street, and shall be set back a minimum of 5 feet from the right-of-way of any primary or interior street.
 - d. Monument signs shall be constructed out of decorative materials that complement the design of principal buildings within the development. Natural materials such as stone, decorative masonry, wood, or metal are preferred.
 - e. Low level landscaping shall be provided around the base of the sign, but shall not obscure any part of the sign message.

- f. Monument signs may only be used when buildings are located more than 20 feet from a street right-of-way.
9. **Tenant Directory Signs.** A tenant directory sign is used to identify tenants and businesses in a multi-tenant building, often for tenants that do not have direct frontage on a public street. Such tenants can be located in second story space, or in portions of the building that do not front on a street. Tenant directory signs are oriented toward the pedestrian.
- Tenant directory signs shall fit into an imaginary rectangle with a maximum area of 12 square feet.
 - Tenant directory signs shall be mounted flat against a solid wall proximate to a common building entrance serving tenants listed on the directory sign, or on a freestanding sign located on the property on which the tenants are located.
 - The maximum height for a freestanding tenant directory sign shall be 6 feet.
 - Tenant directory signs may include the following: building or project name, project logo, address, business tenant names, and suite numbers or letters.
10. **A-Frame Signs.** A-Frame signs are designed to stand on their own. Such signs are portable and are usually placed along public sidewalks to attract pedestrians to adjacent businesses.
- A-frame signs may have a maximum area of 6 square feet. The sign area is calculated on one side only.
 - A-frame signs may only be located on in the frontage or furnishings areas of the pedestrian area on an interior street. Such signs may not be located in the walkway or edge areas of the pedestrian area.
 - A-frame signs may not be permanently affixed to any object, structure, or the ground.
 - A-frame signs may only be displayed during business hours, and shall be removed when the business to which they are accessory is closed.
 - Each ground floor business with frontage on an interior street may have one A-frame sign. Businesses without ground floor frontage may not have an A-frame sign. The sign must be located adjacent to the business to which it is accessory.
11. **Permanent Perpendicular Banner Signs.** Permanent perpendicular banner signs often help to add interest and color to blank building facades and special buildings. They are vertically oriented and compatible with the overall character and color of the building. This section does not include temporary banner signs that are secured to the face of the building, or any banner sign that is horizontally oriented.
- Permanent banner signs shall project perpendicularly from the face of the building, and may extend a maximum of 36 inches from the face of the building.
 - Permanent banner signs shall be mounted on metal brackets, and shall be designed appropriate to the architectural character of the building.
- D. **Sign Area.** Any one building or tenant space within a building can have multiple types of sign on a building or property. For example, a store can have a wall sign, a projecting sign, and an A-frame sign. No sign may exceed the maximum area permitted for that type of sign by Section 138-8.603.C.

Further, the total sign area of all Wall, Awning and Canopy, Plaque, and Permanent Banner Signs for each tenant space shall be based on the frontage width of the front façade of the building. For buildings that face more than one street and therefore have more than one front façade, the maximum sign area shall be measured independently for each street façade. The maximum sign areas are as follows:

| Building Frontage (in feet) | Maximum Permitted Sign Area (square feet) |
|--------------------------------|---|
| Less than 10: | 15 |
| 10-20: | 30 |
| 20-40: | 42 |
| 40-60: | 64 |
| 60-100: | 86 |
| More than 100: | 100 |

- E. **Incidental Signs.** Incidental signs having an area of one square foot or less are permitted in the form-based districts. Incidental signs placed in windows may not cover more than 5% of the total area of the window they are placed in. Incidental signs are signs, emblems, or decals designed to inform the public of goods, facilities, or services available on the premises and include, but are not limited to, restroom signs, hours of operation signs, acceptable credit cards, property ownership or management, phone booths, recycling containers, etc.
- F. **Clear Vision Area.** No sign with a height between 2 and 8 feet may be located in the clear vision area, or shall be otherwise located so as to block or impede a motorist’s vision of traffic or of traffic control signs.
- G. **Substitution.** Notwithstanding anything herein to the contrary, noncommercial copy may be substituted for commercial copy on any lawful sign structure.

SECTION 138-8.604 Modification of Dimension and Design Standards

- A. **Intent.** The requirements of this Article 8 are comprehensive in scope and detailed in nature. The regulations have been designed to establish specific design criteria for new development in the form-based districts while still allowing for flexibility in site layout and design, architecture, and landscaping. However, unique site conditions or other factors may justify modifications from the dimensional standards of this Article 8. It is the intent of this Section 138-8.604 to establish a procedure by which the reviewing authority may modify the dimensional standards of Article 8, and the procedure by which those dimensional standards may be modified.

Relief from any standard or provision of this ordinance not specifically identified as a modifiable standard shall require a variance from the Board of Zoning Appeals following the procedures of Article 3 of this Zoning Ordinance.

- B. **Modification Procedure.** The reviewing authority shall determine that all of the following apply prior to approving a requested modification:
 1. The proposed development will still meet the purpose and intent of the form-based districts as identified in Section 138-8.100 if the requested modification is approved.
 2. The applicant shall submit evidence demonstrating that compliance with the strict standards of this Article 8 makes development impractical on the site, and that the modification is necessary to develop in accordance with the standards of this Article 8.

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- 3. The requested modification will not make further development on the site or adjacent or nearby sites according to the standards of this Article 8 impossible or impractical.
- 4. The requested modification is the smallest modification necessary. If the proposed development could be constructed in a substantially similar manner with a smaller modification, the smaller modification may be approved.
- 5. The modification will permit innovative design.

C. **Modifiable Standards.** Only the standards and regulations specifically identified below may be modified. If the reference refers to a subsection, only the identified standards of that subsection may be modified. If the reference refers to an entire section, any standard in the entire section may be modified.

- 1. Street network and block requirements (Section 138-8.300).
- 2. Design standards applicable to interior streets (Section 138-8.302.C).
- 3. Setback requirements (Section 138-8.401).
- 4. Private frontage requirements (Section 138-8.500).
- 5. Building design standards (Section 138-8.502).
- 6. Minimum and maximum parking requirements (Section 138-8.600.A and Section 138-8.600.B)
- 7. Parking layout standards (Section 138-8.600.D).
- 8. Parking lot access standards (Section 138-8.600.E).
- 9. Parking structure requirements (Section 138-8.600.F).

CHAPTER 7. DEFINITIONS

SECTION 138-8.700 Use Definitions

The following is a description of the characteristics and type of uses listed in Table 7.

A. **Residential Uses.**

1. Dwelling unit in a mixed-use building. A dwelling unit located in a building with non-residential land uses. Such units may not be located on the ground floor of the building.
2. Live/Work unit. A dwelling unit that contains a commercial component.
3. Multiple-family dwelling unit. A unit in a building used exclusively for residential purposes containing two or more residential dwelling units. A multiple-family structure where units are available for lease or rent for periods of less than one month shall be considered a lodging use.
4. One-family detached dwelling unit. A detached building containing one dwelling unit.
5. State licensed residential facility. See definition in Article 13 on page 225.

B. **Lodging Uses** provide sleeping accommodations occupied on a rental basis for limited periods of time. Lodging uses are measured based on the number of lodging units provided. A lodging unit is a furnished room of a minimum 200 square feet that includes sanitary facilities and may include limited kitchen facilities.

1. Bed & breakfast. A group of 10 or fewer lodging units that may provide services for dining, meeting, or recreation.
2. Inn. A group of 25 or fewer lodging units that may provide services for dining, meeting, or recreation.
3. Hotel. A group more than 25 lodging units that may provide services for dining, meeting, or recreation.

C. **Commercial Uses.** Commercial uses include retail, services, entertainment, or recreational establishments.

1. Bar, tavern, or other alcohol service establishment. A place of business selling alcoholic beverages for consumption on the premises, and where the sale of food may be incidental to the sale of such beverages. This includes any establishment in receipt of a valid alcoholic beverage license from the state which permits the sale of alcoholic beverages for consumption on the premises as a principal use. Examples of such uses include, but are not limited to bars, taverns, cocktail lounges, or nightclubs.
2. Drive-through facility accessory to a principal use. See definition in Article 13 on page 213.
3. Entertainment and recreation. A place of business providing entertainment or recreation services such as bowling alleys, health or sports clubs, movie theatres, billiards parlors, dance halls, or video arcades.
4. General commercial. A place of business providing for the sale and display of goods or sale of services directly to the consumer, with goods available for immediate purchase and removal from the premises by the purchaser. General commercial services include, but are not limited to barber shops, beauty salons, travel agencies, retail dry cleaning, express delivery service, photographic and art studios and galleries, funeral homes, animal clinics, and repair service

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establishments (excluding vehicle service). Commercial goods include, but are not limited to clothing, food, furniture, pharmaceuticals, books, art objects, and the like.

5. Open air retail. A retail sales establishment operated substantially in the open air, including but not limited to vending carts, kiosks, farmers or flea markets and the like. Not included are car sales, equipment sales, boat sales, and home and garden supplies and equipment.
 6. Place of assembly. A commercial facility for public assembly including, but not limited to arenas, auditoriums, conference facilities, convention centers, exhibition halls, and theatres and performing arts centers.
 7. Restaurant. A place of business dedicated to the preparation and sale of food and beverage for immediate consumption on or off site.
- D. **Office Uses.** An office is a room or group of rooms used for conduction a business profession, service, or government. Such facilities may include, but are not limited to, offices of attorneys, engineers, architects, physicians, dentists, accountants, financial institutions, real estate companies, insurance companies, financial planners, or corporate offices. Offices exclude manufacturing activities.
- E. **Civic Uses** include land uses for community-oriented purposes or objectives, including those of not-for-profit dedicated to arts and culture, education, recreation, religion, government, and the like.
1. Childcare center. 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, and where the parents are not immediately available to the child.
 2. Community facility. A non-commercial facility for the benefit of and service to the general public, including, but not limited to community centers, cultural facilities such as libraries or museums, police and fire stations, and municipal and government uses.
 3. Place of worship. A facility used for regular organized religious worship and related activities.
 4. Recreation Facility. A non-commercial recreational facility consisting of primarily open space including, but not limited to parks, playfields and playgrounds, and golf courses.
 5. Essential Services. See definition in Article 13.
 6. Major facility. A large facility of institutional nature including, but not limited to hospitals, non-educational research facilities, shelters, and the like.
 7. Public parking. A parking facility available to the general public for parking motor vehicles, including parking lots or structures.
 8. Transit facilities. A facility providing accommodations by public, private, and non-profit entities for the conveyance of persons from one place to another by means of a transportation system, including but not limited to bus and rail terminals.
- F. **Education Uses.**
1. College/university. A facility for post-secondary education that grants associate, bachelor, master, or doctoral degrees and that may include research functions or professional schools.
 2. Learning center. A facility offering training, tutoring, or instruction in subjects such as languages, music, fine arts, or dance. This may include provision of electronic testing or distance learning.

3. Research facility. A facility for research and development that does not involve the use of human testing, animal husbandry, incinerators, heavy equipment, mass manufacturing, fabrication, processing, or sale of products. Any facility involving human testing, animal husbandry, or incinerators shall be considered a Major Facility.
4. School. A facility offering instruction at the pre-school to high school level.
5. Special training/vocational. A facility offering instruction or training in trades or occupations such as secretarial, paralegal, business, beauty, barber, bartender, acupuncture, massage, design, or other similar vocations. This classification excludes training and education in any activity that is not otherwise permitted in the zone.

G. Industrial Uses.

1. Manufacturing and processing. A facility primarily engaged in the manufacturing, processing, repair, or assembly of goods. Such uses may include retail or wholesale sales.
2. Products and services. A public or private facility providing industrial and other services to individuals or businesses. This includes but is not limited to laundry/dry cleaning plants, metal, machine, or welding shops, pharmaceutical laboratories, and the like.
3. Storage/distribution facility. A facility providing long or short term storage, selling, or distribution of merchandise in an enclosed building.

SECTION 138-8.701 General Definitions

This section provides definitions for terms that are used in this Article 8 that are technical in nature or that might not otherwise reflect a common usage of the term. Where a definition in this section conflicts with a definition provided in Article 13, the definition presented in this section shall prevail for the purposes of administering the form-based regulations. If a term is not defined in this section, the Planning and Development Director shall determine the correct definition of the term.

BALCONY: An open portion of an upper floor that extends beyond or indents into a building’s exterior wall.

BLOCK: The aggregate of private lots, pedestrian pass-throughs, rear lanes and alleys, the perimeter of which abuts perimeter or internal streets.

BLOCK PERIMETER: The linear distance around a block measured along the right-of-way line or road easement.

BUFFER: An area of land, including landscaping, walls, and fences located between land uses of different characters and which is intended to mitigate negative impacts of the more intense land use on the less intense land use.

BUILD-TO ZONE: An area at the front of the lot in which a front building façade must be located.

EFFECTIVE TURNING RADIUS: The minimum radius appropriate for turning from a through or turning lane on an approach street to an appropriate lane on the receiving street. See Figure 4 at right.

FLOORPLATE: The total indoor floor area of any given story of a building, measured to the exterior of the wall or balcony.

FRONTAGE LINE: The lot line that coincides with the public right-of-way or edge of a space dedicated for public use. Building facades parallel to frontage lines define public

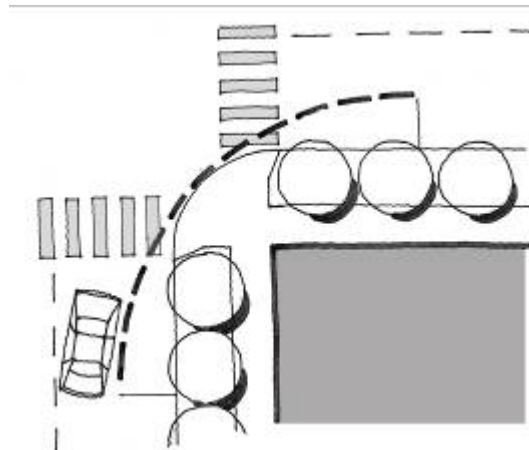


Figure 4. Effective Turning Radius

space and are therefore subject to a higher level of regulation than the elevations that face other lot lines.

GROUND FLOOR FINISHED LEVEL HEIGHT. The vertical distance between the sidewalk (or other common reference point) and the top of the finished floor on the ground level.

GROUND FLOOR CEILING HEIGHT. The vertical distance between the finished floor and the ceiling on the ground floor of a building.

HABITABLE SPACE: Building space that involves human presence with direct view of the enfronting streets or public or private open space. Habitable space does not include parking garages, storage facilities, warehouses, and display windows separated from retail activity.

LINER SHOP or LINER BUILDING: A building or part of a building with habitable space specifically designed to enfront a public space while masking a function without the capacity to monitor public space such as a parking garage, storage facility, or large building exceeding the building width limitations of this Article.

PERIMETER YARD. A yard area on the edge of a form based zoning district where the form-based district abuts a conventional zoning district.

TREE LAWN. A grassed or landscaped area located between the sidewalk and the curb of the street intended to accommodate street tree plantings.

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ARTICLE 9 NATURAL FEATURES

CHAPTER 1. NATURAL FEATURES SETBACK

SECTION 138-9.100 Intent

It is the intent of this section to require a minimum setback from natural features and to regulate the use of property within the setback in order to prevent physical harm, impairment and/or destruction of or to natural features. It has been determined that, in the absence of a minimum setback, intrusions in or onto natural features would occur, resulting in harm, impairment and/or destruction of natural features contrary to the public health, safety and general welfare.

SECTION 138-9.101 Nonapplicability to Parcels Planned Before January 1, 1990

This section shall not apply to property for which a site plan or condominium plan has been approved or for which a preliminary subdivision plat has received tentative approval or any subsequent approvals prior to January 17, 1990, provided the site plan, condominium plan or plat remains in effect and in good standing.

SECTION 138-9.102 Natural Features Setback

Except as may be permitted pursuant to Section 138-9.103, a minimum setback of 25 feet from a natural feature, as defined in this ordinance, shall be observed, and any filling, land balancing, dredging, construction or any deposit, installation or removal of any material, including structures, soils, minerals, and/or vegetation, within a natural feature setback is prohibited. Any land located within a natural features setback is intended to be kept in a natural state.

SECTION 138-9.103 Reduction of Setback

The minimum setback may be reduced upon application by the property owner and determination by the official or body responsible for review and approval of the proposed construction, activity or operation that such construction, activity or operation is not likely to endanger or materially and adversely affect the natural feature. Incidental to the consideration of an application to reduce a natural feature setback, the City may require, at the applicant's expense, an investigation to determine the nature, location and boundaries of the natural feature. In determining whether to authorize a reduction of the minimum setback, the official or body responsible for review and approval of the proposed construction, activity or operation shall consider the following criteria:

- A. The nature, environmental sensitivity and size of the natural feature.
- B. The nature, necessity and economic value of the proposed construction, activity or operation.
- C. The feasibility of alternatives.
- D. The probable impact of the proposed construction, activity or operation on the natural feature and the cumulative effect of other existing and anticipated activities on the natural feature.
- E. The probable impact on fish and wildlife and their habitats.
- F. The maintenance of historic, scenic, ecological and recreational values, and the character of the area.

SECTION 138-9.104 Exemptions

The following activities shall be exempt from regulation under this section, although other sections of this ordinance may apply:

- A. Beach sanding.
- B. Installation of a dock, seawall or fence.

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- C. Lawn maintenance.
- D. Grading and filling required by the City.
- E. Construction, maintenance and improvement of public streets, highways, roads or pedestrian-bicycle pathways within an existing right-of-way or a public easement, in such a manner as to minimize adverse effect on a wetland or watercourse, provided, except in emergencies, that:
 1. Prior written notice is given to the City engineer and written consent is obtained from the City engineer prior to commencement of work;
 2. The work is conducted using good management practices to ensure that flow and circulation patterns, and chemical and biological characteristics of wetlands are not impaired; and
 3. Any adverse effect on the aquatic environment will be minimized.
- F. Installation, maintenance, repair or operation of utilities, including water, sanitary sewer, storm drainage systems and facilities, and electric, gas, telephone and cable television lines, in such a manner as to minimize adverse effect on a watercourse or wetland, provided that, except in emergencies:
 1. Prior written notice is given to the City engineer and written consent is obtained from the City engineer prior to commencement of work;
 2. The work is conducted using best management practices to ensure that flow and circulation patterns, and chemical and biological characteristics of wetlands are not impaired; and
 3. Any adverse effect on the aquatic environment will be minimized.
- G. Maintenance, repair, cleaning and upgrading of any natural and humanmade drainage course, watercourse, drain, pipe, ditch, stream, creek, swale, detention and retention basin and pond which serves to transport or hold stormwater runoff, provided that, except in emergencies:
 1. Prior written notice is given to the City engineer and written consent is obtained from the City engineer prior to commencement of work;
 2. The work is conducted using good management practices to ensure that flow and circulation patterns, and chemical and biological characteristics of wetlands are not impaired; and
 3. Any adverse effect on the aquatic environment will be minimized.
- H. Activities that are authorized on state- or City-regulated wetlands without a state or City permit under section 30305 of Public Act No. 59 of 1995 (MCL § 324.30305, MSA § 13A.30305) or section 126-502 of the City's code of ordinances are specifically authorized in the natural features setback.

SECTION 138-9.105 Protective Barrier

The City may require that a suitable protective barrier be erected and maintained along the perimeter of the natural feature setback area to prevent construction or development activity from encroaching into the natural feature setback, and to maintain the natural feature setback area in a natural and undisturbed state in perpetuity after construction is completed.

- A. **Permanent Barrier Required.** Protective barriers shall be a permanent and not easily removed. Barriers should also be decorative and highly visible to discourage encroachments into the natural features setback area. Boulder walls are an example of a permanent and visible barrier.
- B. **Signs** delineating the perimeter of the natural features setback area are easily removed and therefore are not sufficient by themselves to fulfill the intent of this section. However, signs are encouraged in conjunction with a permanent barrier.

CHAPTER 2. STEEP SLOPES

SECTION 138-9.200 Findings and Purpose

- A. **Findings.** The City Council of the City of Rochester Hills finds that:
1. The establishment of regulatory and conservation practices to prevent disturbance of steep slopes is needed to protect public health, safety and general welfare. Experience has demonstrated a need for effective protection of steep slopes, including careful review and regulation and the implementation of stringent mitigation measures where, in the opinion of the reviewing authority, no practical alternative to such disturbance exists. However, in all cases where the reviewing authority determines that total avoidance of steep slopes is not practical, such disturbance should constitute the minimum disturbance necessary to ensure the property owner a reasonable use of the property.
 2. The disturbance of steep slopes can aggravate erosion and sedimentation beyond rates experienced in natural processes. Erosion and sedimentation often include the loss of topsoil, a valuable natural resource, and can result in the disturbance of habitats, degradation of surface water quality, degradation of wetlands, alteration of drainage patterns, gulying of land, obstruction of drainage structures, intensification of flooding both on and off the subject site, failure of slopes and the mass movement of earth and danger to the natural environment, man-made structures and the safety of persons.
 3. Steep slopes, including stabilizing deep-root vegetation located thereon, are important environmental features that contribute significantly to the natural beauty of the City. Over-development of or improperly managed disturbance to these steep slopes is detrimental to the environment and the overall character of nearby areas.
 4. Regulation can allow the reasonable use of private property by encouraging flexible development design so as to avoid disturbance of steep slopes. Regulation can also permit limited disturbance of steep slopes that are conducted in accordance with acceptable engineering practices and will not negatively impact the integrity of the steep slope or other nearby environmental features.
- B. **Purpose.** These regulations are adopted with the intent of providing a reasonable balance between the rights of the individual property owners and the public interest in preserving the valuable functions of steep slopes. The purpose of these Steep Slope regulations are to:
1. Provide qualitative and quantitative development controls in order to preserve, protect and conserve steep slopes within the City of Rochester Hills.
 2. To maintain and protect the natural terrain and its vegetative features, wetlands, water bodies and watercourses.
 3. Prevent flooding, protect important scenic views and vistas, preserve areas of wildlife habitat, and provide safe building sites.
 4. Protect property within the City by preventing erosion, creep and sudden slope failure.

SECTION 138-9.201 Applicability

Steep slope areas fall into three categories: a Moderate Steep Slope is a slope equal to or greater than one vertical on five horizontal (20%) but less than one vertical on four horizontal (25%) and with a vertical elevation change of 10 feet or greater. A Very Steep Slope is a slope equal to or greater than one vertical on four horizontal (25%) but less than one vertical on 2.5 horizontal (40%) and with a vertical elevation change of 10 feet or greater. A Bluff Slope is a slope greater than or equal to one vertical on 2.5 horizontal (40%) with a

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vertical elevation change of 15 feet or greater. The provisions of this Section shall apply to lands defined and/or designated as steep slope areas.

A. **Regulated Slopes.**

1. Slopes Located Within 200 feet of a Watercourse. Any Moderate Steep Slope, Very Steep Slope, and/or Bluff Slope that is located within 200 feet of the Clinton River, Paint Creek, Sargent Creek, Stony Creek, or a tributary of any of the aforementioned watercourses shall be considered a regulated slope.
2. Slopes Not Located Within 200 feet of a Watercourse. Any Very Steep Slope and/or Bluff Slope that is not located within 200 feet of the Clinton River, Paint Creek, Sargent Creek, or Stony Creek shall be considered a regulated slope.

B. **Steep Slope Inventory.** The City shall prepare an inventory map of regulated steep slopes within the City

C. **Presumption.** A steep slope inventory map indicates the location of known steep slopes within the City. Steep slopes may also exist that are not indicated on the map. Such slopes not indicated on the map are regulated by the provisions of this Chapter.

D. **Exemptions.**

1. The reviewing authority may waive the requirements of this Section 138-1082 for activities on or near slopes that are demonstrated to be man-made. Examples of slopes that are man-made include but are not limited to spoils piles, embankments for roads or railroads, berms, etc. The applicant must demonstrate that construction activity near or on the slope, including the possible removal or elimination of the steep slope area, will not impact or cause to be impacted a nearby natural feature or destroy views or alter the appealing aesthetic character of the area near the man-made slope if requesting an exemption.
2. Moderate and Very steep slopes covering a horizontal area of 5,000 sq. ft. or less are exempt from the provisions of this Section 138-1082. For the purposes of this exemption, where a steep slope is located on two or more contiguous parcels the area of the entire steep slope shall be used to calculate if the area exemption applies.

SECTION 138-9.202 Permitted and Regulated Activities

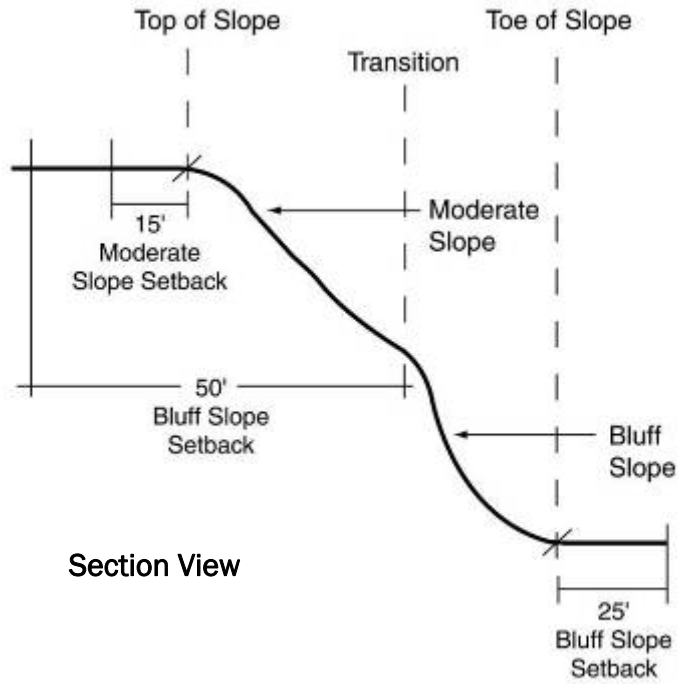
A. **Allowable Activities Outside of a Steep Slope Setback Area.** Any activity that does not impact a steep slope or is located outside of a steep slope setback area shall not be subject to the requirements of this Chapter 2 of Article 10.

B. **Allowable Activities on a Steep Slope or in a Steep Slope Setback Area.** The following activities are permitted on a steep slope between the toe of slope and top of slope and within a steep slope setback area without a steep slope permit:

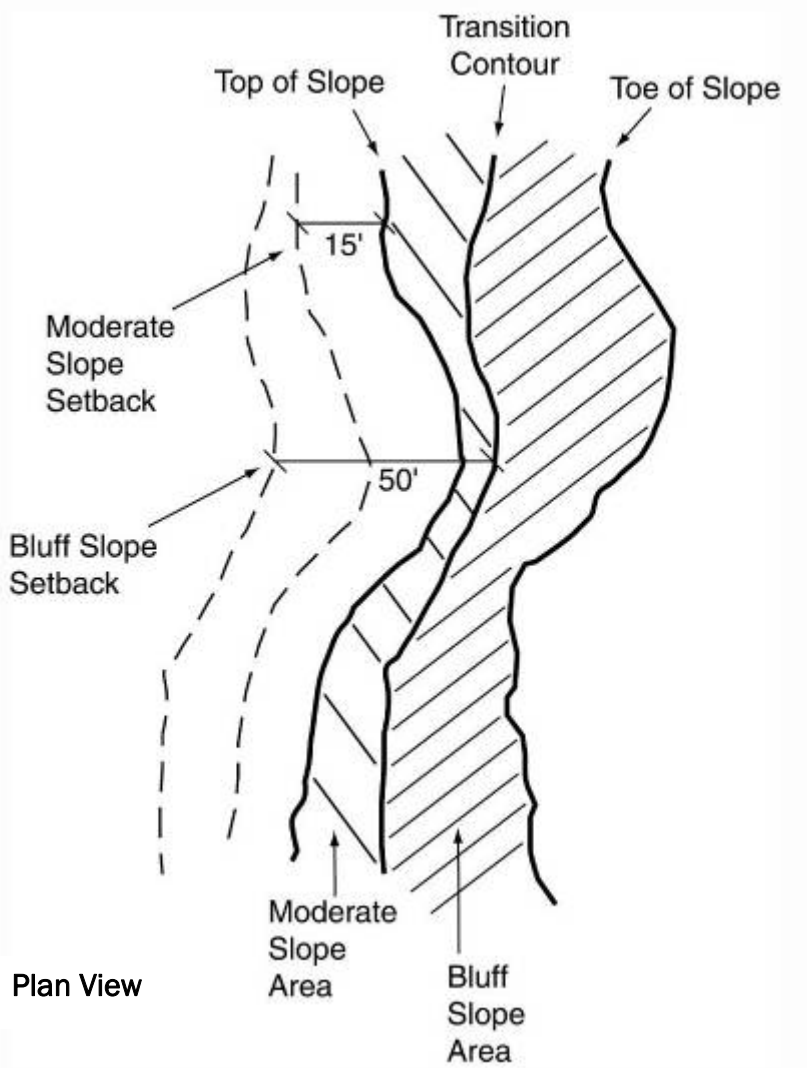
1. Normal ground maintenance that does not require disturbance of existing terrain. Normal ground maintenance includes customary best management practices for deep root vegetation and the mowing, trimming, or pruning of non-deep root vegetation. Normal ground maintenance activities do not include regrading or disturbing the soil surface, and must comply with all other applicable laws and regulations.
2. The planting of vegetation that does not require the removal of existing deep-root vegetation and does not disturb the natural contour of the land.
3. Fence construction in accordance with all other applicable laws and regulations.

4. The disturbance to steep slopes under temporary emergency conditions, as determined by the City's Engineering Services Department, where such disturbance is necessary to protect persons or property from present and imminent danger.
 5. Maintenance and repair of existing roads, driveways, walkways and retaining walls.
 6. Construction of new public roads in an existing public right of way or expansion of existing roads in a public right-of-way by a public agency.
 7. Public health and safety activities and emergency uses by or on behalf of a public agency.
- C. **Regulated Activities.** The following activities involving the creation of a new steep slope, alteration or disturbance to an existing steep slope between the toe of slope and top of slope, a manmade change to the land within a steep slope setback area, or any other activity not specifically listed as an allowable activity in Section 138-9.202(B), above, shall not be permitted unless a Steep Slope Permit is issued by the proper reviewing authority:
1. Constructing, operating, or maintaining any use or development.
 2. Erecting or installing buildings or other structures, improvements, or utilities (exception: fence construction or maintenance, which is a permitted activity).
 3. Depositing or removing material.
 4. Land balancing or other grading.
 5. Removal of deep-root vegetation.
 6. Constructing, operating, or maintaining a storm water outlet sewer.
- D. **Steep Slope Setback.** Regulated activities identified in Section 138-9.202(C), above, may not occur in the steep slope setback area unless a steep slope permit is issued. The steep slope setbacks are defined based on the type of steep slope, and are defined as follows:
1. A 15-foot setback is required from the top of a moderate steep slope with a ratio of one vertical to five horizontal (20% slope or greater).
 2. A 25-foot setback is required from the top of a very steep slope with a ratio of one vertical to 4 horizontal (25% or greater).
 3. A 50-foot setback is required from the top of a bluff slope with a ratio of one vertical to 2.5 horizontal (40% or greater).
 4. A 15-foot setback is required from the toe of any steep or very steep slope. A 25-foot setback is required from the toe of any bluff slope.
- E. **Measurement of Steep Slope Setback.** Many slopes will qualify as two or more types of steep slope due to changes in topography and the grade of the slope. In such a case, the setbacks defined in subsection (c)(4), above, shall be measured parallel to the top of slope and any transition contour lines where the grade of the slope changes and the slope changes to a different type of slope (i.e. moderate steep slope to a very steep slope).

The steep slope setback line shall be defined as the setback line that is farthest from the top of slope. Refer to the illustrations on the following page for a graphic representation of a transition contour.



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SECTION 138-9.203 Review Criteria

In reviewing any request for a steep slope permit, the reviewing authority shall consider all relevant facts and circumstances. Any steep slope permit application must satisfy the following review criteria:

A. General Criteria.

1. Structures shall be designed in a manner that averts or minimizes alteration to the steep slope and that otherwise complies with the grading standards in Section Section 138-9.203(B)(2).
2. Feasible alternatives to the proposed action, including avoidance of disturbance of the steep slope area and the availability of reasonable alternative building locations on the subject site or on any other adjacent parcels under the control of the applicant.
3. The suitability of the proposed activity to the area for which it is proposed. Structures should be sited on existing level areas of the site.
4. The suitability of soils and/or other structural characteristics of the slope that make the slope suitable for development, or unsuitable for development due to the slope's susceptibility to erosion, creep, or failure.
5. The proposed mitigation measures will adequately protect steep slopes from erosion, sedimentation, or damage beyond a natural rate of change.
6. The availability of technical improvements, safeguards, or other mitigation measures that could feasibly be added to the proposal.
7. Proposed method(s) of restoring disturbed areas of a steep slope.

B. Specific Criteria.

1. The alignment of roads and driveways shall follow the natural topography to minimize regrading and comply with design standards for maximum grades set forth in the City's engineering traffic division's standards.
2. The natural elevations and vegetative cover of steep slopes shall be protected from disturbance to the maximum extent possible.
3. All regrading shall blend in with the natural contours of the land.
4. Cuts and fills shall be rounded off to eliminate sharp angles at the top, bottom and side of regraded slopes.
5. The angle of cut and fill slopes shall not exceed the natural angle of repose of the soil in the cut or fill, except where retaining walls or other structural stabilization is used; generally, for soils, cut and fill slopes should be not steeper than one vertical to three horizontal (33% slope).
6. Any disturbance of steep slopes shall be completed within one construction season, and disturbed areas shall not be left bare and exposed during the winter and spring thaw periods.
7. The disturbance of existing vegetative ground cover shall not take place more than seven days prior to commencing grading and construction.
8. Permanent deep-root vegetative cover shall be planted within three days after completion of grading. The vegetative cover proposed to be used shall be identified as part of the application and is subject to review and approval by the reviewing authority and City Engineer. Where final grading and permanent planting cannot be established within a short period of time, temporary seeding or mulching shall be applied. Upon good cause being shown by the applicant and

based upon consideration of the time of year, slopes, soils and environmental sensitivity of the area involved, the Building Department may modify these specified time periods after consultation with the reviewing authority and City Engineer.

9. Measures for the control of erosion and sedimentation shall be undertaken in accordance with the Soil and Sedimentation Control Act (See Soil Erosion Act, Part 91 of PA 451 of 1994, as amended), which is administered by the Oakland County Drain Commissioner’s Office. Topsoil that will be stripped from all areas of disturbance shall be stockpiled in a manner so as to minimize erosion and sedimentation and shall be replaced on the site at the time of final grading.
10. Fill material shall be composed only of nonorganic material that will allow for appropriate compaction and cover by topsoil. No voids are to be created or left remaining in the fill material that will allow further settlement of the fill or habitat for rodents, vermin or other undesirable species.
11. Compaction of fill materials in fill areas shall be such that it ensures support of proposed structures and stabilization for intended uses.
12. Permanent physical markers will be used to identify and delineate the steep slope setback area.

SECTION 138-9.204 Determinations

In granting a steep slope permit under this Section, the reviewing authority shall evaluate and approve or deny an application based on the following considerations:

- A. That the proposed activity and the manner in which it is to be accomplished are in accordance with the findings and purpose set forth in Section 138-9.200.
- B. That the proposed activity and the manner in which it is to be accomplished can be completed without increasing the possibility of creep or sudden slope failure and will minimize erosion to the maximum extent practicable.
- C. That the proposed activity and the manner in which it is to be accomplished will not adversely affect the preservation and protection of existing wetlands, water bodies, watercourses and floodplains.
- D. That the proposed activity and the manner in which it is to be accomplished will not adversely affect adjacent property.
- E. That the proposed activity and the manner in which it is to be accomplished can be completed in such a way so as not to adversely affect any threatened or endangered species of flora or fauna.
- F. That the proposed activity is compatible with the public health and welfare.
- G. That the proposed regulated activity cannot practicably be relocated on the site or reduced in size so as to eliminate or reduce the disturbance of the steep slope area.
- H. The applicant shall have the burden of proof to demonstrate compliance with the requirements of this Chapter 2 of Article 10.

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. **Submittal Requirements.** All applications shall contain the following information:

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1. Name and address of owner and applicant.
2. Street address of the property, or other means of identifying the property if it does not have a street address such as a tax identification number.
3. Statement of consent from the owner for any agent making application.
4. A written narrative explaining the nature of the proposal, including the proposed work and purpose thereof, any future development proposals for the property and whether alternative locations exist for the proposed activity.
5. A site plan drawn at a scale no less than one inch equals 50 feet and prepared, signed, and sealed by a landscape architect, architect, professional engineer or professional surveyor and showing the following information for all areas on the subject site that contain steep slopes:
 - a. The location of proposed buildings and structures, including driveways and retaining walls.
 - b. The location of the proposed area of disturbance and its relationship to neighboring properties, together with structures, roads and watercourses or regulated wetlands located within 100 feet of the boundaries of the disturbed area.
 - c. The existing topography in the proposed area of disturbance at a contour interval of not more than two feet. Contours shall be shown for a distance of 100 feet or greater beyond the limits of the proposed area of disturbance. The contour map shall be prepared, signed and sealed by a professional engineer or land surveyor licensed to practice in the State of Michigan. The elevations and contours on said map shall be in North American Vertical Datum of (NAVD88) or North American Datum NAD 83 (1986 adjustment) International Feet, or the latest revision of either standard.
 - d. The location and size of areas of Moderate Steep Slope, Very Steep Slope, and Bluff Slope under both existing and proposed conditions in the area of proposed disturbance and within a distance of 100 feet thereof.
 - e. The top of slope and toe of slope elevation contours, along with any transition contours between areas of Moderate, Very, or Bluff Slope.
 - f. Steep slope setback lines measured parallel to the top of slope and any transition contours.
 - g. The proposed final contours of the disturbed area at a maximum contour interval of two feet and proposed surface materials or treatment.
 - h. Cross-sections of the existing and proposed steep slope areas.
 - i. A soil erosion and sedimentation control plan.
 - j. The details of any surface or subsurface drainage system proposed to be installed, including special erosion-control measures designed to provide for proper surface or subsurface drainage, both during the performance of the work and after its completion.
 - k. A landscape plan showing the location, size, species, and quantity of deep root vegetation that will be established.
 - l. Locations of permanent physical markers delineating the steep slope setback area.
6. Photographs of the steep slope, with the photograph locations cross-referenced on the survey.

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7. A list of all applicable City, County, State and Federal permits required for such work or improvement.
8. Payment of all applicable fees as required by division 4 or article IV of chapter 110 of the City's Code of Ordinances.
9. Any of the following information, if determined necessary by the City Engineer or the reviewing authority:
10. Other information, including specific reports by qualified professionals on soils, geology, hydrology, flora, and fauna.
11. Existing soils within 50 feet of the proposed disturbed area, taken from field investigations by a soils scientist and classified into hydrologic soil groups.
12. A cut/fill map delineating proposed areas of disturbance at affected depths in increments of zero to three feet, three to six feet, six to 10 feet and 10 feet and over and the estimated material quantities of cut/fill.

C. **Review Procedures.**

1. Applications Requiring Planning Commission Review.
 - a. Applications for steep slope permits proposed in conjunction with another application requiring Planning Commission review and approval shall be reviewed concurrently with the site plan, special land use, or plat application to which the steep slope permit is related. The Planning Commission shall consider all of the general and specific design standards listed in Sections (D) and (E) of this Chapter 2 of Article 9.
 - b. The Planning Commission shall hold a public hearing in accordance with Section 138-1.203 to receive comment on the requested steep slope permit following the noticing procedures applicable for a conditional use.
 - c. The Planning Commission may approve, approve with conditions, or deny the requested steep slope permit. All such approvals, approvals with conditions, or denials shall be issued in writing. In the case of a conditional approval or a denial, such written decision shall state the reasons for denial or the conditions of approval.
2. All Other Applications. Any steep slope permit application that is not proposed in conjunction with another application requiring Planning Commission review shall be reviewed by the Engineering Services Department shall review the application for compliance with all of the standards of this Chapter. The Engineering Services Department may approve, approve with conditions, or deny the requested steep slope permit. All such approvals, approvals with conditions, or denials shall be issued in writing. In the case of a conditional approval or a denial, the written decision shall state the reasons for denial or the conditions of approval.

SECTION 138-9.206 Permits

Steep slope permits issued pursuant to this Chapter and permit holders shall comply with the following requirements:

- A. **Content.** Steep slope permits shall include, at a minimum, the following items of information:
 1. The approval date of the permit.
 2. The expiration date of the permit.
 3. Limitation on the total portion of any lot or the portion of the steep slope on the lot that may be disturbed.

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4. Setbacks for structures, fill and other activities from the top of slope.
 5. The approved grading plan shall be kept on file with the approved steep slope permit.
- B. **Notification and Display of Permit.** Permit holders shall comply with the following requirements prior to and during the commencement of activity on the site:
1. The permit holder shall notify the Engineering Services Department and the Planning Department of the date on which the work is to begin, at least five (5) days in advance of such date.
 2. The permit shall be prominently displayed at the project site during the undertaking of activities authorized by the permit.
- C. **Expiration of Permit.**
1. All permits shall expire on completion of the acts specified therein and, unless otherwise indicated, shall be valid for a period of one year from the date of issue.
 2. In the case of a permit where the work on the steep slope(s) has not commenced, the reviewing authority may extend the time in which the acts specified in the permit may be completed if, in its opinion, such extensions are warranted by the particular circumstances involved. Such extensions shall not exceed two additional periods of one year each. The reviewing authority may require the permit holder to provide additional information demonstrating that conditions on the site have not substantially changed from the time the steep slope permit was first issued. The site shall be subject to a field inspection by City Staff or Planning Commission prior to the granting of an extension.

Should a permittee fail to complete the acts specified in the permit prior to the expiration of the second one year extension, the original permit shall become null and void, and an application must be made for a new permit. The request for a new permit shall follow the same form and procedure as the original application.
 3. In the case of a permit where the work on the steep slope(s) is partially completed, the number and length of extensions shall be at the sole discretion of the reviewing authority.
 4. A request for an extension of an original permit shall be made in writing to the reviewing authority at least thirty (30) days prior to the expiration date of the original permit and each extension.
- D. **Performance Guarantee.** The permit grantee shall be required to file with the City a cash or corporate surety bond or irrevocable letter of credit running to the City in an amount, if any, determined necessary by the City's engineering services department to guarantee performance of and compliance with use permit conditions and this article.

SECTION 138-9.207 Appeals

Any final determination, decision or order of the Engineering Services Department or Planning Commission may be appealed to the City Council following the procedures of Section 138-2.400.

The City Council, upon review, shall make findings and determine whether or not there has been compliance with the requirements and standards of this Section, and based on its findings, may affirm, reverse, or modify the decision rendered by the Engineering Services Department or the Planning Commission, as the case may be.

SECTION 138-9.208 Enforcement

- A. **Civil Infraction.** Any person who violates this provision of this Chapter shall be responsible for a municipal civil infraction.

- B. **Separate Offense.** Each consecutive day of the violation shall be considered a separate offense.
- C. **Inspections and Violations.**
 - 1. Inspection. Any site for which an application has been submitted shall be subject to inspection by the reviewing authority or its designated representative(s), including weekends and legal holidays.
 - 2. Administrative sanctions.
 - a. *Restoration.* The Engineering Services Department shall have the authority to direct the violator to restore the steep slope area to its condition prior to violation, insofar as that is possible, within a reasonable time and under the supervision of the Engineering Services Department or its designate. Further, the Engineering Services Department shall have the authority to require an adequate performance guaranty in a form and amount deemed necessary by the Engineering Services Department to insure the restoration of the affected steep slope area.
 - b. *Stop-work order; revocation of permit.* In the event that any person holding a permit issued pursuant to this Chapter violates the terms of the permit, fails to comply with any of the conditions or limitations set forth in the permit, exceeds the scope of the activity as set forth in the application or operates so as to be materially detrimental to the public welfare or injurious to a steep slope area, the reviewing authority may suspend or revoke the permit or withhold issuance of a Certificate of Occupancy until the provisions of this Chapter, including any conditions attached to a Permit, have been fully met. Failure to comply with a stop work order shall constitute a violation of this Chapter.
- D. **Fines.** Any person convicted of having violated or disobeyed any provision hereof, any order of the reviewing authority or any condition duly imposed by the reviewing authority in a permit granted pursuant to this Section, for the first offense shall be subject to the penalties, sanctions, remedies and costs authorized in City Code Section 1-16.
- E. **Injunctive Relief.** The City is specifically empowered to seek injunctive relief restraining any violation or threatened violation of any provisions hereof and/or to compel the restoration of the affected steep slope area to its condition prior to the violation of the provisions of this Chapter.
- F. **Enforcement.** The Mayor or his or her designee, shall be empowered to enforce compliance with this Ordinance.

SECTION 138-9.209 Notice and Conflicts

In order to carry out the purposes and provisions hereof, and in addition to the powers specified elsewhere in this Ordinance, the following general provisions shall apply:

- A. **Notice Provisions.** The deed, contract of sale and final plat of any land subdivided subsequent to the enactment of this Chapter shall describe all steep slope areas on said land which are regulated by this Chapter and shall include a note on the deed, contract and final plat, respectively, that any construction within these areas requires a permit.
- B. **Conflicts.** Wherever this Chapter 2 of Article 10 is inconsistent with any other law of the City of Rochester Hills, whichever law imposes the more stringent restriction shall prevail.

SECTION 138-9.210 Definitions

As used in this Article 9, Chapter 2, the following terms shall have the meaning indicated:

APPLICANT – Any individual, firm, partnership, association, corporation, company, organization or other legal entity of any kind, excluding the City of Rochester Hills and its governmental agencies, who requests the reviewing authority to issue a permit, or to whom a permit has been granted under the provisions of this Chapter.

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CITY COUNCIL – The City Council of the City of Rochester Hills.

CREEP – The gradual movement downhill of soil or loose rock on a steep slope. The process of creep may result in the migration of the top of slope contour and destabilization of the slope.

DEEP ROOT STABILIZING VEGETATION – Vegetation that increases soil strength and stability by providing reinforcement and increasing the shear strength of soils. Deep root vegetation contains a fibrous root system that penetrates more than 4 feet below the surface (in a mature plant). Deep root stabilizing vegetation includes certain native species of trees, shrubs, and native grasses. Turf grass root systems are typically only four to six inches deep, so turf grasses do not qualify as deep root vegetation. The City maintains a list of acceptable native deep-root vegetation appropriate for use on steep slopes.

DISTURBANCE – The removal of vegetation, except as specifically permitted herein, or the filling, excavation, regrading or removal of soil, rock or retaining structures in areas of steep slope, whether by manual labor, machine or explosive. The condition of disturbance will be deemed to continue until the area of disturbance is revegetated and/or permanently stabilized.

DISTURBED AREA – Any steep slope area for which a disturbance is proposed or is ongoing.

GRADING – Adjusting the degree of inclination of the natural contours of the land, including leveling, smoothing, grubbing, tilling, and other modification of the natural land surface.

HORIZONTAL AREA – The horizontal area is the area of a level plane drawn underneath the steep slope with the toe and top of slope as the boundaries of the horizontal plane. For instance, a topographical map shows the horizontal area of a steep slope by rendering the slope area on a level plane.

LAND IMPROVEMENT PERMIT – The written approval issued by the Engineering Services Department permitting the actual commencement and continuation of grading work in accordance with an approved grading plan or construction engineering plan.

MATERIAL – All liquid, solid or gaseous substances.

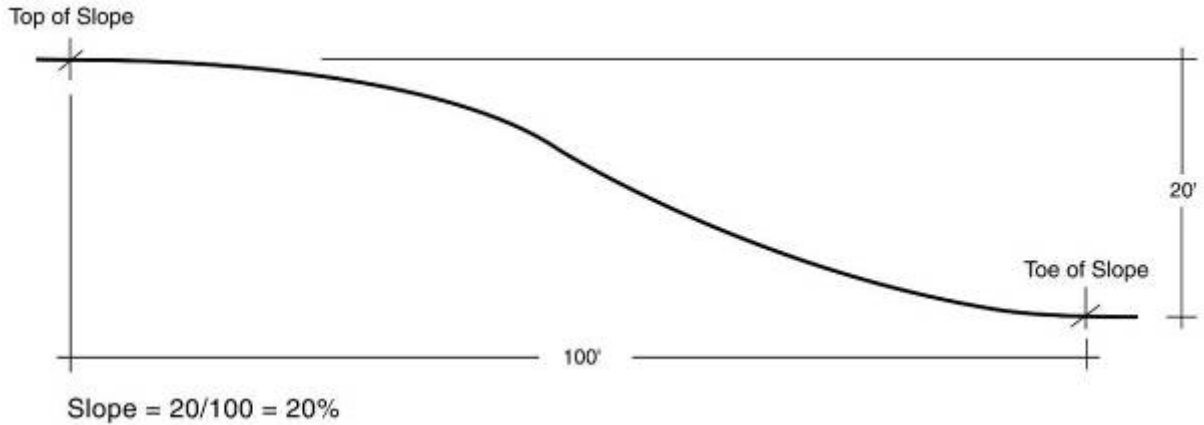
PERSON – Any person, firm, partnership, association, corporation, company, organization or other legal entity of any kind, including public agencies and municipal corporations.

PLANNING COMMISSION – The Planning Commission of the City of Rochester Hills.

PROJECT – Any proposed or ongoing action that may result in direct or indirect physical impact on a steep slope, including, but not limited to, any regulated activity.

REVIEWING AUTHORITY – The City agency(s) or public official(s) empowered to administer the permit procedures of this Chapter.

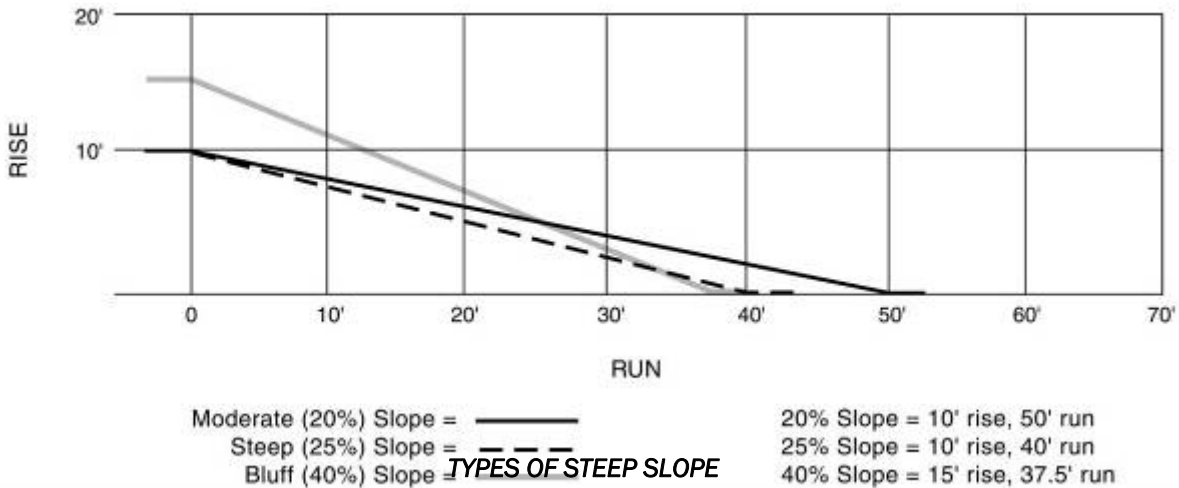
SLOPE – Slope is defined as “rise over run,” and is determined by dividing the vertical change in grade by the horizontal distance over which that grade change occurs. The vertical and horizontal distance of a slope is measured from the toe of slope to top of slope.



MEASUREMENT of SLOPE

STEEP SLOPE – Any geographical area, whether on a single lot or not, having a topographical gradient of 20% or greater (ratio of vertical distance to horizontal distance) between the toe of slope and top of slope and a minimum area as defined below. Known steep slope areas are identified on the City’s Steep Slope Map. Steep slopes are further categorized as:

1. *MODERATELY STEEP SLOPE* – A slope equal to or greater than one vertical on five horizontal (20%) but less than one vertical on 4 horizontal (25%) and having a minimum vertical elevation change of 10 feet from the top of slope to toe of slope.
2. *VERY STEEP SLOPE* – A slope equal to or greater than one vertical on 4 horizontal (25%) but less than one vertical on 2.5 horizontal (40%) and having a minimum vertical elevation change of 10 feet from the top of slope to toe of slope.
3. *BLUFF SLOPE* – A slope equal to or greater than one vertical on 2.5 horizontal (40%) and having a minimum vertical elevation change of 15 feet or more from the top of slope to toe of slope.



STEEP SLOPE PERMIT – The written form of City approval granted by the reviewing authority and required by this Chapter for the issuance of a work permit and the conduct of any regulated activity on a steep slope.

STRUCTURE – Anything constructed or erected, the use of which requires location on or in the ground or attachment to something having location on the ground, including, but not limited to, buildings, athletic courts,

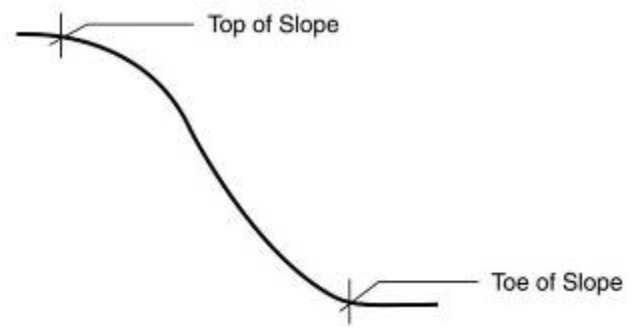
swimming pools and decks.

TOE OF SLOPE – The base or bottom of a slope at the point where the ground surface changes to a flatter grade (less than 20%), and below which no further steep slope exists within 100 feet of the toe of slope line.

TOP OF SLOPE – The top of slope is the point where the grade changes from less than to greater than 20%.

TRANSITION CONTOUR – A contour elevation that marks a change between two types of steep slope.

Transition contours also occur if a steep slope includes a plateau of land that has a slope of 20% or less with a horizontal distance of less than 100 feet. If such a plateau exists, the contour line where the slope changes from 20% or more to less than 20% shall be considered as transition contours, and not as a top or toe of slope.



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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.

SECTION 138-10.101 Attached Accessory Structures

- A. **Compliance with standards for 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."
 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

- A. **Area.** Detached structures accessory to a residential building may occupy not more than 25 percent of a rear yard and shall not be located in the front yard. In no instance shall the combined floor area of all detached accessory structures located on a lot exceed the ground floor living area of the main building or 720 square feet, whichever is less, unless provided otherwise in Section 138-10.105. For purposes of this subsection, floor area of an accessory structure shall be defined as the area within an accessory structure's walls, measured from the exterior of the exterior walls, assembly or structural supports.

GENERAL PROVISIONS

- B. **Setbacks.** A detached structure accessory to a residential building shall be located no closer than five feet to any side or rear lot line.

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 138-10.104 Corner Lots

Buildings or structures accessory to a residential dwelling unit located on a corner lot shall comply with the greater of the following setbacks:

- A. **Side street setback.** The accessory structure shall be set back a minimum of ten (10) feet from an existing or proposed street right-of-way or utility easement.
- B. **Front setback from side street required.** Where a residential dwelling unit is located on a lot within 300 feet of the corner lot, and is also located on the same side of the street or across the street from the corner lot, has a front yard relationship to a street upon which the corner lot has frontage, the accessory structure located on the corner lot may not be located closer to the street than the front yard setback required for the adjacent lot or lot across the street having the front yard relationship with said street.

Refer to the illustration on the following page for examples of **corner lot accessory structure setback requirements**:

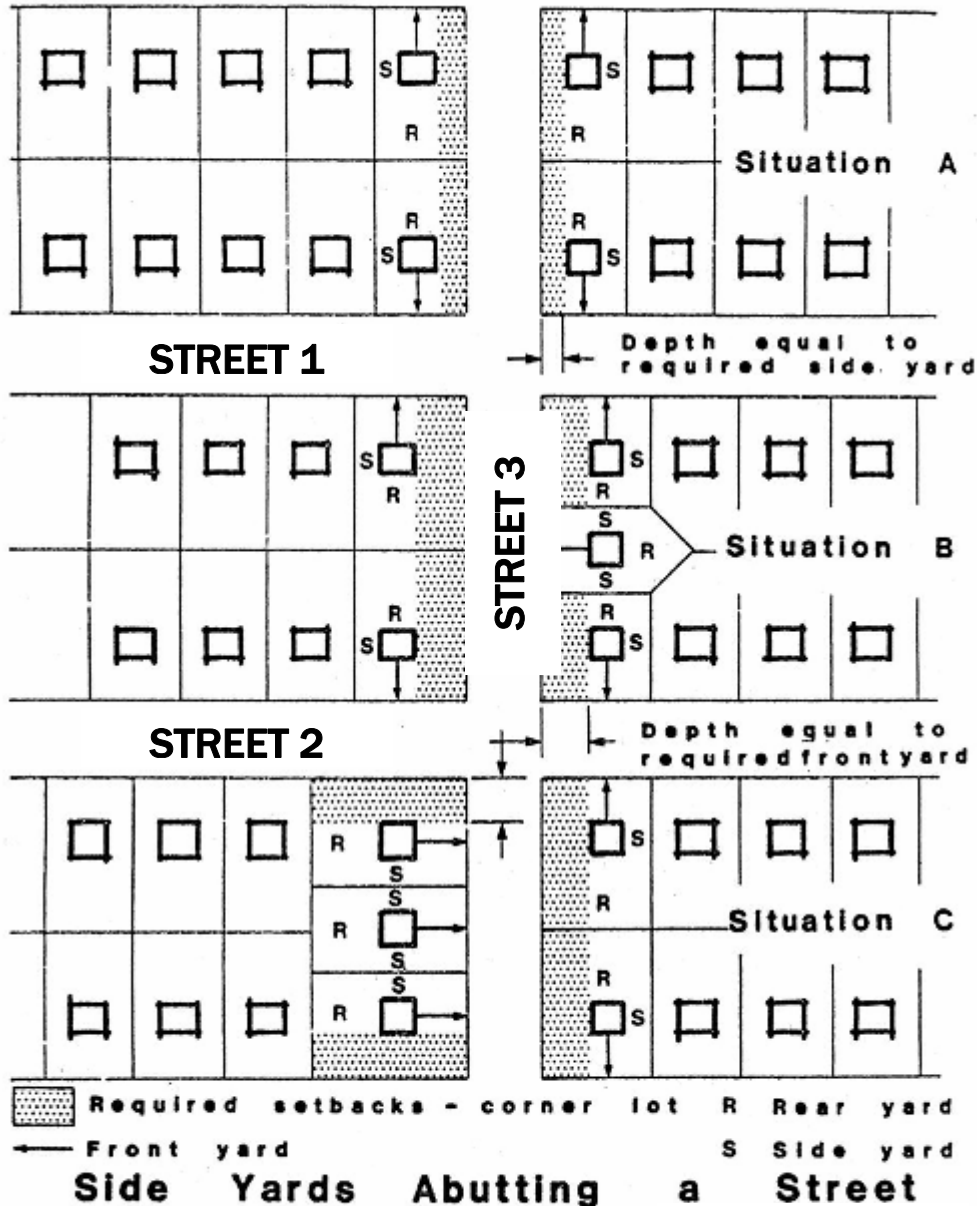
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Situation A – all adjacent and nearby houses have front yard relationship on street 1, no adjacent or nearby houses have front yard relationship on street 3. A front yard setback is required for accessory buildings from street 1, and a 10 foot setback is required for accessory buildings from street 3.

Situation B – There are adjacent and nearby houses that have a front yard relationship to streets 1, 2, and 3, so a front yard setback is required for accessory buildings from streets 1, 2, and 3.

Situation C – There are adjacent and nearby houses that have a front yard relationship to streets 2, and 3, so a front yard setback is required for accessory buildings from streets 2, and 3.



SECTION 138-10.105 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 buildings 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. **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 excepted accessory buildings.** 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. **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 138-10.106 Decks and Patios

- A. **Definitions.** The following terms, as used in this Section, shall have the following meaning:
 - 1. **Deck.** A platform structure, either freestanding or attached to a building, without a roof that is elevated above the surface of the ground and supported by columns or posts. A deck is not intended to provide shelter or create an enclosure.
 - 2. **Deck, Attached.** A deck that is physically attached to and supported by the principal building.
 - 3. **Deck, Detached.** A deck that is not physically attached to or supported by the principal building.
 - 4. **Patio.** An area with a hard surface that is completely supported by the ground.
 - 5. **Roofed Deck.** Any deck that is either completely or partially roofed, inclusive of open beams or latticework.
- B. **Decks.**

1. Attached and Detached Decks. Attached and detached decks are accessory structures and shall meet the setback requirements for detached accessory structures.
2. Roof Structures.
 - a. Any roof structure that is open 50% or more to allow the passage of the elements shall be considered an accessory structure and shall meet all applicable standards for an attached or detached deck.
 - b. Any roof structure that is open less than 50% and located within 10 feet of the principal structure shall comply with the setback requirements for the principal building.
- C. **Patios.** Patios may be located in any rear or side yard, provided that a 5-foot setback is maintained from any property line.

SECTION 138-10.107 Gazebos

Gazebos are permitted in the RE, R-1, R-2, R-3, R-4, RCD, RM-1 and MH districts, subject to the following limitations:

- A. **Area.** Gazebos shall not exceed 180 square feet in floor area. However, the floor area of gazebos shall not count toward the maximum allowable floor area for accessory structures.
- B. **Height.** Gazebos shall not exceed one story or 16 feet in height. If the gazebo is part of a deck attached to the main building, the height shall be measured as the vertical distance from the usable floor surface of the main building to the highest point of the gazebo roof.
- C. **Setbacks.** Gazebos shall comply with the yard and setback regulations applicable to detached accessory structures.

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CHAPTER 2. EXTERIOR LIGHTING

SECTION 138-10.200 Purpose

The purpose of this chapter is to preserve, protect, and enhance the lawful nighttime use and enjoyment of all properties in the City through the use of appropriate lighting practices and systems. Exterior lighting shall be designed, installed and maintained to control glare and light trespass, minimize obtrusive light, conserve energy and resources, maintain safety, security and productivity, and prevent the degradation of the nighttime visual environment. It is the further intent of this chapter to encourage the use of innovative lighting designs and decorative light fixtures that enhance the character of the community while preserving the nighttime visual environment.

SECTION 138-10.201 General Provisions

The design and illumination standards of this chapter shall apply to all exterior lighting sources and other light sources visible from the public right-of-way, road easement, or adjacent parcels, except where specifically exempted herein.

A. Shielding. Exterior lighting shall be fully shielded and directed downward at a 90 degree angle. Oblique lenses (such as many wall-pack fixtures) are prohibited. All fixtures shall incorporate full cutoff housings, louvers, glare shields, optics, reflectors or other measures to prevent off-site glare and minimize light pollution. Only flat lenses are permitted on light fixtures; sag or protruding lenses are prohibited.

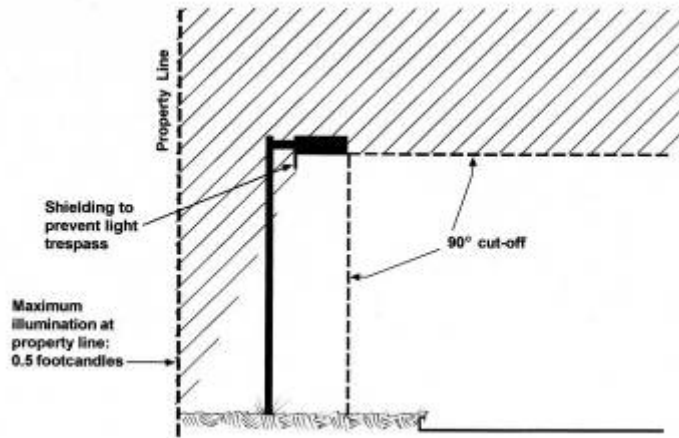


Figure 5. Lighting Fixture Orientation and Shielding

B. Intensity. The following light intensity requirements shall apply on all sites within the City.

1. The intensity of light within a site shall not exceed 10 footcandles. Exception: the maximum intensity permitted in areas of intensive vehicular use, such as the area underneath gas station pump canopies, in the immediate vicinity of ATM facilities, or outdoor sales areas shall be 20 foot candles.
2. The maximum light intensity permitted at a street right-of-way line shall be one (1) footcandle.
3. The maximum light intensity permitted at any property line other than a street right-of-way shall be 0.5 foot candles.

C. Glare and light trespass. Exterior lighting sources shall be designed, constructed, located and maintained in a manner that does not cause off-site glare on neighboring properties or street rights-of-way. In general, the hot spot, or light emitting element of any light fixture shall not be directly visible from a neighboring property, as this is the primary cause of glare.

D. Lamps.

1. **Wattage.** Lamps with a maximum wattage of 250 watts per fixture are permitted for use in the City to maintain a unified lighting standard and to minimize light pollution. The Planning Commission may permit the use of lamps with wattages up to 400 watts if the applicant can demonstrate that the higher wattage fixture is necessary to provide adequate lighting on the site and that the light fixture is in compliance with all other requirements of this chapter. The

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exemption for higher wattage lamps shall not be granted if the same lighting effect can be reasonably accomplished on the site by incorporating additional 250 watt fixtures into the site design.

2. **Low traffic areas.** Low-pressure sodium lamps are recommended for security lighting purposes in areas of low vehicular and pedestrian traffic.
 3. **High traffic areas.** Due to their superior color rendering characteristics, high pressure sodium or metal halide lamps should be used in parking lots and other areas of high pedestrian and vehicular traffic use.
 4. **LED Lighting.** LED fixtures may be used for any outdoor lighting application. Any LED fixture used for parking lot or street lighting purposes shall comply with applicable Illuminating Engineering Society of North America standards.
- E. **Animated lighting.** Permanent exterior lighting shall not be of a flashing, moving, animated, or intermittent type.
 - F. **Hours of operation.** All exterior lighting in non-residential districts shall incorporate automatic timers and shall be turned off between the hours of midnight and sunrise, except for lighting necessary for security purposes or accessory to a use that continues after midnight.
 - G. **Measurement.** Light intensity shall be measured in footcandles on the horizontal plane at grade level within the site, and on the vertical plane at the property or street-right-of-way boundaries of the site at a height of five feet (5') above grade level.

SECTION 138-10.202 Standards by Type of Fixture

- A. **Freestanding pole and building mounted lighting.** The maximum height of such fixtures is 20 feet. Where a pole or building mounted fixture is located within 50 feet of a residentially zoned or used property, the maximum pole height shall be 15 feet.
- B. **Decorative light fixtures.** The Planning Commission may approve decorative light fixtures as an alternative to shielded fixtures, provided that such fixtures would enhance the aesthetics of the site and would not cause off-site glare or light pollution. Such fixtures may utilize incandescent, tungsten-halogen, metal halide or high-pressure sodium lamps with a maximum wattage of one-hundred watts (100w) per fixture.

SECTION 138-10.203 Exempt Lighting

The following exterior lighting types are exempt from the requirements of this Article, except that the Zoning Administrator may take steps to minimize glare, light trespass or light pollution impacts where determined to be necessary to protect the health, safety and welfare of the public:

- A. Holiday decorations.
- B. Pedestrian walkway lighting.
- C. Residential lighting.
- D. Instances where federal or state laws, rules or regulations take precedence over the provisions of this chapter.
- E. Temporary emergency lighting.

SECTION 138-10.204 Exceptions

It is recognized by the City that there are certain uses or circumstances not otherwise addressed in this chapter, such as sports stadiums, streetlighting, or lighting for monuments and flags, that may have special exterior lighting requirements. The Planning Commission or the Planning and Development Director may waive or modify

GENERAL PROVISIONS

specific provisions of this chapter for a particular use or circumstance upon determining that all of the following conditions have been satisfied. The Planning Commission shall be the deciding body in all cases where site plan or special use approval is required, while the Planning and Development Director shall decide in all other cases.

- A. The waiver or modification is necessary because of safety or design factors unique to the use, circumstance or site.
- B. The minimum possible light intensity is used that would be adequate for the intended purpose. Consideration shall be given to maximizing safety and energy conservation, and to minimizing light pollution, off-site glare and light trespass on to neighboring properties or street rights-of-way.
- C. For lighting related to streets or other vehicle access areas, a determination is made that the purpose of the lighting cannot be achieved by installation of reflectorized markers, lines, informational signs or other passive means.
- D. Additional conditions or limitations may be imposed by the review authority to protect the public health, safety or welfare, or to fulfill the purpose of this chapter.

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CHAPTER 3. GENERAL PROVISIONS

SECTION 138-10.300 One-Family Residential Design Standards

A one-family dwelling and any additions or alterations thereto erected or placed in the City, other than mobile homes located in a licensed mobile home park approved under Article 6, Chapter 4, shall conform to the following in addition to all other regulations of this ordinance:

- A. It shall comply with all pertinent building, construction and fire codes for single-family dwellings.
- B. The plan outline of the dwelling, including heated living areas, shall be large enough to contain within it a square of 20 feet on a side. This size requirement shall not make any house existing at the date of amendment nonconforming so that they cannot be enlarged or improved.
- C. It shall be firmly attached to a permanent foundation constructed on the site in accordance with the state construction code and shall have a rat wall under the entire perimeter of the structure, and shall be constructed of such materials and type as required in the applicable building code for single-family dwellings. If the dwelling is a mobile home, as defined in this ordinance, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the state mobile home commission and shall have a perimeter wall as required in this section.
- D. If a dwelling is a mobile home as defined in this ordinance, each mobile home shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage or chassis.
- E. It shall be connected to a public sewer and water supply, if available, or if not available to private facilities approved by the county health department.
- F. It shall comply with all pertinent zoning, subdivision and other ordinances regulating use, floor area, lot size, setback, yards, etc., in the zoning district in which it is located.
- G. It shall comply with all pertinent building and fire codes. If a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to such mobile home shall be of a type and quality conforming to the Mobile Home Construction and Safety Standards as promulgated by the United States Department of Housing and Urban Development, 24 CFR 3280, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- H. It shall be in compliance with the standards contained in this subsection, and shall be aesthetically compatible in character, design and appearance to residential dwellings located outside of mobile home parks, as follows:
 1. If located in a platted subdivision with at least one existing home, it shall be compatible with homes in the particular plat of which it is a part.
 2. If not located in a platted subdivision and the area within 500 feet has existing homes, it shall be compatible with those homes within the 500 feet that might reasonably be considered to be an identifiable neighborhood of which it would be a part.
 3. Otherwise, it shall be compatible with homes generally located throughout the City.
 4. The determination of compatibility shall be based upon compliance with the following standards:

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- a. The dwelling shall have a roof covered with composition asphalt organic felt shingles or a material of similar texture, malleability and coarseness, not to exclude copper, wood, slate or clay material, as on roofs of homes with which the dwelling is to be compatible.
 - b. The roof of the dwelling shall have a slope of not less than two vertical units to each 12 horizontal units.
 - c. The dwelling shall have steps and/or porches which provide access to exterior doors, which are permanently attached to the ground and to the structure, or which are comparable to steps and/or porches of homes with which the dwelling is to be compatible.
 - d. The exterior surface of exterior walls of a dwelling and roof shall be covered with wood or stucco, or a material of metal, metal alloy, brick, masonry, vinyl or plastic with major actual or visual vertical or horizontal joints spaced at not more than eight inches apart.
 - e. The dwelling shall have windows located on the front elevations, and shall have exterior doors either on the front and rear, or front and side as generally found in homes with which the dwelling is to be compatible.
 - f. The dwelling shall not have a detached garage, if attached garages are typical to homes with which the dwelling is to be compatible.
 - g. The ratio of the horizontal dimension of the front to side elevation of the structure shall not be more than three units to one unit.
5. If no more than two of the standards in this subsection are not met, a dwelling may be approved as aesthetically compatible in character, design and appearance, provided it is determined that the dwelling and/or its site have other design features which make it aesthetically compatible with the homes with which it is to be compatible. This shall not be construed to prohibit innovative design concepts involving such matters as energy conscious devices such as solar energy, view, unique land contour or relief from the common or standard designed home.
 6. An applicant for a building permit aggrieved by an adverse decision by the building department may appeal to the Zoning Board of Appeals, which board shall make the determination, with findings, based upon its independent judgment, without reference to the standards for the granting of variances.

SECTION 138-10.301 Basement Residency

Basement residency is expressly prohibited in the City; however, bedroom or kitchen facilities that are part of a principal single-family dwelling unit and that do not constitute a separate dwelling unit are permitted. Points of egress via daylight windows or walkout basements are also permitted, provided that they are not part of a dwelling unit located in a basement.

SECTION 138-10.302 Signs

Signs shall be regulated by chapter 134 of the City Code of Ordinances pertaining to signs. The minimum front yard setback for signs shall be as provided in chapter 134 of the City Code of Ordinances.

SECTION 138-10.303 Use Restrictions

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

SECTION 138-10.304 Voting Places

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

SECTION 138-10.305 Access Through Yards

For the purpose of this ordinance, subject to Section 138-11.102B.4.c with respect to private roads, private drives and off-street parking areas, including maneuvering lanes, within required yards in the RM-1 and RCD districts where the adjacent property is zoned one-family residential, access drives may be placed in the required front or side yards so as to provide access to rear yards and/or accessory or attached structures. These drives shall not be considered as structural violations in front and side yards. Further any walk, terrace, or other pavement servicing the like function, and not in excess of nine inches above grade upon which placed, shall for the purpose of this ordinance not be considered to be a structure, and shall be permitted in any required yards.

SECTION 138-10.306 Dual Use of Property

Except as otherwise specifically provided in this ordinance, no parcel of property may be used for more than one use at a time. An example, but not as a limitation, would be a parcel of property with a residential nonconforming use in a business or industrial district shall not also be used for a business or industrial use.

SECTION 138-10.307 Essential Public Services and Utilities

Essential services buildings and structures shall be permitted as authorized under any franchise in effect within the City. Such essential services shall be subject to State laws, City ordinances and regulations in addition to being consistent with the list of uses permitted in each zoning district. It is the intent of this Section to ensure conformity of all buildings, structures, uses and storage yards to the requirements of this ordinance wherever such conformity shall be practicable and not in conflict with the specific requirements of such franchise, state legislation, or City ordinance. In the absence of such conflict, the ordinance shall prevail.

SECTION 138-10.308 Parking and Storage of Commercial and Recreational Vehicles, Equipment and Junk Vehicles

Refer to Section 84-16 of the City of Rochester Hills Code of Ordinances for regulations on the parking and storage of commercial and recreational vehicles, equipment and junk vehicles.

SECTION 138-10.309 Excavation and Filling of Land

- A. **Soil Excavation and Landfill Ordinance.** Any permit issued pursuant to this ordinance shall be subject to compliance with and operations and/or activities under a permit shall conform with the City soil excavation and landfill ordinance in article II of chapter 126 of the Code of Ordinances.
- B. **Exempt Activities.** No permit under this ordinance (a land improvement permit may be required pursuant to article II of chapter 126 of the Code of Ordinances) shall be required for
 - 1. Excavations for the construction of buildings or structures permitted in the City for which a building permit has been issued;
 - 2. The moving, grading or leveling of earth or rock materials by a property owner solely upon his own property and not removed to other noncontiguous property;
 - 3. The filling of land for purposes of construction where the land is low and in need of fill so long as the fill does not contain any refuse, the fill material does not exceed five inches in depth when spread on the area to be filled, it is not a commercial operation and not more than five acres are involved on any given site; or
 - 4. The removal of soil, etc., when no more than 20 cubic yards are removed in any calendar year.
- C. **Site Work Not Incidental to Construction or an Exempt Activity** shall require a land improvement permit pursuant to Article II of Chapter 114 of the City Code of Ordinances prior to any site work being completed. Clearing, excavation, filling, grubbing, disking or blading of land.

SECTION 138-10.310 Performance Standards

The following performance standards are established in order to preserve the environmental health, safety and welfare of the City. No activity, operation or use of land, building or equipment shall be used or occupied in any

manner so as to create any dangerous, injurious, noxious or otherwise objectionable element or condition that adversely affects the surrounding area. Any use permitted by this Ordinance shall be operated in conformance with all applicable performance standards set forth in this Section 138-10.310. The following standards are deemed the minimum requirements to be maintained.

- A. **Airborne Emissions.** It shall be unlawful for any person, firm, or corporation to permit the emission of any smoke or air contaminant in violation of applicable air quality standards adopted by the Federal Clean Air Act and the Michigan Department of Environmental Quality.
- B. **Odors.** Any condition or operation which results in the creation of odors of such intensity and character as to be detrimental to the health and welfare of the public or which interferes unreasonably with the comfort of the public shall be removed, stopped, or so modified as to remove the odor. Such odors shall be prohibited when perceptible at any point along the property line.
- C. **Gases.** The escape or emission of any gas which is injurious or destructive, harmful to person or property, or explosive is prohibited.

D. Noise and Vibration.

1. Noise which is objectionable due to intensity, frequency, or duration shall be muffled, attenuated, or otherwise controlled, subject to the following:

- a. Objectionable sounds of an intermittent nature, or sounds characterized by high frequencies shall be controlled so as not to become a nuisance to adjacent uses.
- b. Sirens and related apparatus used solely for public purposes are exempt from this requirement. Noise resulting from temporary construction activity shall also be exempt from this requirement.
- c. The emission of measurable noises from the premises shall not exceed 65 decibels as measured at the boundary or property lines, except that where normal street traffic noises exceed 65 decibels during such periods, the measurable noise emanating from the premises may equal, but shall not exceed, such traffic noises. Within the I district, sound levels not exceeding 75 decibels may be permitted.

In addition, objectionable sounds of an intermittent nature or sounds characterized by high frequencies, even if falling below the decibel limits, shall be so controlled so as not to become a nuisance to adjacent uses. This shall particularly apply to loading and unloading areas in commercial or industrial districts adjacent to residential districts.

2. Vibration. No use shall generate any ground transmitted vibration in excess of the limits set forth below. Vibration shall be measured at the nearest adjacent lot line. The vibration maximums set forth below are stated in terms of particle velocity, which may be measured with suitable instrumentation or computed on the basis of displacement and frequency. When computed, the following standards shall apply:

| Particle Velocity in Inches-Per-Second | |
|---|-------------------------------|
| <u>Frequency in Cycles per Second</u> | <u>Displacement in Inches</u> |
| 0 to 9.99 | 0.0010 |
| 10 to 19.99 | 0.0008 |
| 20 to 29.99 | 0.0006 |
| 30 to 39.99 | 0.0004 |
| 40 and over | 0.0002 |

- a. If requested by the enforcement official the petitioner shall provide evidence of compliance with the above noted vibration calculations.

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b. Vibrations resulting from temporary construction activity shall be exempt from the requirements of this Section.

E. **Electrical Disturbance, Electromagnetic, or Radio Frequency Interference.** No use shall create any electrical disturbance that adversely affects any operations of equipment other than those of the creator of such disturbance, or cause, create or contribute to the interference with electronic signals (including television and radio broadcasting transmission) to the extent that the operation of any equipment not owned by the creator of such disturbance is adversely affected.

F. **Hazardous Substances.**

1. Any person, firm, corporation or other legal entity operating a business of conducting an activity with uses, stores, or generates hazardous substances shall obtain the necessary permits and/or licenses from the appropriate Federal, State or local authority having jurisdiction. The City shall be informed of any and all inspections conducted by a Federal, State or local authority in connection with a permit and/or license.

2. Any person, firm, corporation or other legal entity operating a business or conducting an activity which uses, stores, or generates hazardous substances shall complete and file a hazardous materials survey on a form supplied by the City in conjunction with the following:

a. Upon submission of a site plan.

b. Upon any change of use or occupancy of a structure or premise.

c. Upon any change of the manner in which such substances are used, handled, stored, and/or in the event of a change in the type of substances to be used, handled or stored.

G. **Glare and radioactive materials.**

1. Glare from any process, such as or similar to arc welding or acetylene torch cutting, which emits harmful ultraviolet rays shall be performed in such a manner as not to be seen from any point beyond the property line, and as not to create a public nuisance or hazard along lot lines. Radioactive materials and wastes, including electromagnetic radiation such as X-ray machine operation, shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, when measured at the property line.

2. Glare from automobile headlights or commercial or industrial vehicle headlights shall not be directed into any adjacent property so as to become a nuisance.

3. In nonresidential areas, exterior lighting shall be installed so that the source of light shall not be visible from any residential dwelling and shall be so arranged as far as practical to reflect light away from the residential use. In no case shall more than one candlepower of light cross a lot line five feet above the ground into a residential district.

H. **Fire and explosive hazards.** The storage and handling of flammable liquids, liquified petroleum gases and explosives shall comply with the state rules and regulations as established by Public Act No. 207 of 1941 (MCL 29.1 et seq., MSA 4.559(1) et seq.).

I. **Waste and rubbish dumping.** No garbage, sewage, filth, refuse, waste, trash, debris or rubbish, including cans, bottles, wastepaper, cartons, boxes and crates, or other offensive or obnoxious matter shall be kept in open containers or piled, placed, stored or dumped on any land within the City in such a manner as to constitute a nuisance or create a hazard to health, safety, morals and general welfare of the citizens of the City.

J. **Building mechanical equipment.** For all uses, except residential uses, heating, ventilation and air conditioning mechanical equipment located on the exterior of the building shall be screened from adjacent public or private streets and adjacent properties. If the equipment is mounted on the

GENERAL PROVISIONS

building, it shall be screened in a manner that is architecturally compatible with the building design. If the equipment is ground mounted, it shall be screened in a similar manner and/or with evergreen plant materials. The method of screening shall be approved by the Planning Commission or official approving the site plan. Other types of mechanical equipment located on the exterior of the building, such as dust collectors, hoppers, stacks, etc., that cannot practicably be screened, shall be designed, located and/or painted to minimize the adverse visual impact.

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CHAPTER 4. SUSTAINABLE ENERGY GENERATION

SECTION 138-10.400 Wind Energy

- A. **Purpose.** It is the purpose of this Section to promote the safe, effective, and efficient use of wind energy systems to reduce or replace on-site consumption of utility supplied electricity. It is the purpose of this Section to standardize and streamline the review and permitting process for small wind energy systems.
- B. **Findings.** The City has found that wind energy is an abundant, renewable, and nonpolluting energy resource and that its conversion to electricity will reduce our dependence on non-renewable energy resources and decrease air and water pollution that results from the use of conventional fossil-fuel inputs. Wind energy systems will also enhance the reliability and power quality of the power grid, reduce peak power demands, and help diversify the City's energy supply portfolio.
- C. **Definitions.** The terms used in this section have the following meanings:

Height. The vertical distance from grade level adjacent to the base of the structure to the center of the hub for a horizontal axis wind turbine or the highest point of a vertical-axis wind turbine.

Roof-Mounted Energy System. A type of small wind energy conversion system that is mounted on a roof with a height not greater than 15 feet above the ridgeline of a pitched roof or parapet of a flat roof.

Small Wind Energy System. A wind energy conversion system consisting of a wind turbine, tower or axis, blades or blade system, and associated control or conversion electronics primarily intended to reduce on-site consumption of utility power.

Tower Mounted Wind Energy System. A wind energy conversion system that is mounted on a freestanding or guyed tower attached to the ground, and not attached to any other permanent or temporary structure.

Utility Wind Energy System. A wind energy conversion system consisting of a wind turbine, tower or axis, blades or blade system, and associated control or conversion electronics primarily intended to provide wholesale or retail energy to the electric utility grid.

Wind Energy System. Any wind energy conversion device including all associated control or conversion electronics.

- D. **Where Permitted.**
1. Small Wind Energy Systems are permitted by right in any zoning district, provided that the requirements of this Section are met.
 2. Utility Wind Energy Systems may be permitted in any zoning district as a conditional use by the City Council, provided that the requirements of this Section are met.
- E. **Review Procedures and Standards.**
1. Small Wind Energy Systems.

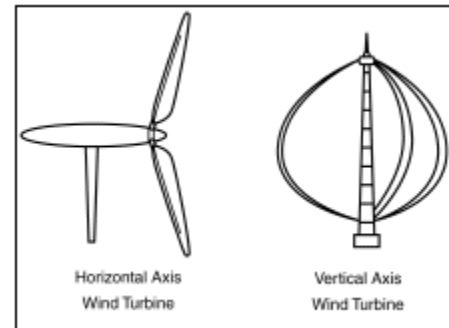


Figure 6. Horizontal and Vertical Axis Systems

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- a. Submittal Requirements. Applications for small wind energy systems shall be reviewed administratively by the Planning and Development Department. The applicant shall submit a plan complying with the requirements of Section 138-2.208 for a sketch plan.
 - b. Height Modification. If the applicant requests a height modification, the application shall be reviewed by the Planning Commission following a public hearing held in accordance with the requirements of Section 138-1.203.
2. Utility Wind Energy Systems. The review process for any utility wind energy system shall follow the conditional use review process set forth in Article 2, Chapter 3.
- F. **General Standards.** The following requirements are applicable to all wind energy systems.
1. Noise. A wind energy system shall not generate a noise level of 55 dB(A), measured at the property line, for more than three minutes in any hour of the day. EXCEPTION: if the constant ambient sound pressure level exceeds 55 dB(A), measured at the base of the wind energy system, a decibel level of the ambient dB(A) plus 5 dB(A) shall not be exceeded for more than three minutes in any hour of the day.
 2. Shadow Flicker. Shadow flicker is a term used to describe what happens when rotating wind turbine blades pass between the viewer and the sun, causing an intermittent shadow. The application for a wind energy system shall include a shadow flicker analysis demonstrating locations where shadow flicker will occur at sunrise and sunset, along with measures the applicant will take to eliminate or mitigate the effects of shadow flicker on adjacent or nearby affected properties.
 3. Lighting. No wind energy system shall be artificially lighted unless required by the Federal Aviation Administration.
 4. Appearance, Color, and Finish. The wind energy system shall be maintained in the color or finish that was originally applied by the manufacturer, unless otherwise approved in the building permit. All wind energy systems shall be finished in a non-reflective matte finished color.
 5. Signs. All signs other than the manufacturer or installer's identification, appropriate warning signs, or owner identification signs are prohibited.
 6. Electrical Wires. All electrical wires associated with a wind energy system other than wire necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and grounding wires shall be located underground.
 7. Compliance With Electrical Code. Building permit applications for wind energy systems shall be accompanied by line drawings of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
 8. System Access. The tower shall be designed and installed such that step bolts, ladders, or other means of access readily accessible to the public are located at least 8 feet above grade level.
 9. Wind Access. The City makes no assurance of wind access other than the provisions of this Section. The applicant may provide evidence of covenants, easement or similar documentation for abutting property owners providing access to wind for the operation of a wind energy system.

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G. **Tower-Mounted Small Wind Energy Systems.** The following standards are applicable to tower-mounted small wind energy systems:

| Residentially Zoned Parcels | Non-Residentially Zoned and Used Parcels |
|--|--|
| Minimum Parcel Area | |
| 0.5 acres | No minimum parcel area. |
| Maximum Height | |
| The maximum height is: <ul style="list-style-type: none"> - 35 feet plus the area of the parcel in acres multiplied by 17.5, or - 150 feet, whichever is lower. | The maximum height is: <ul style="list-style-type: none"> - One foot of height for each 2.5 feet of setback from the base of the tower to the nearest residential dwelling unit, or - 150 feet, whichever is lower. |
| Setback Requirements | |
| <ul style="list-style-type: none"> - The minimum setback from any property line shall be the height of the wind turbine plus 5 feet. - The minimum setback from any road or overhead utility right-of-way or easement shall be equal to the height of the turbine unless written permission is granted by the governmental agency or other entity with jurisdiction over the right of way or easement. - Tower-mounted wind energy systems may not be located in the front yard of any lot unless the principal building is set back 200 feet or more. In such a case, a tower-mounted system may be located in the front yard provided that a minimum 150-foot front yard setback between the tower and the front property line is maintained. | <ul style="list-style-type: none"> - The minimum setback from any property line shall be the height of the wind turbine plus 5 feet. - The minimum setback from any road or overhead utility right-of-way or easement shall be equal to the height of the turbine unless written permission is granted by the governmental agency or other entity with jurisdiction over the right of way or easement. - Tower-mounted wind energy systems may not be located in the front yard of any lot unless the principal building is set back 200 feet or more. In such a case, a tower-mounted system may be located in the front yard provided that a minimum 150-foot front yard setback between the tower and the front property line is maintained. |

H. **Roof-Mounted Small Wind Energy Systems.** The following standards are applicable to roof-mounted small wind energy systems:

| Residentially Zoned Parcels | Non-Residentially Zoned and Used Parcels |
|---|---|
| Minimum Parcel Area | |
| No minimum parcel area. | No minimum parcel area. |
| Maximum Height | |
| The maximum height is 15 feet above the highest point of the roof. | The maximum height is: <ul style="list-style-type: none"> - 20 feet above the top of roof elevation of the building for any building located within 250 feet of a residential dwelling, or - 150% of the building height, whichever is lower. |
| Setback Requirements | |
| Roof-mounted wind energy systems shall be set back a minimum of 20 feet from the property line, or the height of the system above the top of roof elevation multiplied by 1.25, whichever is greater. | Roof-mounted wind energy systems shall be set back a minimum of 20 feet from the property line, or the height of the system above the top of roof elevation multiplied by 1.25, whichever is greater. |

I. **Utility Wind Energy Systems.** The following standards are applicable to large wind energy systems:

1. Minimum Site Area. Utility wind energy systems may only be developed on a zoning lot with an area of 20 acres or greater.
2. Setbacks. Any utility wind energy system shall be set back a distance equal to the height of the tower plus 5 feet from any property line, road right of way, or overhead utility line.
3. Towers. Utility wind energy systems shall use tubular monopole towers, and shall not contain lettering, company insignia, advertising, or graphics on the tower or turbine that are visible beyond the property boundaries.
4. Environmental Impact. The applicant shall submit an environmental impact analysis prepared by a qualified third party assessing any potential impacts on the natural environment including, but not limited to wetlands and other fragile ecosystems, historical and cultural sites, wildlife, and antiquities. The applicant shall take appropriate measures, if possible, to minimize, eliminate or mitigate adverse impacts identified in the analysis. If the adverse impacts cannot be sufficiently mitigated or eliminated, City Council shall deny the request for a conditional use permit for the utility wind energy system.
5. Community Impact. The applicant shall be responsible for repairing any public roads or other public infrastructure damaged or otherwise worn beyond typical usage by the construction of the utility wind energy system.
6. Decommissioning. The applicant shall submit a decommissioning plan, including the following items of information:
 - a. The anticipated life of the project.

- b. The estimated decommissioning costs and net salvage value in present dollars.
 - c. The method of ensuring funds will be available for decommissioning and removal of towers, and restoration of the site to a pre-construction condition.
 - d. Anticipated manner in which the project will be decommissioned and the site restored.
7. Complaint Resolution. The applicant shall develop a process to resolve any potential complaints from nearby residents concerning the construction and operation of the project. The process may use an independent mediator or arbitrator and shall include a time limit for acting upon a complaint. The process shall not preclude any governmental body from acting on a complaint. The applicant shall maintain and make available to nearby residents a telephone number where a project representative can be reached during normal business hours.

SECTION 138-10.401 Solar Energy Systems

A. Definitions.

Solar Energy System. A solar photovoltaic cell, panel, or array that converts solar energy to usable thermal, mechanical, chemical, or electrical energy.

Solar Storage Battery. A device that stores energy from the sun and makes it available in an electrical form.

B. Rooftop Solar Energy Systems. Rooftop and building mounted solar energy systems are permitted in all zoning districts., subject to the following regulations:

- 1. Roof mounted systems shall not extend more than 4 feet above the surface to which it is affixed.
- 2. No solar energy system may protrude beyond the edge of the roof.
- 3. A building permit shall be required for installation of rooftop and building mounted systems.

C. Ground Mounted Solar Energy Systems. Ground mounted and freestanding solar energy systems are permitted in all zoning districts, subject to the following regulations:

- 1. Location. The solar energy system shall meet the required front yard setback requirement for the district in which it is located, and be set back a minimum of 5 feet from any side or rear property line.
- 2. Height.
 - a. The height of the solar energy system and any mounts shall not exceed 10 feet when oriented at maximum tilt.
 - b. If the solar energy system is located in the front yard between the required front setback line and front building wall of the principal building, the maximum height for the system shall be 42 inches (3.5 feet). **Evergreen landscaping that is sufficient to buffer the equipment from view from nearby dwelling units or streets but that will not obstruct the energy collecting surface from solar energy shall be provided.**
- 3. Building Permit. A building permit shall be required for any ground mounted solar energy system.
- 4. Area. No more than 20% of the total lot area may be covered by a ground mounted solar energy system.

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- D. **Batteries.** When solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure when in use, and when no longer used shall be disposed of in accordance with applicable laws and regulations.

- E. **Removal.** If a solar energy system ceases to perform its intended function for more than 12 consecutive months, the property owner shall remove the collector, mount, and associated equipment and facilities no later than 90 days after the end of the 12 month period.

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ARTICLE 11 OFF-STREET PARKING AND LOADING

CHAPTER 1. GENERALLY

SECTION 138-11.100 Purpose

Off-street facilities designed for the parking of self-propelled motor vehicles for occupants, employees and patrons of buildings erected, used, altered or extended after the effective date of adoption or amendment of this Ordinance shall be provided and maintained in accordance with the provisions of this Article. Such facilities shall be maintained and not encroached upon so long as the principal use remains, unless an equivalent number of spaces are provided elsewhere in conformance with this Ordinance.

The purpose of this Article is also to protect water quality and the capacity of drainage and stormwater management systems; to limit the number of off-street parking spaces and amount of impervious surfaces that may be permitted on a parcel of land or accessory to a use or building; to establish flexible minimum and maximum standards for off-street parking and loading; and to promote the use and development of shared parking facilities and cross-access between sites.

SECTION 138-11.101 Scope

Adequate off-street parking and loading spaces shall be provided in all districts in accordance with the provisions in this Article whenever a structure or use is established, constructed, altered, or expanded, an existing use is replaced by a new use (change of use), or the intensity of a use is increased through additional dwelling units, an increase in floor area or seating capacity or similar means. Such spaces shall be provided in accordance with the provisions of this Article, subject to approval per Section 138-2.103, C.

SECTION 138-11.102 General Standards

The following general standards shall apply to all off-street parking and loading facilities:

- A. **Provision of Spaces.** There shall be provided in all zoning districts, at the time of erection or enlargement of any main building or structure, automobile off-street parking with adequate access to all spaces. The number of off-street parking spaces, in conjunction with all land or building uses, shall be provided prior to the issuance of a certificate of occupancy, as prescribed in this section.
- B. **Location of Spaces.**
 1. Proximity to Site. Off-street parking for other than residential use shall be either on the same lot or within 300 feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot, provided, further, that such off-street parking may be located in a different zoning district than the building it is intended to serve only if that building and its proposed use would also be permitted in the different zoning district.
 2. Location in Non-Required and Rear Yards. Off-street parking may be located within any non-required yard and within the rear yard setback. Refer to Section 138-5.100 on page 81 for yard setback requirements.
 3. Location in Required Front and Side Yards. Off-street parking shall not be permitted in a side or front yard setback except as follows:
 - a. Off-street parking may be permitted to occupy a required front yard after approval of the parking plan layout, provided that there shall be maintained a minimum unobstructed and landscaped setback of twenty (20) feet in I (industrial) districts and ten (10) feet in all other

nonresidential districts between the nearest point of the off-street parking area, exclusive of driveways, and the nearest existing or proposed right-of-way line. The buffer area between the parking lot and the right-of-way line shall be landscaped in accordance with Section 138-12.301B.

- b. In I (industrial) districts, required side yards may be utilized for parking and loading and unloading provided that in such instances the Planning Commission shall review the plans for such area to ensure sufficient access to the building or any storage or related areas to provide for the health, safety and general welfare of employees in the building. All off-street loading and unloading areas shall be provided with adequate obscuring screening at least six feet in height, except it shall not be required on the interior of the district where the area is not visible from a thoroughfare or other zoning district.
- c. Off-street parking may be located in a required side yard abutting a nonresidential zoning district in B-1, B-2, B-3, B-4, B-5, O-1, and SP districts provided that there shall be an unobstructed and landscaped setback of at least ten (10) feet maintained between the nearest point of the off-street parking lot, exclusive of driveways, and the side lot line. Such unobstructed and landscaped setback shall extend continuously and uninterrupted along the side lot line from the nearest existing or proposed right-of-way line or private road easement to the rear yard. The unobstructed and landscaped setback of at least ten feet may be reduced or waived by the Planning Commission or Planning and Development Director (relative to site plans not submitted to the Planning Commission) upon determining that such reduction or waiver is compatible with and/or part of a comprehensive plan with the adjacent properties.
- d. Off-street parking may be located in a required interior side yard in SP districts provided that type B screening is provided as required by Section 138-12.300 between the nearest point of the off-street parking lot, exclusive of driveways, and the interior side lot line.

4. Setback from Residential Districts and Uses. Parking areas, and circulation or access drives shall be setback from adjoining or abutting residentially zoned property as follows:

- a. Where the parking lot or drive abuts a residential district at the side or rear lot line said parking lot or drive shall be setback a minimum of ten (10') feet from said lot line.
- b. Where the parking lot or drive shares common, contiguous street frontage with an abutting residentially zoned parcel, said parking lot or drive shall maintain the same minimum front or street side setback required for the residential parcel dependent upon orientation to the common street of said parcel and other residential parcels in the same block.
- c. Private roads, private drives and off-street parking areas, including maneuvering lanes, shall not be permitted within required yards in the RM-1 and RCD districts where the adjacent property is zoned one-family residential.

5. Setback from Buildings. Parking, loading areas, and circulation or access drives shall set back at least five (5) feet from any building or structure. Concrete curbing shall be installed along the perimeter of the vehicular use area to prevent encroachments.

- C. **Alteration of Existing Parking.** Existing off-street parking facilities accessory to an existing building or use shall not be reduced to an amount less than the minimum required by this Article for a similar new building or new use. The minimum required off-street parking spaces shall not be replaced by any other use unless adequate parking facilities meeting the standards of this Article have first been provided at another location acceptable to the Planning Commission.
- D. **Residential Parking.** Residential off-street parking spaces for single-family and two-family dwellings shall consist of a parking strip, driveway, garage or combination thereof and shall be located on the premises they are intended to serve, and shall be subject to the provisions of Article 10, Chapter 1.

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- E. **Pedestrian Circulation.** The parking lot layout shall accommodate pedestrian circulation. Pedestrian crosswalks shall be provided, distinguished by textured paving or pavement striping, and integrated into the sidewalk network.
- F. **Cross Access.** Common, shared parking facilities are encouraged. As such, wherever feasible, cross-access connections between adjacent parking lots, or a future connection when no adjacent parking lot exists but can reasonably be expected to be constructed on an adjacent parcel at a future date are required. Blanket cross-access easements across the entire parking lot area shall be provided for connected lots under separate ownership or management. The cross-access easement shall be without limitation and shall be recorded with the County Register of Deeds.
- G. **Permit Required.** No parking lot shall be constructed unless and until a permit for such construction is issued by the public services department. Application for a permit shall be submitted in such form as may be determined by the public services department and shall be accompanied with two sets of plans for the development and construction of the parking lot showing that the provisions of this section will be fully complied with. No final occupancy permit shall be issued by the building department until the parking lot has been completed.
- H. **Prohibited Activities.** The outdoor storage of merchandise, motor vehicles for sale, trucks or equipment, wrecked, junked or unlicensed vehicles, or the repair of vehicles in areas designated for parking (including the maneuvering lane) is prohibited.
- I. **City Parks Exempt.** The standards and regulations applicable to off-street parking shall not be applicable to publicly owned City parks. A parking plan shall be submitted and reviewed by City staff when a new park is proposed or modifications in an existing park are proposed. In those cases wherein the Planning Commission will review and approve a site plan for a park, a parking plan must be included and approved based on current and future expected usage.

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CHAPTER 2. MINIMUM and MAXIMUM PARKING REQUIRED

SECTION 138-11.200 General Provisions

- A. **Minimum Parking Required.** Off-street parking, stacking, and loading spaces shall be provided in accordance with the minimum requirements of Section 138-11.204. The Planning Commission may reduce the number of required spaces as described in Section 138-11.202, Modification of Standards.
- B. **Maximum Parking Permitted.** In order to minimize excessive areas of pavement which negatively impact aesthetic standards and contribute to high volumes of stormwater runoff, the maximum amount of off-street parking permitted for any use shall not exceed one hundred twenty-five percent (125%) of the minimum parking requirements of Section 138-11.204. This requirement shall not apply to single-family or two-family dwellings. The Planning Commission may permit additional parking over and above the maximum parking limit based on document evidence indicating that the maximum parking permitted will not be sufficient to accommodate the use on a typical day.
- C. **Uses Not Listed.** For uses not specifically listed in Section 138-11.204, the default parking standard for that type of use shall apply, unless the Planning and Development Director or his designee determines that the standard for a similar listed use is more appropriate.
- D. **Uses Meeting More Than One Category.** Where more than one use is present in a building or a site (such as a gas station with convenience store and restaurant; or a place of worship with day care center and community center) the various components of the use shall comply with the requirement for each component. In such a case, the applicant must provide information regarding the floor area, employees, or other relevant information for each use in order to allow the City to determine the minimum parking requirement for the use.
- E. **Fractional Spaces.** When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to and including one-half shall be disregarded, and fractions over one-half shall require one parking space.
- F. **Units of Measurement.** The following units of measurement are used in calculating required parking:
 - 1. **Floor Area.** Where floor area is the unit for determining the required number of parking spaces, said unit shall mean gross floor area.
 - 2. **Usable Floor Area:** Usable floor area shall mean the floor area used for service to the public and shall not include floor area used for storage or processing and packaging of merchandise where it is undertaken in a room in which service to the public is not involved. When usable floor area is not known at the time of site plan submittal, 80 percent of the total floor area shall be used for usable floor area for parking computations.
 - 3. **Places of Assembly:** For places of worship, sports arenas or similar places of assembly in which those in attendance occupy benches, pews or similar seating, each twenty four (24") inches of such seating shall be counted as one (1) seat.
 - 4. **Employees:** For requirements stated in terms of employees, the calculation shall be based on the maximum number of employees on the premises during the largest shift.

SECTION 138-11.201 Shared Parking

Different types of uses have different peak usage times, for instance, residential land uses generate the most parking demand during evening and night hours, while office uses generate the most parking demand during business hours. Therefore, the minimum parking requirement may be adjusted by a shared parking factor that

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considers a mixture of uses sharing a common parking facility. The uses that share a common parking facility may be located within a single building or in separate buildings located on the same or different sites.

- A. **Shared Parking Procedure.** The number of shared parking spaces required for two (2) or more land uses sharing a parking lot or located on the same parcel of land shall be determined by the following procedure:
 1. Multiply the minimum parking required for each individual use, as set forth in the Shared Parking Factor Table below, by the appropriate percentage indicated in the Shared Parking Factors table below for each of the six (6) designated time periods.
 2. Add the resulting sums for each of the six (6) columns.
 3. The minimum parking requirement shall be the highest sum among the six (6) columns resulting from the above calculations.
 4. Other Uses. If one (1) or all of the land uses proposing to make use of shared parking facilities do not conform to the general land use classifications in the Shared Parking Factor table, as determined by the Planning Commission, the applicant shall submit sufficient data to indicate the principal operating hours of the uses. Based upon this information, the Planning Commission shall determine the appropriate shared parking requirement, if any, for such uses.

Table 12. Shared Parking Factors

| Land Use | Weekdays | | | Weekends | | |
|--------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| | 1 am – 7 am | 7 am – 7 pm | 7 pm – 1 am | 1 am – 7 am | 7 am – 7 pm | 7 pm – 1 am |
| Residential | 95% | 25% | 95% | 95% | 75% | 95% |
| Commercial/ Retail | 0% | 95% | 75% | 0% | 90% | 75% |
| Office/ Service | 5% | 95% | 5% | 0% | 10% | 0% |

- B. **Agreement.** A written agreement between joint users in a form approved by the City shall be filed with the Oakland County Register of Deeds. The agreement shall assure the continued availability of the parking facility for the uses it is intended to serve.

SECTION 138-11.202 Modification of Parking Requirements

The Planning Commission may modify the numerical requirements for off-street parking based on evidence submitted by the applicant that another standard would be more reasonable because of the level of current or future employment or customer traffic.

The Planning Commission may attach conditions to the approval of a modification of the requirements of Section 138-11.204 that bind such approval to the specific use in question.

SECTION 138-11.203 Deferred Parking

If the minimum number of required parking spaces exceeds the amount necessary to serve a proposed use, the Planning Commission may approve construction of a lesser number of parking spaces, subject to the following:

- A. The banked parking shall be shown on the site plan and set aside as landscaped open space.
- B. The banked parking shall be constructed upon request by the Building Official, after the City documents three (3) incidents of problem parking on the site within any one (1) year period.
- C. Banked parking shall be located in areas that are suitable for future parking and comply with Ordinance requirements.

SECTION 138-11.204 Parking Requirements

Table 13. Minimum Parking Requirements

| USE | MINIMUM PARKING REQUIRED |
|--|--|
| COMMUNITY and RECREATION USES | |
| DEFAULT PARKING STANDARD | 1 space per 3 persons permitted at maximum occupancy |
| School, elementary or middle | 1 space per employee + 1 space per 3 persons permitted at maximum occupancy for auditoriums and gyms |
| School, high | 1 space per employee + 1 space per each 10 students + 1 space per 3 persons permitted at maximum occupancy for auditoriums and gyms |
| Hospital or urgent care center | 1 space per 3 beds |
| Municipal buildings and uses | 1 space per employee |
| Nursery schools, day nurseries, and child care centers | 1 space per 10 pupils + 1 space per employee + 5 stacking spaces for drop-off and pick-up |
| Places of worship | 1 space for each 3 persons permitted in the main worship hall at maximum occupancy |
| COMMERCIAL, OFFICE and RETAIL USES | |
| Car wash | 1 space per employee + four stacking spaces per wash line or bay + 1 exit stacking space for post-wash detailing |
| Drive-in or drive-through facilities | <ul style="list-style-type: none"> • 3 stacking spaces per general use service window or station, or • 10 stacking spaces per restaurant service window |
| Hotel, motel, or other lodging | 1.1 spaces per room |
| Office, medical or professional | 1 space per 350 sq. ft. of floor area |
| Places of Assembly (where parking demand is generated by occupancy rather than floor area, such as (banquet halls, movie theatres, etc.) | 1 space per 3 persons permitted at maximum occupancy |
| Restaurant | 1 space per 2 persons permitted at maximum occupancy |
| Retail sales and service establishments | 1 space per 300 sq. ft. of floor area |
| INDUSTRIAL, RESEARCH, and TECHNOLOGY USES | |
| Light Industrial and Manufacturing | 1 space per 400 sq. ft. of floor area + 1 space per 300 sq. ft. of office floor area |
| Mini-warehouses | 3 spaces + 1 space per employee |
| Warehousing or distribution | 1 space per 1,700 sq. ft. of floor area + 1 space per 350 sq. ft. of office floor area |
| RESIDENTIAL USES | |
| Elderly housing, independent and senior housing | 0.8 spaces per dwelling unit |
| Elderly housing, dependent (including nursing homes and assisted living) | 0.5 spaces per resident sleeping room |
| Foster care small or large group home | 0.25 spaces per resident |
| Congregate care facility | |
| State licensed residential facility | |
| Group child day care home | |
| Manufactured Housing Park | 2 spaces per dwelling unit |
| Multiple Family | <ul style="list-style-type: none"> • 1.5 spaces per dwelling unit with 2 or fewer bedrooms + 0.2 visitor spaces per dwelling unit • 2 spaces per dwelling unit with 3 or more bedrooms + 0.25 visitor spaces per dwelling unit |
| One and two-family dwellings | 2 for each dwelling unit |

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CHAPTER 3. PARKING DESIGN STANDARDS

Off-street parking facilities, other than parking for one or two-family dwellings, shall be designed, constructed, and maintained in accordance with the following:

SECTION 138-11.300 Barrier Free Parking Requirements

- A. Barrier free parking spaces shall be provided per the State Construction Code and the following Table 14. Barrier Free Parking Requirements:

Table 14. Barrier Free Parking Requirements

| Number of Parking Spaces Provided | Minimum Number of Barrier-Free Spaces Required | Van Accessible Parking Spaces Required | Accessible Parking Spaces Required |
|-----------------------------------|--|--|------------------------------------|
| Up to 25 | 1 | 1 | 0 |
| 26 to 50 | 2 | 1 | 1 |
| 51 to 75 | 3 | 1 | 2 |
| 76 to 100 | 4 | 1 | 3 |
| 101 to 150 | 5 | 1 | 4 |
| 151 to 200 | 6 | 1 | 5 |
| 201 to 300 | 7 | 1 | 6 |
| 301 to 400 | 8 | 1 | 7 |
| 401 to 500 | 9 | 2 | 7 |
| 501 to 1,000 | 2% of total parking provided in each lot | 1 out of every 8 accessible spaces | 7 out of every 8 accessible spaces |
| 1,001 and over | 20 plus 1 per 100 spaces over 1,000 | 1 out of every 8 accessible spaces | 7 out of every 8 accessible spaces |

The above Table 14 is subject to ANSI requirements. The ANSI requirements may have changed since the date of adoption of this Ordinance. If new ANSI requirements affecting barrier free parking requirements are adopted, they shall supersede Table 14.

- B. Barrier free spaces shall be accessible from and conveniently located near each primary building entrance.
- C. Barrier free spaces shall be identified by above-grade signs and pavement striping.

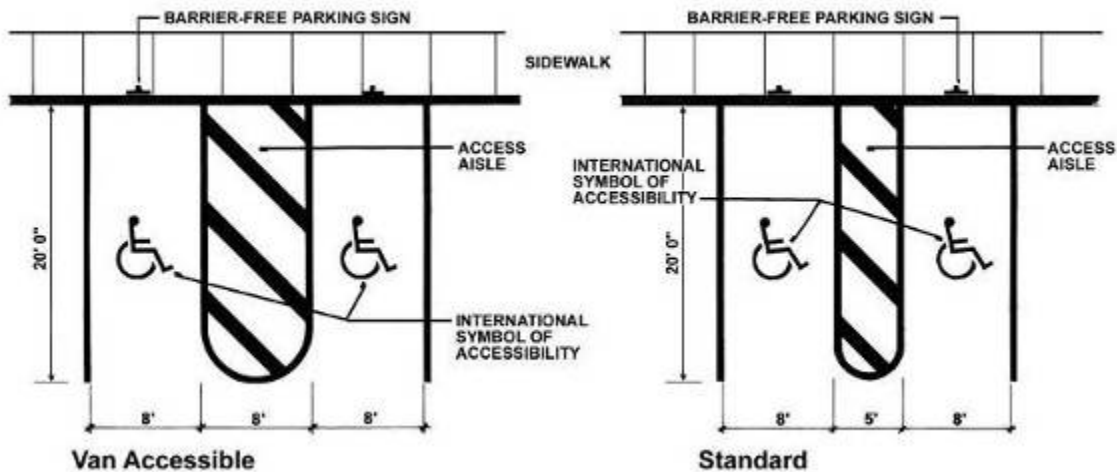


Figure 7. Barrier Free Space Layout

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SECTION 138-11.301 Landscaping and Lighting

Landscaping shall be provided as required by Section 138-12.301 and lighting shall be provided as required by Article 10, Chapter 2.

SECTION 138-11.302 Parking Layout

The layout of off-street parking facilities shall be in accordance with the following Table 15.

Table 15. Parking Layout

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

SECTION 138-11.303 Off-Street Loading

There shall be provided and maintained on the same premises with every structure, use or part thereof involving the receipt or distribution of vehicles, equipment, materials or merchandise adequate space for standing, loading, and unloading to avoid undue interference with public use of dedicated rights-of-way. Such space shall be provided as follows:

- A. **Spaces Required – B Districts.** In all B districts, except the B-5 automotive service district, at least one (1) off-street loading space shall be provided in the rear yard. Alternatively, off-street loading may be provided in the side yard upon Planning Commission review and approval of a plan depicting the method of screening or obscuring the loading area. All loading spaces in B districts shall have a minimum width of 10 feet and a minimum length of 40 feet.
- B. **Spaces Required – I, REC, and SP Districts.** All spaces in the I, REC, and SP districts shall be laid out in the dimension of at least ten by 50 feet, or 500 square feet in area, with a clearance of at least 14 feet in height. Loading dock approaches shall be provided with a pavement having an asphaltic or Portland cement binder so as to provide a permanent durable and dustless surface. All spaces shall be provided in the following ratio of spaces to usable floor area:
1. Buildings up to and including 2,000 square feet of floor area shall not be required to provide a dedicated loading space.
 2. Buildings with more than 2,000 square feet in floor area, but less than 20,000 square feet of gross floor area shall provide at least one (1) space.
 3. Buildings with more than 20,000 square feet in floor area, but less than 100,000 square feet shall provide a minimum of one (1) space plus one space for each 20,000 square feet in excess of 20,001 square feet.
 4. Buildings 100,001 square feet and greater in floor area shall provide five (5) spaces plus one (1) space for each additional 40,000 square feet or fraction thereof.
- C. **Location of loading spaces.** The location and arrangement of loading spaces shall be subject to the following:
1. Off-street loading space may be completely enclosed within a building, or may occupy a portion of the site outside of the building. Where any portion of a loading space is open to view from a public right of way or residential zoning district, screening shall be provided in accordance with 0 (Landscaping and Screening).
 2. All loading and unloading in an industrial district shall be provided off-street in a rear or side yard. Loading and unloading facilities shall be prohibited in the front yard.
 3. Off-street loading facilities that make it necessary or possible to back directly into a public street shall be prohibited. All maneuvering of trucks and other vehicles shall take place on the site and not within a public right-of-way.
 4. Off-street loading facilities shall be located so as to not interfere with pedestrian access.
 5. Cross-access agreements between adjacent properties to facilitate off-street truck maneuverability is encouraged.
- D. **Loading Restrictions.** Delivery vehicles and trailers shall load or unload or park only in designated loading/unloading zones as indicated on the approved site plan. Delivery vehicles and trailers shall not park or load or unload elsewhere on the premises. Under no circumstances shall a delivery vehicle or trailer park or be allowed to park in a designated loading/unloading zone for longer than 48 hours.

OFF-STREET PARKING and LOADING

E. **Modification of Loading Space Requirements.** The Planning Commission may modify or waive the requirement for off-street loading areas, upon determining that adequate loading space is available to serve the building or use, or that provision of such loading space is unnecessary or impractical to provide.

SECTION 138-11.304 Pavement Striping

All parking spaces shall be clearly striped with double four (4) inch wide lines, spaced twenty-four (24) inches apart, to facilitate movement and to help maintain an orderly parking arrangement.

SECTION 138-11.305 Stacking Spaces

Where required by this article, stacking spaces shall be 8 feet wide by 16 feet long. Stacking spaces shall not intrude into any street right-of-way or interior maneuvering lane.

SECTION 138-11.306 Grading and Drainage

Driveways and parking areas shall be graded and provided with adequate drainage to dispose of surface waters in accordance with applicable construction and design standards established by the City. Surface water shall not drain on to adjoining lots, towards buildings or across a public street, except in accordance with an approved drainage plan.

SECTION 138-11.307 Construction

The entire parking area, including parking spaces and maneuvering lanes required under this section, shall be provided with asphaltic or concrete surfacing in accordance with specifications approved by the City engineer. The parking area shall be surfaced within one year of the date the permit is issued. Off-street parking areas shall be drained so as to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property or toward buildings, and plans shall meet the approval of the City engineer.

SECTION 138-11.308 Maintenance

All parking and loading areas shall be maintained in accordance with the provisions of this Article, an approved site plan and the following:

- A. Alterations to an approved parking or loading facility that are not in accordance with an approved site plan shall be considered a violation of this Ordinance.
- B. All parking areas, perimeter landscaped areas, and required screening shall be kept free from tall grass, weeds, trash, and debris. Surfacing, curbing, lighting fixtures, signage, and related improvements shall be kept in good repair.
- C. Parking and loading areas shall be diligently kept clear of snow. Up to 10% of the parking area may be used for snow deposit.
- D. Parking lots shall be maintained in a clean and debris free manner.

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ARTICLE 12 LANDSCAPING and SCREENING

CHAPTER 1. GENERALLY

SECTION 138-12.100 Purpose and Intent

- A. The purposes and intent of the landscaping and screening requirements of this Article are to:
- B. Minimize the transmission from one land use to another of nuisances associated with noise, dust, glare, and litter.
- C. Minimize visual pollution that may otherwise occur within an urbanized area. Minimal screening provides an impression of separation of spaces, and more extensive screening can entirely shield the visual effects of an intense land use from a less intense land use.
- D. Establish a greater sense of privacy from visual or physical intrusion of intense land uses, the degree of privacy varying with the intensity of screening.
- E. Establish aesthetically pleasing, functionally appropriate and sustainable landscaping design for the long-term enhancement of the appearance of development in the community.
- F. Safeguard the public health, safety and welfare, and preserve and enhance aesthetic qualities that contribute to community character.

SECTION 138-12.101 Scope

Wherever in this ordinance a greenbelt, planting and/or material is required, the landscaping shall be planted prior to the issuance of any temporary or final certificate of occupancy and shall thereafter be reasonably maintained consistent with the intent of the approved landscaping design plans. If it is not possible to install the landscaping prior to the certificate of occupancy, a performance guarantee shall be posted consistent with Section 138-12.108.

SECTION 138-12.102 Submittal Requirements

All landscape plans shall be signed and sealed by a registered Landscape Architect, and shall include all of the information required by Section 138-2.208.

SECTION 138-12.103 Design Standards

- A. **Visibility.** Landscaping and screening materials shall be laid out in conformance to the requirements of Section 138-5.204 (Corner Clearance), and shall not conflict with visibility for motorists or pedestrian access.
- B. **Plantings near utility lines and fire hydrants.** Required plant materials and screening shall be arranged to avoid conflicts with underground and overhead utility lines and access to or visibility of fire hydrants. The anticipated height at maturity of trees planted near overhead utility lines shall not exceed the line height above grade.
- C. **Protection.** Where pavement and landscape areas interface, concrete curbing or similar measures shall be provided to protect plants from vehicle encroachment.

SECTION 138-12.104 Walls

- A. Walls required under this Article shall have no openings for vehicular traffic or other purposes, except such openings as may be approved by the City. All walls required in this ordinance shall be constructed of decorative stone or brick. The height of the wall shall be measured from the prevailing grade of the land on the side of the wall facing the less intense use. Walls shall be erected on a concrete foundation which shall have a minimum depth of 42 inches below a grade approved by the building department and shall not be less than four inches wider than the wall to be erected.
- B. A six (6) foot tall decorative opaque vinyl fence or densely planted evergreen landscaping sufficient to form a living green wall with a minimum height of 6 feet may be permitted by the Planning Commission in lieu of a masonry wall when the characteristics of the two abutting uses would make such a substitution appropriate.

SECTION 138-12.105 Irrigation

To assist in maintaining plant materials in a healthy condition, all landscaped areas (including lawns) shall be provided with an automatic, underground, or drip irrigation system, subject to the following:

- A. The Planning Department may approve an alternative form of irrigation for a particular site, or may waive this requirement upon determining that underground irrigation is not necessary for the type of proposed plant materials.
- B. All automatic irrigation systems shall be designed to minimize water usage, and shall be shut off during water emergencies, periods of protracted rainfall, or water rationing periods.
- C. The irrigation requirement may be waived by the reviewing authority if the project incorporates landscaping that will contribute points towards LEED certification or an equivalent rating system.

SECTION 138-12.106 Location of Screening

Screening required under this Article shall be located directly adjacent to the lot line except where underground utilities interfere. Upon approval of the Planning Commission and when mutually agreeable to affected property owners, required screening may be located on the opposite side of an alley right-of-way when a nonresidential district abuts a residential district. The continuity of the required screening on a given block shall be a major consideration of the Planning Commission in reviewing such request.

SECTION 138-12.107 Tree Removal

Please refer to Chapter 126, Article 3, Divisions 1-3 of the General Code of Ordinances for tree removal and replacement requirements. Trees provided as replacement trees shall not count towards the requirements of this Article, however, trees to be preserved may be counted towards the minimum requirements in accordance with Section 138-12.204.

SECTION 138-12.108 Performance Guarantee

- A. **Performance Bond.**
 - 1. Whenever, a site plan requires any type of landscaping, the applicant may be required to post a Performance Bond prior to the issuance of a temporary or final Certificate of Occupancy to ensure the completion of landscaping (including irrigation). If the landscaping is not 100% complete when any certificate of occupancy is requested, the City will inspect the landscaping and determine the percentage of completion and a performance bond must be submitted to the City by the Developer in the sum equal to the unfinished portion of the landscape work. The City will have the authority to determine the percentage of completion and the bond amount required. If the landscaping is 100% complete and approved no Performance Bond will be required.

2. If a Performance Bond is required it must be a cash bond or a corporate surety bond or irrevocable bank letter of credit in the full amount of the sum due as determined by the City.

3. All residential developments must post a Performance Bond (100% of estimated cost of landscaping) prior to the issuing of the Land Improvement Permit.

- B. **Maintenance Bond.** A Maintenance Bond in the sum of 25% of estimated cost of landscaping (including irrigation) must be posted prior to the issuance of any Certificate of Occupancy (including temporary). The Maintenance Bond is held for a period 2 years, at the end of which time the City shall inspect the landscaping. Once, inspection issues are addressed the unused balance of the Maintenance Bond will be released.

For all residential developments the Maintenance Bond must be posted prior to the release of the Performance Bond. The Maintenance Bond shall be released as specified above.

SECTION 138-12.109 Maintenance

The owner of the property shall be responsible for all maintenance of site landscaping, as follows:

- A. Landscaping shall be kept in a neat, orderly and healthy growing condition, free from debris and refuse.
- B. Pruning shall be minimal at the time of installation, only to remove dead or diseased branches. Subsequent pruning shall assure proper maturation of plants to achieve their approved purpose.
- C. All dead, damaged, or diseased plant material shall be removed immediately and replaced within six (6) months after it dies or in the next planting season, whichever occurs first. For purposes of this Section, the planting season for deciduous plants shall be between March 1 and June 1 and from October 1 until the prepared soil becomes frozen. The planting season for evergreen plants shall be between March 1 and June 1. Plant material installed to replace dead or diseased material shall be as close as practical to the size of the material it is intended to replace. The City may notify property owners of the need to replace dead, damaged, or diseased material.
- D. The approved landscape plan shall be considered a permanent record and integral part of the Site Plan Approval. Unless otherwise approved in accordance with the aforementioned procedures, any revisions to or removal of plant materials, or non-compliance with the maintenance requirements of this Section 138-12.109 will place the parcel in non-conformity with the approved landscape plan and be a violation of this Ordinance.
- E. If protected trees are damaged, a fine shall be issued on an inch-by-inch basis at a monetary rate as defined by the Forestry Department.

SECTION 138-12.110 Installation

All landscaping shall be installed in a manner consistent with the standards of the American Association of Nurserymen, the approved site plan, and the following:

- A. **Deadline for installation.** Installation of required screening and landscaping shall be completed prior to or at the time of completion of building construction, except when building construction is completed during the off-season when plants cannot be installed, in which case the owner shall provide a performance guarantee to ensure installation of required landscaping in the next planting season.
- B. **Extension.** The City may extend the deadline to allow installation of required plant materials by the end of the next planting season, upon determination that weather conditions, development phasing, or other factors would jeopardize required plant materials and prevent their installation by the deadline specified in this Section.

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C. **Performance Guarantee.** Installation and maintenance bonds may be required. Refer to Section 138-12.108, above.

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CHAPTER 2. PLANT MATERIAL STANDARDS

All plant materials shall comply with the following standards:

SECTION 138-12.200 General

Whenever a landscape planting screen or other plantings are required under this ordinance, such plantings shall be installed according to accepted good planting procedures and in a sound, workmanlike manner. All plant material shall meet current standards of the American Association of Nurserymen and approved by the American National Standards Institute, Inc. (ANSI 260.1, 1996).

- A. All plant material shall be true to name in conformance to the current edition of Standardized Plant Names established by the American Joint Committee on Horticultural Nomenclature, or other source accepted by the City.
- B. All plant material shall be nursery grown in a northern climate; hardy to the climate of Michigan; appropriate for the soil, climatic and environmental conditions; and resistant to disease and insect attack.
- C. A minimum four (4) inches of topsoil shall be provided for all lawn areas, ground covers, and planting beds.
- D. Artificial plant material is prohibited and shall not be used to meet the requirements of this Article.

SECTION 138-12.201 Groundcovers

The following shall apply to all groundcover materials:

- A. Lawn areas shall be planted in species of grass normally grown as permanent lawns in Michigan. Grass may be sodded or hydro-seeded, provided that adequate measures are taken to minimize soil erosion. Sod or seed shall be clean and free of weeds and noxious pests or disease.
- B. A minimum 4-inch layer of shredded hardwood bark shall be placed in all planter beds containing trees or shrubs and around the base of all trees planted within lawn areas (mulch cover the entire planting pit width). To aid in maintenance operations all shrubs planted within lawn areas are to be planted in groups and mulched as a group, and hedgerows are to be mulched as one continuous strip.
- C. Live groundcovers such as myrtle (*Vinca minor*), blue rug junipers (*Juniperus horizontalis* 'Wiltonii'), Baltic ivy (*Hedera helix* 'Baltica'), Pachysandra (*Pachysandra terminalis*) and other similar vines and plant material shall be mulched with a 2-inch layer of shredded hardwood bark. Any deviations must be approved by the City's landscape architect.

SECTION 138-12.202 Permitted Landscape Materials

Landscape materials used to satisfy the requirements of this Article shall be common to the area and suitable for their intended use. Species native to southeast Michigan are encouraged. The Planning Department will maintain on file a list of prohibited plant materials that may not be used to satisfy the requirements of this Article. Bare root stock of any kind is not permitted.

SECTION 138-12.203 Plant Material Spacing

Spacing of plant materials required under this Article shall be as follows:

- A. Plant materials shall not be placed closer than four feet from the fence line or property line.
- B. Deciduous and all shrubs may not be planted within 5 feet, and evergreen trees may not be planted within 10 feet of any a curb or public walkway.
- C. Trees and shrubs may not be planted within 10 feet of a fire hydrant.

- D. Where plant materials are planted in two or more rows, planting shall be staggered in rows.
- E. Where shrub plantings are required to form a **continuous** hedge or used for screening purposes, the plants shall not be spaced more than 36 inches on center at planting, and shall have a minimum height and spread of 30 inches at planting. **Shrubs that will not attain sufficient width to form a complete hedge spaced 36 inches on center shall be planted at a spacing that will allow them to form a complete hedge within 2 years of planting.**

SECTION 138-12.204 Existing Vegetation

Healthy existing trees on a site may be used to satisfy any of the requirements of this Article, subject to the reviewing authority's approval and the following. This Section 138-12.204 does not replace or supersede the requirements of the City's Tree Conservation Ordinance.

- A. **Site plans shall show all existing trees which are located on the portions of the site and on portions of adjacent sites within 20 feet of the site that will be built upon or otherwise altered, and are six (6) inches or greater in caliper, measured 4.5 feet above grade. Trees shall be labeled "To Be Removed" or "To Be Saved" on the site plan, with tree species and caliper noted for trees to be saved. Only trees 6 inches in caliper or greater may be used to satisfy any landscaping requirement of this Ordinance.**
- B. **The Planning Commission may require City inspection of existing plant materials prior to or as a condition of site plan approval to determine the health and desirability of such materials. Such inspections shall be performed by the City or by a certified arborist or similar qualified consultant.**
- C. **Where plant materials are to be saved, prior approval shall be obtained by the property owner from the City prior to any delimiting, root pruning, or similar work.**
- D. **Protective fencing shall be placed at the drip-line of existing trees, and around the perimeter of other preserved plant materials, with details of protective measures noted on the site plan. No vehicle or other construction equipment shall be parked or stored within protected areas.**
- E. **In the event that healthy plant materials which are intended to meet the requirements of the Ordinance are cut down, damaged or destroyed during construction, said plant material shall be replaced with an equivalent species to the damaged or removed tree. Replacement trees shall be provided at the ratio of 1 replacement tree for each 6 inches in caliper measured 4.5 feet above grade level or fraction thereof of tree that is cut down, damaged, or destroyed, up to a maximum of four replacement trees, unless otherwise approved by the City based on consideration of the site and building configuration, available planting space, and similar considerations.**
- F. **Transplanting of trees within the site is prohibited without the prior approval of the Planning Commission. If such trees are transplanted, their actual replacement value must be calculated and 100% of the replacement value must be included in the Maintenance Bond required by Section 138-12.108.**

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SECTION 138-12.205 Size and Variety of Plant Materials

A. To ensure adequate variety, and to avoid monotony and uniformity within a site, required plant materials shall not include more than twenty percent (20%) of any single plant species, and shall comply with the following schedule for minimum sizes at planting:

Table 16. Plant Material Requirements

| Screening Materials | Minimum Size at Installation |
|----------------------------|---|
| Deciduous Shade Trees | 3 caliper-inches* |
| Evergreen Trees | 10 feet height and 5 feet spread |
| Deciduous Ornamental Trees | 2 caliper-inches* or 6 feet overall height |
| Shrubs | 30 inches in height, 24 inches in spread when used for screening or buffering purposes, or 3 gallon container size when used for other purposes |
| Groundcovers | Shall be from flats |

*Caliper-inches measured twelve (12) inches above grade.

B. The City may approve modifications from the above table for appropriate landscape materials that do not meet the above minimum size requirements or are not readily available at landscape supply yards in the required size. If smaller materials are approved the difference for the smaller materials shall be compensated with additional material being provided. In approving such a modification, the City shall determine that the substituted plant material size will meet the intent of this Article, and that providing a landscape material that meets the above size requirements is impractical or not feasible.

CHAPTER 3. LANDSCAPE REQUIREMENTS

SECTION 138-12.300 Buffer Requirements

Buffers or greenbelts and obscuring walls or fencing are intended to mitigate any potential negative impacts that a proposed land use may have on intensive neighboring land uses, or to obscure unsightly items or areas from view off the site. The buffer or greenbelt is a designated unit of yard or open space together with any plant materials, barriers and screening designed to minimize negative impacts of adjacent land uses. Both the amount of land and the type and amount of landscaping specified are intended to minimize potential nuisances such as noise, glare, dirt, litter unsightly areas and similar impacts.

These buffer requirements are designed to be flexible. A single standard applied to all circumstances may not function as well and might impose unnecessary difficulties on development and lead to monotony. It is the intent of the following provisions to provide flexibility to the developer or property owner through the manipulation of four (4) basic elements: distance, plant material type, plant material density and structural or land forms.

Buffers shall be required as indicated in the following table. Such buffers shall be provided along site perimeters without road frontage, except to permit driveways or other necessary site improvements.

A. **Buffer Descriptions and Requirements.** The following is a description of the intended character and function of each buffer type. The specific requirements for each buffer are listed in subsection B, and the type of buffer required between land uses is listed in subsection C.

1. Type A: Intended to separate uses, provide vegetation in densely developed areas, and to enhance the appearance of individual properties.
2. Type B: Low density screening to partially block visual contact between zoning classifications.
3. Type C: Medium density screen to partially block visual contact between zoning classifications and to create spatial separation.
4. Type D: Medium-high density screen intended to substantially block visual contact between zoning classifications and create spatial separation. Must form an opaque screen to a height of 6 feet within 3 years of planting.
5. Type E: High density screen intended to substantially block visual contact between zoning classifications and create spatial separation. Type E planting buffers reduce light and noise trespass that would otherwise intrude upon adjacent zoning classifications. Must form an opaque screen to a height of 8 feet within 3 years of planting.

B. **Buffer Requirements.** The following table lists the minimum amount of plant material required in each buffer type. The following table lists only the minimum requirement, and nothing shall prevent a property owner from providing additional landscaping. Landscaping required by the following table may be planted in clusters at appropriate locations within the buffer or spaced regularly throughout the buffer, provided that the landscape plan meets the intent of the buffer type listed in subsection A, above.

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Table 17. Buffer Standards

| | Buffer Type ¹ | | | | |
|--|--------------------------|----------------|------------------|------------------|-----------------|
| | A ³ | B ³ | C ³ | D ³ | E ³ |
| Buffer Yard Minimum Width | 6 | 10 | 20 | 25 | 50 |
| Buffer Yard Minimum Width (with wall) | N/A | N/A | 8 ² | 8 ² | 10 ² |
| Deciduous Trees (per 100 lineal feet) | 1.5 | 2 | 2 ² | 2.5 ² | 2.5 |
| Ornamental Trees (per 100 lineal feet) | -- | 1.5 | 1.5 ² | 1.5 ² | 1.5 |
| Evergreen Trees (per 100 lineal feet) | 1 | 2 | 4 ² | 5 ² | 6 |
| Shrubs (per 100 lineal feet) | 4 | 4 | 6 ² | 8 ² | 10 |
| Berm Height ^{3,4} | -- | -- | -- | -- | 6 ft. |

Notes:

1. **Residential Buffers.** All required buffers within residential developments must be placed within defined landscape buffer easements and may not be part of any individual residential lot.
2. **Screening Wall.** Where a screening wall is required, either a masonry or a densely planted “green” wall may be used at the discretion of the reviewing authority after taking into account specific conditions on and adjacent to the site. Screening walls shall comply with the following requirements:
 - a. **Green Wall Requirements.**
 Where a green wall is proposed, the plantings comprising the green wall shall be of a sufficient size and spaced on-center such that they will be sufficient to form an opaque screen to a height of 6 feet within 3 years of planting. The evergreen and shrub planting requirements of the above table shall be disregarded when a green wall is proposed, as the green wall plantings will serve the same purpose as the evergreen and/or shrub planting requirements.
 - b. **Masonry Wall Requirements.**
 All masonry screen walls shall be six (6) feet in height, consist of decorative masonry or natural materials such as brick or stone, and capped with a stone or concrete cap. The color and material shall be coordinated with the materials of the principal building.
 - c. **Landscaping With a Masonry Wall.** Where a masonry wall is proposed, no evergreen trees are required. Instead, additional deciduous trees and shrubs shall be provided at the rate of 0.5 deciduous trees and 2 shrubs for each evergreen tree that would otherwise be required in the buffer yard. These additional deciduous trees and shrubs are in addition to the deciduous trees and shrubs otherwise required in the buffer yard.
3. **Existing Vegetation.** The berm or planting requirements may be waived or modified by the reviewing authority if existing vegetation will provide an equal or greater screen than that required by Table 17. If existing vegetation is removed or damaged during construction, buffer plantings shall be provided in accordance with the requirements of Table 17.
4. Earth berms required under this ordinance shall consist of raised earth with side slopes of 3:1 or flatter with a four-foot-wide flat or slightly rounded crest contoured to the side slopes to facilitate maintenance. Berms shall be covered with grass or other ground cover to prevent erosion.

C. Required Buffer Types. The following Table 18 identifies required buffer types.

Table 18. Required Buffer Types

| Adjoining Zoning District | Developing Zoning District | | | | | | | | | | |
|---------------------------|----------------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----|----|
| | R ¹⁻³ | RM-1 | RMH | B-1 | B-2 | B-3 | B-4 | B-5 | O-1 | I | SP |
| R | -- | C ² | C ² | D ² | D ² | D ² | D ² | D ² | C ² | E | A |
| RM-1 | B ² | -- | C | B | C | C | C | C | C | E | B |
| RMH | B | B | -- | C ² | D | D | D | D | C ² | E | B |
| B-1 | B ² | B | C ² | -- | -- | A | A | A | -- | D | C |
| B-2 | B ² | C | D | -- | -- | A | A | A | -- | D | C |
| B-3 | B ² | C | D | A | -- | -- | -- | B | B | D | C |
| B-4 | B ² | C | D | A | A | -- | -- | -- | C | D | C |
| B-5 | B ² | C | D | A | A | -- | -- | -- | C | D | C |
| O-1 | B ² | C | C ² | A | A | B | C | C | -- | D | C |
| REC | B | E | E | E | E | E | E | E | E | E | C |
| I | B | E | E | D | D | D | D | D | D | -- | D |
| SP | B | C | C | D | D | D | D | D | C | E | -- |
| M-59 ⁴ | D | D | D | D | D | D | D | D | D | D | D |

Table Notes:

1. Landscape requirements apply only to subdivision or condominium development in one family residential zoning districts. The buffer yard may be accommodated on or within lots, and need not be provided in a separate landscape area.
2. The Planning Commission may require a 6 foot tall decorative masonry screen wall in addition to the landscape requirements.
3. Where the rear yard of lots or units in a plat or condominium face a perimeter road, a minimum 8 foot tall opaque screen shall be provided along the entire length of frontage. Such screen may be provided by preserving existing vegetation and/or by additional plantings.
4. In respect to the designation of M-59, M-59 is not a zoning district. It is intended that the buffer and screening shall be for any zoning district with frontage along the M-59 Freeway.

SECTION 138-12.301 Parking Lot Landscaping

The development of land for parking lot purposes alters natural topography, disturbs existing vegetation and creates impervious surface, all of which can have a negative effect on the ecological balance of an area by causing increases in air temperature and accelerating the processes of runoff, erosion, and sedimentation. Recognizing that the preservation or installation of vegetative cover in parking lots promotes the health, safety and general welfare by aiding in the stabilization of the environment's ecological balance by contributing to the process of air purification, ground water recharge, and storm water runoff retardation while at the same time

aiding in noise, glare and heat abatement the following requirements for the landscaping of parking and outdoor display areas are enacted.

- A. **Interior Landscaping.** Interior landscaping shall be provided within the boundaries of the parking lot unless otherwise approved by the Planning Commission. If interior landscaping is provided along the perimeter of the parking lot, it shall be in addition to the perimeter landscaping requirements.
1. Interior landscaping areas equivalent to 5% of the vehicle use area shall be required in all parking lots of twenty (20) spaces or more. One deciduous shade tree shall be required for each 150 square feet of required interior landscape area. The vehicle use area includes all areas used for vehicular circulation and parking.
 2. Terminal landscape islands shall be provided at the end of each row of parking spaces to separate parking from adjacent drive aisles. Terminal islands shall be curbed, and shall be at least 144 square feet in area and 18 feet long for each single row of parking spaces. Each landscape island shall have a minimum of one (1) shade tree. The Planning Commission may waive the requirement for terminal landscape islands in the interest of meeting barrier free requirements.
 3. Interior landscape islands shall have a minimum area of 160 square feet and a minimum width of eight (8) feet (measured from the back of curb). Each landscape island shall have a minimum of one deciduous shade tree unless waived by the reviewing authority consistent with Section 138-12.308.
 4. Parking lot divider medians with a minimum width of eight (8) feet (measured from the back of curb) may be used to meet interior landscape requirements and shall form a continuous strip between abutting rows of parking. One shade tree or two ornamental trees shall be required for each 25 lineal feet of divider median or fraction thereof. Shrubs shall be planted to form a continuous hedge the full length of divider medians which separate parking areas from access drives.
 5. Two (2) feet of interior landscape areas (except parking lot divider medians) may be part of each parking space required by Section 138-11.204 of this Ordinance. Wheel stops or curbing shall be installed to prevent vehicles from encroaching more than two (2) feet into any interior landscaped area. If a landscape area is used for parking overhang, at least two (2) feet of clear area planted with lawn or covered with mulch shall be provided where cars will overhang the curb to protect landscape plantings from damage.
- B. **Perimeter Landscaping.** Perimeter landscaping shall be provided along the edge of any parking lot facing and located 100 feet of a public right-of-way, unless, in the opinion of the Planning Commission, the parking lot will be sufficiently screened from view by buildings or other site features or improvements. Parking lot perimeter landscaping shall comply with the following standards:
1. Perimeter parking lot landscaping shall include a minimum of one (1) deciduous shade tree per each 25 linear feet or fraction thereof and one ornamental tree per each 35 linear feet or fraction thereof.
 2. Wherever a parking lot or vehicle parking space is located within 30 feet of a public street or right-of-way, the perimeter landscaping shall also include a continuous hedge of deciduous or upright evergreen shrubs planted not more than 30 inches on center between the parking area and the street.
- C. **Curbing Required.** All landscaping and perimeter screening shall be protected from vehicle encroachment with concrete curbing or similar permanent means.

- D. **Snow storage area.** Adequate snow storage area shall be provided within the site. Plant materials in snow storage areas shall be hardy, salt-tolerant groundcovers characterized by low maintenance requirements.

SECTION 138-12.302 Loading, Storage, and Service Area Screening

Vehicle use areas, including service areas, loading areas shall be screened from adjacent residential areas and from the public right-of-way. Such screening may be accomplished by a masonry wall, building wing wall, or densely planted landscape buffer, or other means acceptable to the Planning Commission.

SECTION 138-12.303 Stormwater Management Pond Landscaping

Where any pond, retention basin, detention basin, or other constructed stormwater management facility is required, it shall comply with the following requirements:

- A. Basin configurations shall be incorporated into the natural topography to the greatest extent possible. Where this is not practical, the basin shall be shaped to emulate a naturally formed or free form depression. The basin edge shall consist of sculptured landforms to filter and soften views of the basin.
- B. Basins shall be designed to avoid the need for perimeter fencing. Where such fencing is necessary, the location and design shall be subject to Planning Commission approval.
- C. Basins shall be planted with a mixture of groundcover and wetland-based plantings native to Michigan, such as native grasses or wildflowers.
- D. A perimeter greenbelt buffer shall be provided in accordance with Section 138-12.300(Buffer Requirements) and the following:
 - 1. Plantings shall be clustered around the basin to achieve a variety of plant materials and to replicate a natural environment. Deciduous shade trees shall be clustered around the south and west sides of the basin to provide shade and minimize solar heating of the water.
 - 2. Trees shall be planted above the freeboard line of the basin. Any plantings proposed below the freeboard line shall be tolerant of wet or moist soil conditions. The location of plant materials shall take into consideration the need to provide access for routine basin maintenance.

SECTION 138-12.304 Right of Way Landscaping

Public rights-of-way and other public open-space areas adjacent to required landscaped areas and development sites shall be landscaped in a manner that enhances the visual character of City streets and minimizes adverse impacts of vehicular traffic on adjacent uses. Right-of-way landscaping shall be subject to the following:

- A. **Street trees.** Street tree plantings shall be required for all development projects adjacent to or along the margins of street rights-of-way in the City, subject to the following:
 - 1. Street trees shall consist of deciduous shade trees planted at a minimum concentration of one (1) street tree per 35 linear feet of right-of-way. Required trees may be planted at regular intervals or in groupings.
 - 2. Existing trees in good condition and of a desirable species located near or within street rights-of-way shall be preserved where feasible, and be counted toward the street tree planting requirement should the existing trees be 4 inches in caliper or greater.
 - 3. Permits may be required by the Road Commission for Oakland County or Michigan Department of Transportation for installation of street trees within rights-of-way under their jurisdiction. Where such plantings are not permitted within a street right-of-way, required street trees shall be planted within the front yard setback area, or at an alternative location approved by the City.

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- B. **Ornamental trees.** Ornamental trees shall be required for all development projects along the margins of street rights-of-way in the City. One ornamental trees shall be planted for every 35 lineal feet of right-of-way frontage. Ornamental trees may be clustered or planted at regular intervals.
- C. **Groundcover plantings within street rights-of-way.** Street rights-of-way shall be irrigated and sodded with lawn grasses.
- D. **Maintenance of right-of-way landscaping.** Right-of-way landscaping shall be maintained by the owner of the abutting lot(s), including any irrigation of the right-of-way.
- E. **Corner Clearance.** Right of way landscaping shall comply with the corner clearance requirements of Section 138-5.204.

SECTION 138-12.305 Landscaping of Yards in Nonresidential Districts

Any portion of a front, side or rear yard not utilized for storage, parking, loading or unloading shall be planted and maintained in a neat condition.

SECTION 138-12.306 Entranceway Landscaping

In all R Districts, so called entranceway structures, including but not limited to walls, columns, gates, and landscaping that mark entrances to single-family subdivisions or multiple housing projects may be permitted and may be located in a required yard, except as provided in Section 138-5.204 (Corner Clearance), provided that such entranceways shall comply to all codes and ordinances of the City of Rochester Hills and shall be approved by the City. Entranceway landscape areas shall be located in established landscape easements and may not be part of any individual lot.

SECTION 138-12.307 Modification of Landscape Requirements

Recognizing that a wide variety of land uses and the relationships between them can exist, and that varying circumstances can mitigate the need for landscaping, the Planning Commission may reduce or waive the screening and buffer zone requirements of this O and approve an alternative screening plan. The Planning Commission shall find that the following standards have been met whenever it modifies any landscaping requirement:

- A. The landscape/screening plan shall protect the character of new and existing residential neighborhoods against negative impacts such as noise, glare, light, air pollution, trash and debris, and hazardous activities.
- B. The alternate width and type of buffer zone and screening provided therein will ensure compatibility with surrounding and nearby land uses because:
 1. The development is compatible with and sensitive to the immediate environment of the site and neighborhood relative to architectural design, scale, bulk, building height, identified historical character, disposition and orientation of buildings on the lot and visual integrity.
 2. The site has natural existing vegetation and/or topography, natural bodies of water or wetland areas or other existing conditions which offer screening consistent with the standards set forth in this Article 12. The Planning Commission shall require the preservation of these natural features as a condition of site plan approval.
 3. The arrangement, design and orientation of buildings on the site maximize privacy and isolate adjacent and nearby land uses from any potential negative impacts of the project.

SECTION 138-12.308 Waiver of Requirements

The Planning Commission or official approving the landscape and irrigation plans may waive or reduce the requirements of this division upon determining that the following would apply:

- A. The purpose of this Article cannot be met; and

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- B. Compliance with the requirements would impose a practical difficulty on the applicant or would create safety hazards to pedestrians or motorists.
- C. Safeguard the public health, safety and welfare, and preserve the aesthetic qualities and enhance the community character.

| | | | | | | | | | | | | |
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ARTICLE 13 DEFINITIONS

SECTION 138-13.100 Rules of Construction

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

- A. The particular shall control the general.
- B. In the case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
- C. The word "shall" is always mandatory and not discretionary. The word "may" is permissive and discretionary.
- D. Words used in the present tense shall include the future, and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- E. A "building" or "structure" includes any part thereof. The word "dwelling" includes "residence". The word "lot" includes the words "plot" or "parcel".
- F. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for" or "occupied for."
- G. The word "person" includes an individual, a firm, an association, an organization, a corporation (public or private), a partnership or co-partnership, a limited liability company, an incorporated or unincorporated association, a trust, or any other entity recognizable as a "person" under the laws of Michigan.
- H. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunction "and," "or" or "either ... or," the conjunction shall be interpreted as follows:
 - 1. "And" indicates that all the connected items, conditions, provisions or events shall apply.
 - 2. "Or" indicates that all the connected items, conditions, provisions or events shall apply singly or in any combination (i.e., "or" also means "and/or").
 - 3. "Either ... or" indicates that the connected items, conditions, provisions or events may apply singly.
- I. The terms "this Zoning Ordinance" or "this Ordinance" includes the Zoning Ordinance of the City of Rochester Hills and any amendments there to.
- J. The terms "abutting" or "adjacent to" include property "across from", such as across a street, alley, or an easement. This term shall also apply to adjacent zoning districts in an adjacent community.
- K. The word "he" includes "she."
- L. The phrase "such as" shall mean "such as, but not limited to."
- M. The word "including" shall mean "including, but not limited to."
- N. Terms not defined in Article 14 (Definitions), or elsewhere in this Ordinance shall have the meaning customarily assigned to them.

SECTION 138-13.101 Definitions

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

ACCESSORY BUILDING. A type of structure that: has a roof which is supported by columns or walls; is intended for the shelter or enclosure of persons, animals, goods or property; and is further intended to be used in a manner that is clearly incidental to, customarily found in connection with, subordinate to, and located on the same zoning lot as the principal use to which it is exclusively related.

Examples of accessory buildings include: garages, storage sheds, gazebos, play houses, greenhouses, pump houses, and dog houses.

ACCESSORY BUILDING, ATTACHED. An accessory building that is physically joined to the principal structure by a wall, roof, rafter, or other structural component.

ACCESSORY STRUCTURE. Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having such location, and that is intended to be used in a manner that is clearly incidental to, customarily found in connection with, subordinate to, and located on the same lot or parcel as the principal use to which it is exclusively related. Examples of accessory structures include: accessory buildings, swimming pools, play structures, HVAC units, generators, and tennis courts.

ACCESSORY USE. A use that is clearly incidental to, customarily found in connection with, subordinate to, and located on the same lot or parcel as the principal use to which it is exclusively related.

ADJACENT. Lots are adjacent when at least one boundary line of one lot touches a boundary line or lines of another lot. Exception: when the only touching boundary lines are located within a road easement or right-of-way.

AGRICULTURE. The carrying on of any agricultural activity or the raising of livestock or small animals as a source of income when conducted on at least five acres or more.

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

ALTERATION.

- A. **Structural.** A change, addition or modification to; or enlargement, rearrangement, replacement or removal of the construction of structural parts, means of egress or supporting members of the building such as bearing walls, columns, beams, girders, roof or exterior walls.
- B. **Building.** A change, addition or modification to; or enlargement or rearrangement of the type of occupancy, height, area, location, design or approved method of functioning.
- C. **Sign.** A change, addition or modification to the design or function of a sign; or enlargement, rearrangement, replacement or removal of any part of any sign or billboard, including the sign copy area.

APARTMENT BUILDING. A residential structure containing three or more attached one-family dwellings.

ASHES. The residue from the burning of wood, coal, coke or other combustible materials.

ASSISTED LIVING FACILITY. A facility providing responsible adult supervision or assistance with routine living functions of an individual in instances where the individual's condition necessitates that supervision or assistance.

AUTOMOTIVE GASOLINE SERVICE STATION. A building or premises to be used for the retail sale of gasoline or other motor fuel for the propulsion of motor vehicles and which may include facilities for minor services such as tuneups, brake adjustments and repair, shock absorber repair and replacement, wheel alignments, the changing

and repairing of tires, washing, polishing, oil changes, lubrication and other minor servicing, but excluding painting, engine rebuilding and other major repairs, unless incidental to the principal permitted use. The provision of such activities and similar service activities on the premises shall not be permitted unless the premises are used primarily for the retail sale of gasoline and oil and other automotive products. The retail sale of nonalcoholic beverages, cigarettes and other convenience store items shall be permitted within the gasoline service station provided such sales do not constitute the principal use of the premises.

AUTOMOTIVE REPAIR GARAGE. A building or premises where the following services may be carried out in a completely enclosed building: major repairs, including, but not limited to, engine rebuilding and the rebuilding of motor vehicles; application of paint preservation materials; radiator repair and replacement; transmission repair and replacement; automobile and van customizing; collision service, such as body, frame or fender straightening and repair; the painting and rustproofing of automobiles; tire recapping; and upholstery work. Automotive repair garages may also include facilities and/or equipment allowing for the repair of other motor vehicles including trucks, recreational vehicles, vans and buses, among others.

AUTOMOTIVE SERVICE CENTER. A building or premises used primarily for the sale and installation of major automobile accessories, including, but not limited to, tires, batteries, sunroofs, radios, electronic devices, air conditioners, windows and mufflers, plus such services as brake repair and adjustment, shock absorber installation and repair, wheel alignment and balancing, oil changes and lubrication, tuneups, exterior reconditioning excluding paint or painting and major mechanical work, and vehicle inspection pollution compliance facilities, but excluding any major mechanical repairs, collision work, undercoating or painting. Sale of gasoline and other fuels for the propulsion of motor vehicles, stored only in underground tanks, and the retail sale of oil and other automotive products shall not be the primary use of the premises. The primary use of the premises shall be devoted to one or more of the listed service activities.

BASEMENT. That portion of a building wholly or partly below grade, but so constructed that the vertical distance from the average grade to the basement floor is greater than the vertical distance from the average grade to the basement ceiling. A basement shall not be included as a story for height measurement, and shall not be used for dwelling units, offices, retail sales or manufacturing, but may be used for storage, heating and utility facilities, etc. Should the vertical distance between the floor and midpoint, and ceiling and midpoint, be equal the area shall be counted as a basement.

BED and BREAKFAST. A use which is subordinate to the principal use of a dwelling unit as a single-family dwelling unit in which transient guests are provided with a sleeping room and breakfast in return for payment.

BEDROOM. A room in a dwelling used for or intended to be used solely for sleeping purposes by human beings.

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

BOARD OF APPEALS. The City Zoning Board of Appeals.

BOARDING HOUSE. A dwelling where meals, or lodging and meals, are provided for compensation for three or more persons by prearrangement for definite periods. A boardinghouse shall be distinguished from a hotel.

BUILDABLE AREA. The space remaining on a lot or parcel after yard, parking, or any other requirements of this ordinance have been met.

BUILDING. A structure having a roof supported by columns or walls for the housing or enclosure of persons, animals or chattels. This shall include tents, awnings, or vehicles situated on private property and used for purposes of a building.

BUILDING, ACCESSORY. See ACCESSORY USE, BUILDING, or STRUCTURE.

BUILDING, PRINCIPAL. A building in which is conducted the main or principal use of the premises upon which said building is situated.

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BUILDING HEIGHT. The vertical distance from average grade to:

- A. The mean level of the highest gable or slope of a hip roof.
- B. The top of the highest roof beam for flat roofs.
- C. The deck line for mansard roofs.
- D. The mean level for a shed roof, from highest point to lowest point of roof.

Where buildings have multiple or conflicting roof styles, the most restrictive method applies.

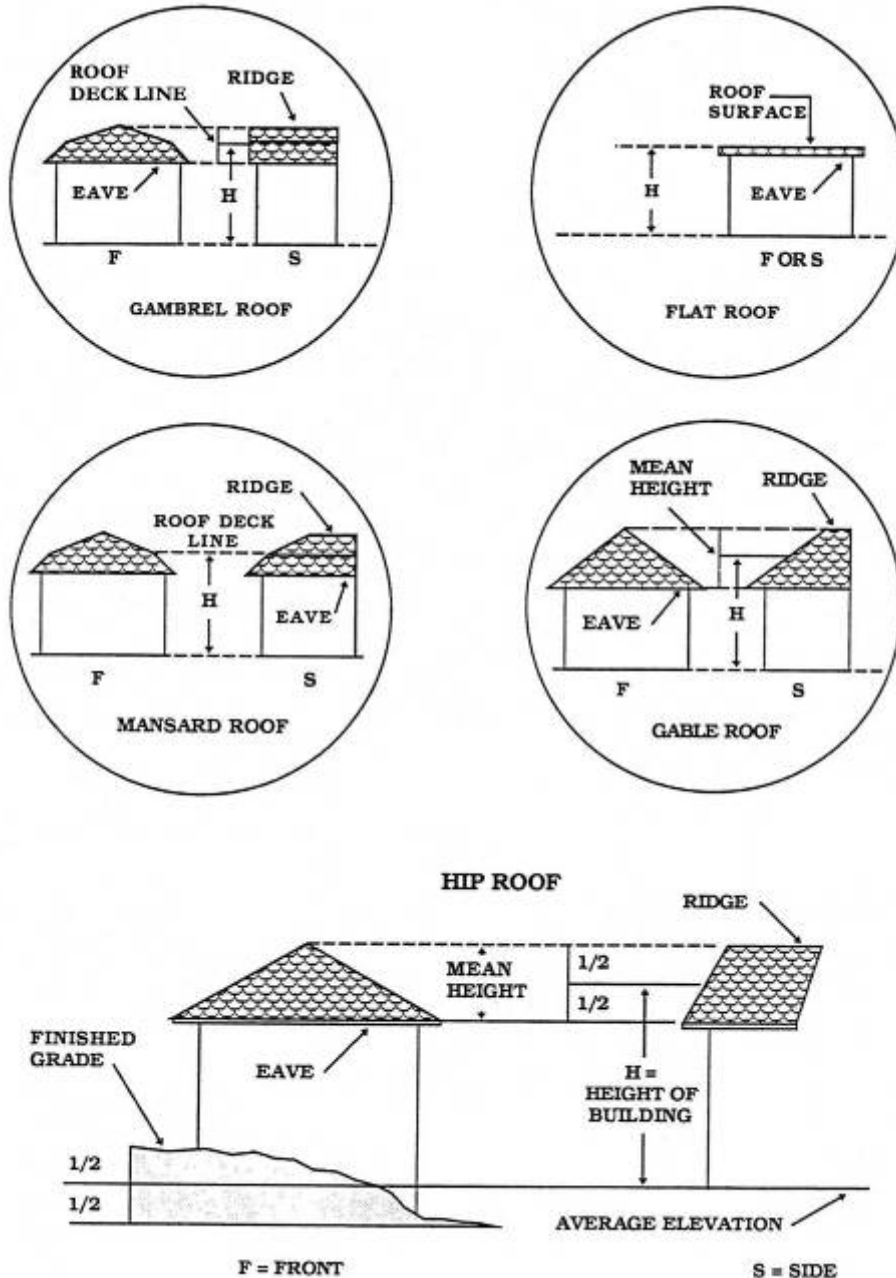


Figure 8. Building Height

BUILDING INSPECTOR. The building inspector or official designated by the City Council.

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

CHILD CARE CENTER. 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, and where the parents are not immediately available to the child.

CLINIC. A place for the care, diagnosis and treatment of sick or injured persons, and those in need of medical or minor surgical attention. A clinic may incorporate customary laboratories and pharmacies incidental or necessary to its operation or to the service of its patients, but may not include facilities for inpatient care of major surgery.

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

COMMERCIAL COMMUNICATION TOWER. A tower, antenna, or similar structure used by a commercial enterprise to send and/or receive radio, television, or various other types of transmissions, but not including cellular telephone system towers or antennas.

CONDITIONAL USE. A use specified in this ordinance as permissible in a specific use district only after special conditions are met.

CONVALESCENT or NURSING HOME. A home for the care of children, the aged, the infirm, or a place of rest for persons suffering serious bodily disorders, wherein two (2) or more persons are cared for. A convalescent or nursing home is subject to the licensing requirements of applicable State laws (Public Act 139 of 1956, as amended).

DEVELOPMENT. The construction of a new use or building or other structure on a lot or parcel, the relocation of an existing use or building on another lot or parcel, or the use of acreage or open land for a new use or building.

DISTRICT. A geographic area specified in the Zoning Ordinance of the City of Rochester Hills within which certain uses are permitted, and certain regulations apply under this Ordinance. This term is synonymous with the term "zone" or "zoning district."

DRIVE-IN ESTABLISHMENT. A business establishment so developed that its principal retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in or momentarily stepped away from their motor vehicles, rather than within a building or structure, so that consumption within motor vehicles may be facilitated.

DRIVE-THROUGH ESTABLISHMENT. A business establishment so developed that its principal retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles to service patrons from a window or booth while in their motor vehicles, rather than within a building or structure, so that consumption off the premises may be facilitated.

DWELLING. A residential unit providing complete, independent living facilities for one family including permanent provisions for living, sleeping, cooking, eating and sanitation.

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

B. **Attached Dwelling.** A dwelling unit attached to two (2) or more dwelling units by common major structural elements. There are three types of attached dwelling unit:

1. **Apartment Building.** A building divided into apartments and designed for residential occupancy by three (3) or more families and so designed and arranged as to provide cooking and kitchen

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accommodations and sanitary facilities for three (3) or more families with each floor having two (2) means of egress, exclusive of an elevator. Dwelling units in a multiple family building may be directly accessible and independent for each dwelling unit, or accessible via an internal corridor or hallway.

2. Stacked Flats Building. A type of attached dwelling unit building occupied by three (3) or more families, where dwellings are divided by party walls in the horizontal plane and floor-ceiling assemblies in the vertical plane in an appropriate manner for multiple-family uses. 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.
3. Townhouse. A type of attached dwelling unit building that is divided from the dwelling adjacent to it by a party wall extending the full height of the building with no visible separation between walls or roof. Each townhouse dwelling shall be capable of individual use and maintenance without trespassing upon adjoining dwellings, and access, utilities and service facilities shall be independent for each dwelling.

C. Detached Dwelling. A dwelling unit which is not attached to any other dwelling unit by any means.

D. Efficiency Apartment. A dwelling unit with a bathroom and principal kitchen facilities designed as a self contained unit for living, cooking, and sleeping purposes, and having no separate designated bedroom.

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

F. Modular Dwelling. A dwelling which consists of prefabricated units transported to the site in two (2) or more sections on a removable undercarriage or flat-bed and assembled for permanent location upon a permanent foundation on the lot, and to which such major elements as the heating system or a substantial portion of the siding are installed after transport, and shall not be considered a mobile home.

G. Site Built Dwelling. A dwelling unit which is substantially built, constructed, assembled, and finished on the premises which are intended to serve as its final location. Site-built dwelling units shall include dwelling units constructed of pre-cut materials, and paneled wall, roof and floor sections when such sections require substantial assembly and finishing on the premises which are intended to serve as its final location.

H. Single-Family Dwelling. A building designed exclusively for residential occupancy by not more than one family.

I. Two-Family (Duplex) Dwelling. A building designed exclusively for residential occupancy by two (2) families, and arranged to provide separate kitchen and sleeping accommodations and sanitary facilities for each family.

ERECT. To build, construct, reconstruct, move, attach, hang, place, suspend, affix, paint or undertake any physical operation on the premises required for development of a building, sign, site or structure; including, but not limited to construction, grading, excavations, fill and drainage activities.

ESSENTIAL SERVICES. The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface, or overhead gas, electrical, steam, fuel or water transmission or distribution system, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, 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 services by such utilities or municipal departments for the general health, safety or welfare. **Wireless**

communication towers or antennas, utility buildings and storage yards are not considered essential services under this ordinance.

EXCAVATION. Any breaking of the ground to hollow out by cutting, digging, or removing any soil or rock matter, except for common household gardening and general farm care.

FAÇADE. The vertical plane of the exterior surface of a building, including all visible architectural, decorative and structural features, window openings, door openings and the outside surface of a parapet wall.

FAMILY.

- A. An individual or group of two or more persons related by blood, marriage or adoption, together with foster children and servants of the principal occupants, with not more than one additional unrelated person, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit; or
- B. A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing nontransient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition does not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or other similar determinable period.

FENCE. Structures or partitions of definite height and location intended to serve as: a physical barrier to property ingress or egress; a screen from objectionable vista or noise; a marker; an enclosure in carrying out the requirements of this Ordinance; or for decorative use. Hedges, ornamental shrubs, trees and bushes shall be considered fences for the purpose of this Ordinance when placed in a manner or position to serve as such.

- A. **Chain-link fence.** A fence constructed of galvanized steel or similar materials for the purpose of enclosing or securing an area. Chain-link fences shall not include wire fences or fences of similar construction.
- B. **Industrial fence.** A chain-link or ornamental fence constructed for the purpose of enclosing or securing an industrial use.
- C. **Living fence.** A continuous hedgerow of living plant material planted and maintained for the purpose of enclosing an area.
- D. **Ornamental fence.** A fence consisting of wrought iron, galvanized steel, aluminum, vinyl, wood or similar materials fabricated into a design with specific pattern elements or ornamentation. All spaces in the fence shall be open and unobstructed and the fence shall not block vision to an extent greater than forty percent (40%). Ornamental fences shall not include chain-link or wire fences or fences of similar construction.
- E. **Privacy fence.** A fence constructed of wood, vinyl or similar materials that blocks vision to an extent greater than forty percent (40%) for the purpose of obscuring or screening an area from public view.
- F. **Rail fence.** A fence constructed of wood, vinyl or similar materials and consisting of one to four horizontal rails connecting to vertical posts spaced a minimum of six feet (6') apart. All spaces in such fences shall be open and unobstructed and such fences shall not block vision to an extent greater than forty percent (40%).
- G. **Temporary fence.** A fence constructed of canvas, plastic, chain-link, wood or similar material as approved by the Building Inspector for the purpose of enclosing or securing an area for a limited period of time.
 - 1. **Construction.** A fence erected for the purpose of securing a construction site against unauthorized access.

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2. **Special Events.** A fence erected for the purposes of public safety at a special event. Such fences shall not be erected across street rights-of-way except as authorized by the City Council and Road Commission for Oakland County, where appropriate.

FILLING. The depositing or dumping of any matter onto or into the ground, except common household gardening and general farm care.

FIREARM. An instrument which is capable of hurling a missile by means of exploding or burning powder.

FLOOD PLAIN. The relatively flat area or lowlands adjoining the channel of a watercourse or a body of water, which may be covered by floodwater when high amounts of precipitation are experienced. Determinants of a floodplain are as follows:

- A. Contiguous areas paralleling major rivers or streams that constitute, at their maximum edge, the highest flood levels experienced in a period of 100 years.
- B. Principal estuary courses of wetland areas that are part of the river flow system.
- C. Contiguous areas paralleling major rivers or streams that exhibit unstable soil conditions for development.

FLOODWAY. The channels and area adjacent to the channels necessary to carry and discharge floodwater. Floodway channel limits shall be the ordinary high water mark boundaries of the channel.

FLOOR AREA. The sum total of the area of all buildings on a site excluding utility rooms and mechanical rooms, measured between the outer perimeter walls of the buildings, provided that space in a building or structure used for parking of motor vehicles shall not be computed in the floor area. Courtyards or balconies open to the sky and roofs which are utilized for recreation, etc., shall not be counted in the floor area but shall be a part of the recreational space.

FLOOR AREA, GROSS (GFA). The sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. The "floor area" of a building, which is what this normally is referred to as, includes the basement floor area when more than one-half ($\frac{1}{2}$) of the basement height is above the established curb level or finished lot grade, whichever is higher. Any space devoted to off-street parking or loading shall not be included in floor area. Areas of basements, utility rooms, breezeways, unfinished attics, porches (enclosed or unenclosed) or attached garages are not included.

FLOOR AREA RATIO (FAR). The ratio between the maximum allowable amount of floor space on all floors in a building and the total area of the lot on which the building is located. Example: a FAR of 2.0 would allow floor space of twice the lot area, or a four-story, building covering one-half ($\frac{1}{2}$) of the lot. A FAR of 0.5 would allow floor space of one-half ($\frac{1}{2}$) the lot area, or a two-story building covering one-quarter ($\frac{1}{4}$) of the lot.

FLOOR AREA, USABLE (UFA). That portion of the floor area, measured from the interior face of the exterior walls, used for or intended to be used for services to the public or to customers, patrons, clients or patients, including areas occupied by fixtures or equipment used for the display or sale of goods or merchandise, but not including areas used or intended to be used for the storage of merchandise, utility or mechanical equipment rooms, sanitary facilities, or service hallways or corridors. In the case of a half story, the usable floor area shall be considered to be only that portion having a clear height above it of four (4) feet or more.

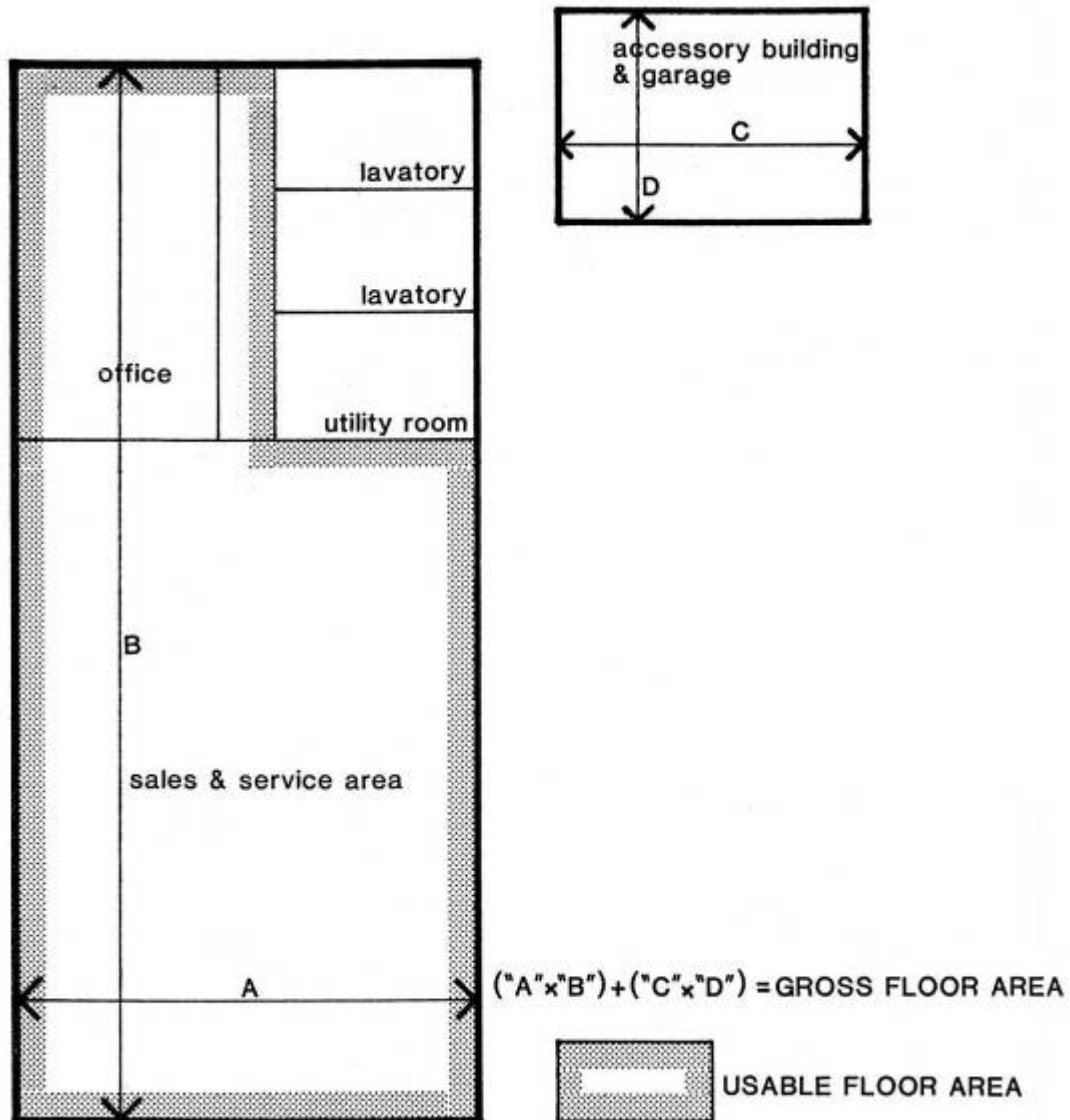


Figure 9. Floor Area Terminology

GARAGE, PRIVATE. An accessory building or portion of a main building designated or used solely for the storage of motor-driven vehicles, boats and similar vehicles owned and used by the occupants of the building to which it is accessory.

GARBAGE. Any putrescible solid and semisolid animal or vegetable wastes resulting from the production, handling, preparation, cooking, service or consumption of food or food materials.

GAZEBO. A roofed or sheltered structure which consists, generally, of open, screened or latticework construction and may be used for outdoor seating, but is not designed for yearround use.

GRADE. A reference plane representing the average of the finished ground level adjoining the building at all exterior walls established for the purpose of regulating the number of stories and the height of buildings. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building/dwelling.

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

GROSS FLOOR AREA. See FLOOR AREA, GROSS.

GUN CLUB. Any club, organization, individual, group of individuals, or use, whether operated for profit or not, and whether public catering or private, which caters to or allows the use of firearms.

HOME OCCUPATION. An occupation or profession customarily carried on by the occupant of a dwelling unit at the dwelling unit as a secondary use which is clearly subservient to the use of the dwelling for residential purposes. Home occupation includes a bed and breakfast operation.

HOSPITAL. A building, structure or institution in which sick or injured persons are given medical or surgical treatment and operating under license by the health department and the state, and that is used for primarily inpatient services, and including such related facilities as laboratories, outpatient departments, central service facilities, and staff offices.

HOTEL or MOTEL. A series of attached, semidetached or detached rental units which provide overnight lodging and/or temporary residence and which are offered to the public for compensation and which units are accessible from interior corridors or directly from outdoor parking areas and, the establishment may offer or provide meals, entertainment and/or personal services.

JUNKYARD. An open area where waste, 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, paper, rags, rubber tires and bottles. A junkyard includes automobile wrecking yards, and includes any area of more than 200 square feet for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings.

KENNEL. The boarding, breeding, raising, grooming, or training of three or more dogs, cats, or other household pets of any age either 1) not owned by the owner or occupant of the premises, or 2) for commercial gain.

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

LANDFILL. Any disposal area or tract of land, building, unit or appurtenance or combination thereof that is used to collect, store, handle, dispose of, bury, cover over, or otherwise accept or retain refuse as defined in this section.

LIGHTING. The following definitions are related to lighting:

- A. **Canopy structure.** Any overhead protective structure which is constructed in such a manner as to allow pedestrians/vehicles to pass under.
- B. **Floodlight.** Any light fixture or lamp that incorporates a reflector or refractor to concentrate the light output into a directed beam in a particular direction.
- C. **Footcandle.** A unit of illuminance, which is the quantity of light, or luminous flux, arriving at a surface divided by the area of the illuminated surface, amounting to one lumen per square foot.
- D. **Fully Shielded Fixture.** A luminaire constructed or shielded in such a manner that all light emitted by the luminaire, either directly from the lamp or indirectly from the luminaire, is projected below the horizontal plane through the luminaire's lowest light emitting part as determined by photometric test or certified by the manufacturer.
- E. **Glare.** Direct light emitted by a luminaire that causes reduced vision or momentary blindness.

- F. **Light Fixture.** The assembly that holds a lamp and may include an assembly housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and a refractor or lens. A light fixture also includes the assembly for luminous tube and fluorescent lighting
- G. **Light Pollution.** Artificial light which causes a detrimental effect on the environment, enjoyment of the night sky or causes undesirable glare or unnecessary illumination of adjacent properties
- H. **Light Trespass.** The shining of light produced by a luminaire beyond the boundaries of property in which it is located
- I. **Luminaire.** The complete lighting system including the lamp and light fixture.
- J. **Luminaire Cut-Off Angle.** The angle, measured up from the nadir, between the vertical axis and the first line of sight at which the bare source is not visible.
- K. **Luminous Tube Lighting.** Gas filled tubing which, when subjected to high voltage, becomes luminescent in a color characteristic of the particular gas used, e.g. neon, argon, etc.
- L. **Outdoor Light Fixtures.** Outdoor artificial illuminating devices, installed or portable, used for floodlighting, general illumination, or advertisement.

LIVESTOCK. Cattle, sheep, goats, and other useful animals normally kept or raised on a farm.

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

LOT. The contiguous land in the same ownership which is not divided by any public highway or alley, including any part thereof subject to any easement for any purpose other than a public highway or alley, but excluding any part thereof severed from another lot where the severance creates any nonconformity of use or structure. The term "lot" includes the term "plot" or "parcel."

LOT AREA, GROSS. The total horizontal area within the lot lines of the lot.

LOT AREA, NET. Gross lot area minus any portions of the lot located within dedicated rights-of-way, drainage easements, or bodies of water.

LOT, CORNER. A lot where the interior angle of two adjacent sides at the intersection of the two streets is less than 135 degrees. A lot abutting upon a curved street shall be considered a corner lot for the purposes of this ordinance if the arc is a radius of less 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. (See illustration no. 5 at the end of this section.)

LOT COVERAGE. The part or percentage of the lot occupied by buildings, including accessory buildings.

LOT DEPTH. The horizontal distance between the front and rear lot lines, measured along the median between side lot lines. (See illustration no. 4 at the end of this section.)

LOT, DOUBLE FRONTAGE. Any interior lot having frontage on two more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, all sides of such lots adjacent to streets shall be considered frontage, and front yards shall be provided as required.

LOT, INTERIOR. Any lot other than a corner lot.

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ARTICLE 1
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ARTICLE 3
ARTICLE 4
ARTICLE 5
ARTICLE 6
ARTICLE 7
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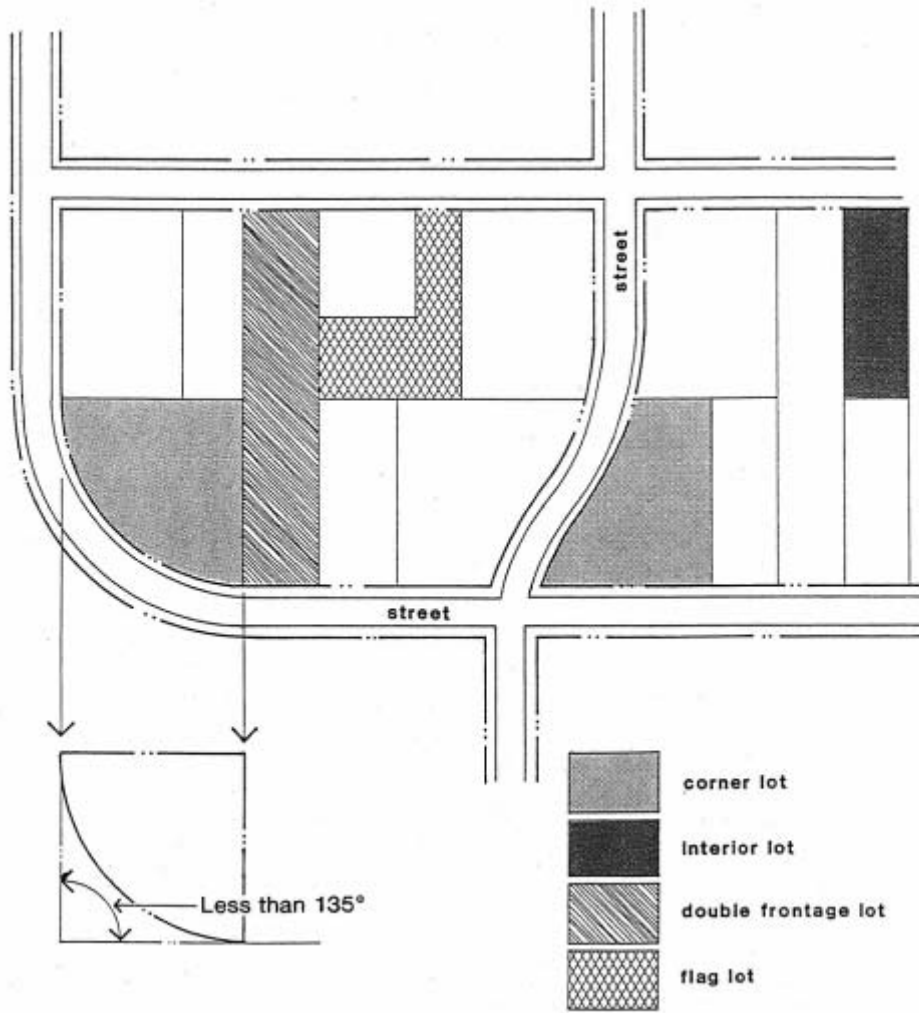


Figure 10. Interior and Corner Lots

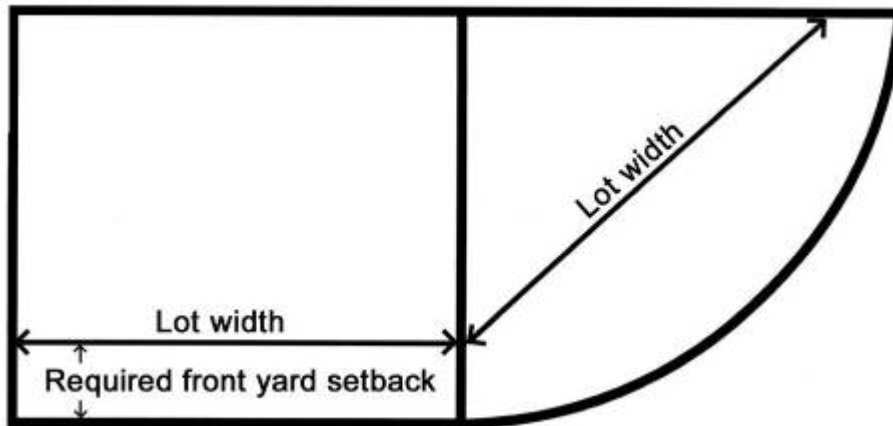


Figure 11. Lot Width

LOT LINE. Any line dividing one lot from another lot, or from a street right-of-way or from any public place:

A. Front lot line.

1. In the case of an interior lot, the line separating the lot from the street, except if the shape of the parcel, or some other reason, makes it impractical to use such line as the front line, another line may be used as the front upon approval by the Zoning Board of Appeals, if the placement of the structures and resulting yards are consistent with, and more easily blend with, the other buildings and development in the adjoining area.
2. In the case of a corner lot, the front lot line is that line separating such lot from the street which is designated as the front street in the plat and in the application for a building permit or zoning occupancy permit. In the case of a double frontage lot the front line is that line separating such lot from that street which is designated as the front street in the plat, or in the request for a building permit.

B. Rear lot line. The lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten feet long lying farthest from the front lot line and wholly within the lot. In any case where this definition does not apply, the Planning Commission shall designate the rear lot line.

C. Side lot line. Any lot lines other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot is an interior side lot line.

LOT OF RECORD. A parcel of land, the dimensions of which are shown on a document or map on file with the county register of deeds or in common use by City or county officials, and which actually exists as so shown, or any part of such parcel held in record ownership separate from that of the remainder thereof.

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

MANUFACTURED HOME. A structure, transportable in one (1) or more sections, which is built on a non-motorized chassis and designed to be used with or without a permanent foundation as a dwelling when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. A mobile home shall not include modular homes, motor homes, house trailer, trailer coach, or travel trailers.

MANUFACTURED HOUSING PARK. A parcel or tract of land under the control of a person upon which three (3) or more mobile homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a manufactured or mobile home, subject to the rules and requirements of the Mobile Home Commission Act, Public Act 96, of 1987, as amended (MCLA 139.2301 et seq.) and the Manufactured Housing Commission General Rules.

MASTER PLAN. A comprehensive plan including graphic and written proposals indicating the general location for streets, parks, schools, public buildings and all physical development of the City and includes any unit or part of such plan, and any amendment to such plan or parts thereof.

MASTER RIGHT-OF-WAY PLAN. The right-of-way and/or thoroughfare plan officially adopted by the City, the county and/or the intercounty highway commission.

MEDIA and ENTERTAINMENT PRODUCTION FACILITY. A facility for the creation, production, recording, editing, or finishing of film, television, print, sound, or other media. Excluded are facilities classified as major utility services or broadcasting or communication towers.

MEDICAL OFFICE. See OFFICE, MEDICAL.

DEFINITIONS

MOTEL. See HOTEL or MOTEL.

NATURAL FEATURE. A wetland or watercourse.

NONCONFORMITIES.

- A. **Nonconforming Structure.** A structure or portion thereof lawfully existing at the effective date of this ordinance or amendments thereto that does not conform to ordinance provisions for the district in which it is located, but is otherwise in compliance with all other applicable federal, state, county and city laws, ordinances, regulations and codes.
- B. **Nonconforming Use Of Land.** A use that lawfully occupied a parcel or contiguous parcels of land or structure and land in combination at the effective date of this ordinance or amendments thereto that does not conform to the use regulations of the district in which it is located, or does not have special approval where provisions of this Ordinance require such approval, but is otherwise in compliance with all other applicable federal, state, county and city laws, ordinances, regulations and codes.
- C. **Nonconforming Lot of Record.** A platted or unplatted parcel of land lawfully existing at the effective date of this ordinance or amendments thereto that does not conform to ordinance provisions for the district in which it is located.
- D. **Nonconforming Site.** A parcel of land that was developed or improved with structures and other site improvements prior to the date of adoption of current zoning ordinance provisions for site design, landscaping, pedestrian access, exterior lighting, paving and other site elements.
- E. **Illegal Structure.** A structure or portion thereof, which is not a conforming or a nonconforming structure, or is not in compliance with all applicable federal, state, county and city laws, ordinances, regulations and codes.
- F. **Illegal Use Of Land.** A use that occupies one or more contiguous parcels of land, or structures and land in combination, which is not a conforming or a nonconforming use, or is not in compliance with all applicable federal, state, county and city laws, ordinances, regulations and codes.
- G. **Cessation.** To terminate, abandon or discontinue a use of land for a period of time that, under the provisions of this ordinance, would prevent the use from being resumed.

NUISANCE. An offensive, annoying, unpleasant, or obnoxious thing or practice being a cause or source of annoyance.

NURSERY, PLANT MATERIAL. A space, building or structure, or combination thereof, for the storage of live trees, shrubs, or plants. The definition of nursery within the meaning of this ordinance does not include any space, building or structure used for the sale of fruits, vegetables or harvest and cut Christmas trees.

NURSING HOME. See CONVALESCENT or NURSING HOME.

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

OCCUPIED. Being in actual or constructive possession of a structure or land. The term "occupied" includes the term "intended, designed or arranged to be occupied."

OFFICE, SHOWROOM, or WORKSHOP ESTABLISHMENT. A service establishment that includes an office-showroom or workshop component, including but not limited to an electrician, decorator, dressmaker, tailor, shoemaker, baker, printer, upholsterer, or an establishment doing radio, television or home appliance repair, photographic reproduction, and similar establishments that require a retail adjunct. Automotive establishments such as muffler, shock-absorber or brake replacement businesses are not considered office, showroom, or workshop establishments.

OFFICE, MEDICAL. Offices for medical professionals and related occupations, such as doctors, dentists, chiropractors, osteopaths, and similar or allied professions.

OFFICE, PROFESSIONAL. Offices for executive, administrative, and professional occupations such as lawyers, accountants, architects, planners, engineers, financial advisors, media production, advertising, sales, and similar or allied professions.

OPEN FRONT STORE. A business establishment other than a restaurant, bank, automobile service or repair station, so developed that service to the patron may be extended beyond the walls of the building, not requiring the patron to enter such building.

OPEN AIR BUSINESS. The display and sale of products and services on a lot outside of a building including products and services that are displayed year round and those such as Christmas trees and flowers that are displayed and sold on a temporary or seasonal basis, excluding garages sales that are otherwise regulated in this Ordinance.

PARKING LOT. An area utilized for the off-street parking of automobiles which is constructed according to the standards of this ordinance or other City ordinances and which is built on the surface of the ground.

PARKING SPACE. A parking space hereby determined to be an area of definite length and width and shall be exclusive of drives, driveways, aisles or entrances giving access thereto and shall be fully accessible for the storage or parking of permitted vehicles.

PARKING STRUCTURE. An area utilized for the off-street parking of automobiles which is constructed according to the standards of this ordinance or other City ordinances and which may be one or more stories in height.

PERSONAL SERVICE ESTABLISHMENT. A business that performs services on the premises for persons residing in nearby residential areas including but not limited to shoe repair, tailoring, beauty parlors, nail salons, or barbershops.

PET BOARDING FACILITY. A business for the temporary boarding and care of common household pets generally during daytime hours, but in some cases including overnight boarding. Pet boarding facilities may provide related services such as grooming or training. No animals may be bred or sold at a pet boarding facility.

PLACE OF WORSHIP. A religious institution, or a site used for the regular assembly of persons, for the conducting of religious services, and for related accessory uses, including offices and living quarters for church ministry and other members of the religious order who carry out their duties primarily on the site, religious education classes, day care and limited recreation facilities. Rescue missions, tent revivals and other temporary assemblies are not included in this definition.

PLANNING COMMISSION. The Planning Commission of the City as designated in Public Act No. 33 of 2008.

PORCH, ENCLOSED. A covered entrance to a building or structure which is totally enclosed, which projects out from the main wall of such building or structure and which has a separate roof or an integral roof with the principal building or structure to which it is attached.

PORCH, OPEN. A covered entrance to a building or structure which is unenclosed, except for columns supporting the porch roof, which projects out from the main wall of such building or structure and which has a separate roof or an integral roof with the principal building or structure to which it is attached.

POULTRY. Domestic fowl such as chickens, turkeys, ducks and geese.

PRINCIPAL USE. A use as specified and listed in this ordinance under each district as a principal use.

PROFESSIONAL OFFICE. See OFFICE, PROFESSIONAL.

PUBLIC PARK. Any place devoted to recreation or conservation purposes within the jurisdiction and control of a governmental agency.

DEFINITIONS

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

PUBLIC UTILITY. Any person, municipal department, board or commission duly authorized to furnish and furnishing under federal, state, or municipal regulations to the public: gas, steam, electricity, sewage disposal, communication, telegraph, transportation or water.

RECREATION FACILITIES, INDOOR. An establishment which provides indoor exercise facilities and indoor court sports facilities, and which may include spectator seating in conjunction with the sports facilities. For the purposes of this Ordinance, a bowling establishment shall be considered a type of indoor recreation center.

RECREATIONAL FACILITIES, OUTDOOR. Playgrounds, parks, picnic areas, golf courses, ball fields, camps, swimming pools, nature preserves, or any other type of community space or equipment that is designed to provide the user with the opportunity to relax, engage in athletic activity, or engage in other leisure pursuits.

REFUSE. Any putrescible or nonputrescible solid waste, except human excreta, but including garbage, rubbish, ashes, street cleanings, dead animals, offal and solid agricultural, commercial, industrial, hazardous and institutional wastes and construction waste resulting from the operation of a contractor.

RESIDENTIAL INN. A series of attached, semidetached or detached rental units which provide temporary living units of rooms or suites that feature individual kitchen and dining facilities. Residential inns are distinguished from hotels and motels in that they are intended to provide temporary lodging for guests that require accommodations for longer periods of time, and in some instances for more than 30 days.

RETAIL SALES ESTABLISHMENT. Any generally recognized retail business that supplies commodities on the premises to the general public. Commodities supplied may include groceries and similar food products for consumption off the premises. Restaurants or any similar establishment that serves prepared food as its primary business is not considered a retail sales establishment.

ROADSIDE STAND and MARKET. The temporary use of property or facilities for the selling of produce.

RUBBISH. Any nonputrescible solid waste excluding ashes, such as paper, cardboard, plastic, metal, or glass food containers, rags, waste metal, yard clippings, small pieces of wood, glass, excelsior, rubber, leather, crockery and other similar materials.

SETBACK. The distance required to comply with front, side or rear yard open space provisions of this ordinance.

SHOPPING CENTER. Three or more commercial establishments which are contiguous and developed under one site plan.

SIGN. The use of any words, numerals, figures, devices, designs or trademarks by which anything is made known, other than billboards, such as are used to show an individual firm, profession or business, and are visible to the general public; accessory signs pertain to uses or activities conducted on the premises where the signs are located.

SOIL EXCAVATION. Removal of any kind or nature from a site of gravel, clay, sand, soil or other similar materials.

STABLE, PUBLIC. A structure in which livestock used for pleasure riding or driving are housed or kept for hire, including a riding track.

STABLE, PRIVATE. A building and associated site improvements for the keeping of horses for the noncommercial use of the residents of the principal use and does not include the keeping of horses for others, or for commercial breeding.

STATE LICENSED RESIDENTIAL FACILITY. Any structure constructed for residential purposes that is licensed by the State of Michigan pursuant to Michigan Public Act 116 of 1973 (the Child Care Licensing Act) or Michigan

Public Act 218 of 1979 (the Adult Foster Care Facility Licensing Act). This definition includes adult foster care facilities, foster family homes, foster family group homes, family day care homes, and group day care homes (see Human Services Facilities Subject to State Licensing Chart).

- A. **Adult foster care facility** means a residential structure that is licensed to provide foster care, but not continuous nursing care, for unrelated adults over the age of 17. Adult foster care facilities are subject to all applicable provisions, definitions, and regulations of Michigan Public Act 218 of 1979, as amended (MCL 400.701 et seq.).
1. 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.
 2. Adult foster care facility does not include any of the following:
 - a. A licensed child caring institution, children's camp, foster family home, or foster family group home, subject to the limitations contained in section 3(4f) of Michigan Public Act 218 of 1979, as amended (MCL 400.703).
 - b. A licensed foster family home that has a person who is 18 years of age or older placed in the foster family home under section 5(7) of Michigan Public Act 116 of 1973, as amended (MCL 722.115).
 - c. An establishment commonly described as an alcohol or a substance abuse rehabilitation center; a residential facility for persons released from or assigned to adult correctional institutions; a maternity home; or a hotel or rooming house that does not provide or offer to provide foster care.
 - d. A veterans' facility created by 1885 PA 152, MCL 36.1 to 36.12.
 3. The following types of adult foster care facilities are provided for by this Ordinance:
 - a. Adult foster care family home means a private home with the approved capacity to receive not more than six adults to be provided with foster care. The adult foster care family home licensee shall be a member of the household and an occupant of the residence.
 - b. Adult foster care small group home means an adult foster care facility with the approved capacity to receive not more than 12 adults to be provided with foster care. Facilities with the approved capacity for seven or more adults are subject to special use approval.
 - c. 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. Facilities are subject to special use approval.
 - d. Adult foster care congregate facility means an adult foster care facility with the approved capacity to receive more than 20 adults to be provided with foster care. Facilities are subject to special use approval.
- B. **Family day 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. Family day care home includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year.
- C. **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 or marriage, or who are not placed in the household under the Michigan adoption code, 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.

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- D. **Foster family group home** means a private home in which more than four but fewer than seven minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in the household under the Michigan adoption code, 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.
- E. **Group day care home** means a private home in which more than 6 but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home in which care is given to an unrelated minor child for more than 4 weeks during a calendar year.
- F. **Private home** means a private residence in which the licensee or registrant permanently resides as a member of the household, which residency is not contingent upon caring for children or employment by a licensed or approved child placing agency.

| | Number of Persons | Private Home? | Supplemental Use Standards |
|---------------------------------------|-------------------|---------------|----------------------------|
| Less Than 24-Hour Care | | | |
| <i>Persons under age 18</i> | | | |
| Family Day Care Home | 1-6 | Yes | Section 138-4.414 |
| Group Day Care Home | 7-12 | Yes | Section 138-4.414 |
| Child Care Center or Day Care Center | 1 or more | No | Section 138-4.422 |
| 24-Hour Care | | | |
| <i>Persons under age 18</i> | | | |
| Foster Family Home | 1-4 | Yes | Section 138-4.414 |
| Foster Family Group Home | 4-6 | Yes | Section 138-4.414 |
| <i>Persons age 18 and Over</i> | | | |
| Adult Foster Care Family Home | 1-6 | Yes | Section 138-4.414 |
| Adult Foster Care Small Group Home | 1-12 | No | Section 138-4.414 |
| Adult Foster Care Large Group Home | 13-20 | No | Section 138-4.414 |
| Adult Foster Care Congregate Facility | 20 or more | No | Section 138-4.414 |
| Nursing Home | 2 or more | No | Section 138-4.423 |

STORY. That part of a building, other than a mezzanine, included between the surface of one floor and the surface of the floor next above, or if there be no floor above, that part of the building which is above the surface of the highest floor thereof. Specifically:

- A. **Top Story Attic.** A half story when the main line of the eaves is not above the middle of the interior height of said story.
- B. **First Story.** The highest story having its interior floor surface not more than four feet above the curb level, or the average elevation of the finished grade along the front of the building were it set back from the street.
- C. **Basement.** A story if over fifty percent (50%) of its height is above the level from which the height of the building is measured, or if it is used for dwelling purposes by other than a janitor or domestic servant employed in the same building, including the family of the same.
- D. **Half-story.** that part of a building between a pitched roof and the uppermost full story, such part having a floor area which does not exceed one-half (½) of the floor area of such full story, provided the area contains at least two-hundred (200) square feet, with a clear height of at least seven (7) feet six (6) inches.

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| ARTICLE 13 |

E. **Mezzanine.** A full story when it covers more than thirty-three percent (33%) of the area of the story underneath such mezzanine or if the vertical distance from the floor next below it to the floor next above it is twenty-four (24) feet or more.

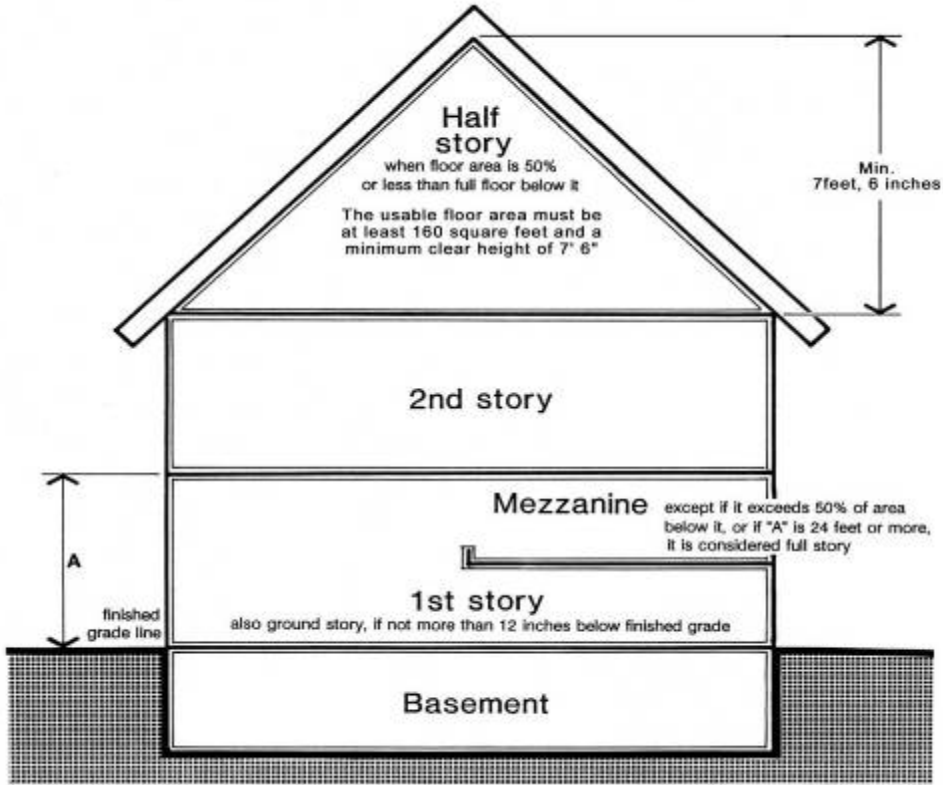


Figure 13. Basic Structural Terms

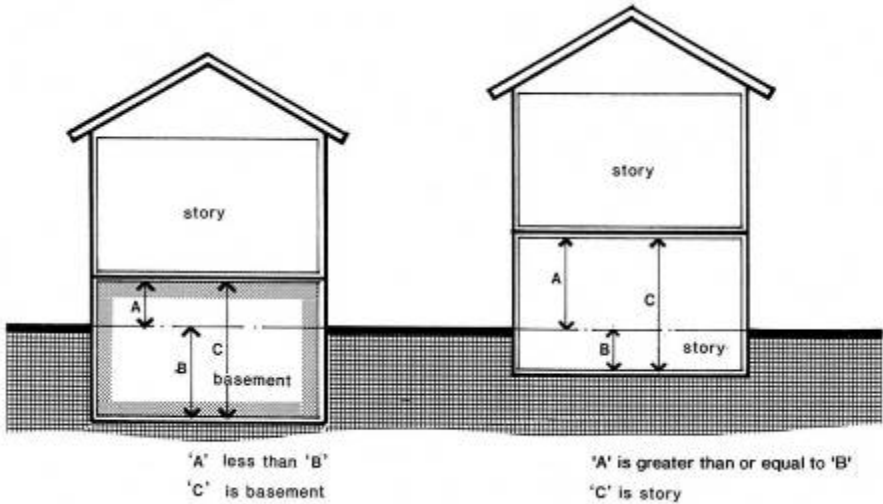


Figure 12. Basement and Story

DEFINITIONS

STREET. A public thoroughfare which affords the principal means of access to abutting property.

STRUCTURE. Anything constructed or erected and designed for a permanent location on the ground.

TEMPORARY BUILDING. A structure permitted by **this ordinance** to exist during periods of construction or special events.

TENT. A portable shelter of canvass, coarse cloth, etc., supported by one or more poles, but not including those used solely for children's recreational purposes.

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

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

USABLE FLOOR AREA. See FLOOR AREA, USABLE.

USE. The purpose for which land or premises, or a building thereon, is designed, arranged or intended, or for which it is occupied maintained, let or leased.

- A. **Accessory Use.** A use naturally and normally incidental to, subordinate to and devoted exclusively to the principal use or building of the premises.
- B. **Conditional Use.** An activity that may be detrimental to other land uses permitted within the same district, but that may be permitted subject to certain conditions or limitations designed to insure that the use is compatible with other permitted uses in the district.
- C. **Permitted Use.** A use permitted in each zoning district by right subject to site plan review approval.
- D. **Seasonal Use.** A temporary use permitted and regulated pursuant to this ordinance for a limited period of time conducted every year at the same time of year, such as, but not limited to, the sale of Easter flowers and Christmas trees.
- E. **Temporary Use.** A use permitted and regulated pursuant to this Ordinance for periods of time that are limited in duration as specified by this Ordinance, including, but not limited to carnivals, circuses, farmers market, art fairs, craft shows, sidewalk sales, antique sales, Christmas tree sales, flower sales, flea markets and similar events.

Used includes the term "intended, designed or arranged to be occupied."

UTILITY ROOM. a room used primarily for storage, for housing a heating unit, or for laundry purposes.

VARIANCE. A variation or modification of this ordinance granted by the Zoning Board of Appeals relating to the construction, or structural changes in, equipment or alteration of buildings or structures or the use of land, buildings, or structures, where there is a practical difficulty or unnecessary hardship in the way of carrying out the strict letter of this ordinance.

VETERINARY CLINIC. A place for the care, diagnosis and treatment of sick or injured animals, and those in need of medical or minor surgical attention. A veterinarian clinic may include customary pens or cages which are permitted only within the walls of the clinic structure.

WALL.

- A. **Obscuring.** An obscuring structure of definite height and location constructed of masonry, concrete or similar material.

- B. **Decorative.** A screening structure walls of definite height and location constructed of an aesthetically pleasing masonry or rock material, such as face brick, stone or simulated stone, split-face CMU or other decorative block.

WATERCOURSE. Any waterway, river, stream, inland lake or pond or other body of water having definite banks, a bed, and visible evidence of a continued flow or continued occurrence of water. The term "watercourse" does not include lakes or ponds constructed, by excavating or diking dry land and maintained for the sole purpose of cooling or storing water, and does not include lagoons used for treating polluted water.

WETLAND. Land characterized by the presence of water at a frequency and duration sufficient to support and that under normal conditions does support wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh and which is any of the following:

- A. Contiguous to an inland lake or pond or to a river or stream;
- B. Not contiguous to an inland lake or pond or a river or stream and is two acres or more in size; or
- C. Not contiguous to an inland lake or pond or to a river or stream, and less than two acres in size, if the reviewing authority determines that protection of the area is essential to the preservation of the natural resources of the City from pollution, impairment or destruction. In making this determination, the City must find one or more of the following functions applies to the particular wetland and provide these findings, in writing, to the permit applicant stating the reasons for this determination:
 1. The wetland supports state or federal endangered or threatened plants, fish, or wildlife appearing on a list specified in MCL § 324.36501, as amended;
 2. The wetland represents what the reviewing authority has identified as a locally rare or unique ecosystem;
 3. The wetland supports plants or animals of an identified local importance;
 4. The wetland provides groundwater recharge documented by a public agency;
 5. The wetland provides flood and storm control by the hydrologic absorption and storage capacity of the wetland;
 6. The wetland provides wildlife habitat by providing breeding, nesting, or feeding grounds or cover for forms of wildlife, waterfowl, including migratory waterfowl, and rare, threatened, or endangered wildlife species;
 7. The wetland provides protection of a subsurface water resource, a valuable watershed, or a groundwater recharge area;
 8. The wetland provides pollution treatment by serving as a biological and chemical oxidation basin;
 9. The wetland provides erosion control by serving as a sedimentation area and filtering basin, absorbing silt and organic matter; or
 10. The wetland provides sources of nutrients in water food cycles and nursery grounds and sanctuaries for fish.

YARD. An open space other than a courtyard located on the same lot as a main building or use, unoccupied and unobstructed from the ground upward, except as otherwise provided herein. In measuring to determine the width of a yard, the minimum horizontal distance between the lot line and the main building shall be used.

- A. **Front yard.** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line, a proposed right-of-way as indicated on the master right-

DEFINITIONS

of-way plan, or a private road easement used for ingress and egress, whichever is closest to the building which is to be located on the property, and the nearest point of the main building.

- B. Rear yard. An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line or zoning district line, whichever is closer to the building, except for changes in the zoning districts involving only residential zoning districts, a proposed right-of-way as indicated on the master right-of-way plan, or a private road easement used for ingress and egress, whichever is closest to the building which is to be located on the property, and the nearest point of the main building. (See illustration no. 7 at the end of this section.)
- C. Side yard. An open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line or zoning district line, whichever is closer to the building, except for changes in the zoning districts involving only residential zoning districts, a proposed right-of-way as indicated on the master right-of-way plan, or a private road easement used for ingress and egress, whichever is closest to the building which is to be located on the property, and the nearest point of the main building.
- D. Required Yard. An open space of prescribed width or depth, adjacent to a lot or property line, on the same land with a building or group of buildings, which open space lies in the area between the building or group of buildings and the nearest lot line, and which is unoccupied and unobstructed from the ground upward, except as otherwise provided in this Ordinance.

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ARTICLE 4

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ARTICLE 12

ARTICLE 13

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ARTICLE 1

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ARTICLE 3

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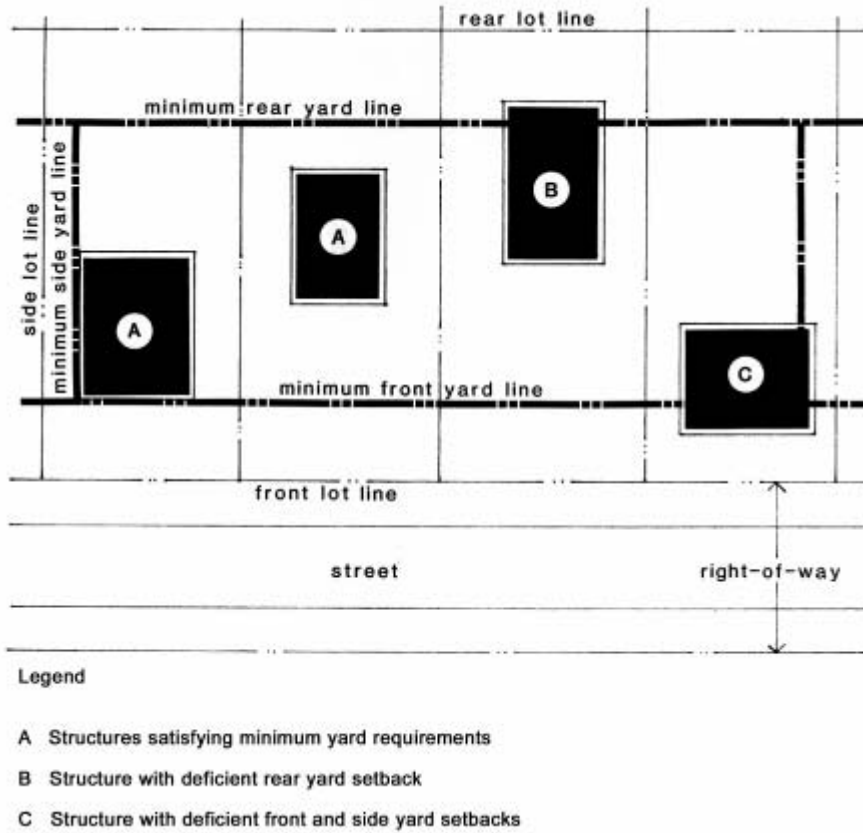


Figure 14. Yard Requirements

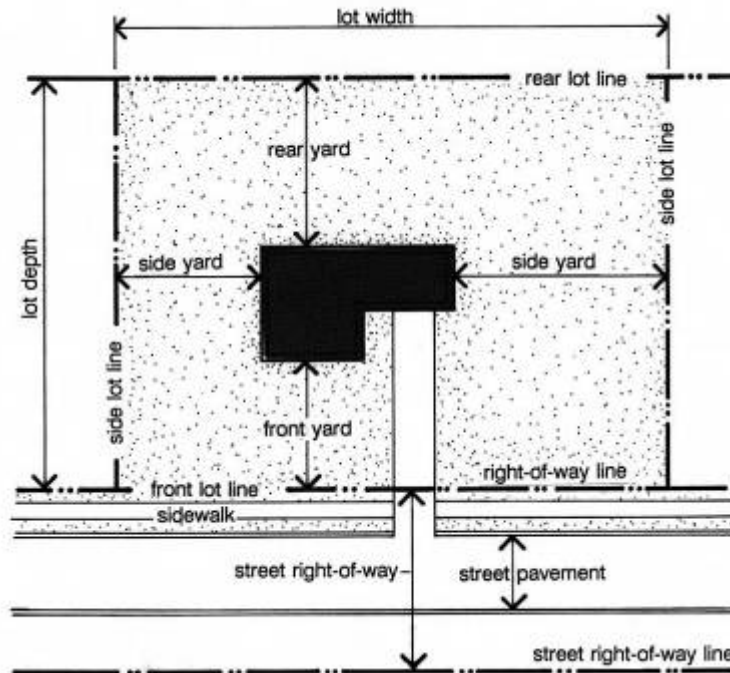


Figure 15. Open Space Terms

