

Chapter 42

ZONING*

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ARTICLE I. IN GENERAL

Sec. 42-1. Title.

This chapter shall be known and may be cited as the "City of Portland Zoning Ordinance." (Ord. No. 175J, § 1.01, eff. 9-17-2004)

Sec. 42-2. Purpose.

Pursuant to the authority granted to the city by the Public Acts of the State of Michigan, this chapter is established for the following purposes:

- (1) To promote and protect the public health, safety, and general welfare;
- (2) To protect the character and the stability of the open space, residential, and nonresidential areas within the city and promote the orderly and beneficial development of these areas;
- (3) To provide adequate light, air, privacy and convenience of access to property;
- (4) To regulate the intensity of use of land and lot areas and determine the area of open spaces surrounding buildings and structures necessary to provide adequate light and air and to protect the public health;
- (5) To lessen and avoid congestion on the public highways and streets;
- (6) To prevent the overcrowding of land and undue concentration of buildings and structures, so far as possible and appropriate, in each zoning district, by regulating the use and bulk of buildings in relation to the land surrounding them; and
- (7) To conserve the expenditure of funds for public improvements and services.

(Ord. No. 175J, § 1.02, eff. 9-17-2004)

Sec. 42-3. Legislative intent.

Zoning districts in this chapter each have a deemed purpose and are based on the city master plan. The districts are sized to be adequate to accommodate longterm needs, and yet must be monitored relative to any necessary changes and updated as time passes. While the regulations

limit the use of properties, this chapter is intended to provide landowners with a range of choices, flexibility, and options for development. (Ord. No. 175J, § 1.03, eff. 9-17-2004)

Sec. 42-4. Scope.

(a) Except as otherwise provided for in this chapter, every building and structure erected; every use of any lot, building, or structure established; every structural alteration or relocation of an existing building or structure; and every enlargement of, or addition to, an existing use, building and structure occurring after the effective date of the ordinance from which this chapter is derived, shall be subject to this chapter.

(b) In its interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, or general welfare. It is not intended by this chapter to impair or interfere with any other existing provision of law or ordinance. However, where this chapter imposes a greater restriction than is required by existing ordinance or by rules, regulations, or permits, the provisions of this chapter shall control.

(c) Except as otherwise noted in this chapter, nothing in this chapter shall 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 all rights are hereby declared to be subject to such subsequent amendment, change or modification hereof as may be necessary for the preservation or protection of public health, safety, and welfare.

(d) The right to continue a land use or activity or construct a building or structure which is either permitted by this chapter or established as a nonconformity shall be vested with the property rather than the owner. No rights shall be terminated for reasons of transfer of ownership. The right to continue a land use or activity shall transfer automatically upon the conveyance of the property unless terminated pursuant to section 42-306.

(e) All land development specifically listed as a permitted use in the table of uses for the districts contained in this chapter shall be allowed when determined to be in accordance with all provisions of this chapter and all other applicable laws, regulations or ordinances having jurisdiction over the proposed use of land. Where not specifically permitted, uses are listed as not permitted, unless construed to be similar to a use as expressly determined by the zoning administrator.

(f) All land development specifically listed under the heading of "Special Land Use" in the table of uses for the districts contained in this chapter shall be conducted in accordance with the requirements of article V of this chapter.

(g) Uses not specifically mentioned are as follows:

- (1) Any use of land or development activity not specifically mentioned in this chapter shall be classified by the zoning administrator. The zoning administrator shall classify the use only if he finds that the use is similar in character to the uses listed in this chapter.
- (2) If the use is determined not to be similar to any uses in this chapter, the applicant may then make application to the planning commission for consideration of an amendment to this chapter to include the proposed use in one or more of the zoning districts of this chapter, either as a permitted use or a special land use.

(Ord. No. 175J, § 1.04, eff. 9-17-2004)

Sec. 42-5. Rules of construction.

The following definitions and rules of construction shall apply to this chapter and when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) The particular shall control the general. For terms used in this chapter the use of a general term shall not be taken to be the same as the use of any other specific term. For example, a "truck stop," as used in this chapter, shall not be interpreted to be

the same as a "vehicle service" establishment since each is listed as a separate and distinct use.

- (2) In case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control.
- (3) A building or structure includes any part thereof.
- (4) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for" and "occupied for."
- (5) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunctions "and," "or" or "either...or," the conjunction shall be interpreted as follows:
 - a. "And" indicates that the connected items, conditions, provisions or events apply.
 - b. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
 - c. "Either...or" indicates that the connected items, conditions, provisions or events apply singly but not in combination.
- (6) "Holidays" as used in this chapter, 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 or any other holiday recognized by the city.
- (7) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity. Gender related words, such as "he" and "him" include "she" and "her," or other similar uses of gender.
- (8) Terms not defined in this chapter shall have the meaning customarily assigned to them.

(Ord. No. 175J, § 2.01, eff. 9-17-2004)

Sec. 42-6. Definitions.

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

Accessory apartment means a single apartment unit contained within a single-family home or apartment units above the first floor of commercial buildings meeting the regulations of this chapter.

Accessory building means a building or structure that is clearly incidental to, customarily found in connection with and located on the same zoning lot as the principal use to which it is related. When an accessory building is attached to the main building in a substantial manner, such as a wall or roof, the accessory building shall be considered a part of the main building.

Accessory use means a use customarily and normally incidental and subordinate to the principal use of the premises.

Adult foster care (state licensed residential care facility) means:

- (1) *Adult foster care family home*: A private residence with the approved capacity to receive not more than six adults who are provided with foster care for five or more days a week and for two or more consecutive weeks.
- (2) *Adult foster care large group home*: 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.
- (3) *Adult foster care small group home*: An adult foster care facility with the approved capacity to receive not more than 12 adults who are provided with foster care.

State law reference—Similar definitions, MCL 400.703.

Adult uses means and shall include adult bookstores, adult cabarets, adult motion picture the-

aters, and nude artist and photography studios. These terms shall have the following indicated meanings:

- (1) *Adult book store*: An establishment having as a substantial or significant portion of its stock in trade, books, magazines, or other periodicals, videotapes, movies, or adult-related novelties which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined herein, or an establishment with a segment or section devoted to the sale or display of such material.
- (2) *Adult cabaret*: An establishment including, but not limited to, a cafe, restaurant or bar which features go-go dancers, erotic dancers, strippers, male or female impersonators, or similar entertainers.
- (3) *Adult motion picture theater*: An establishment used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined herein, for observation by patrons therein.
- (4) *Nude artist and photography studio*: Any building, structure, premises or part thereof used solely or primarily as a place which offers as its principal activity the providing of models to display "specified anatomical areas" as defined herein for artists and photographers for a fee or charge.
- (5) *Specified anatomical areas*: Specified anatomical areas are defined as less than completely and opaquely covered:
 - a. 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 discernible turgid state, even if completely and opaquely covered.

- (6) Specified sexual activities: Specified sexual activities are defined as:
 - 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.

Alteration means any change, addition or modification to a structure or type of occupancy, any change in the structural members of a building such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to in this chapter as "altered" or "reconstructed."

Arcade means any establishment with more than four recreation or entertainment games for pay including, but not limited to, pinball, video games, and other like activities involving active participation by the customer.

Basement means that portion of a building that is partly or completely below grade. See also *Story above grade*.

Bed and breakfast establishment means a use that is subordinate to the principal use of a dwelling unit as a one-family dwelling unit in which transient guests are provided with a sleeping room and breakfast in return for payment.

Berm means a mound of soil graded, shaped and improved with landscaping in such a fashion as to be utilized for screening purposes.

Buffer strip means 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 greenbelt in carrying out the requirements of this chapter.

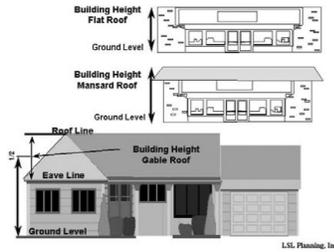
Buildable area means the space remaining on a lot or parcel after yard, parking, or any other requirements of this chapter have been met.

Building means a structure, either temporary or permanent, having a roof supported by columns, or walls, and intended for the shelter or enclosure of persons, animals, chattels, or property of any kind. This shall include tents, aw-

nings, or vehicles situated on private property and used for such purposes. The term "building" includes the phrase "structure" or any part thereof.

Building height means:

- (1) 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; and
 - d. The mean level for a shed roof, from highest point to lowest point of roof.

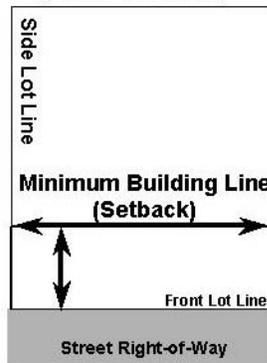


Building Height

- (2) Where buildings have multiple or conflicting roof styles, the most restrictive method applies.

Building line means an imaginary line measured between the side lot lines at a distance from the front lot line as required by the district in which the lot is located. For the purposes of this chapter a building line is the same as a front setback line.

Building Line (Front Setback)



LSL Planning, Inc.

Building, main, means a building in which is conducted the principal use of the lot on which it is situated.

Certificate of zoning compliance means a document signed by an authorized city official as a condition precedent to the commencement of a use that acknowledges that the use, structure or building complies with the provisions of this chapter.

Clearing of land means the removal of vegetation from any site, parcel or lot except when land

is cleared and cultivated for bona fide agricultural or garden use in a district permitting that use. Mowing, trimming, pruning or removal of vegetation to maintain it in a healthy, viable condition is not considered clearing.

Clinic, medical, means a place for the care, diagnosis and treatment of sick or injured persons, and those in need of medical or minor surgical attention. A clinic may incorporate customary laboratories and pharmacies incidental or necessary to its operation or to the service of its patients, but may not include facilities for inpatient care or major surgery.

Clinic, veterinary, means a place for the care, diagnosis and treatment of sick or injured animals, and those in need of medical or minor surgical attention. A veterinary clinic may include customary pens or cages only within the walls of the clinic structure.

Condominium documents means the master deed, recorded pursuant to the condominium act, Public Act No. 59 of 1978 (MCL 559.101 et seq.), and any other instrument referred to in the master deed or bylaws affecting the rights and obligations of a co-owner of the condominium.

Conservation easement means a nonpossessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water.

Convalescent or nursing home means a home, whether operated for profit or not, for the care of the aged, infirm, or those suffering from bodily disorders, wherein two or more persons are housed or lodged and furnished with nursing care.

Cul-de-sac means a dead end public or private street, generally short in distance, terminating in a circular or semi-circular section of street allowing for vehicle turnaround.

Day care:

- (1) *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. The term "family day care home" includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year.

- (2) *Group day care home* means a private home in which more than six but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. Group day care includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year.
- (3) *Day care center* means a facility, other than a private residence, receiving one or more preschool or school age children for care for periods of less than 24 hours a day, and where the parents are not immediately available to the child.

State law reference—Similar definitions, MCL 722.111.

Development means the construction of a new 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.

District or zoning district means a portion of the incorporated part of the city within which certain regulations and requirements or various combinations thereof apply under the provisions of this chapter.

Drive-through facility means a business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure. An automated teller machine (ATM) shall also be considered as a drive-in facility either as a principal or accessory use.

Drive-through restaurant means a business establishment for the serving of food and/or beverages, with driveways and approaches so developed and designed so as to serve patrons while in the motor vehicle, or to permit patron self-service for consumption within motor vehicles, as differentiated from a restaurant with indoor seating only, even though the establishment may have some indoor seating. Establishments where patrons pick up food to be eaten off the premises shall not be construed as drive-through restaurants.

Driveway means an undedicated, privately controlled and maintained right-of-way or other interest in land that provides the means of access to fewer than three lots or parcels.

Dwelling, dwelling unit, or residence:

- (1) *Dwelling, multiple-family*, means a building, or portion thereof, designed exclusively for occupancy by three or more families, in separate units, and living independently of each other.
- (2) *Dwelling, one-family*, means a building, structure, manufactured home or prefabricated, premanufactured or precut structure designed exclusively for and occupied exclusively by one family. One-family dwellings may also be divided into the following types for the purposes of calculating required floor area:
- a. *Bi-level* means a house with two levels and no basement, the first floor being partially below grade such that the vertical distance from the average grade to the ceiling is greater than the vertical distance from the average grade to the floor.
 - b. *Tri-level* means a house with three levels, the first level being located partially below grade, the second level being located at or slightly above grade, and the third level being located one-half level up from the second level and directly over the first level. The first level shall be counted

as either a story or a basement depending on its location in relation to the average grade. (See *Basement*.)

- c. *Quad-level* means house similar to a tri-level but with the addition of a fourth level. The third level is usually located directly above the first and the fourth level is usually located directly above the second. The first level shall be counted as either a story or a basement, depending on its location in relation to the average grade. (See *Basement*.)
- (3) *Dwelling, two-family* means a building designed exclusively for occupancy by two families, in separate units, and living independently of each other.
- (4) *Dwelling unit* means a building, or portion thereof, designed for occupancy by one family for residential purposes and having cooking facilities.

Easement means a right, distinct from the ownership of the land, to cross property with facilities such as, but not limited to, driveways, roads, utility corridors, sewer lines, water lines, and transmission lines, or the right, distinct from the ownership of the land, to reserve and hold an area for open space, recreation, drainage or access purposes.

Elderly housing means a building or group of buildings containing dwellings where the occupancy of dwellings is restricted to persons 55 years of age or older or couples where either the husband or wife is 55 years of age or older. This does not include a development that contains a convalescent or nursing home as licensed under Part 217 of Public Act No. 368 of 1978 (MCL 333.21701 et seq.); or a mental hospital for mental patients licensed under Public Act No. 258 of 1974 (MCL 330.1001 et seq.).

Engineer, city or engineering department means the city engineer or engineering department of the city.

Erection means any physical operations on the premises required for construction or moving in-

cluding construction, reconstruction, alteration, building, excavation, fill, drainage, installation of utilities and the like.

Essential services means the erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface, or overhead gas, electrical, steam, fuel or water transmission or distribution system, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarms, 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. For the purposes of this chapter, wireless communications towers and antennas are not considered essential services.

Excavation means 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.

Family means one of the following:

- (1) 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
- (2) 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 means an accessory structure artificially constructed as a barrier and made of wood, metal, stone, brick, or any manufactured materials erected for the enclosure of yard areas.

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

Flood or flooding means a general and temporary complete inundation of normally dry land area from:

- (1) The overflow of inland or tidal waters;
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood hazard area means that area subject to flooding, on the average of at least once in every 100 years as established by the Federal Emergency Management Agency.

Flood hazard boundary map (FHBM) means an official map of the community issued by the Federal Emergency Management Agency where the boundaries of the areas of special flood hazards have been designated as zone A.

Flood insurance rate map (FIRM) means an official map of the community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

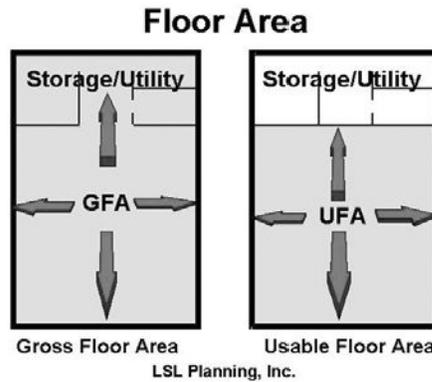
Flood insurance study means the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the flood hazard boundary-floodway map and the water surface elevation of the base flood.

Floor area:

- (1) *Floor area, gross (GFA)*, means the sum of the gross horizontal areas of the several floors of a building measured from the exterior walls or from the centerline of walls separating two buildings.
- (2) *Floor area, residential*, means the area of a residential dwelling unit that is the area within the building measured from the exterior of the exterior walls, assembly, or structural supports, but not including areas of basements, unfinished attics,

attached or detached accessory structures, breezeways, or enclosed and unenclosed porches.

- (3) *Floor area, usable (UFA)*, means the gross floor area of the building minus the areas of the building not being used in a manner that contributes to the principal use of the property, such as floor area which is being used or designed to be used as restrooms, closets, corridors and mechanical rooms.



Foster family care (state licensed residential care facility):

- (1) *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, chapter X of the probate code of 1939, Public Act No. 288 of 1939 (MCL 710.21 et seq.), 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.
- (2) *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, chapter X of the probate code of 1939, Public Act No. 288 of 1939 (MCL 710.21 et seq.), are provided care for 24 hours a day, for four or more

days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.

Frontage means the continuous linear distance of that portion of a lot or parcel abutting upon a public or private street right-of-way. Frontage is to be measured at the minimum required front yard setback of the district in which the lot or parcel is located.

Garage, private, means 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.

Gazebo means a roofed or sheltered structure which consists, generally, of open, screened or latticework construction and may be used for outdoor seating.

Grade means the highest point of ground contacting any portion of the basement or foundation of a dwelling.

Grade, average, means a reference plane representing the average of the finished ground level adjoining the building at all exterior walls. For purposes of measuring height of structures in the residential districts, "average grade" means a reference plane representing the average of the finished ground level adjoining the building along the front elevation.

Home occupation means an occupation or profession customarily carried on by the occupant of a dwelling unit at the dwelling unit as a secondary use that is clearly incidental to the use of the dwelling for residential purposes. Without limiting the foregoing, a one-family dwelling unit used by an occupant of that residence to give instruction in a craft or fine art within the residence shall be considered a home occupation.

Hospital means a building, structure or institution in which sick or injured persons are given medical or surgical treatment and operating under license by the county 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 means 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.

Industrial use means any land or building occupied or used for manufacturing or processing purposes.

Junkyard means 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 conducted entirely within enclosed buildings.

Kennel means any lot or premises on which more than three dogs or three cats, or three other of one kind of household pet is either permanently or temporarily boarded. A kennel includes any lot or premises where household pets are bred or sold as a source of income.

Laboratory means a place devoted to experimental study such as testing and analyzing, but not devoted to the manufacturing of a product or products.

Land Division Act means Public Act No. 288 of 1967 (MCL 560.101 et seq.).

Livestock means and includes cattle, sheep, goats, and other useful animals normally kept or raised on a farm.

Loading space means 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.

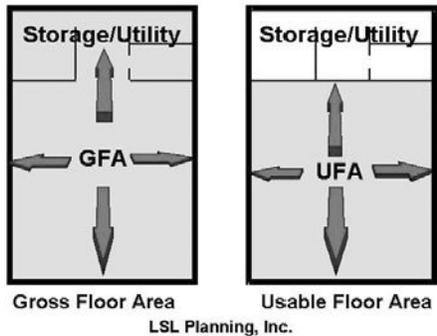
Lot means the contiguous land in the same ownership which is not divided by any public highway or alley, including any part thereof subject to any easement for any purpose other than a public highway or alley, but excluding any part thereof severed from another lot where the severance creates any nonconformity of use or struc-

ture. A lot shall also mean a portion of a condominium project, as regulated by Public Act No. 59 of 1978 (MCL 559.101 et seq.), designed and intended for separate ownership and use. The term "lot" includes the term "plot" or "parcel."

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

Lot, corner, means 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 division 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 from an interior angle of less than 135 degrees.

Floor Area



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

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

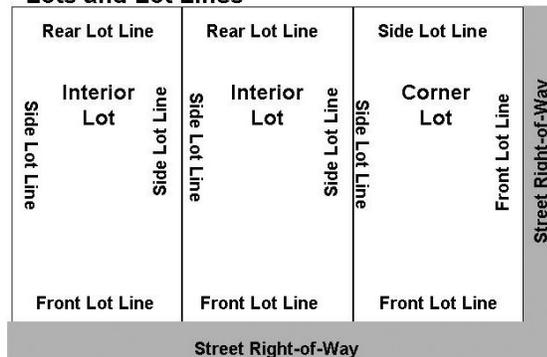
Lot, double frontage, means any interior lot having frontage on two more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, all sides of the lots adjacent to streets shall be considered frontage, and front yards shall be provided as required.

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

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

- (1) *Front lot line*:
 - a. In the case of an interior lot, the line separating the lot from the street.
 - b. If the shape of the parcel, or some other reason, makes it impractical to use a line as the front line, another line may be used as the front upon approval by the zoning administrator 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.
 - c. Corner and through lots shall have two front lot lines and two front yards. The other yards shall be considered side yards.
- (2) *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.
- (3) *Side lot line*: Any lot lines other than the front lot line or rear lot line. A side lot line separating a lot from another lot is an interior side lot line.

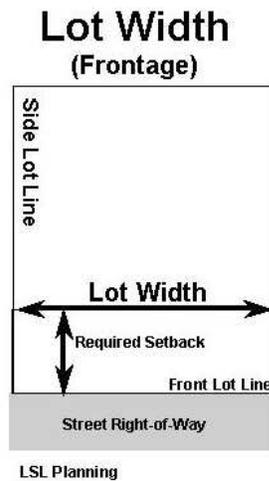
Lots and Lot Lines



Lot of record means 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. A lot shall also mean a portion of a condominium project, as regulated by Public Act No. 59 of 1978 (MCL 559.101 et seq.) designed and intended for separate ownership and use.

Lot width mean the horizontal distance between the side lot lines measured at the two points where the building line, or setback, intersects the side lot lines.



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

Manufactured home means a structure designed or used for residential occupancy built upon or having a frame or chassis to which wheels may be attached so it may be moved upon a highway, whether or not such structure actually has, at any given time, such wheels attached, or is jacked up or skirted.

Manufactured home community means any plot of ground upon which two or more manufactured homes, occupied for dwelling or sleeping purposes, are or may be located, and licensed as such by the state.

Manufactured home site means a site dedicated for the placement of a manufactured home within

a manufactured home community. The site shall be exclusive of drives and required open space in the manufactured home community, or other open areas not specifically for manufactured home occupancy.

Marihuana, also known as medical marihuana, also known as marijuana, also known as cannabis: That term shall have the meaning given to it in Section 7601 of the Michigan Public Health Code, 1978 PA 368, as amended, MCL 333.7106 et seq., as is referred to in Section 3(d) of the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26423(d). Any other term pertaining to marihuana used in this section and not otherwise defined shall have the meaning given to it in the Michigan Medical Marihuana Act and/or in the general rules of the Michigan Department of Community Health issued in connection with that act.

Marihuana collective or cooperative: Any facility, structure, dwelling or other location where medical marihuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed by two or more of the following: a registered primary caregiver or a registered qualifying patient, as defined by the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 et seq. (the "act"), or a person in possession of an identification card issued under the act or in possession of an application for such an identification card. The term "collective" or "cooperative" shall not apply to a registered primary caregiver that provides necessary care and marihuana for medical use exclusively to his/her five or fewer designated qualifying patients in strict accordance with the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 et seq. or the Administrative Rules of the Michigan Department of Community Health, Michigan Admin Code, R 333.101 through R 333.133. A "marijuana collective or cooperative" shall not include the following uses: a state-licensed health care facility; a state-licensed residential care facility for the elderly or infirmed; or a residential hospice care facility, as long as any such use complies strictly with applicable laws and rules of the State of Michigan. It is unlawful

to establish or operate a profit or nonprofit medical marihuana dispensary, collective or cooperative within the city.

Marihuana dispensary or dispensary: Any facility, structure, dwelling or other location where medical marihuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed by two or more of the following: a registered primary caregiver or a registered qualifying patient, as defined by the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 et seq. (the "act"), or a person in possession of an identification card issued under the act or in possession of an application for such an identification card. The term "dispensary" shall not apply to a registered primary caregiver that provides necessary care and marihuana for medical use exclusively to his/her five or fewer designated qualifying patients in strict accordance with the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 et seq. or the administrative rules of the Michigan Department of Community Health, Michigan Admin Code, R 333.101 through R 333.133. A "marihuana dispensary" shall not include the following uses: a state-licensed health care facility; a state-licensed residential care facility for the elderly or infirmed; or a residential hospice care facility, as long as any such use complies strictly with applicable laws and rules of the State of Michigan. It is unlawful to establish or operate a profit or nonprofit medical marihuana dispensary, collective or cooperative within the city.

Massage establishment: Any establishment having a fixed place of business where massages are administered for pay duly licensed by the City of Portland or the State of Michigan. The term "massage" is defined as a method of treating the external parts of the human body by rubbing, stroking, kneading, tapping, or vibrating with the hand or any instrument.

Master plan means a comprehensive plan including graphic and written proposals adopted by the city 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 that plan or parts thereof.

Medical use of marihuana: The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, as defined under the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 et seq.

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

Mini storage means a building or group of buildings in a controlled access or fenced area that contains varying sizes of individual compartmentalized and controlled access stalls or lockers for the storage of customer's goods or wares which are not used on a daily basis.

Monopole means a support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.

Motel. See *hotel*.

Natural features means and shall include soils, wetlands, woodlots, landmark and specimen trees, floodplains, water bodies, groundwater, topography, vegetative cover, and geologic formations.

Nonconforming building means a building or portion thereof, existing at the effective date of the ordinance from which this chapter is derived or amendments thereto, that does not conform to the setback or height provisions or other provisions of this chapter related to buildings or building placement of the district in which it is located.

Nonconforming lot means a lot with a lot area or lot dimension lawfully existing at the effective date of the ordinance from which this chapter is derived or amendments thereto with less than the minimum lot area or dimension required for the zoning district in which it is located. This includes, but is not limited to minimum area, width or depth requirements.

Nonconforming site means a site that may have conforming uses and buildings but does not meet all of the various site improvement related regulations of this chapter, such as parking, lighting, and other similar requirements.

Nonconforming use means a use which lawfully occupied a building or land on the effective date of the ordinance from which this chapter is derived or amendments thereto that does not conform to the use regulations of the district in which it is located.

Nonresidential district means and shall include the C-1, C-2, C-3, MPUD, CPUD, IPUD, and IND districts.

Nuisance means an offensive, annoying, unpleasant, or obnoxious thing or practice being a cause or source of annoyance.

Nursery, plant, means 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 chapter does not include any temporary space, building or structure used for the sale of fruits, vegetables or harvest and cut Christmas trees.

Occupancy load means the number of individuals normally occupying a building or part thereof or for which the existing facilities have been designed as calculated by the adopted state construction code.

Occupied means being in actual or constructive possession of a structure or land. The term "occupied" includes the term "intended, designed or arranged to be occupied."

Open air business means uses operated for profit substantially in the open air, including, but not limited to:

- (1) Bicycle, utility truck or trailer, boats, or home equipment sale, repair, rental, or storage services;
- (2) Outdoor display and sale of garages, motor homes, manufactured homes, snowmobiles, farm implements, swimming pools, and similar activities; and
- (3) Retail sale of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus,

fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.

Parcel means a tract of land, which can be legally described with certainty and is capable of being located by survey.

Parking lot means an area utilized for the off-street parking of vehicles constructed according to the requirements of this chapter or other city ordinances, built on the surface of the ground.

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

Parking space means a space of definite length and width, exclusive of drives, driveways, aisles or entrances, fully accessible for the storage or parking of permitted vehicles.

Pawn shop means an establishment that receives any article of personal property, or other valuable thing, by way of pledge, pawn, or purchase.

Personal service establishment means a commercial business conducting services that are performed primarily on the premises.

Planned unit development means a development approval under the provisions of this chapter that permit certain flexibility in use, lot dimensions, and other development requirements for certain purposes as defined by the zoning act and this chapter.

Planning commission or commission means the planning commission of the city as designated in Public Act No. 285 of 1931 (MCL 125.31 et seq.).

Poultry means and shall include domestic fowl such as chickens, turkeys, ducks and geese.

Principal use means the primary use of a property.

Private street means an undedicated, privately controlled and maintained right-of-way or other interest in land that provides the means of access to more than two lots or parcels. The term "street"

shall be synonymous with the terms road, avenue, place, way, drive, lane, boulevard, highway or other thoroughfare.

Public service facilities means and 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 means 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.

Recreational vehicle means a vehicle primarily designed and used as a temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle (Public Act No. 96 of 1987 (MCL 125.2301 et seq.)).

Refuse means 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.

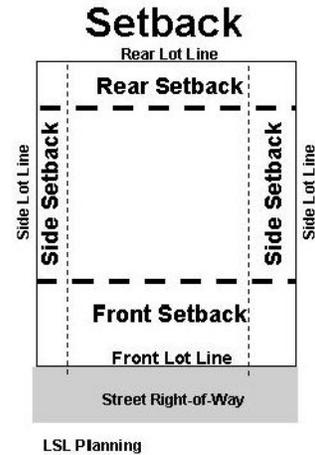
Residential district means the R-1, R-2, R-3, R-4, FP, RPUD and TND PUD zoning districts.

Road authority means the City of Portland, Ionia County Road Commission or Michigan Department of Transportation, having jurisdiction over the roadway.

Roadside stand and market mean the temporary use of property or facilities for the selling of produce.

Rubbish means and includes 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 means the distance required to comply with front, side or rear yard open space provisions of this chapter.



Setback, required, means the distance specified within each zoning district or for each use that is required to comply with front, side or rear setback provisions of this chapter.

Shopping center means three or more commercial establishments that are contiguous and developed under one site plan.

Sign means a device, structure, fixture, or placard designed for the purpose of advertising or identifying a service, establishment, merchandise, or entertainment establishment or otherwise intended or used to advise or inform.

Site condominium development means a development designed to function in a similar manner, or as an alternative, to a platted subdivision. A site condominium development shall generally be considered as equivalent to a platted subdivision for purposes of regulation in this chapter.

Site plan means a plan showing all salient features of a proposed development and adjoining properties, so that it may be evaluated in order to determine whether it meets the provisions of this chapter.

Special land use means a use specified in this chapter as permissible in a specific district only after approval by the planning commission.

Stable, private, means a stable 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.

Story means that part of a building included between the surface of a floor and the surface of the next floor, or if there is no floor above then the ceiling next above, except a basement shall not be considered a story unless it is a story above grade.

- (1) *Story above grade* means any story having its finished floor surface entirely above grade except, that a basement shall be considered as a story above grade when the distance from grade to the finished surface of the floor above the basement is more than six feet for more than 50 percent of the total perimeter or more than 12 feet at any point.
- (2) *Story, half*, means an uppermost story lying under a sloping roof, the usable floor area of which, at a height of four feet above the floor, does not exceed two-thirds of the floor area in the story directly below, and the height above at least 200 square feet of floor space is seven feet.

Street means a public thoroughfare providing the principal means of access to abutting property.

Street, private, means a roadway contained within an easement which is privately owned and maintained and which provides the principal means of access to more than two abutting lots.

Structure means anything constructed or erected and designed for a permanent location on the ground.

Tattoo parlor means an establishment where an indelible mark is made upon the body of another individual by the insertion of a pigment under the skin or by the production of scars or by branding.

Temporary building or use means a structure or use permitted by the city to exist during periods of construction of the main building or principal use, or for special events, which building and/or use is not alone or a part of a temporary

construction building or activities within the scope of section 42-310, pertaining to temporary construction.

Tent means a portable shelter of canvass, coarse cloth, etc., supported by one or more poles, but not including those used solely for recreational purposes.

Travel trailer means a vehicle designed as a travel unit for occupancy as a temporary or seasonal vacation living unit.

Use or used means the purpose for which land or a building is designed, arranged, or intended to be used, or for which land or a building is or may be occupied, either as a principal use or accessory use.

Utility room means a room used primarily for storage, for housing a heating unit, or for laundry purposes.

Variance means a variation or modification of this chapter 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 for dimensional variances or an unnecessary hardship for use variances, in the way of carrying out the strict letter of this chapter.

Vehicle detailing facilities means a building, or portion of a building, the primary purpose of which is that of providing personal service cleaning of the interior and exterior of motor vehicles including washing waxing, buffing and pin stripping.

Vehicle (major) repair facilities means any activity involving the general repair, rebuilding or reconditioning of motor vehicles, engines or trailers; collision service, such as body, frame or fender straightening and repair; overall painting and vehicle rust-proofing; or steam cleaning.

Vehicle (minor) repair facilities means any use whose primary activity involves minor repair and maintenance of passenger vehicles and light trucks and vans, including, but not limited to vehicle detailing, oil change establishments, audio or cellular installation, and auto glass installation and repair, but not including fuel sales.

Vehicle service station means a building or premises to be used for the retail sale of gasoline or other motor fuel for the propulsion of motor vehicles and accessory sales and installation of vehicle accessories, including, but not limited to, tires, batteries, oil, and similar products.

Vehicle wash facilities means a building, or portion of a building, the primary purpose of which is that of washing motor vehicles, either as a self service or automatic process.

Watercourse means 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 means 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

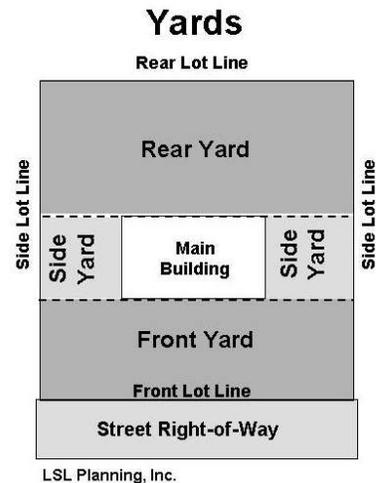
Wireless communication tower means a structure designed and constructed to support one or more antennas used for licensed telecommunications services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services marketed to the general public.

Yard means the open spaces on the same lot with a main building or principal use, unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter, and defined as follow:

- (1) *Front yard* means an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line, or a private road easement used for ingress and egress and the nearest point of the main building.
- (2) *Rear yard* means an open space extending the full width of the lot, the depth of

which is the minimum horizontal distance between the rear lot line. For private road easements the rear yard shall be measured from the easement used for ingress and egress to the nearest point of the main building.

- (3) *Side yard* means 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 closest to the main building. For private road easements, the side yard shall be measured from the nearest easement line used for ingress and egress to the main building.



Zoning Act means the Michigan Zoning Enabling Act, Public Act No. 110 of 2006 (MCL 125.3101 et seq.).

Zoning administrator means the person designated by the city council to administer the provisions of this chapter. (Ord. No. 175J, §§ 2.02—2.27, eff. 9-17-2004; Ord. No. 175L, § 1, eff. 3-1-2005; Ord. No. 175R, § 1, eff. 1-18-2007; Ord. No. 175AA, § 1, eff. 12-16-2010; 175CC, § 1, eff. 1-16-2011)

Secs. 42-7—42-30. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 42-31. Responsibility.

(a) *Basic duties.* The zoning administrator shall have the power to grant certificates of zoning compliance and to make inspections of premises necessary to carry out his duties in the enforcement of this chapter, and to otherwise carry out the duties assigned herein.

(b) *Deputy administrator.* Where the provisions of this chapter authorize or direct the zoning administrator to perform any act or carry out any function, such act or function may also be carried out by a deputy or deputies designated by the city manager.

(c) *Official zoning map.* The zoning administrator or designee shall be responsible for maintaining the official zoning map in accordance with the requirements of article III of this chapter.

(d) *Violations.* The zoning administrator shall order discontinuance of illegal uses of land, buildings, or structures; removal of illegal buildings or structures; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to ensure compliance with, or prevent violations of its provisions.

(Ord. No. 175J, § 15.01, eff. 9-17-2004)

Sec. 42-32. Zoning chapter amendments, initiation.

(a) *Time frame for application submittal.* All applications for amendments to this chapter shall be submitted to the zoning administrator at least 30 days prior to the first consideration by the planning commission.

(b) *Initiation of amendments and application requirements.* Requests for amendments to this chapter may be initiated in writing by the owner of the property requested for rezoning, or his authorized representative. Requests may also be made by the planning commission or the city council.

(c) *Completion of zoning amendment application; boundary survey.* In the case of an amendment requested by a property owner or his authorized representative, the request shall include the following:

(1) Completion of a zoning amendment application as provided by the zoning administrator. An application shall include:

- a. The name and address of the person making the request and all persons having a legal or equitable interest in any land which is requested to be rezoned;
- b. Property description;
- c. In the case of a text amendment, the specific section to be amended and the proposed text change;
- d. If a change in the zoning map is requested, the common address, legal description of the area requested for change, and present and proposed district classifications shall be provided. The applicant shall also indicate by a scaled map, the location of the property requested for rezoning;
- e. The nature of the amendment shall be fully described in writing; and
- f. Payment of all fees as required by the city.

(2) If, in the opinion of the zoning administrator, planning commission, or city council, the information submitted does not provide a clear delineation of the specific area to be rezoned, the zoning administrator, planning commission, or city council may require the applicant to submit a boundary survey of the property in question. The survey shall include a written legal description and drawing of the area to be rezoned. The boundary survey, including legal description and map, shall be completed by a land surveyor licensed by the state.

(Ord. No. 175J, § 15.02, eff. 9-17-2004; Ord. No. 175R, § 8, eff. 1-18-2007)

State law reference—Zoning adoption and enforcement, MCL 125.3401 et seq.

Sec. 42-33. Amendment procedure.

(a) After submission of the application and fee, amendments to this chapter shall be processed after due notice which shall include a public hearing noticed not less than 15 days prior to the meeting and mailing of notice shall be sent to all property owners and occupants within 300 feet of the parcel to be developed, regardless of whether the noticed property or occupants are located in the city. The notice shall include:

- (1) The nature of the request.
- (2) The properties that are the subject of the request, including a listing of all existing street addresses within properties. If there are no addresses, other means of identification may be used.
- (3) Location and time of the hearing.
- (4) Where and when written comments may be received.

(b) The following guidelines shall be used by the planning commission, and may be used by the city council in consideration of amendments to this chapter:

- (1) *Text amendment:*
 - a. The proposed text amendment would clarify the intent of this chapter.
 - b. The proposed text amendment would correct an error in this chapter.
 - c. The proposed text amendment would address changes to the state legislation, recent case law or opinions from the attorney general of the state.
 - d. The proposed text amendment would promote compliance with changes in other city ordinances and county, state or federal regulations.
 - e. In the event the amendment will add a use to a district, that use shall be fully consistent with the character of the range of uses provided for within the district.
 - f. The amendment shall not create incompatible land uses within a zoning district, or between adjacent districts.

- g. The proposed text amendment is supported by the findings of reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements and similar technical items.
- h. As applicable, the proposed change shall be consistent with the city's ability to provide adequate public facilities and services.
- i. The proposed change shall be consistent with the city's desire to protect the public health, safety, and welfare of the community.

(2) *Map amendment (rezoning):* In making its recommendation to the city council, the planning commission shall consider the following criteria:

- a. Whether or not the proposed rezoning is consistent with the goals, policies and future land use map of the city master plan; or, if conditions have changed significantly since the master plan was adopted, the consistency with recent development trends in the area;
- b. Whether the proposed district and the uses allowed are compatible with the site's physical, geological, hydrological and other environmental features. The potential uses allowed in the proposed zoning district shall also be compatible with surrounding uses in terms of land suitability, impacts on the community, density, potential influence on property values and traffic impacts;
- c. Whether, if rezoned, the site is capable of accommodating the uses allowed, considering existing or planned infrastructure including streets, sanitary sewers, storm sewer, water, sidewalks, and street lighting; and
- d. Other factors deemed appropriate by the planning commission.

(c) Upon receipt of a report and summary of hearing comments from the planning commission as provided for in the Zoning Act, the city council may modify the proposed amendment or adopt it as presented by the planning commission. (Ord. No. 175J, § 15.03, eff. 9-17-2004; Ord. No. 175R, § 9, eff. 1-18-2007)

Sec. 42-34. Zoning compliance permits.

(a) Unless otherwise exempted by this chapter, the construction, erection, alteration, expansion, moving, repair, or use of any land, building, or structure shall require receipt of a certificate of zoning compliance. No building permit shall be issued for the construction, erection, alteration, expansion, moving or repair of any building or other structure until a certificate of zoning compliance has been issued. Issuance of the certificate shall indicate that the use and plans for which the permit is requested comply with this chapter.

(b) It shall be unlawful to use or occupy or permit the use or occupancy of any building, structure, or premises, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use as permitted under the terms of this chapter, until a certificate of zoning compliance shall have been issued hereunder by the zoning administrator. The certificate shall state that the building, structure, and lot and use thereof, conforms to the requirements of this chapter.

(c) The zoning administrator shall maintain a record of all certificates of zoning compliance.

(d) Certificates of zoning compliance authorize only the use, arrangement and construction set forth in the application and any appended plans, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter, and is punishable as provided by law. Any change in approved plans shall occur as provided for in this chapter and shall require the issuance of an amended certificate of zoning compliance.

(e) In accordance with other city codes, ordinances and regulations duly adopted by the city council, and in accordance with this chapter, no building shall hereafter be erected, relocated or altered in its exterior or interior dimension or use, and no excavation for any building shall be begun until a building permit has been issued. With respect to this chapter, eligibility for a building permit shall be established upon conformance with the provisions contained herein. This shall apply to all new construction and all major improvements to existing structures. A building permit is required for detached accessory buildings and structures, as provided herein.

(f) No new main building or dwelling subject to the provisions of this chapter shall be occupied, inhabited or used until a certificate of occupancy is issued. Each dwelling unit and main building shall be equipped with adequate water-carried sewage disposal facilities to comply with the city water and sanitary regulations in effect at the time of the erection of the dwelling or main building.

(Ord. No. 175J, § 15.04, eff. 9-17-2004)

Sec. 42-35. Performance guarantee.

(a) As a condition of approval of a site plan, special land use, variance, or other zoning action, the zoning administrator, planning commission, city council, or zoning board of appeals, as appropriate, may require a bond or other financial guarantee of sufficient sum to assure the installation of those features or components of the approved activity or construction which are considered necessary to protect the health, safety and welfare of the public and of users or inhabitants of the proposed development. Such features or components, hereafter referred to as "improvements," may include but shall not be limited to roadways, curbs, landscaping, fences, walls, screens, lighting, drainage facilities, sidewalks, utilities and similar items.

(b) Performance guarantees shall be processed in the following manner:

- (1) The applicant shall prepare an itemized cost estimate of the required improvements, which shall then be reviewed and approved by the zoning administrator.

The amount of the performance guarantee shall be 100 percent of the following costs:

- a. Purchase and/or construction of improvements;
 - b. Installation of improvements;
 - c. Architectural and/or engineering design or related professional costs; and
 - d. A reasonable amount for contingencies, but in no case less than five percent of total costs for subsections (b)(1)a—c of this section.
- (2) The required performance guarantee shall be in the form of an irrevocable bank letter of credit, surety bond, or other form of guarantee acceptable to the party requiring the guarantee.
 - (3) Upon receipt of the required performance guarantee, the zoning administrator shall issue a certificate of zoning compliance for the subject development or activity.
 - (4) The city, upon the written request of the applicant, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvement.
 - (5) When all of the required improvements have been completed, the applicant shall send written notice to the zoning administrator of completion of the improvements. Thereupon, the zoning administrator shall inspect the improvements and either approve, partially approve, or reject the improvements. The zoning administrator shall notify the applicant in writing of the action within 30 days. Where partial approval is granted, the applicant shall be released from liability pursuant to relevant portions of the performance

guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.

- (6) A record of authorized performance guarantees shall be maintained by the zoning administrator.

(Ord. No. 175J, § 15.05, eff. 9-17-2004)

State law reference—Performance guarantee, MCL 125.3505.

Sec. 42-36. Violations.

(a) Any building or structure moved, erected, razed, converted, or used and any use of land or premises that is carried on in violation of this chapter is declared to be a nuisance per se. All buildings, structures, and land uses considered to be in violation of this chapter shall be reported to the zoning administrator.

(b) Any order to correct a violation issued by the zoning administrator shall include a time frame by which the property owner (owner of the property upon which the violation is located) shall have to correct the violation.

- (1) If the violation cannot be corrected within this time, the zoning administrator may, with just cause, extend the correction period for an appropriate amount of time up to a period of six months. The approved extension period shall be at the discretion of the zoning administrator.
- (2) In all cases, a request for extending the period of time for correcting a violation shall be made in writing by the applicant to the zoning administrator no less than 21 days prior to the expiration of the extended time frame as originally approved by the zoning administrator.
- (3) The request shall include specific detail on why the violation occurred, the requested time frame for correcting the violation, and actions to be pursued by the landowner to ensure correction of the violation.
- (4) In the event the zoning administrator determines the violation poses an imminent threat to the health, safety, and welfare of the occupants of the premises

on which the violation is located or to the general public, he may require that immediate measures be taken to correct the violation.

(c) Any person, firm, corporation, or organization who violates, disobeys, omits, or refuses to comply with any provisions of this chapter or lawful order of the zoning administrator, planning commission, zoning board of appeals, or city council issued in pursuance of this chapter shall be responsible for a civil infraction punishable by the sanctions as set forth in this section. Each day that a violation continues may be deemed a separate infraction.

(d) The zoning administrator, the building official, together with law enforcement officers, are authorized officials to issue municipal civil infraction citations and municipal civil infraction violation notices for violation of this chapter.

(e) The sanction for any violation of this chapter which is a municipal civil infraction shall be a civil fine as provided herein, plus any costs, damages, expenses, and other sanctions authorized under chapter 87 of Public Act No. 236 of 1961 (MCL 600.8701 et seq.) and this Code.

(1) Increased civil fines will be imposed for repeated violations that occur within a six-month period. Civil fines for first offenses, repeat first offenses and repeat second offenses will be established from time to time by resolution of the city council.

(2) The city shall also be entitled to equitable relief to abate the violations and to such other relief as may be available to the city pursuant to chapters 83 and 87 of the Michigan Revised Judicature Act of 1961, Public Act No. 236 of 1961 (MCL 600.8301 et seq., 600.8701 et seq.).

(Ord. No. 175J, § 15.06, eff. 9-17-2004)

Sec. 42-37. Stop work order.

(a) *Notice to owner.* Upon notice from the zoning administrator or building official that any use is being conducted or that any work on any building or structure is proceeding contrary to the provisions of this chapter, such work or use shall

be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, to owner's agent, or to the person doing the work and shall state the conditions, if any conditions, under which work or the use will be permitted to resume.

(b) *Unlawful continuance.* Any person who shall continue to work in or about the structure, land or building or use it after having been served with a stop work order, except work that the person is directed to perform to remove a violation, shall be in violation of this chapter.

(Ord. No. 175J, § 15.07, eff. 9-17-2004)

Sec. 42-38. Severability clause.

This chapter and the various chapters, sections and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, section, clause or word is adjudged unconstitutional or invalid for any reason, by any court of competent jurisdiction, such invalidity shall not affect the remaining portions or applications of this chapter which can be given effect without the invalid portion or application; provided, such remaining portions are not determined by the court to be inoperable.

(Ord. No. 175J, § 15.08, eff. 9-17-2004)

Sec. 42-39. Conflicting provisions.

Where a provision of this chapter conflicts with a provision of another ordinance, the strictest provision shall prevail.

(Ord. No. 175J, § 15.09, eff. 9-17-2004)

Sec. 42-40. Savings clause.

(a) This chapter shall not impair or affect any act done, offense committed or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time the ordinance from which this chapter is derived takes effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extent as if this chapter had not been adopted.

(b) Such proceedings may be consummated under and according to this chapter in force at the time such proceedings are or were commenced.

All prosecution, or other actions, pending at the effective date of the ordinance from which this chapter is derived, or offenses or acts committed prior to the effective date of the ordinance from which this chapter is derived, may be continued or instituted under and in accordance with provisions of this chapter in force at the time of such offense.

(Ord. No. 175J, § 15.10, eff. 9-17-2004)

Secs. 42-41—42-68. Reserved.

DIVISION 2. ZONING BOARD OF APPEALS*

Sec. 42-69. Creation and membership.

(a) There is hereby established a zoning board of appeals, which shall perform its duties and exercise its powers as provided in the Zoning Act.

(b) The board shall consist of five members appointed by the council. Each member shall hold office for a three-year term. One member may be a member of the planning commission and one member may be a member of the city council who each shall serve for the same terms as provided on the commission or council, as applicable. A successor shall be appointed not more than one month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term.

(c) Alternates.

- (1) The council may appoint up to two alternate members for the same term as regular members of the board.
- (2) An alternate member may be called to serve in place of a regular member of the board in the absence of a regular member or for the purpose of reaching a decision in a case where the regular member has abstained for reasons of conflict of interest.
- (3) The alternate member having been called shall serve on the board until a final decision is made on the application for which the member was called.

*State law reference—Zoning board of appeals, MCL 125.3601 et seq.

- (4) When serving as a member, an alternate member shall have the same voting rights as a regular member of the board.

(d) Members of the board may be removed by the city council for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing, if requested by the member to be removed. A member shall disqualify himself from a vote in which he has a conflict of interest. Failure of a member to disqualify himself from a vote in which he has a conflict of interest constitutes malfeasance in office.

(Ord. No. 175J, § 14.01, eff. 9-17-2004)

Sec. 42-70. Meetings and procedures.

(a) All meetings of the zoning board of appeals shall be held at the call of the chairperson or at any time as the board may determine.

(b) Three members of the board shall constitute a quorum for the conduct of its business.

(c) Applications submitted to the board shall consist of the following, as applicable:

- (1) An application form, as provided by the city;
- (2) A scaled drawing, if applicable, with sufficient detail to indicate the nature and necessity of the request; and
- (3) Payment of a fee, as may be prescribed from time to time by the council, by resolution. The fee shall be paid to the city treasurer at the time of the filing of the application.

The zoning administrator or the board in furtherance of decisions related to the application may request other such materials as may be deemed necessary.

(d) The board may subpoena and require the attendance of witnesses, administer oaths, and compel testimony and the production of books, papers, files and other evidence pertinent to the matters before it.

(Ord. No. 175J, § 14.02, eff. 9-17-2004)

Sec. 42-71. Jurisdiction, powers, and duties.

(a) *Appeals.*

- (1) An appeal may be taken from any person or any governmental department affected or aggrieved, and review any order, requirement, decision or determination where it is alleged by the appellant that there is error or misinterpretation in any order, requirement, decision, grant or refusal made by the zoning administrator or other administrative official or body charged with the enforcement of any article of this chapter.
- (2) An appeal shall be taken and filed with the board within 14 days of the decision being appealed. The filing shall specify the grounds of the appeal. The appeal shall be transmitted to the board together with all the papers constituting the record upon which the action being appealed is taken.
- (3) An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board, after notice of appeal has been filed, that, by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, the proceedings shall not be stayed other than by a restraining order, which may be granted by a court of record.
- (4) The board shall select a reasonable time and place for hearing the appeal, give due notice thereof to the parties, and render a decision on the appeal without unreasonable delay. A person may appear and testify at the hearing, whether in person or by duly authorized agent or attorney.
- (5) In deciding the appeal, the board shall be limited to determining whether or not the decision that was made was done so using the proper standards and guidelines in this chapter. The decision of the board is limited to the information that was avail-

able to the administrative official or body who made the decision initially. Additional testimony is not appropriate.

- (6) If a determination is made that the administrative official or body making the decision did so improperly, the board may reverse or affirm, wholly or partly, or may modify, the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the administrative official or body from whom the appeal was taken.
- (7) The board may hear and decide appeals from the decisions of the zoning administrator pertaining to interpretations of the zoning map to determine the precise location of boundary lines between zoning districts. In making its determination of the boundary lines, the board shall be governed by the rules of this section and the provisions of section 42-105.

(b) *Variances.* The board, after public hearing shall have the power to decide applications for variances filed as provided in this article.

- (1) *Nonuse variance.* A nonuse variance may be allowed by the zoning board of appeals only in cases where there is evidence of practical difficulty in the official record of the hearing and that all of the following conditions are met:
 - a. That there are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district. Exceptional or extraordinary circumstances or conditions may include:
 1. Exceptional narrowness, shallowness or shape of a specific property on the effective date of the ordinance from which this chapter is derived or amendment;
 2. By reason of exceptional topographic or environmental con-

- ditions or other extraordinary situation on the land, building or structure; or
3. By reason of the use or development of the property immediately adjoining the property in question.
 - b. That the variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility that compliance with this chapter may prove to be more expensive or otherwise inconvenient shall not be part of the consideration of the board.
 - c. The variance will not be detrimental to adjacent property and the surrounding neighborhood.
 - d. The variance will not materially impair the intent and purpose of this chapter or the provision from which the variance is requested.
 - e. That the immediate practical difficulty causing the need for the variance request was not created by the applicant.
- (2) *Use variances.* Use variances are prohibited.
 - (3) *Planning commission, opinion.* Prior to reaching a decision on a request for a use variance, the zoning board of appeals may request that the planning commission, upon presentation of the application by the applicant, forward an opinion to the zoning board of appeals. If the opinion is requested, it shall be limited to the planning commission's review of the effect of the proposal on the existing or intended character of the neighborhood and the ability of the property owner to use the property for a use already permitted under the existing zoning classification. The opinion of the planning commission shall be advisory only.
- (c) *Interpretations.*
 - (1) *Text.* The board may hear and decide upon requests for the interpretation of the provisions of this chapter.
 - a. Text interpretations shall be narrow and address only the situation to be interpreted, be based on a thorough reading of this chapter, and not have the effect of amending this chapter.
 - b. Interpretations shall give weight to practical interpretations by the zoning administrator and other administrative officials if applied consistently over a long period of time.
 - c. Records shall be kept of all interpretations.
 - d. Where the intent of this chapter is unclear and the facts cannot be read to support only one interpretation, the benefit of doubt shall go to the property owner.
 - (2) *Zoning map.* Where due to the scale, lack of detail, illegibility, or physical or natural features existing on the ground are at variance with those shown on the zoning map, or in other circumstances not covered by section 42-105, the zoning board of appeals, upon written application or upon its own motion, shall interpret the district boundaries.
 - (3) *Generally.* Nothing contained in this section shall be construed to give or grant to the board the power or authority to alter or change this chapter or the zoning map. (Ord. No. 175J, § 14.03, eff. 9-17-2004; Ord. No. 175R, § 5, eff. 1-18-2007)
- Sec. 42-72. Public hearings, voting, and decisions.**
- (a) *Hearings.* Upon receipt of a written request seeking an interpretation of the zoning ordinance or an appeal of an administrative decision, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the city and shall be sent to the person requesting the interpretation not less than 15 days before the public hearing. In

addition, if the request for an interpretation or appeal of an administrative decision involves a specific parcel, written notice stating the nature of the interpretation request and the time, date, and place of the public hearing on the interpretation request shall be sent by first class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the property in question and to the occupants of all structures within 300 feet of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used.

(b) *Voting requirements.* Except for administrative matters, such as approval of minutes, the concurring vote of at least three members of the board is necessary to decide any matter upon which the board is authorized by this article to render a decision, except that the concurring vote of at least four members of the board is necessary to grant a use variance as permitted in this article.

(c) *Decisions.*

- (1) In making any decision provided for in this article, the board may attach thereto such conditions regarding the location, character and other features of the application as it may deem reasonable in furtherance of the intent and spirit of this chapter and the protection of the public interest or as otherwise permitted by law.
- (2) Any decision of the board shall not become final until minutes of the meeting at which final action on the request was taken are officially approved and adopted by the board, unless the board shall find the immediate effect of such order is necessary for the preservation of property or personal rights and shall so certify on the record.
- (3) The decision of the board shall be final; however, any person having an interest affected by any such decision shall have the right of appeal to the circuit court on questions of law and fact.

- (4) Time limitations on variances:
 - a. Any approval given by the board under which the premises are not used or work is not started within one year, or when the use or work has been abandoned for a period of six months, shall lapse and cease to be in effect.
 - b. The holder of the variance may, at no cost, request up to one three month extension of the variance from the zoning board of appeals, if applied for in writing prior to the expiration of the variance approval.
 - c. The zoning board of appeals may only grant an extension when the original circumstances authorizing the variance have not changed and that the circumstances creating the need for the extension were beyond the control of the applicant.
- (5) No application which has been denied wholly or in part by the board shall be resubmitted for a period of one year from the date of the last denial, unless permitted by the zoning administrator after a demonstration by the applicant of a substantial change of circumstances from the previous application.

(Ord. No. 175J, § 14.04, eff. 9-17-2004; Ord. No. 175R, § 6, eff. 1-18-2007)

Secs. 42-73—42-102. Reserved.

ARTICLE III. DISTRICT REGULATIONS

DIVISION 1. GENERALLY

Sec. 42-103. Establishment of districts.

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

- R-1 Low density residential district
- R-2 Traditional residential district
- R-3 Multifamily district

R-4	Manufactured home community district
C-1	Central business district
C-2	General business district
C-3	Highway commercial district
PUD	Planned unit development districts
RPUD	Residential PUD
TND PUD	Traditional neighborhood development PUD
MPUD	Mixed use PUD
CPUD	Commercial PUD
IPUD	Industrial PUD
IND	Industrial district
FP	Floodplain district

(Ord. No. 175J, § 4.01, eff. 9-17-2004)

Sec. 42-104. Official zoning districts map.

The boundaries of the zoning districts enumerated in section 42-103 are hereby established as shown on the "Official Zoning Map, City of Portland," which accompanies this text; this map with all notations, references and other information shown thereon is hereby adopted by reference as a part of this chapter and is on file in the office of the city clerk. One copy of the official zoning map shall be maintained and kept up to date by the city clerk, accessible to the public, and the final authority as to the current zoning status of all property in the city.

(Ord. No. 175J, § 4.02, eff. 9-17-2004)

Sec. 42-105. Interpretation of district boundaries.

If because of the scale, lack of details, or illegibility of the official zoning map, there is any uncertainty, contradiction, or conflict regarding the intended location of any district boundaries shown on the map, interpretation concerning the exact location of district boundary lines shall be determined by the zoning board of appeals upon written application. In arriving at a decision, the board shall apply the following standards:

- (1) The boundaries of zoning districts are intended to follow centerlines of alleys, streets, other rights-of-way, or lot lines, or to be parallel or perpendicular thereto,

unless the district boundary lines are otherwise clearly indicated on the official zoning map;

- (2) Where district boundaries are indicated to approximately follow lot of record lines, those lines shall be construed to be boundaries;
- (3) Unless shown by dimension on the official zoning map, where a district boundary divides a lot of record the location of the boundary shall be determined by use of the scale shown on the map;
- (4) Where district boundaries are indicated as approximately following city limits, they shall be construed as following the city limits;
- (5) A boundary indicated as following a shoreline shall be construed as following that shoreline, and in the event of a naturally occurring change in a shoreline, the boundary shall be construed as following the actual shoreline. A boundary indicated as following the centerline of a stream, river, or other body of water shall be construed as following that centerline;
- (6) If a district boundary is indicated as being parallel to, or an extension of a feature described in this section it shall be so construed; and
- (7) Where physical or natural features existing on the ground do not coincide with those shown on the official zoning map or in other circumstances not covered in this section the zoning board of appeals shall determine the district boundaries.

(Ord. No. 175J, § 4.03, eff. 9-17-2004)

Sec. 42-106. Zoning of vacated areas.

If a street, alley or other public right-of-way within the city is vacated by official governmental action and if the lands within the boundaries thereof attach to and become part of lands adjoining the street, alley or public right-of-way, the lands involved shall automatically acquire and be

subject to the same zoning regulations applicable to adjoining lands, and shall be governed by this chapter.
(Ord. No. 175J, § 4.04, eff. 9-17-2004)

Sec. 42-107. Zoning of filled land; use of waters.

If earthen fill is placed in any lake or stream, the created land shall automatically and without further governmental action acquire and be subject to the same zoning regulations applicable for lands to which the land attaches or is adjacent; and the created land shall be used for those purposes as are permitted under this chapter for the adjoining lands.
(Ord. No. 175J, § 4.05, eff. 9-17-2004)

Sec. 42-108. Zoning classification of annexed areas.

Any area which is annexed to the city shall be considered to be in the R-1 district. The city council shall, promptly after the passage of an ordinance of annexation, request the planning

commission to make a recommendation on the appropriate zoning classification of the annexed area. The planning commission shall initiate amendment procedures as provided for in the Zoning Act if they determine that the annexed area should be in a district other than R-1.
(Ord. No. 175J, § 4.06, eff. 9-17-2004)

Secs. 42-109—42-129. Reserved.

DIVISION 2. R-1, R-2, AND R-3
RESIDENTIAL DISTRICTS

Sec. 42-130. Intent and purpose.

The regulations of these districts are intended to encourage a suitable environment for a variety of residential densities, and compatible supportive recreational, institutional, and educational uses. The intent of the districts is to protect residential areas from the encroachment of uses that are not appropriate to a residential environment.
(Ord. No. 175J, § 5.01, eff. 9-17-2004)

Sec. 42-131. Table of uses.

The following abbreviations apply to the table of uses for the R-1, low density residential; R-2, traditional residential, and R-3, multiple-family residential districts:

P: Permitted use: Land and/or buildings in this district may be used for the purposes listed by right.

SLU: Special land use: The following uses may be permitted by obtaining special land use approval when all applicable standards cited in article V of this chapter are met.

NP: Not permitted: The use is not permitted in the district.

PUD: Planned unit development: The use is permitted in the district only as a planned unit development.

<i>Table of Uses</i>		<i>R-1</i>	<i>R-2</i>	<i>R-3</i>
Accessory uses	Accessory buildings and uses as defined in section 42-6 and subject to section 42-298.	P	P	P
	Home occupation subject to section 42-302.	P	P	P
	Family day care home	P	P	P
	Accessory apartment (accessory only to one-family detached dwelling units)	SLU	SLU	SLU
	Bed and breakfast establishment	NP	SLU	NP

<i>Table of Uses</i>		<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	
Residential uses	Adult foster care family home provided the facility shall not be within 1,500 feet of another state licensed residential facility.	P	P	P	
	Foster family home or foster family group home provided the facility not be within 1,500 feet of another state licensed residential facility.	P	P	P	
	Adult foster care small and large group home	SLU	SLU	SLU	
	Multiple-family dwelling	3 family	NP	SLU	P
		4 family	NP	SLU	P
		More than 4 units	NP	SLU	P
		Elderly housing	NP	NP	SLU
	Two-family dwelling	NP	SLU	P	
	One-family detached dwelling	P	P	P	
	Traditional neighborhood development (See section 42-215)	PUD	PUD	PUD	
Open space neighborhood development (See section 42-219)	PUD	PUD	NP		
Institutional uses	College or university	SLU	SLU	SLU	
	Convalescent or nursing home	SLU	SLU	SLU	
	Elementary, middle and high school (private)	SLU	SLU	SLU	
	Cemetery	P	P	P	
	Place of religious worship	SLU	SLU	SLU	
	Hospital	SLU	SLU	SLU	
Nonresidential uses	Golf course or country club	SLU	NP	SLU	
	Agricultural operation including general farming, truck farming, fruit orchard, nursery, greenhouses, and usual farm buildings but excluding intensive livestock operation	P	NP	NP	
	Horse riding stable, horse breeding stable	SLU	NP	NP	
	Municipal and public service activities	SLU	SLU	SLU	
	Park, playground and community center	P	P	P	
	Utility substation, transmission line and switching station	SLU	SLU	SLU	
	Wireless communication tower	Under 75 feet in height wholly owned and used by a federally licensed amateur radio station operator.	P	P	P
		Located on city-owned or controlled property	P	P	P
	Wireless communications antenna only when attached to a lawful existing telecommunications tower, water tower, or other structure	P	P	P	

(Ord. No. 175J, § 5.02, eff. 9-17-2004; Ord. No. 175L, § 2, eff. 3-1-2005)

Sec. 42-132. Development requirements.

(a) *Application and review requirements.* The following chart provides for application and review requirements for the R-1, R-2 and R-3 districts. No application shall be accepted unless in compliance with all of the following requirements, unless specifically waived by the zoning officer. Note: Single-family homes must provide a plot plan, not a site plan.

<i>Review Process</i>	<i>Applications</i>	
	<i>Requirements</i>	<i>Submission Deadline</i>
Site plan review (article VI of this chapter)	Completed application form	15 days prior to the planning commission meeting, unless submitted with a special land use application
	Application fee/escrow fee	
	Proof of ownership or interest in property	
	Legal description of property	
	Narrative addressing review standards of section 42-379	
Complete site plans in accordance with section 42-375		
Special land uses (article V of this chapter)	Same as site plan review	30 days prior to the planning commission meeting
	Narrative addressing review standards of section 42-339 and applicable specific standards of section 42-341.	
Rezoning	Completed application form	30 days prior to the planning commission meeting
	Application fee/escrow fee	
	Property map showing property to be rezoned and surrounding properties and current zoning	
	Proof of ownership or interest in property	
	Legal description of property	

(b) Lot, yard, and building requirements.

<i>Requirement</i>	<i>R-1</i>	<i>R-2 and R-3</i>	<i>R-3 Multiple-Family Dwellings or Developments of Over 8 Units</i>	
Minimum lot requirements	Area	10,850 sq. ft.	21,780 sq. ft. + 3,000 sq. ft. for each unit over 4 Maximum 20 units per building, unless otherwise provided in this chapter	
	Width	80 ft.	120 ft.	
	Width to depth ratio	1:3	65 ft.	120 ft.
	Depth	135 ft.	70 ft.	
	Maximum Coverage	35%	80 ft.	
Minimum setback requirements	Front	25 ft.	30 ft.	
	Side	One side	8 ft.	30 ft. each side
		Total 2 sides	22 ft.	
	Rear	30 ft.	30 ft.	40 ft.
	Maximum height	35 ft.	35 ft.	35 ft.
Building requirements	Dwelling unit floor area	1,040 sq. ft./unit	850 sq. ft./unit	
			1 bedroom 650 sq. ft.	
			2 bedrooms 750 sq. ft.	
			3 bedrooms 900 sq. ft.	
			Over 3 bedrooms + 100 sq. ft. each over 3	

(c) *General parking requirements for R-1, R-2, and R-3 districts.*

(1) *Garages.* Attached garages for single-family dwellings are recommended to be offset behind the line of main living area of the dwelling. In the case where the garage door projects in front of the living area of the dwelling, the garage shall have architectural accents (e.g., shadowboxing, pergola, windows, decorative hinges, accent lighting, multiple garage doors, etc.) to prevent visual monotony. Garage doors shall not comprise more than 50 percent of the front width of any structure.

(2) *Location of parking.*

a. *One-family detached and two-family dwellings.* The off-street parking facilities required for one-family and two-family dwellings shall be located on the same lot as the building they are intended to serve. Parking is limited to the garage and driveway only. One additional parking lane may be allowed with zoning administrator approval.

b. *Multiple-family dwellings and non-residential uses.* The off-street parking facilities required for multiple-family dwellings and nonresidential uses shall not be located in the required front yard area.

c. *Multiple-family development, over four units.* Parking areas for a multiple-family development of over four units located in the side and rear yard setback areas adjacent to a residential district or use shall be a minimum of 30 feet of which 15 feet nearest the respective property line shall be developed as a buffer strip for the entire length of the parking area. The required buffer strip shall incorporate a minimum six-foot high vegetative screen. In addition to the vegetative screen a four-foot wall may be required by the planning commission.

(3) *Number of required parking spaces.* The amount of required off-street parking spaces for individual uses shall be determined in accordance with the following table and shall meet the applicable requirements of article VII of this chapter.

<i>Use</i>	<i>Parking Requirement Spaces Per Unit of Measurement</i>
<i>Residential</i>	
Bed and breakfast establishment	2 plus 1 per guest room
One-family detached dwellings, two-family dwellings, multiple-family dwellings	2 per dwelling unit
Family child day care homes	1 per each 3 children computed on the basis of the licensing limits of the facility
Accessory apartments	1 per dwelling unit
Adult foster care family homes, adult foster care small and large group home	1 per each 3 beds or 2 rooms, whichever is less, plus 1 per on duty shift staff
<i>Nonresidential</i>	
Colleges and universities	1 space per every 3 students or the amount required for auditorium or place of assembly, whichever is greater

<i>Use</i>	<i>Parking Requirement Spaces Per Unit of Measurement</i>
Convalescent homes, nursing homes	1 per each 3 beds or 2 rooms, plus 10 spaces marked for visitors
Auditoriums or places of assembly, as included in uses permitted in the residential district	1 per each 3 seats
Cemeteries	2 spaces plus 1 space for each 400 sq. ft. of UFA for office spaces, plus that required for a caretaker's residence
Family day care	1 per each 3 clients computed on the basis of the greater number of clients on site at a given time in addition to those required for the residence
Elementary and secondary schools (private)	4 per classroom or amount required for the auditorium or place of assembly, whichever is greater; separate areas for student drop off and pickup areas for buses must be provided
Golf courses or country clubs	2 per each hole for a par 3 course; 6 per hole for other courses plus those required for accessory uses as noted in the applicable districts
High schools (private)	1 space per 5 students or the amount required for the auditorium or place of assembly, whichever is greater; separate areas for student drop off and pickup areas for buses must be provided
Horse riding stables, horse breeding stables	1 per each 2 stalls; parking spaces shall be sized to accommodate vehicles plus trailers
Hospitals	2 per each in patient bed plus 1 per 150 sq. ft. UFA for offices and administrative uses, plus required out patient parking
Municipal and public service activities	1 per each 300 sq. ft. GFA, not including parking areas for municipal vehicles (police cars, public works vehicles, etc.), plus spaces required for assembly areas
Parks, playgrounds and community centers	10 per each athletic field plus 1 per each 10 sq. ft. of indoor or outdoor play area
Places of religious worship	2 per each 5 seats for capacities up to 2,500 persons; for capacities 2,500 persons or greater: 2 per each 7 seats. Based on the maximum seating capacity of the main place of assembly.

(Ord. No. 175J, § 5.03, eff. 9-17-2004; Ord. No. 175K, § 1, eff. 3-1-2005; Ord. No. 175O, §§ 1, 2, eff. 6-15-2006)

Secs. 42-133—42-162. Reserved.

DIVISION 3. R-4 MANUFACTURED HOME
COMMUNITY DISTRICT

Sec. 42-163. Intent and purpose.

The purpose of this district is to allow for the establishment of manufactured home communi-

ties and related accessory uses. A manufactured home community shall comply with all applicable procedures and requirements of the mobile home commission act, Public Act No. 96 of 1987 (MCL 125.2301 et seq.), and the Michigan Administrative Code. (Ord. No. 175J, § 6.01, eff. 9-17-2004)

Sec. 42-164. Table of uses.

The following abbreviations apply to the table of uses for the R-4 district:

P: Permitted use: Land and/or buildings in this district may be used for the purposes listed by right.

SLU: Special land use: The following uses may be permitted by obtaining special land use approval when all applicable standards cited in article V of this chapter are met.

<i>Table of Uses</i>	<i>R-4</i>
Accessory buildings and uses as defined in section 42-6 and subject to section 42-298	P
Cemeteries	P
Convalescent or nursing home	SLU
Elementary and secondary schools	SLU
Home occupations subject to section 42-302	P
Manufactured home community	P
Parks, playgrounds and community centers	P
Places of religious worship	SLU
Utility substations, transmission lines and switching stations	SLU
Wireless communication towers when proposed tower is within the height limitations for the zoning district	SLU
Wireless communications antenna when attached to a lawful existing telecommunications tower, water tower, or other structure	P

(Ord. No. 175J, § 6.02, eff. 9-17-2004)

Sec. 42-165. Development requirements.

(a) *Application and review requirements.* Application and review requirements for the R-4 district shall be for site plan review. No application shall be accepted unless in compliance with all of the following requirements, unless specifically waived by the zoning officer.

<i>Review Process</i>	<i>Applications</i>	
	<i>Requirements</i>	<i>Submission Deadline</i>
Site plan review (article VI of this chapter)	Completed application form	15 days prior to the planning commission meeting, unless submitted with a special land use application
	Application fee/escrow fee	
	Proof of ownership or interest in property	
	Legal description of property	
	Narrative addressing review standards of section 42-379	
	Complete site plans in accordance with section 42-375	
Special land uses (article V of this chapter)	Same as site plan review	30 days prior to the planning commission meeting
	Narrative addressing review standards of section 42-339 and applicable specific standards of section 42-341	
Rezoning	Completed application form	30 days prior to the planning commission meeting
	Application fee/escrow fee	
	Property map showing property to be rezoned and surrounding properties and current zoning	
	Proof of ownership or interest in properties	
	Legal description of properties	

(b) *Lot, yard, and building requirements.*

<i>Regulation</i>		<i>Individual Manufactured Home Sites</i>
Manufactured home site	Area/dwelling unit	5,000 sq. ft.
	Width (ft.)	40 ft.
Minimum setbacks	Front yard	50 ft. for the park, 5 ft. for individual sites
	Side yard (1/total of 2)	50 ft. for the park, 10/30 for individual sites
	Rear yard	50 ft. for the park, 15 ft. for individual sites
Building requirements	Maximum building height (stories/ft.)	2/35 for community buildings and similar uses; 1/15 for dwellings and all other buildings
	Minimum floor area per dwelling unit	600 sq. ft.

(c) *Parking requirements.*

(1) *Location of parking.*

- a. *Manufactured home community.* The off-street parking facilities required for a single home site shall be located on the same lot as the building they are intended to serve. Two spaces per unit shall be provided. Parking is limited to the garage/carport and driveway only. One parking space per every five lots shall be provided for visitors, evenly distributed throughout the development.

b. *Nonresidential uses.* The off-street parking facilities required for non-residential uses shall not be located in the required front yard area. The respective side and rear yard setback common to an adjacent residential district or use shall be a minimum of 30 feet of which 15 feet nearest the respective property line shall be developed as a buffer strip. The buffer strip shall extend the entire depth of the side of the lot in the case of the side yard parking adjoining the residential area, or the width of the rear of the lot in the case of rear yard parking adjoining the residential area. The required buffer strip shall incorporate a minimum six-foot high vertical screen.

(2) *Amount of required parking spaces.* The amount of required off-street parking spaces for individual uses shall be determined in accordance with the following table and shall meet the dimensional requirements of article VII of this chapter.

<i>Use</i>	<i>Parking Requirement Spaces Per Unit of Measurement</i>
Residential	
One-family detached dwelling	2 per dwelling unit
Elementary and middle school	4 per classroom or amount required for the auditorium or place of assembly, whichever is greater; separate areas for student drop off and pickup areas for buses must be provided
Golf course or country club	2 per each hole for a par 3 course; 6 per hole for other courses plus those required for accessory uses
High school, college and university	8 per classroom or amount required for the auditorium or place of assembly, whichever is greater; separate areas for student drop off and pickup areas for buses must be provided
Manufactured home community	2 spaces per manufactured housing pad plus 1 space per each 5 pads for use of visitors plus that required for office area
Municipal and public service activities	1 per each 300 sq. ft. GFA, not including parking areas for municipal vehicles (police cars, public works vehicles, etc.), plus spaces required for assembly areas
Park, playground and community center	10 per each athletic field plus 1 per each 10 sq. ft. of indoor or outdoor play area
Place of religious worship	2 per each 5 seats based on the maximum seating capacity of the main place of assembly up to 2,500 persons

(Ord. No. 175J, § 6.03, eff. 9-17-2004)

Secs. 42-166—42-183. Reserved.

DIVISION 4. C-1, C-2, C-3 and C-4
COMMERCIAL DISTRICTS

Sec. 42-184. Intent and purpose.

(a) The C-1 business district is intended to support a traditional downtown main-street atmosphere. District uses are intended to be primarily specialty retail uses with complementary, small-scale service businesses. The C-1 central business commercial district is intended to promote the consolidation of commercial activities in the existing town center by providing for a variety of retail, office, restaurant and entertainment activities within the district. The purpose of this district is to encourage and promote the business use of existing residential buildings within the district and the development and expansion of the town center to serve the needs of the surrounding area. The central business area of the city is viewed as the older, traditional center of the city, and is characterized by smaller lot sizes, more intense land uses, mixed land uses and higher percentages of lot coverage. This area permits the integration of business activity, governmental functions, services and residential land uses.

(b) The C-2, general business commercial district is intended primarily for uses emphasizing community shopping needs for the citizens of the city which are of a higher intensity than those found in a traditional downtown. Screening, landscaping and site design will be strongly considered when sites are developed to ensure they mesh well with adjacent residential uses.

(c) The C-3 commercial district is intended to serve as a convenience center for the traveling public. Managing access to individual properties will receive strong consideration during the review of individual sites, especially along the Grand River Corridor. The use of combined drives, service drives, and well planned access points will be stressed. Efforts will be made to discourage the placement of loading areas, outside storage and other unattractive features in areas clearly visible from the roadway or from neighboring residential uses. The C-3 district is further intended to provide for uses, which, due to either size or nature, are not well suited for locations within the C-1 or C-2 districts.

(d) The C-4 Grand River Avenue Corridor Overlay District is intended as an overlay district to establish development standards along the Grand River Avenue corridor east of Cutler Road that are consistent with the city's vision for the development of a large tract of vacant city property and the existing uses in the area. Managing access to individual properties along this corridor will be a strong consideration during the review of individual sites. The use of combined drives, service drives, and well planned access points will be stressed. To preserve community identity and be a good neighbor to existing residential uses, the city will make efforts to discourage the placement of loading areas, dumpsters and other unattractive features in areas clearly visible from the highway or adjacent roadway or from neighboring residential uses.

(Ord. No. 175J, § 7.01, eff. 9-17-2004; Ord. No. 175X, § 1, eff. 3-11-2010)

Sec. 42-185. Table of uses.

The following abbreviations apply to the table of uses:

P: Permitted use: Land and/or buildings in this district may be used for the purposes listed by right.

SLU: Special land use: The following uses may be permitted by obtaining special land use approval when all applicable standards cited in article V of this chapter are met.

NP: Not permitted: The use is not permitted in the district.

<i>Table of Uses</i>	<i>C-1</i>	<i>C-2</i>	<i>C-3</i>
Accessory apartments as part of a business use	P	SLU	NP

<i>Table of Uses</i>	<i>C-1</i>	<i>C-2</i>	<i>C-3</i>
Accessory buildings and uses as defined in section 42-6 and subject to section 42-298	P	P	P
Art studio/craft shop	P	P	P
Bank or other financial institution without drive through facility	P	P	P
Banquet hall and/or conference center	SLU	SLU	P
Bus passenger station	NP	SLU	P
Catering establishment	P	P	P
Churches	P	P	P
College or university	SLU	SLU	SLU
Commercial mini-storage	NP	NP	SLU
Contractor's office (no outdoor storage)	P	P	P
Convalescent or nursing home	NP	SLU	SLU
Day care center	SLU	SLU	SLU
Drive through facility other than a restaurant (e.g., bank, credit union, pharmacy)	SLU	SLU	SLU
Elderly housing	NP	SLU	SLU
Elementary, middle, and high school (private)	SLU	SLU	SLU
Fraternal or social club or lodge	SLU	P	P
Full-service mortuary or funeral home	P	P	P
Health or exercise club	P	P	P
Hospital	SLU	SLU	SLU
Hotel	SLU	P	P
Indoor theatre	P	P	P
Kennel, commercial	NP	P	P
Laundromat	P	P	P
Massage Establishment	P	P	P
Medical office, including clinic	P	P	P
Motor freight transportation/trucking terminal	NP	NP	SLU
Municipal and public service activities	SLU	SLU	SLU
Open air business	NP	NP	P
Pawnshop	NP	SLU	P
Personal service establishment (e.g., salon, tailor, dry cleaning drop-off site, etc.)	P	P	P
Professional offices and professional services	P	P	P
Recreation facility, indoor (e.g., arcades, bowling, billiards)	SLU	SLU	SLU
Recreation facility, outdoor (e.g., mini-golf, batting cages)	SLU	SLU	SLU
Restaurant	with drive-through facility	NP	NP
	without drive-through facility	P	P
Retail garden and landscape supply stores with up to 2,000 square feet of outdoor product storage	P	P	P
Retail building supplies and equipment stores with outdoor storage	NP	P	P
Retail establishment	P	P	P
Tattoo parlor	NP	P	P
Tavern permitting dancing, live entertainment or consumption of alcoholic liquors on premises except adult uses	P	P	NP
Truck stop	NP	NP	P

<i>Table of Uses</i>	<i>C-1</i>	<i>C-2</i>	<i>C-3</i>
Truck wash	NP	NP	SLU
Utility substation, transmission line and switching station	SLU	SLU	SLU
Vehicle repair	NP	SLU	P
Vehicle sales	NP	SLU	P
Vehicle service (including retail fuel sales)	NP	SLU	P
Vehicle wash facility	NP	SLU	P
Vehicle detailing facility	NP	P	P
Video rental and sales (accept that video rentals are permitted as an accessory use)	NP	P	P
Wireless communication tower when proposed tower is within the height limitations for the zoning district	SLU	SLU	SLU
Wireless communications antenna when attached to a lawful existing telecommunications tower, water tower, or other structure	P	P	P

(Ord. No. 175J, § 7.02, eff. 9-17-2004; Ord. No. 175L, § 3, eff. 3-1-2005; Ord. No. 175 AA, § 3, eff. 12-16-2010)

Sec. 42-186. Development requirements.

(a) *Application and review requirements.* The following chart provides for application and review requirements for the C-1, C-2 and C-3 districts. No application shall be accepted unless in compliance with all of the following requirements, unless specifically waived by the zoning officer.

<i>Review Process</i>	<i>Applications</i>		<i>Review Requirements</i>
	<i>Requirements</i>	<i>Submission</i>	
Site plan review (article VI of this chapter)	Completed application form	15 days prior to the planning commission meeting	Permitted uses—Administrative review (except site condominium developments) Site condominiums - site plan review, see section 42-309 for site condominium requirements and procedures
	Application fee/escrow fee		
	Legal description of property		
	Narrative addressing review standards of section 42-379		
	Complete site plans in accordance with section 42-375		
Special land uses	Same as site plan review	30 days prior to the planning commission meeting	See article V of this chapter
	Narrative addressing review standards of section 42-339 and applicable specific standards of section 42-341		

<i>Review Process</i>	<i>Applications</i>		<i>Review Requirements</i>
	<i>Requirements</i>	<i>Submission</i>	
Rezoning	Completed application form	30 days prior to the planning commission meeting	See article II of this chapter
	Application fee/escrow fee		
	Property map showing property to be rezoned and surrounding properties and current zoning		
	Proof of ownership or interest in properties		
	Legal description of properties		

(b) *Lot, yard, and building requirements.*

<i>Requirement</i>		<i>C-1 Central Business</i>	<i>C-2 General Business</i>	<i>C-3 Highway Commercial</i>	
Lot requirements	Width	None	80 ft.	120 ft.	
	Depth	None	120 ft.	180 ft.	
	Width-to-depth ratio	1:3			
	Maximum coverage	90%	50%	60%	
Setback requirements	Front	Must align with other structures	25 ft.	50 ft.	
	Side	One side	0 ft.	10 ft. (50 if adj. to res.)	30 ft. each side
		Total 2 sides	0 ft.	20 ft.	
	Rear	0 ft.	20 ft.	30 ft.	
	Maximum setback	NA	40 ft.	75 ft.	
Building requirements	Maximum height	50 ft.	2½ stories	2½ stories	
	Minimum height	35 ft. or match neighboring buildings	NA	NA	

(c) *Parking requirements.* The amount of required off-street parking spaces for individual uses shall be determined in accordance with the following table and shall meet the dimensional requirements of article VII of this chapter.

<i>Use</i>	<i>Parking Requirement Spaces Per Unit of Measurement</i>
Residential	
Accessory apartments as part of a business use	1 per dwelling unit
Art studio/craft shop	1 space per 800 sq. ft. GFA
Automotive repair	1 space per service pay and employee
Automotive sales	1 per each 300 sq. ft. of GFA
Banquet hall and/or conference center	1 space for every 4 persons permitted in the structure by fire code
Bus passenger station	1 space per 200 sq. ft. of GFA

<i>Use</i>		<i>Parking Requirement Spaces Per Unit of Measurement</i>
Car wash		1 space per each employee
College or university		1 space per every 3 students or the amount required for the auditorium or place of assembly, whichever is greater
Convalescent home		1 space per each 3 beds or 2 rooms, whichever is less, plus 10 spaces marked for visitors
Day care center		1 space per each 3 children the facility is licensed to accept
Schools (private)	Elementary and middle	4 per classroom or amount required for the auditorium or place of assembly, whichever is greater; separate areas for student drop off and pickup must be provided
	High	1 for each teacher, employee or administrator plus 1 for each 10 students, plus those required for an auditorium or place of assembly; separate areas for student drop off and pickup must be provided
Fraternal or social club or lodge		1 space for every 4 persons permitted in the structure by fire code
Freight transportation/trucking terminal		1 space per each employee
Health or exercise club		1 space for every 6 persons permitted in the structure by fire code
Hospital		1 space per each four patient beds, plus 1 space for each employee
Indoor theater		1 space per each 3 seats, plus 1 for each 2 employees
Kennel, commercial		1 space for each 400 sq. ft. of UFA
Laundromat		1 space for each 2 machines
Medical office, including clinic		1 space per each 400 sq. ft. of GFA
Mini-storage		1 space for every storage unit (adjacent to the units) plus 1 for each employee
Mortuary or funeral home		1 space per each 50 sq. ft. of UFA
Municipal and public service activities		1 space per each 300 sq. ft. of GFA, not including parking areas for municipal vehicles

<i>Use</i>		<i>Parking Requirement Spaces Per Unit of Measurement</i>
Open air business		1 space per each 800 sq. ft. of lot area used of the open air business, plus parking for any main use building and associated accessory uses
Pawnshop		1 space per each 300 sq. ft. of GFA
Personal service establishment		2 spaces per service provider
Professional office		1 space per each 400 sq. ft. of GFA
Recreation facility, indoor (e.g., arcades, bowling, billiards)		1 space for every 3 persons permitted in the structure by fire code
Recreation facility, outdoor (e.g., mini-golf, batting cages)		1 space per each 2 miniature golf holes, plus 2 per each batting cage, plus 1 per each 100 sq. ft. GFA of arcade space
Restaurant	with drive through facility	1 space per each 100 sq. ft. of UFA plus 4 stacking spaces per each outside service window or ordering station
	without drive through facility	1 space for each employee reasonably expected to work during anticipated peak hours, plus 1 space for every 3 people allowed in the area devoted to indoor seating, as measured by the maximum occupancy load under the applicable building or health codes. The Planning Commission has discretion to approve or deny the applicant's peak staffing estimates, based on the documentation presented.
Retail building supplies and equipment store		1 space per each 300 sq. ft. of UFA
Retail establishment		1 space per each 300 sq. ft. of GFA
Tavern permitting dancing, live entertainment or consumption of alcoholic liquors on premises		1 space for every 3 persons permitted in the structure by fire code
Truck stop		Parking operations plan plus 1 space for each employee and 1 space per each 200 sq. ft. of UFA
Truck wash		Parking operations plan plus 1 spot per wash bay
Video rental and sales		1 for each 800 sq. ft. UFA plus 1 for each 2 employees

(Ord. No. 175J, § 7.03, eff. 9-17-2004; Ord. No. 175Y, § 7, eff. 3-11-2010; Ord. No. 175H, § 1, eff. 10-15-2015)

Sec. 42-187. Grand River Avenue Corridor Overlay District.

(a) *Uses.* Permitted uses and special land uses allowed in the overlay district will be determined by the underlying zoning district.

(b) *Dimensional standards.* All buildings, structures, and accessory structures must meet a minimum 100 foot setback from the Grand River Avenue right-of-way. Parking is permitted in the required front yard.

(c) *Buffer strip.* There shall be a 40-foot deep buffer strip along the Grand River right-of-way which must be landscaped and maintained as a green belt to buffer parking lots from pedestrian ways in the public right-of-way. No more than 75 percent of the public road buffer strip may be used for stormwater management. The planning commission may reduce the required buffer by 20 percent if the applicant provides additional landscaping.

(d) *Design standards.* Buildings will utilize high quality architecture and landscaping that create a research and office-park environment with primary use of masonry material, such as brick, stone or split face block, and glass on buildings and landscaping along roadways. Metal paneling and plain concrete masonry units (cement board) may constitute no more than 50 percent of the facades of buildings visible from any public roadway.

(Ord. No. 175X, § 2, eff. 3-11-2010)

Secs. 42-188—42-210. Reserved.

DIVISION 5. PLANNED UNIT DEVELOPMENT DISTRICTS*

Sec. 42-211. Description and intent.

(a) The intent of this article is to permit the coordinated development on larger sites in order to achieve the following:

- (1) Permit flexibility in the regulation of land development allowing for higher quality of design through innovation in land use, variety in design, layout, and type of structures constructed;
- (2) Provide the opportunity to mix compatible uses or residential types;
- (3) Allow clustering of residential units to preserve common open space, traditional neighborhood design, historic or significant architectural features;
- (4) Ensure compatibility of design and function between neighboring properties;
- (5) Protect and preserve natural resources, natural features and open space;
- (6) Promote efficient provision of public services, utilities and transportation facilities;
- (7) Provide convenient vehicular access throughout the development and minimizing adverse traffic impacts;
- (8) Provide complete nonmotorized circulation to, from and within developments;
- (9) Provide adequate housing and employment;
- (10) Encourage development of convenient recreational facilities as an integral part of residential developments;
- (11) Ensure various land uses and building bulk will relate to each other and to adjoining existing and planned uses in

*State law reference—Planned unit development, MCL 125.3503.

such a way that they will be compatible, with no material adverse impact of one use on another;

- (12) Encourage development that is consistent with the goals stated within the city master plan; and
- (13) Eliminate or reduce the degree of nonconforming sites, uses or structures.

(b) These planned unit development regulations are not intended to be used for circumventing the more specific standards and requirements of this chapter, or the planning upon which they are based. Rather, these provisions are intended to result in development that is substantially consistent with the zoning requirements as generally applied to the proposed uses, but with specific modifications that, in the judgment of the city, assure a superior quality of development. If this improved quality is not clearly apparent upon city review, a site shall not qualify for the modifications allowable under this article. (Ord. No. 175J, § 8.01, eff. 9-17-2004)

entity having responsibility for completing the project in conformity with the planned unit development regulations. (Ord. No. 175J, § 8.02, eff. 9-17-2004)

Sec. 42-212. Eligibility criteria.

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

- (1) *Demonstrated benefit.* The PUD shall provide one or more of the following benefits not possible under the requirements of another zoning district:
 - a. Preservation of significant natural or historic features;
 - b. A complementary mixture of uses or a variety of housing types;
 - c. Common open space for passive or active recreational use; or
 - d. Redevelopment of a nonconforming site where creative design can address unique site constraints.
- (2) *Unified control of property.* The proposed development shall be under single ownership or control such that there is a single

Sec. 42-213. Types of PUDS.

(a) A property meeting the eligibility criteria may be rezoned to a PUD district based on the requirements shown in the following table and appropriate requirements contained elsewhere in this chapter. The rezoning shall be concurrent with the approval of a preliminary PUD plan. The PUD designation shall be noted in the application and on the official zoning map upon approval.

(b) The city council, after recommendation from the planning commission, shall establish a list of permitted uses as part of the PUD agreement, based upon the provisions of the following table and this article.

<i>PUD Descriptions</i>				
<i>PUD District</i>	<i>Minimum PUD Size (Acres)</i>	<i>Locations Allowed</i>	<i>Permitted Uses</i>	<i>Requirements (Section)</i>
Residential (RPUD)	2	Where pre-PUD zoning is a residential district.	Residential uses permitted in the pre-PUD zoning district with additional uses as provided in this article.	42-214
Traditional neighborhood development (TND PUD)	5	Master plan designated sites as new residential development, multiple-family residential or potential mixed use area.	Uses permitted in the mixed use PUD, except for: any establishment with drive-through facilities (except banks); vehicle repair and service; and open-air businesses.	42-215
Mixed use (MPUD)	2	Master plan designated sites as commercial, multiple-family residential or potential mixed use area.	Residential, commercial, office, recreational, and open space uses.	42-216
Commercial (CPUD)	2	Where pre-PUD zoning is C-2, or C-3 or where the master plan designates a site as multiple-family residential or commercial.	Public, office, commercial, recreational and open space uses.	42-217
Industrial (IPUD)	5	Where pre-PUD zoning is IND or where the master plan designates a site as for industrial or IP	Uses permitted in the IND district where integrated into an office/research/light industrial park setting.	42-218

(Ord. No. 175J, § 8.03, eff. 9-17-2004)

Sec. 42-214. Residential PUD (RPUD).

(a) *Multiple-family dwelling units.* Where the pre-PUD zoning is R-3, multiple-family dwelling units shall be permitted meeting the density and design standards of the R-3 district.

(b) *Multiple-family housing.* Where the pre-PUD zoning is single-family residential (R-1 or R-2), up to 40 percent of the dwelling units may be multiple-family housing; provided, the remaining dwelling units (at least 60 percent) shall be detached one-family dwelling units.

(c) *Special lands uses.* The PUD may also include any special land uses permitted in the R-1 and R-2 zoning districts; provided, that the special land uses noted in section 42-131 shall follow the review process required for special land uses.

(d) *Pedestrian accommodations.* Pedestrian gathering and seating plazas, greenways and tree lined drives shall be within parking lots and throughout the site to provide an inviting pedestrian environment, protection of the pedestrian from vehicular circulation for improve traffic operations and views. Other site amenities to create a pedestrian scale environment shall be provided such as bike racks, benches, planters, or streetscape elements to separate main buildings from the parking lots.

(e) *Alternative transit.* The planning commission may recommend and city council requires the development provide such amenities as bus stops or bus turn-outs and pathways for pedestrians or cyclists in developments likely to generate alternative transportation demands.
(Ord. No. 175J, § 8.04, eff. 9-17-2004)

Sec. 42-215. Traditional neighborhood development PUD (TND PUD).

(a) *Description and intent.*

(1) *Development.* The traditional neighborhood planned unit development (TND PUD) is planned in order to permit for the development of fully integrated, mixed-use, pedestrian oriented neighborhoods. The intent is to create neighborhoods through design that foster increased interaction between residents; and to mini-

mize traffic congestion, suburban sprawl, infrastructure costs, and environmental degradation within the city.

(2) *Adaptation.* The TND provisions adapt urban conventions, normal in the United States from colonial times until the post-World War II era, that were historically based on the following design principles:

- a. Neighborhoods have identifiable centers and edges;
- b. Edge lots are readily accessible to retail and public spaces by nonvehicular means;
- c. Uses and housing types are mixed and in close proximity to one another;
- d. Street networks are interconnected and blocks are small; and
- e. Public spaces are given prominent sites throughout the neighborhood.

(b) *Permitted densities; total number of dwelling units.* Maximum permitted densities and total number of dwelling units shall be established during the PUD review process but shall be generally consistent with the master plan.

(c) *General use and design standards and requirements.*

(1) *Included.* A TND PUD may include a mixture of permitted uses and special land uses from all residential districts and the central business district meeting the following requirements:

- a. The entire land area of the TND PUD shall be divided into blocks, streets, and lots, open space, and optional natural or buffer strip areas;
- b. A minimum of 60 percent of the PUD land area shall be occupied by residential uses. The list of uses allowed shall be established in the PUD approval;
- c. A minimum of 15 percent and a maximum of 30 percent of the resi-

dential uses shall be multiple-family structures or upper story apartments;

- d. A minimum of 20 percent and a maximum of 40 percent of the residential units shall be small lot, one-family residential development;
- e. At least 95 percent of the lots for one-family residential units must meet the following requirements:
 - 1. Interior lots shall not exceed 9,600 square feet in area;
 - 2. Corner lots shall not exceed 12,000 square feet in area; and
 - 3. Notwithstanding the above, two adjacent lots may be combined per block of lots. For this subsection, a "block of lots" means any number of lots on one side of the street, situated between a combination of any of the following: streets, dead-end or other terminus, or public open space. Lot combining must be reviewed and approved by the zoning administrator.
- f. A minimum of ten percent of the TND land area shall be commercial or office uses.

(2) *Mixed use arrangements.*

- a. Similar land use categories shall generally front across streets. Dissimilar categories may abut at rear lot lines.
- b. Residential uses are not permitted on the ground floors of commercial/office buildings. All commercial/office buildings shall have at least two stories.

(3) *Lots and buildings.*

- a. All lots shall have frontage on a street or square.
- b. All buildings, except accessory structures, shall have their main entrance opening onto a street or square.

- c. All lots shall be served by a sidewalk.



- d. Stoops, open colonnades, and open porches may extend into the front yard setback; provided, that at least five feet of clear space is provided between the porch and the sidewalk. (See the above illustration)
- e. One-family detached homes shall be set back not more than 25 feet from the front lot line and set back from the side lot lines a distance equivalent to not less than 20 percent of the width of the lot. The entire side yard setback may be allocated to one side of the lot.
- f. Buildings on multiple-family lots shall be set back no more than 15 feet from the front lot line, and setbacks shall be constant for a street block.
- g. Buildings on contiguous multiple-family lots shall have no required setbacks from side lot lines. A 15-foot setback shall be maintained for side lot lines abutting nonresidential use lots.
- h. Buildings on commercial/office lots shall have a front build-to line of five feet with a sidewalk having a minimum width of seven feet.
- i. Buildings on commercial/office lots shall have the facade built directly on the build-to line along at least 70

percent of its length. The unbuilt portion of the build-to line shall have a street wall directly upon it, unless occupied by a pedestrian walkway to rear parking areas.

- j. Buildings on commercial/office lots shall not require setbacks from side lot lines.
- k. Buildings on commercial/office lots shall cover no more than 75 percent of the lot area.

(4) *Streets and alleys.*

- a. All streets and alleys shall terminate at other streets within the development and connect to existing and projected through streets outside the development.
- b. There shall generally be a continuous network of alleys to the rear of lots within the TND.
- c. The average perimeter of all blocks within the TND shall not exceed 1,350 feet. No block face shall have a length greater than 500 feet without a dedicated alley or pathway providing through access.
- d. Utilities shall run along alleys wherever possible.
- e. Street lamps shall be installed on both sides of the street no less than 100 feet apart. The city council may approve a decorative street lamp design to enhance the overall character of the TND PUD.
- f. Build-to lines (a minimum and maximum setback) shall be established along all streets and public space frontages, determining the width desired for each street or public space.
- g. All residential lots shall have their rear lot lines coinciding with an alley 24 feet wide containing a vehicular pavement width of at least ten feet.
- h. All standard sections for residential streets shall have a maximum right-

of-way of 66 feet and must be designed and constructed to meet the current standard specifications for city streets. Cul-de-sac, roundabouts, traffic circles and other nonstandard sections or traffic calming measures must be designed and constructed to meet the city's applicable standard.

- i. Garages and other accessory buildings shall be set back a minimum of ten feet from the travel lane of the alley. No parking shall be permitted in the travel lane of the alley.
- j. Commercial/office lots shall have their rear lot lines coinciding with an alley at least 24 feet containing a vehicular pavement width of at least ten feet.
- k. All commercial and nonresidential streets shall have a minimum right-of-way of 66 feet and must be designed and constructed to meet the current standard specifications for city streets.

(5) *Parking.*

- a. Parking lots shall generally be located at the rear or at the side of buildings and shall be screened from the sidewalk by low walls, fences or hedges.
- b. Parking lots shall not abut street intersections.
- c. No less than 75 percent of the parking places shall be to the rear of the building.
- d. Adjacent parking lots shall have vehicular connections via an alley or internally.
- e. All streets fronting commercial/office shall have on-street parking, which shall count toward fulfilling parking requirements. On-street parking directly fronting the lot shall count toward fulfilling the parking requirement of that lot. One parking space credit shall be given for every

- space in front of the lot that is over 50 percent of the length of the parking space.
- f. There shall be one parking space per 500 square feet of building space for the commercial uses, one space per 300 square feet for office and service uses, and one space per residential unit.
 - g. Shared parking arrangements are encouraged. Where formal shared parking arrangements are made, the individual calculation of the required spaces may be reduced by up to 25 percent with the approval of the city council.
 - h. The parking requirements may be waived for retail uses of 2,000 square feet or less, that portion of restaurant seating which is outdoors and adjacent to the street, day care uses, and other uses not generally considered as accessory to other principal uses.
 - i. Loading areas shall conform to article VII of this chapter applicable to the nonresidential uses.
- (6) *Landscaping and open space.*
- a. Trees shall be planted within right-of-ways parallel to the street along all streets, but not in alleys.
 - b. Tree spacing, plant materials, planting specifications, and maintenance provisions shall be submitted as a landscaping plan that is part of the final site plan.
 - c. Plantings in immediate proximity to buildings in front and side yards shall respect architectural lines (should be seen as extension of architectural walls).
 - d. Plantings toward the street shall respect the integrity of the street by not obscuring important buildings and respecting views to and from streets, porches, walks, and public open spaces.
 - e. A minimum of ten percent of the gross area of the neighborhood, or not less than 1½ acres, whichever is greater, shall be permanently allocated to parks within the TND PUD.
 - f. Pedestrian gathering and seating plazas, greenways and tree lined drives shall be within parking lots and throughout the site to provide an inviting pedestrian environment, protection of the pedestrian from vehicular circulation for improve traffic operations and views. Other site amenities to create a pedestrian scale environment shall be provided such as bike racks, benches, information kiosks, art, planters, or streetscape elements to separate main buildings from the parking lots.
- (7) *Architectural standards.*
- a. With the exception of unique buildings with specific uses, such as churches, the mixed-use nature of the TND PUD requires that architectural compatibility in order to visually integrate development and allow for the close proximity of varied uses.
 - b. Building materials that match or are visually compatible with the structure shall be used to screen all rooftop equipment.
 - c. At least 30 percent of first floor office and commercial development shall be clear glass.
 - d. A minimum of 50 percent of the remainder of building materials shall include masonry material, such as brick, stone or split face block.
 - e. Metal paneling and plain concrete masonry units (cement board) are prohibited.
 - f. Residential entrance signs and commercial signs shall be approved as part of the final plan.
- (Ord. No. 175J, § 8.05, eff. 9-17-2004; Ord. No. 175M, § 1, eff. 6-19-2005; Ord. No. 175N, §§ 1, 2, eff. 6-19-2005)

Sec. 42-216. Mixed use PUD (MPUD).

(a) *Uses.* A mixed use PUD shall include a mixture of uses that are considered to be consistent with the master plan. A minimum of 40 percent of the PUD land area shall be occupied by residential or recreational uses. The list of uses allowed shall be established in the PUD approval.

(b) *Dimensional standards.* To encourage flexibility and creativity consistent with the intent of the PUD, the city council, after recommendation from the planning commission shall determine appropriate lot dimensions and building and yard requirements. In no case, however, shall the overall lot dimensions or yard requirements be less than 50 percent of the zoning district that the use would be placed in without a PUD. The height restrictions with any use shall not be increased by more than 25 percent.

(c) *Creative design.* The applicant shall demonstrate that the proposed lot dimensions and building and yard requirements shall result in a higher quality of development than would be possible using conventional zoning standards.

(d) *Parking.* To encourage a true integration of mixed uses and improved efficiency in land use, the overlap in parking requirements may be permitted between uses that have alternative peak-parking demands or where the mixture of uses on a site would result in multi-purpose trips.

(e) *Open space.* A minimum of 20 percent of the site shall be common open space. The open space shall be dispersed throughout the site and linked through greenway or pedestrian corridors or located along road frontages.

(f) *Pedestrian accommodations.* Pedestrian gathering and seating plazas, greenways and tree lined drives shall be within parking lots and throughout the site to provide an inviting pedestrian environment, protection of the pedestrian from vehicular circulation for improve traffic operations and views. Other site amenities to create a pedestrian scale environment shall be provided such as bike racks, benches, information kiosks, art, planters, or streetscape elements to separate main buildings from the parking lots.

(g) *Alternative transit.* The planning commission may recommend the development provide such amenities as bus stops or bus turn-outs and pathways for pedestrians or cyclists in developments likely to generate alternative transportation demands.

(Ord. No. 175J, § 8.06, eff. 9-17-2004)

Sec. 42-217. Commercial PUD (CPUD).

(a) *Uses.* No more than 60 percent of the gross area of the site, exclusive of public rights of way, shall contain retail commercial uses, including areas required for setbacks, stormwater, and parking associated with those uses. The remainder of the site shall include open space, office, lodging, restaurants or entertainment related uses. The list of allowed uses shall be established in the PUD agreement.

(b) *Dimensional standards.* To encourage flexibility and creativity consistent with the intent of the PUD, the city council, after recommendation from the planning commission, shall determine appropriate lot dimensions and building and yard requirements. In no case, however, shall the overall lot dimensions or yard requirements be less than 50 percent of the zoning district that the use would be placed in without a PUD. The height restrictions with any use shall not be increased by more than 25 percent. The applicant shall demonstrate that the proposed lot dimensions and building and yard requirements shall result in a higher quality of development than would be possible using conventional zoning standards.

(c) *Open space.* At least 15 percent of the site shall be open space. The open space shall be dispersed throughout the site and linked through greenway or pedestrian corridors or located along road frontages.

(d) *Driveway access and circulation.*

- (1) Access shall be limited to one major entrance along any major road, excluding any entrance designed solely for truck traffic. Additional access points shall only be considered if spaced at least 500 feet apart and a traffic impact study is provided that demonstrates overall traffic operations and safety will be improved.

- (2) Main access points shall be spaced from existing signalized intersections to ensure proper spacing and efficient flow of traffic if the main access point might be signalized in the future.
- (3) The site design shall direct traffic flow to use the main access points. Stacking or queuing depth at site access points shall be sufficient to accommodate expected peak hour volumes without conflict to inbound or internal circulation. Interior drives shall provide circulation between uses.
- (4) Additional right-of-way shall be provided to accommodate improvements to the existing arterial roadway system that are planned or required to mitigate traffic associated with the PUD.

(e) *Pedestrian accommodations.* Pedestrian gathering and seating plazas, greenways and tree lined drives shall be within parking lots and throughout the site to provide an inviting pedestrian environment, protection of the pedestrian from vehicular circulation for improve traffic operations and views. Other site amenities to create a pedestrian scale environment shall be provided such as bike racks, benches, information kiosks, art, planters, or streetscape elements to separate main buildings from the parking lots.

(f) *Design standards.*

- (1) Buildings shall utilize high quality architecture and landscaping that creates an integrated, pedestrian-oriented environment. At least 30 percent of first floor office and commercial development shall be clear glass.
- (2) In the central business district, primary building materials shall comprise a minimum of 50 percent of the remainder of buildings including masonry material, such as brick, stone or split face block.
- (3) Metal paneling and plain concrete masonry units (cement board) are prohibited in CPUDs located in the central business district.
- (4) Metal paneling and plain concrete masonry units (cement board) shall consti-

tute no more than 50 percent of the facades of buildings in CPUDs located outside of the central business district.

(g) *Alternative transit.* The planning commission may recommend the development provide such amenities as bus stops or bus turn-outs and pathways for pedestrians or cyclists in developments likely to generate alternative transportation demands.

(Ord. No. 175J, § 8.07, eff. 9-17-2004)

Sec. 42-218. Industrial PUD (IPUD).

(a) *Uses.* Industrial district permitted uses and special land uses shall be allowed in an industrial PUD. Special land uses provided for in section 42-245 shall follow the review process required for special land uses. In addition, lodging, restaurants or entertainment related uses shall be permitted; provided, these uses do not border any other zoning district.

(b) *Dimensional standards.* All buildings, structures, accessory structures and parking areas shall meet the minimum setback standards of the industrial district for the perimeter of the PUD. On interior lots, dimensions standards, setbacks and building height shall be approved by the city council, upon recommendation by the planning commission, through the PUD approval. In no case, however, shall the overall lot dimensions or yard requirements be less than 40 percent of the zoning district that the use would be placed in without a PUD. The height restrictions with any use shall not be increased by more than 30 percent.

(c) *Buffer strip.* There shall be a 50-foot deep buffer strip along exterior public roads and any adjoining residential district, either landscaped or preserved in a natural wooded condition. The public road buffer strip may be reduced in depth by the planning commission if the applicant provides additional landscaping. The residential district buffer may be reduced by the planning commission if the applicant provides a minimum of a five-foot masonry wall.

(d) *Design standards.* Buildings shall utilize high quality architecture and landscaping that create a research and office-park environment

with primary use of masonry material, such as brick, stone or split face block, and glass on buildings and landscaping along internal roadways and around the perimeter of the PUD. Metal paneling and plain concrete masonry units (cement board) shall constitute no more than 25 percent of the facades of buildings visible from the internal roadway or any adjoining public roadway.

(Ord. No. 175J, § 8.08, eff. 9-17-2004)

Sec. 42-219. Open space requirements for all PUDS.

All PUDs, in addition to the above requirements for specific types, shall meet the following requirements, unless other, more restrictive requirements are noted in the individual PUD district, in which case the more restrictive requirement shall apply.

- (1) *Common open space.* All land within a development that is not devoted to a principal or accessory use or road right-of-way shall be set aside as common land for neighborhood use, recreation, or conservation.
- (2) *Areas not considered open space.* The following land areas shall not be included as dedicated open space for the purposes of meeting minimum open space requirements:
 - a. Area proposed as one-family residential or site condominium lots;
 - b. Area proposed to be occupied by multiple-family dwellings, including the minimum required setbacks around buildings;
 - c. Any area proposed for an office, commercial or industrial land use;
 - d. The area of any road right-of-way or private road easement;
 - e. Any submerged land area of a pond, lake or stream; provided, protected wetlands and stormwater ponds designed to appear and function similar to a natural wetland may be counted for up to 50 percent of the minimum required open space;

- f. Golf courses;
- g. Parking and loading areas, except those exclusively associated with a recreation facility or common open space area; and
- h. Any other undeveloped areas not meeting the intent and standards for open space stated in this section, as determined by the city council.

(3) *Open space location.* Common open space shall be planned in locations visible and accessible to all in the development. The common open space may either be centrally located, located to preserve natural features, located to buffer adjacent uses, or located to connect open spaces throughout the development; provided, the following areas shall be included within the open space area:

- a. Open space shall be situated to maximize the preservation of any existing site woodlands;
- b. A minimum 100-foot wide undisturbed open space setback shall be maintained from the edge of any stream or wetland; provided, that the city council may permit trails, boardwalks, observation platforms, or other similar structures that enhance passive enjoyment of the site's natural amenities within the setback;
- c. Where adjacent land includes open space, public land or existing or planned bike paths, open space connections shall be provided between the site and adjacent open space. Trails between adjoining open space development shall be constructed to allow future interconnection between neighborhoods; and
- d. Open space, except for where trails and bike paths are located, shall have minimum dimensions of 150 feet.

(4) *Open space protection.* The dedicated open space shall be set aside in perpetuity by

the developer through a conservation easement or other legal instrument that is found acceptable to the city attorney. The conservation easement or other legal instrument shall assure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use.

- (5) *Allowable uses.* Allowable uses of the dedicated open space shall be indicated in the conservation easement or other legal instrument and shall prohibit the following:
 - a. Dumping or storing of any material or refuse;
 - b. Activity that may cause risk of soil erosion or threaten any living plant material;
 - c. Cutting or removal of live plant material except for removal of dying or diseased vegetation;
 - d. Use of motorized off road vehicles;
 - e. Cutting, filling or removal of vegetation from wetland areas;
 - f. Use of pesticides, herbicides, or fertilizers within or adjacent to wetlands; and
 - g. Inclusion of a requirement that the dedicated open space shall be maintained by parties who have an ownership interest in the open space.
- (6) *Remain open space.* The dedicated open space shall forever remain open space, subject only to uses on the approved site plan. Further use of open space for other than recreation or conservation purposes, except for easements for utilities, shall be strictly prohibited. Any change in use of the open space from what is shown on the approved site plan shall require city council approval, and shall not diminish compliance with the requirements of this article.
- (7) *Recreational or conservational use.* Nothing herein shall prevent the conveyance of

open space to a public agency or other nonprofit entity for recreational or conservation use.

- (8) *Requirements for maintenance.* Requirements for maintenance of the open space shall be provided. In the event that the open space is not adequately maintained, or is determined by the city manager to be a public nuisance, the costs for maintenance shall be assessed upon the owners of the open space.

(Ord. No. 175J, § 8.09, eff. 9-17-2004)

Sec. 42-220. PUD approval process.

- (a) *Preapplication meeting.*
 - (1) An applicant desiring to submit an application for a planned unit development shall attend a preapplication meeting with staff members or consultants the city manager deems advisable.
 - (2) The purpose of the preapplication meeting is to determine general compliance with PUD eligibility and design requirements, and to identify issues of significance regarding the proposed application.
 - (3) If the applicant proceeds with the PUD application, a report on the findings of the preapplication meeting shall be forwarded to the planning commission.
 - (b) *Application.* The applicant shall prepare and submit to the city a request for rezoning to the appropriate PUD designation, including 22 copies of a preliminary PUD site plan meeting the requirements of section 42-375(c). Materials shall be submitted at least 45 days prior to the meeting at which the planning commission shall first review the request.
 - (c) *Workshop.* In addition to the preapplication meeting, a workshop may be required by the planning commission, or, if not required, the workshop may be requested by the applicant to discuss the appropriateness of a PUD concept, solicit feedback and receive requests for additional materials supporting the proposal.

(d) *Planning commission public hearing.* The planning commission shall review the rezoning request, the conceptual PUD site plan and PUD agreement, and conduct a public hearing in accordance with the requirements of section 42-33.

(e) *Planning commission recommendation.* The planning commission shall review the preliminary PUD site plan in consideration of public hearing comments, technical reviews from city staff, and other comments from consultants and applicable review agencies, and compliance with the standards and requirements of this article and other applicable standards and requirements of this chapter. The planning commission shall make a recommendation to the city council to approve, approve with conditions or deny the request. The recommendation to the city council shall be based on the following standards:

- (1) The PUD shall satisfy the intent of section 42-211 and the eligibility criteria of section 42-212;
- (2) The PUD shall comply with the requirements of this article, other applicable sections of this chapter, and the plat procedures listed in the city's subdivision control regulations or the site condominium provisions of section 42-309;
- (3) The PUD shall be designed and constructed in a manner harmonious with the character of adjacent property and the surrounding area;
- (4) The PUD shall be adequately served by essential public facilities and services, such as roads, pedestrian or bicycle facilities, police and fire protection, drainage systems, water supply and sewage facilities;
- (5) The proposed type and density of use shall not result in an unreasonable increase in the use of public services, public facilities, and utility capacities;
- (6) The design of the PUD shall minimize the negative impact on the street system in consideration of items such as vehicle trip generation, access location and design,

circulation, roadway capacity, traffic operations at proposed access points and nearby intersections;

- (7) The proposed PUD shall not have an unacceptable significant adverse effect on the quality of the natural features in comparison to the impacts associated with a conventional development;
- (8) The proposed development shall not have an adverse impact on future development as proposed in the master plan of the city;
- (9) The proposed development shall not impede the continued use or development of surrounding properties for uses that are permitted in this chapter; and
- (10) The proposed development shall adequately consider pedestrian and cyclist safety and circulation, and where feasible, tie sidewalks, paths and trails into the facilities of adjoining properties.

(f) *City council decision.* Following receipt of the planning commission's recommendation, the preliminary PUD site plan shall be considered by the city council. The council may elect to have additional public hearings, noticed as required by the Zoning Act. The city council shall take one of the following actions on the request:

- (1) If the application is determined to be insufficient, does not fully respond to planning commission issues or more information is required, the request may be tabled. The city council shall direct the applicant to prepare additional information, revise the PUD plan or direct the city staff to conduct additional analysis. The application shall not be removed from the table until the conditions causing its tabling have been satisfied;
- (2) If the council believes there is new information that might modify the recommendation of the planning commission, the application may be returned to the commission with the new information for its reconsideration. The planning commission shall provide a recommendation within

30 days after the city council has determined it would like further review. No additional public hearings are required.

- (3) Approval or approval with conditions:
 - a. Upon determination that a PUD site plan is in compliance with the standards and requirements of this chapter and other applicable ordinances and laws, the city council shall approve the preliminary PUD site plan;
 - b. The city council may impose reasonable conditions with the approval of a PUD. Conditions of any approval are attached to the land and will remain through subsequent owners. The applicant shall submit a revised PUD site plan that demonstrates compliance with the conditions; and
 - c. Approval of the preliminary PUD plan shall constitute approval of the rezoning and the zoning map shall be changed to indicate the zoning of the property as the appropriate PUD District.
- (4) Upon determination that a PUD site plan does not comply with standards and regulations set forth in this chapter, or requires extensive revision in order to comply with the standards and regulations, the city council shall deny the application. Resubmittal of a denied application shall be considered a new application.

(Ord. No. 175J, § 8.10, eff. 9-17-2004; Ord. No. 175R, § 3, eff. 1-18-2007)

Sec. 42-221. Development agreement.

The applicant shall submit an agreement stating the conditions upon which approval is based, for review and approval by the city. The agreement, after review by the planning commission and approval by the city council, shall be entered into between the city and the applicant and be recorded with the county register of deeds. At a minimum, the agreement shall provide:

- (1) A certified boundary survey of the acreage comprising the proposed development;

- (2) The manner of ownership of the developed land and the manner of the ownership and of dedication or mechanism to protect any areas designated as common areas or open space;
- (3) Provision assuring that those open space areas shown on the plan for use by the public or residents of the development will be or have been irrevocably committed for that purpose. The city may require conveyances or other documents to accomplish this;
- (4) Satisfactory provisions to provide for the future financing of any improvements shown on the plan for site improvements, open space areas and common areas which are to be included within the development and that maintenance of such improvements is assured by a means satisfactory to the city attorney. The city council may require a performance guarantee to accomplish this in accordance with the provisions of section 42-35;
- (5) Provisions to ensure adequate protection of natural features; and
- (6) A copy of the approved preliminary PUD site plan signed by the applicant and the mayor or appointed designee.

(Ord. No. 175J, § 8.11, eff. 9-17-2004)

Sec. 42-222. Final approval.

(a) Final site plans shall be submitted for review and approval in accordance with the site plan review provisions of article VI of this chapter. If final site plans for at least the first phase of the project are not submitted and approved within a two year period from the approval of the development agreement, the right to develop under the approved PUD preliminary site plan shall terminate and a new application must then be filed and processed.

(b) In reviewing final site plans, the following standards and requirements shall apply in addition to those of section 42-220(e):

- (1) Final site plans shall be in substantial conformance with the approved PUD preliminary plan;

- (2) Each final site plan shall either individually or in combination with previously approved contiguous project areas, meet the standards of this article and the approved PUD preliminary plan regarding layout, density, open space and land use;
- (3) Each final site plan submission shall include a map illustrating the site or phase in relation to previously approved plans and the overall PUD; and
- (4) Except as noted in section 42-224, any amendment requested to the agreement approved by the city council shall be submitted for review by the city attorney and approved by the city council.

(Ord. No. 175J, § 8.12, eff. 9-17-2004)

Sec. 42-223. Extensions.

The two year period for preliminary PUD approval may be extended for one year, if applied for in writing by the petitioner prior to the expiration of the PUD preliminary plan approval, and granted by the city council; provided, that the reasons for the delay are beyond the general control of the applicant.

(Ord. No. 175J, § 8.13, eff. 9-17-2004)

Sec. 42-224. Revisions to approved PUD plans.

(a) *Approval.* Approval of the preliminary PUD plan and final site plans confers upon the zoning administrator the authority to approve certain minor deviations when an applicant or landowner who was granted site plan approval notifies the zoning administrator of the proposed amendment to the approved site plan in writing, accompanied by a site plan illustrating the proposed change. The request shall be received prior to initiation of any construction in conflict with the approved plan.

(b) *Procedure.* Within 14 days of receipt of a request to amend the site plan, the zoning administrator shall determine whether the change is major, warranting review by the planning commission, or minor, allowing administrative approval, as noted in subsection (c) of this section.

(c) *Minor changes.* The zoning administrator may approve the proposed revision upon finding the change would not alter the approved design or provisions of the agreement, would not reduce the area devoted to open space, and all applicable regulations of this chapter will be met. The zoning administrator shall inform the planning commission and city council of the approval in writing.

(d) *Determination considerations.* The zoning administrator shall consider the following when determining a change to be minor:

- (1) For residential buildings, the square footage of structures may be reduced or increased by three percent of the originally approved area; provided, the overall density of units does not increase, the minimum square footage and parking requirements are met, and the buildings do not extend into any required open space or required setback;
- (2) Gross floor area of nonresidential buildings may be decreased; or increased by up to three percent or 2,000 square feet, whichever is smaller, of the originally approved area; provided, parking requirements are met and the building does not extend into any required open space or required setback;
- (3) Floor plans may be changed if consistent with the character of the use;
- (4) Relocation of a building by up to five feet, if consistent with required setbacks, open space and other requirements;
- (5) Height of buildings may be lowered;
- (6) Designated woodlands or areas not to be disturbed may be increased;
- (7) Plantings on the approved landscape plan may be replaced by similar types of landscaping on an equal or greater basis; any trees shown as preserved on the final site plan and subsequently lost during construction shall be replaced on a caliper-per-caliper basis on the site;
- (8) Improvements or slight relocation of site access or circulation, such as inclusion of

deceleration lanes, boulevards, curbing or pedestrian/bicycle paths, where appropriate;

- (9) Changes of building materials to another of higher quality, or a slight change in the color of the exterior material, as determined by the building official;
- (10) Grade change of up to one foot, after review by the city engineer;
- (11) Modification of entry design, sign placement or reduction in size of signs, which is consistent with the intent of the approved PUD plan;
- (12) Internal rearrangement of parking lots which does not affect the number of parking spaces or alter access locations or design;
- (13) Changes to the location of accessory buildings and structures, when the new location will be consistent with the building envelope identified on the approved plan; and
- (14) Changes required or requested by the city, county or state for safety reasons.

(e) *Major changes.* Where the zoning administrator determines that a requested amendment to the approved site plan is major, resubmittal to the planning commission shall be required. Should the planning commission determine that the modifications are inconsistent with the approved preliminary PUD plan, a revised preliminary PUD site plan shall be submitted according to the procedures outlined in this article. In all cases, a change in use to a more

intensive use than approved in the preliminary PUD plan shall be considered major and require resubmission of a new preliminary PUD plan.

(f) *Limitations on variances from zoning board of appeals.* Decisions granting PUD approval or any regulatory modifications are not subject to variance approval of the zoning board of appeals. No part of a PUD may be appealed to the zoning board of appeals nor shall an application for variance be accepted. This provision shall not preclude an individual lot owner from seeking a variance following final approval of the PUD; provided, the variance does not involve alterations to open space areas as shown on the approved PUD site plan and otherwise meets the applicable review standards applicable to variance in this chapter.

(Ord. No. 175J, § 8.14, eff. 9-17-2004)

Sec. 42-225. PUDS in existence.

See section 42-4 regarding vested rights for planned unit developments approved under previous ordinances.

(Ord. No. 175J, § 8.15, eff. 9-17-2004)

Secs. 42-226—42-243. Reserved.

DIVISION 6. IND INDUSTRIAL DISTRICT

Sec. 42-244. Intent and purpose.

The regulations of this district are intended primarily for heavy commercial and general industrial uses. The district is established to encourage operations that manufacture, compound, processing, package, treat and assemble products from previously prepared materials.

(Ord. No. 175J, § 9.01, eff. 9-17-2004)

Sec. 42-245. Table of uses.

The following abbreviations apply to the table of uses:

P: Permitted use: Land and/or buildings in this district may be used for the purposes listed by right.

SLU: Special land use: The following uses may be permitted by obtaining special land use approval when all applicable standards cited in article V of this chapter are met.

NP: Not permitted: The use is not permitted in the district.

<i>Table of Uses</i>	<i>IND</i>
Adult uses	SLU
Airports and landing fields	SLU
Assembly of paperboard containers, building paper, building board, and bookbinding	P
Central dry cleaning plant	SLU
Chemical products such as plastics, perfumes, synthetic fibers	SLU
Contractors yards, building material storage	P
Day care centers where such use is clearly incidental and accessory to the primary use	P
Electrical substations, electrical switching stations, electrical transmission lines, and pressure control stations or substations for gas, water and sewage	P
Fuel depot	SLU
Health and exercise clubs	P
Laboratories including experimental, film, and testing	P
Lumber and wood products including millwork, prefabricated structural wood products and containers, not including logging camps	P
Lumberyards	P
Motor freight terminal	SLU
Motor freight terminal including garaging and maintenance of equipment	SLU
Municipal buildings, public service buildings	P
Printing and publishing	P
Production of apparel and other finished products made from fabrics, leather goods, fur, canvas, and similar materials	P
Production of food products including meat, dairy, fruit, vegetable, seafood, grain, bakery, confectionary, beverage and kindred foods	SLU
Production of household goods like jewelry, silverware, toys, athletic, office and tobacco goods, musical instruments, etc.	P
Production of textile mill products including woven fabric, knit goods, dyeing, and finishing, floor coverings, yarn and thread and other textile goods	SLU
Production or assembly of furniture and fixtures	P
Research and development facilities	P
Retail sales of goods where such sale is clearly incidental and accessory to the primary	P
Salvage or junkyards	SLU
Tool and die manufacturing facilities	P
Trade or industrial schools and veterinary hospitals or clinics	SLU
Vehicle repair establishments, including body shops	P
Veterinary clinic	P
Warehouses, cartage businesses	SLU
Waste treatment facilities	SLU
Water supply and treatment facilities	P
Wholesale establishments distributing goods including automotive equipment, drugs, chemicals, dry goods, apparel, food, farm products, electrical goods, hardware, machinery, equipment, metals, paper products and furnishings, and lumber and building products	P
Wireless communication, radio, television or microwave tower	SLU

(Ord. No. 175J, § 9.02, eff. 9-17-2004; Ord. No. 175JJ, § 1, eff. 2-11-2016)

Sec. 42-246. Development requirements.

(a) *Application and review requirements.* The following chart provides for application and review requirements for the IND district. No application shall be accepted unless in compliance with all of the following requirements, unless specifically waived by the zoning officer.

<i>Review Process</i>	<i>Applications</i>	
	<i>Requirements</i>	<i>Submission Deadline</i>
Site plan review (article VI of this chapter)	Completed application form	15 days prior to the planning commission meeting, unless submitted with a special land use application
	Application fee/escrow fee	
	Proof of ownership or interest in property	
	Legal description of property	
	Narrative addressing review standards of section 42-379	
	Complete site plans in accordance with section 42-375	
Special land uses (article V of this chapter)	Same as site plan review	30 days prior to the planning commission meeting
	Narrative addressing review standards of section 42-339 and applicable specific standards of section 42-341	
Rezoning	Completed application form	30 days prior to the planning commission meeting
	Application fee/escrow fee	
	Property map showing property to be rezoned and surrounding properties and current zoning	
	Proof of ownership or interest in property	
	Legal description of property	

(b) *Lot, yard, and building requirements note: (current).*

<i>Requirement</i>		<i>IND Industrial</i>	
Minimum lot requirements	Area	43,560 sq. ft. (1 acre) (Ind. park 20,000 sq. ft.)	
	Width	150 ft.	
	Width to depth ratio	1:3	
	Depth	200 ft.	
	Maximum coverage	75%	
Minimum setback requirements	Front	50 ft.	
	Side	One side	25 ft.
		Total 2 sides	30 ft.
	Adjacent to residential district or use	50 ft.	
Rear	25 ft.		
Building requirements	Maximum height	50 ft. (35)	

(c) *Parking requirements.*

- (1) *Location of parking.* The off-street parking facilities required shall not be located in the required front yard. The side and rear yard setback areas common to an adjacent residential district or use shall be a minimum of 50 feet of which 20 feet nearest the respective property line is developed as a buffer strip. The buffer strip shall extend the entire depth of the side of the lot in the case of the side yard parking adjoining a residential district or use, or the width of the rear of the lot in the case of rear yard parking adjoining a residential district or use. The required buffer strip shall incorporate a minimum six-foot high landscape screen or wall.

- (2) *Number of required parking spaces.* The amount of required off-street parking spaces for individual uses shall be determined in accordance with the following table and shall meet the dimensional requirements of article VI of this chapter.

<i>Use</i>	<i>Parking Requirement Spaces Per Unit of Measurement</i>
Day care centers where such use is clearly incidental and accessory to the primary use	1 space per each 3 clients computed on the basis of the greatest number of clients on site at a given time
Electrical substations, electrical switching stations, electrical transmission lines, and pressure control stations or substations for gas, water and sewage	1 space for maintenance vehicle
Freight forwarding, packing, and crating services	1 space for each 2,000 sq. ft. plus those spaces required for offices located on the premises
Fuel depot	1 space per 1.5 employees on the largest shift
Laboratories including experimental, film, and testing	1 space for each 500 sq. ft. UFA plus those spaces required for offices located on the premises
Lumber and wood products including millwork, prefabricated structural wood products and containers, not including logging camps	1 space per 1.5 employees on the largest shift
Lumberyards	1 space per each 300 sq. ft. of UFA of office space plus 1 space per employee on the largest shift
Motor freight terminal including garaging and maintenance of equipment	1 space per each 300 sq. ft. of UFA of office space plus 1 space per employee on the largest shift
Municipal buildings, public service buildings	1 space per each 300 sq. ft. not including parking areas for municipal vehicles
Accessory office areas related to principal uses	1 space per each 300 sq. ft. of UFA
Printing and publishing	1 space for each 1,000 sq. ft. plus those spaces required for offices located on the premises
Production of apparel and other finished products made from fabrics, leather goods, fur, canvas, and similar materials	
Production of food products including meat, dairy, fruit, vegetable, seafood, grain, bakery, confectionary, beverage and kindred foods	
Production of household goods like jewelry, silverware, toys, athletic, office and tobacco goods, musical instruments, etc.	
Production of textile mill products including woven fabric, knit goods, dyeing, and finishing, floor coverings, yarn and thread and other textile goods	
Production or assembly of furniture and fixtures	

<i>Use</i>	<i>Parking Requirement Spaces Per Unit of Measurement</i>
Research and development facilities	1 space for each 500 sq. ft. UFA plus those spaces required for offices located on the premises
Salvage or junkyards	1 space per each 300 sq. ft. of UFA of office space plus 1 space per employee on the largest shift
Retail sales of goods where such sale is clearly incidental and accessory to the principal use	1 space per each 300 sq. ft. of UFA of retail sales area
Tool and die manufacturing facilities	1 space for each 1,000 sq. ft. plus those spaces required for offices located on the premises
Trade or industrial schools	1 space per employee plus one space per every two students
Vehicle repair	3 spaces for each repair and service stall, plus one space for every employee
Veterinary clinics	1 space for each 400 sq. ft. of UFA
Warehouses, cartage businesses	1 space for each 2,000 sq. ft. plus that required for office space
Waste treatment facilities	1 space per employee, not including areas for municipal vehicles
Water supply and treatment facilities	1 space per employee, not including areas for municipal vehicles
Wholesale establishments distributing goods including automotive equipment, drugs, chemicals, dry goods, apparel, food, farm products, electrical goods, hardware, machinery, equipment, metals, paper products and furnishings, and lumber and building products	1 space for each 2,000 sq. ft. plus that required for office space
Wireless communication, radio, television or microwave tower	1 space for a maintenance vehicle

(Ord. No. 175J, § 9.03, eff. 9-17-2004)

Secs. 42-247—42-270. Reserved.

DIVISION 7. FP FLOODPLAIN DISTRICT

Sec. 42-271. Intent and purpose.

(a) This district is intended to control the placement of buildings and structures and the use of land in areas subject to periodic inundation. The district is located as designated on the flood insurance rate map (FIRM) as prepared by the Federal Emergency Management Agency. As the density of the population of the city increases and

the area develops, the importance of preserving drainage basins and areas around drainage streams for their intended purpose becomes acutely obvious. When the land is developed, a greatly increased amount of water runoff results from the replacement of open land with streets and building. The purpose of this district is to preserve drainage basins in the city and to prevent building in areas subject to flooding and upon land which exhibits unstable soil characteristics.

(b) Flood hazard areas shall be treated as a residential overlay district, which shall:

- (1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion, or in flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;

- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
 - (4) Control filling, grading, dredging, and other development which may increase erosion or flood damage; and
 - (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- (Ord. No. 175J, § 10.01, eff. 9-17-2004)

Sec. 42-272. Table of uses.

The following abbreviations apply to the table of uses:

P: Permitted use: Land and/or buildings in this district may be used for the purposes listed by right.

SLU: Special land use: The following uses may be permitted by obtaining special land use approval when all applicable standards cited in article V of this chapter are met.

<i>Table of Uses</i>	<i>F</i>
Agricultural operations including general farming, truck farming, fruit orchards, nursery, greenhouses, and usual farm buildings	P
Boat landings or docks for pleasure use	P
Parking lots, loading areas and storage areas for equipment and machinery easily moved or not subject to flood damage	SLU
Parks and playgrounds	P
Residential supportive uses such as lawns, gardens, parking areas or play areas	P
Structures designed and constructed to accommodate a 100-year flood which might occur in the area as shown on the FIRM or calculated from other available official data without material damage to the structure and without material obstruction of the floodplain to the detriment of other properties. Permissible construction hereunder shall include, among others, structures in which the lowest habitable floor areas (including basement floors, mobile home floors and attached garage floor, but excluding detached garages or storage buildings when constructed and designed in a floodproof manner) is above documented base 100-year flood elevation.	P

(Ord. No. 175J, § 10.02, eff. 9-17-2004)

Sec. 42-273. Development requirements.

(a) The following chart provides for application and review requirements for the floodplain district. No application shall be accepted unless in compliance with all of the following requirements, unless specifically waived by the zoning officer.

<i>Review process</i>	<i>Applications</i>	
	<i>Requirements</i>	<i>Submission Deadline</i>
Site plan review (article VI of this chapter)	Completed application form	15 days prior to the planning commission meeting, unless submitted with a special land use application
	Application fee/escrow fee	
	Proof of ownership or interest in property	
	Legal description of property	
	Narrative addressing review standards of section 42-379	
	Complete site plans in accordance with section 42-375	
Special land uses (article V of this chapter)	Same as site plan review	30 days prior to the planning commission meeting
	Narrative addressing review standards of section 42-339 and applicable specific standards of section 42-341	
Rezoning (article II of this chapter)	Completed application form	30 days prior to the planning commission meeting
	Application fee/escrow fee	
	Property map showing property to be rezoned and surrounding properties and current zoning	
	Proof of ownership or interest in property	
	Legal description of property	

(b) This article shall apply to all land, which is depicted on the flood hazard boundary map/flood insurance rate map as determine by the Federal Insurance Administration. Any map amendments are hereby adopted by reference, as a floodplain district.

(c) All new construction and substantial improvement to structures shall be constructed so that the lowest floor, including basements, for residential structures shall comply with section 327 of the Michigan Residential Code or for non-residential buildings shall comply with section 1612 of the state construction code.

(d) Any new and replacement water systems and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the system into floodwaters. On-site waste disposal systems are to be located to avoid impairment to them, or contamination from them during flooding.

(e) The degree of flood protection required by this division is considered reasonable for regulatory purposes and is based on scientific and engi-

neering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This division shall not create liability on the part of the city or by any officer or employee thereof for any flood damages that result from reliance of this division or any administrative decision lawfully made as a result of administering this division.

(f) When base flood elevation data has not been provided in accordance with subsection (b) of this section, then the zoning administrator, shall obtain, review, and reasonably utilize any base flood elevation data available from a federal, state, or other source.

(g) Responsibilities of the zoning administrator shall be as follows:

- (1) Notify adjacent communities and the Michigan Department of Environmental Quality prior to any alteration or relocation of watercourse, and submit evidence of such notification to the Federal Insurance Administration;

- (2) Obtain necessary engineering analysis to assure that the flood-carrying capacity with the altered or relocated portion of said watercourse is maintained; and
- (3) The zoning administrator shall review the proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.

(h) For the purpose of the determination of applicable flood insurance risk premium rate, the zoning administrator shall:

- (1) Obtain the elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, and determine whether or not such structures contain a basement;
- (2) Obtain from a registered professional engineer or architect, certification that the floodproofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood so that the structure is watertight to the base flood level; and
- (3) Maintain a record of all such information.

(i) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the zoning administrator shall make the necessary interpretation and may consult the city engineer. The person contesting the location of the boundary shall be given reasonable opportunity to appeal the interpretation as provided in this chapter.

(j) No new construction, substantial improvements or other development (including fill) shall be permitted within the zones A1-30 of the city's flood insurance rate map (FIRM), unless it is demonstrated to the zoning administrator that the cumulative effect of the proposed development

will not increase the water surface elevation of the base flood more than one foot at any point within the city.

(k) The requirements of the underlying zoning district shall be applied.

(l) The amount of required off-street parking spaces for individual uses shall be determined in accordance with the requirements of the uses allowed in the underlying zoning district and shall meet the dimensional requirements of article VII of this chapter.
(Ord. No. 175J, § 10.03, eff. 9-17-2004)

Secs. 42-274—42-279. Reserved.

DIVISION 8. O-R OFFICE/RESEARCH FORM-BASED DISTRICT

Sec. 42-280. Purpose, intent, and application.

(a) *The propose of the form-based district is to provide specific regulations to achieve the following:*

- (1) To develop a mixed-use campus-style environment with buildings that are integrated with the natural environment and that contain office, research, light industrial, and incidental commercial and retail uses.
- (2) To create uses within the district that complement economic development activities elsewhere in the city.
- (3) To calm and control traffic, by encouraging a more pedestrian-friendly environment and preventing a clustering of auto-oriented uses.
- (4) To promote the use of green building technology, long-term community sustainability, and high quality design and materials.
- (5) To establish clear controls on building form and placement to achieve a unified theme within the district and frame a well-defined public realm of human-scale streets and public spaces that contribute

to creating a safe, comfortable, and livable environment in harmony with the small-town atmosphere of Portland.

(b) *Character areas.* A form-based code is established for land designated on the Zoning Map for the City of Portland, which is divided into the following character areas.

- (1) *CR—Cutler road character area.* The Cutler Road area consists of properties with frontage on Cutler Road, a city controlled secondary road paralleling Interstate 96. The intent of this character area is to provide a welcoming entrance to the district from Cutler Road.
- (2) *GR—Grand river avenue character area.* The Grand River Avenue area consists of those properties with frontage on Grand River Avenue, a regional thoroughfare controlled by the Ionia County Road Commission. The intent of this character area is to manage access to the district from Grand River Avenue and provide safe travel to and from future development.
- (3) *CC—Central campus character area.* This character area consists of all property within the O-R District that are not in the GR and CR Character Areas. This character area is the focal point of the O-R form-based district. The intent of this character area is to provide a central campus or public green, similar to a university "quad" or town square. The campus area is framed by building entrances with parking and service areas generally located to the rear of buildings. The area provides a welcoming and productive environment for compatible uses, encouraging a lively and economically viable employment area.

(c) *Application of regulations.* Within the O-R form-based district, all requirements of this article apply, except as modified by this division. In applying the regulations to the form-based district, if regulations elsewhere within this division

conflict or appear to conflict with the regulations in this article, the regulations of this article will apply.

(Ord. No. 175BB, § 1, eff. 1-16-2011)

Sec. 42-281. Definitions.

Campus commons perimeter street. The campus commons perimeter street provides the border of the central campus or public green as described in section 42-280 (b)(3). The campus commons perimeter street may also connect parking lots and service areas with the primary street or service streets.

Parking structure. A parking structure is a multiple level parking facility, either freestanding, accessory to and structurally part of a main building, or a detached, accessory structure on the same lot with a main building.

Primary street. The subarea master plan, adopted in 2010, calls for a single major street through the O-R district connecting Cutler Road with Grand River Avenue. The primary street provides the main point of access to properties within the district because access to Cutler Road and Grand River Avenue from individual properties is not permitted.

Required building line. The required building line is the required location for the setback of a building. It is a requirement, not a permissive minimum as in a setback. The required building line runs parallel to the front property line and creates an even building façade line on a street. It is also referred to as "build-to line."

Service street. Service streets provide a secondary level of access to properties within the O-R district. Service streets connect parking lots and service areas. They may have limited access to Cutler Road and Grand River Avenue.

(Ord. No. 175BB, § 1, eff. 1-16-2011)

Sec. 42-282. Use regulations.

(a) *Uses are based upon the character area.* Each use is listed in the Table of uses: Permitted and conditional uses by character area, as one of the following:

- (1) *P: Permitted Use:* Land or buildings in this character area may be used for the purposes listed by right.
- (2) *SLU: Special land use permit:* Listed uses may be permitted by obtaining special land use approval, subject to the standards and procedures cited in this section and in article V.
- (3) *A: Accessory Use.* Uses that are clearly incidental to a principal use as part of a larger development or building and are intended to primarily serve occupants of the office/research district and their visitors.
- (4) *NP: Not permitted.*

<i>Use</i>	<i>Character Areas</i>		
	<i>CR</i>	<i>GR</i>	<i>CC</i>
Accessory buildings or uses customarily incidental to any allowed principal uses	A	A	A
Art studio/craft shop	P	P	P
Bank or other financial institution without drive-through facilities	P	P	P
Banquet hall and/or conference center	P	P	P
Convalescent or nursing home	P	P	P
Day care center, either accessory to another principal use or as stand-alone principal use	P	P	P
Educational institution	P	P	P
Greenhouse, hydroponics, aquaculture facility	P	P	P
Health or exercise club	P	P	P
Hospital	P	P	P
Hotel	P	P	P
Indoor recreation facility	P	P	P
Laboratories including experimental, film, testing, and medical	P	P	P
Light industrial	P	P	P
Medical office, including clinic	P	P	P
Movie, film, or photo studios, post-processing, or production facilities	P	P	P
Municipal buildings, public service buildings without storage yards	P	P	P
Parking structures	NP	NP	A
Personal service establishment	P	P	P
Professional offices and professional services	P	P	P
Research and development facilities	P	P	P
Restaurant without drive-through facility	P	P	P
Retail establishment less than 25,000 square feet	P	P	P
Veterinary hospitals or clinics without outdoor kennels	P	P	P
Walk-up Automatic Teller Machine (ATM)	A	A	A
Wireless communications antenna when attached to a lawful existing structure	P	P	P
Wireless communications tower when proposed tower is within the height limitations of the district	SLU	SLU	SLU

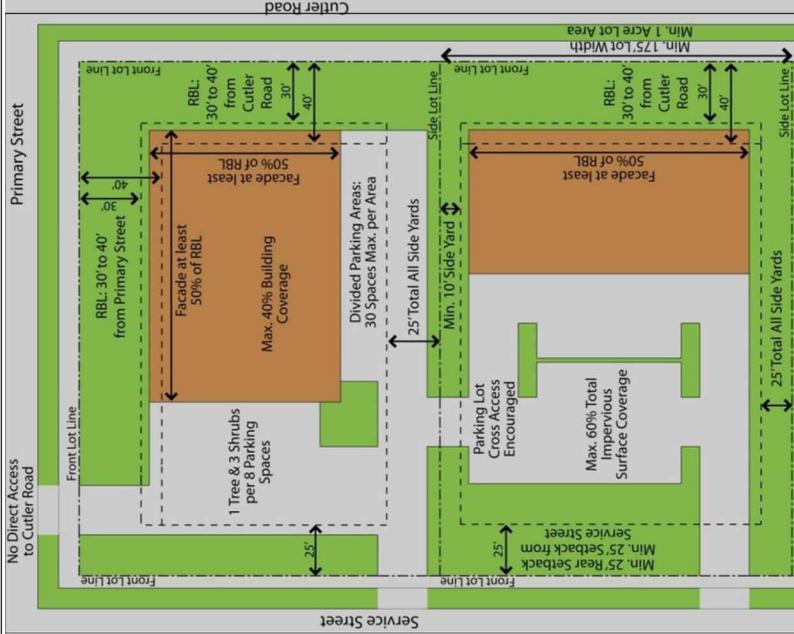
(Ord. No. 175BB, § 1, eff. 1-16-2011)

Sec. 42-283. District requirements.

(a) *Purpose and Intent.* The implementation of siting and building placement requirements will result in a predictable development pattern as described in the Portland Master Plan, ensure that uses are easily accessible, and accommodate creative and innovative buildings and site design. Additionally, these requirements help to create a walkable, pedestrian environment balanced with safe and convenient motorized access. These requirements also strike a balance between impervious surface area and green space and consider long-term development and community sustainability.

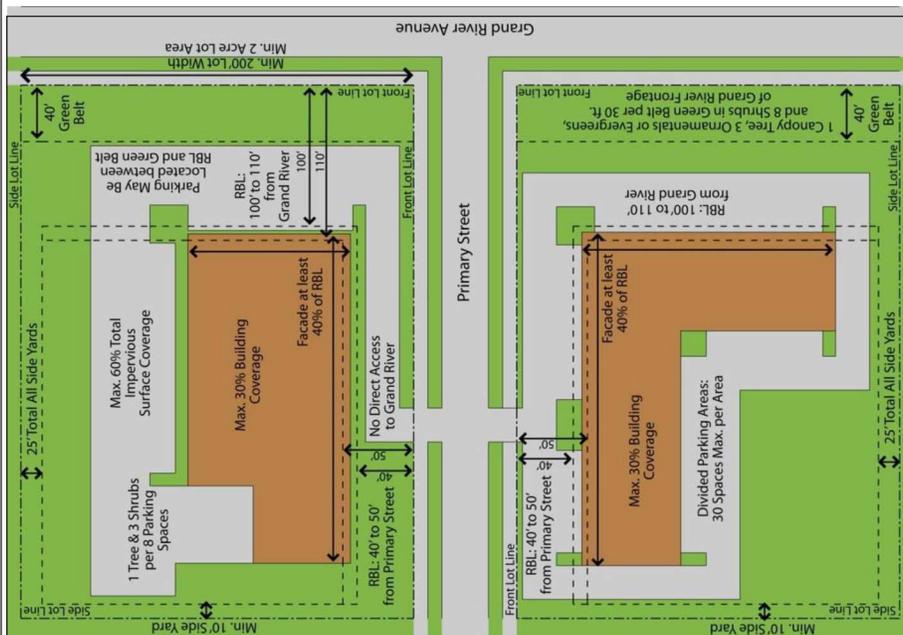
(b) **CR—Cutler Road Character Area**—All lots and buildings in the CR—Cutler Road Character Area must meet the requirements as shown in the following table:

Siting Requirements	
Lot Area	Minimum: One acre
Lot Width	Minimum: 175 feet
Building Placement and Projections	<p>From Cutler Road: 30 feet to 40 feet</p> <p>From Primary Street: 30 feet to 40 feet</p> <p>From Service Street: 25 feet Setback</p> <p>From Campus Commons Street: Five feet to ten feet.</p> <p>The building façade must occupy at least 50 percent of the RBL.</p> <p>The building façade must be parallel to the street and sidewalk.</p> <p>Minimum: Ten feet on one side; 25 feet total all side yards.</p> <p>A side yard of 20 feet must be maintained where a side lot line abuts a residential use.</p> <p>Minimum: 25 feet rear yard setback.</p> <p>Maximum: Two and one-half stories or 35 feet, whichever is less.</p> <p>Impervious surfaces may not cover more than 60 percent of the total lot area. The total area occupied by pervious paving materials, vegetated roofs, rain gardens, vegetated swales, and other innovative stormwater management tools is not calculated as impervious surfaces.</p> <p>The maximum coverage allowed for buildings is 40 percent of total lot area.</p> <p>Buildings must be sited to respect the existing landforms and drainage patterns.</p> <p>Parking may not be located forward of the RBL. All other requirements of section 42-408 apply.</p>
Parking	<p>1 Tree & 3 Shrubs per 8 Parking Spaces</p> <p>Max. 40% Building Coverage</p> <p>Divided Parking Areas: 30 Spaces Max. per Area</p> <p>25' Total All Side Yards</p> <p>Min. 10' Side Yard</p> <p>Parking Lot Cross Access Encouraged</p> <p>Max. 60% Total Impervious Surface Coverage</p>
Overall Landscaping	<p>Existing individual and grouped trees are important features and should be preserved and maintained when considering building placement.</p>



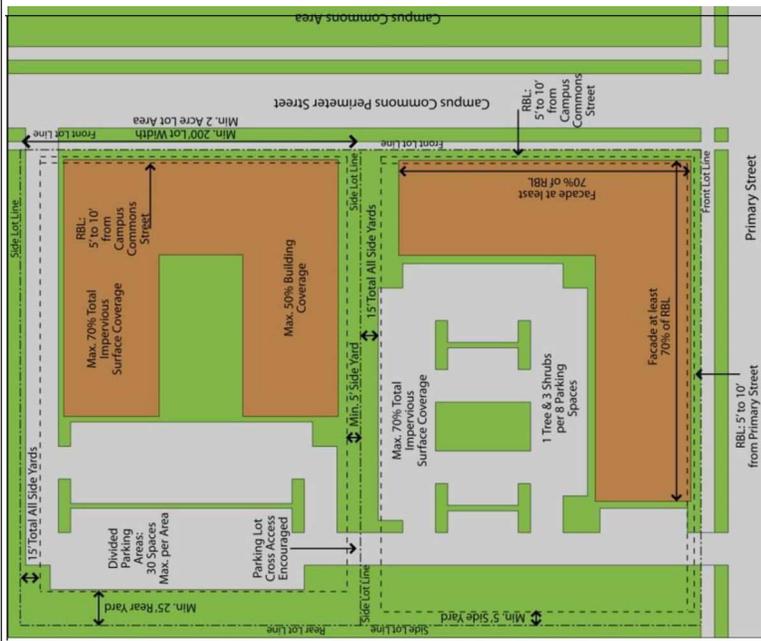
(c) **GR—Grand River Avenue Character Area**—All lots and buildings in the GR—Grand River Avenue Character Area must meet the siting requirements as shown in the following table:

Siting Requirements	
Lot Requirements	Minimum: Two acres Minimum: 200 feet
Building Placement and Projections	<p>Required Building Line (RBL): From Grand River Ave.: 100 feet to 110 feet From Primary Street: 40 feet to 50 feet From Service Street: 25 foot setback From Campus Commons Street: Five feet to 10 feet</p> <p>The building facade must occupy at least 40 percent of the RBL. The building facade must be parallel to the street and sidewalk.</p>
Side Yard	<p>Minimum: Ten feet on one side; 25 feet total all side yards. A side yard of 20 feet must be maintained where a side lot line abuts a residential use. Minimum: 25 feet rear yard setback. Maximum: Two and one-half stories or 35 feet, whichever is less.</p>
Rear Yard Height	<p>Impervious surfaces may not cover more than 60 percent of the total lot area. The total area occupied by pervious paving materials, vegetated roofs, rain gardens, vegetated swales, and other innovative stormwater management tools is not calculated as impervious surfaces. The maximum coverage allowed for buildings is 30 percent of total lot area. Buildings must be sited to respect the existing landforms and drainage patterns.</p>
Parking	<p>Parking is allowed forward of the RBL. All other requirements of section 42-408 apply. Existing individual and grouped trees are important features and should be preserved and maintained when considering building placement.</p>
Overall Landscaping	<p>The first 40 feet, measured from the Grand River Avenue right-of-way, of all lots must be kept as green space to provide a vegetated buffer along the roadway. Up to 75 percent of the green belt area may be used for stormwater management so long as the landscaping requirements found in this table are maintained. One deciduous canopy tree, three ornamentals and evergreens (of which at least one must be evergreen), and eight shrubs are required within the Green Belt for every 30 feet of lot frontage along Grand River Avenue.</p>



(d) CC—Central Campus Character Area—All lots and buildings in the CC—Central Campus Character Area must meet all the requirements as shown in the following table:

Siting Requirements	
Lot Area	Minimum: Two acres
Lot Width	Minimum: 200 feet
Building Placement and Projections	<p>From Campus Commons Street: Five feet to ten feet</p> <p>From Primary Street: Five feet to ten feet</p> <p>From Service Street: 25 foot Setback</p> <p>The building facade must occupy at least 70 percent of the RBL.</p> <p>The building façade must be parallel to the street and sidewalk.</p>
Side Yard	<p>Minimum: Five feet on one side; 15 feet total all side yards.</p> <p>A side yard of 20 feet must be maintained where a side lot line abuts a residential use.</p>
Rear Yard Height	<p>Minimum: 25 feet rear yard setback.</p> <p>Minimum: One and one-half stories or 25 feet, whichever is greater.</p> <p>Maximum: Four stories or 60 feet, whichever is less.</p>
Lot Coverage	<p>Impervious surfaces may not cover more than 70 percent of the total lot area. The total area occupied by pervious paving materials, vegetated roofs, rain gardens, vegetated swales, and other innovative stormwater management tools is not calculated as impervious surfaces.</p> <p>The maximum coverage allowed for buildings is 50 percent of total lot area.</p> <p>Buildings must be sited to respect the existing landforms and drainage patterns.</p>
Overall Landscaping	Existing individual and grouped trees are important features and should be preserved and maintained when considering placement.
Parking	Parking is not allowed forward of the RBL. All other requirements of section 42-408 apply.



(Ord. No. 175BB, § 1, eff. 1-16-2011)

Sec. 42-284. General provisions.

(a) *Building Requirements.*

(1) *Purpose and intent.* By regulating the character of buildings, facades can be aligned to form a street edge that frames the public realm. New buildings can be designed to blend with existing ones to achieve an office/research park character for the district, as described in the Portland Master Plan.

(2) *Roof lines.*

- a. Variations in roof lines should be used to add interest and reduce the scale of large buildings.
- b. Roof features must complement the character of the overall development and must have one or more of the following features:
 - i. Parapet walls (no more than four feet in height) concealing flat roofs and rooftop equipment.
 - ii. Overhanging eaves.
 - iii. Exposed end gable conditions.
 - iv. Roof dormers.
 - v. Changes in roof pitch on different sections of the building.

(3) *Transparency.*

- a. At least 50 percent of a building façade facing a public street must consist of windows and doors on the ground floor and at least 25 percent on all other floors.
- b. All buildings must have at least one useable door facing the front lot line.

(4) *Articulation.*

- a. Blank walls (without windows) longer than 20 feet must not face a street.
- b. Building facades should have massing changes and architectural articulation to provide visual interest and texture in order to avoid oversimpli-

fied one-dimensional facades. Blank walls may be no longer than 40 feet.

- c. Architectural design elements may include strong cornice lines, material texture, punched window openings, prominent corner features, strong and simplified building entries, window sills, lintels, overhangs, canopies or porticos, arcades, recesses and projections, arches, outdoor patios, display windows, and integral planters, among others.
- d. Creative and unique building design is highly encouraged.

(5) *Materials.*

- a. All buildings must be clad in durable and maintainable materials including brick, decorative masonry, stone, architectural steel and glass, and other attractive materials that have durability, texture, pattern, and detailing, and are attractive even when viewed up close. Building materials and colors should be mixed to avoid monotony and to provide visual interest to the building.
- b. The following materials are prohibited for use as cladding:
 - i. Smooth, unfinished, or untextured concrete masonry units or concrete walls
 - ii. Vinyl or plastic siding
 - iii. Sheet metal siding
 - iv. Architectural foam detailing
 - v. EIFS
 - vi. Cement board

(6) *Projections.*

- a. Except for eaves, awnings, balconies, bay windows, stoops, and ADA compliant ramps, as specified by this division, no part of a building may encroach into the RBL.
- b. Eaves and awnings may not project more than 2 feet from the main building wall into the RBL.

- c. Bay windows may not project more than 3 feet from the main building wall into the RBL.
- d. Stoops may not project more than 8 feet from the main building wall into the RBL.

(b) *Accessory provisions.*

(1) Parking, loading, and access.

a. *Location.*

- i. Loading is permitted only in the rear or side yards, and internal loading bays may not be visible from the street.
- ii. To reduce turning movements and ensure pedestrian safety, no lot may have direct access from Cutler Road or Grand River Avenue. The city may approve an indirect access for service-drive purposes only.
- iii. Cross-access between adjacent parking lots is highly encouraged where possible.

b. *Design.*

i. *Parking lots*

- (i) Parking lots must be divided into a collection of smaller parking areas by separating the areas and connecting them with access drives, planting islands, peninsular bump-outs, and pedestrian ways. Each parking area so divided may not have a capacity over 30 parking spaces.
- (ii) Parking lots must be located on individual sites to ensure that buildings and landscaping, together, visually buffer the lot from public streets.

ii. *Parking structures*

- (i) *Internal arrangement and design:*
 - 1. Parking stall and driving aisles should

be in accordance with the dimensional requirements of section 42-408.

- 2. Column spacing should allow a minimum of 3 parking spaces between columns. Columns should be set back from the aisle to allow free flow of traffic.
- 3. Maximum grades for sloped floor parking structures are 3—5 percent. The building official may permit steeper grades where necessary to accommodate grade changes or other unusual site conditions.
- 4. Entering traffic should circulate in a counter-clockwise direction where feasible. Opportunities for recirculation should be provided.
- 5. Maximum aisle length should not exceed 400 feet without providing a cross aisle.
- 6. The width of a cross aisle may be not less than 18 feet or greater than 24 feet.
- 7. Minimum ceiling height is seven feet, with floor-to-floor heights at a minimum of nine feet. A minimum of eight and one-half feet of ceiling height, and 11 feet ceiling height is

desirable where handicap vans are to be accommodated.

8. Maximum distance between parking spaces and nearest exit stairwell is 200 feet.
9. Maximum distance between parking spaces and elevator should be 350 feet.
10. Elevators: At a minimum, there must be one elevator for up to 250 parking spaces, two elevators for up to 500 parking spaces, and three elevators for up to 1,000 parking spaces.

(ii) *Access points/lanes*

1. Storage areas for entering and exiting traffic should be sufficiently long to minimize backups of traffic onto surrounding streets or within the garage.
2. A minimum of four vehicle lengths of storage must be provided between the street and the structure entrance.
3. One inbound lane must be provided for structures with a capacity of up to 500 vehicles. At least two inbound lanes must be provided for structures with a capacity of more than 500 vehicles.
4. One exit lane must be provided for each 250 vehicles of capacity.

5. Single entrance lanes from the street must be at least 15 feet wide, tapering down to no less than ten feet at the approach to the control equipment. Double entrance lanes must be at least 24 feet wide.

(iii) *Ramps*

1. Straight ramp grades should not exceed 15 percent.
2. Circular ramps may have grades of not more than ten percent, as applied to the inner pavement edge.
3. The transition slope between the ramp and flat surfaces must be equal to one-half the ramp grade, with a minimum blending distance of 12 feet. Ramp grades of less than ten percent may have a shorter transition length as approved by the Building Official.
4. Minimum width of a one-way straight ramp must be at least 11 feet; two-way straight ramps must be at least 24 feet.
5. One way ramp width for circular ramps must be at least 15 feet.
6. Minimum outside wall radius of circular ramp should be at least 33 feet.
7. Minimum outside diameter of circular ramps must be 67 feet.

- 8. Garage ramp super-elevation must be one-half inch per foot of ramp width at the point of sharpest turning, with lesser amounts adjacent to straight sections or storage floors. Straight ramps must be crowned or pitched for drainage.

(iv) *Lighting and security*

- 1. Adequate lighting is necessary for the safe movement of vehicles and pedestrians and for the security of patrons and parked vehicles.
- 2. Lighting must be concentrated on aisles and ramps to allow spillover lighting adequate to illuminate parking stalls.
- 3. Lighting must not cast glare and spillover lighting outside of the parking structure.
- 4. Stairways on the building's exterior must be visible from the outside.
- 5. Pedestrian movement must be monitored through surveillance, either by a cashier at a booth or by a television camera monitored at a remote location.
- 6. Active security techniques, such as security personnel, personnel who monitor

television or sound equipment, are encouraged.

(v) Location and setback requirements

- 1. Parking structures may not face a front lot line.
- 2. Freestanding parking structures may be provided on the same lot as a main building or may be connected to the main building. In either situation, the structure must be set back the same distance as required for main buildings.
- 3. Structures that are included as an integral part of a main building must have the ground level floor area occupied by the main use.

(vi) Parking structures must be architecturally compatible with the buildings they serve. Other applicable requirements of this section must be met.

c. *Amount.*

- i. The number of off-street parking spaces for individual uses are determined by the following table.
- ii. The number of on-street parking spaces along the front property line are counted as part of the total required spaces for the property. A space that has more than half its length along an adjacent property is counted toward the requirement for the adjacent property.

<i>Use</i>	<i>Required Parking Spaces</i>
Art studio/craft shop	1 space per 800 sq. ft. Gross Floor Area (GFA)
Bank or other financial institution without drive-through facilities	1 space per each 400 sq. ft. GFA
Banquet hall and/or conference center	1 space per every 4 persons permitted by fire code
Convalescent or nursing home	1 per each 2 beds, plus 1 per employee
Day care center	1 space per each 3 children the facility is license to accept
Educational institution	1 space per each 3 students or the amount required for an auditorium or place of assembly, whichever is greater
Greenhouse, hydroponics, aquaculture facility	1 space per each peak shift employee, plus spaces required for office uses
Health or exercise club	1 space per each 6 persons permitted by fire code
Hospital	1 space per each 4 beds, plus 1 space per each employee
Hotel	1 per unit, plus 1 per employee, plus additional spaces for accessory uses provided at 50 percent of the requirement listed
Indoor recreation facility	1 space per each 3 persons permitted by fire code
Laboratories including experimental, film, testing, and medical	1 space per each 500 sq. ft. Useable Floor Area (UFA), plus spaces required for office uses
Light industrial	1 space per each peak shift employee, plus spaces required for office uses
Medical office, including clinic	1 space per each 400 sq. ft. GFA
Movie, film, or photo studios, post-processing, or production facilities	1 space per each peak shift employee, plus spaces required for office uses
Municipal buildings and public service buildings without storage yards	1 space per each 300 sq. ft. GFA, not including parking areas for municipal vehicles
Personal service establishment	2 spaces per service provider
Professional offices and professional services	1 space per each 400 sq. ft. GFA
Research and development facilities	1 space per each 500 sq. ft. GFA, plus spaces required for office uses
Restaurant without drive-through facility	1 space per each 150 sq. ft. of floor space not used for seating area, plus 1 for every peak-shift employee, plus 1 space for each 3 persons permitted by fire code
Retail establishment less than 25,000 square feet	1 space per each 400 sq. ft. of GFA
Veterinary hospitals or clinics without outdoor kennels	1 space per each 400 sq. ft. UFA

(2) *Landscaping/screening*

a. *Generally.*

- i. Native vegetation, (indigenous trees, shrubs, wildflowers, grasses, and other plants) and low maintenance turf grasses must be used to the greatest extent possible.

- ii. Planting design near a building can use a broader palette of ornamental species, but the plants must be selected for low water and fertilizer requirements as well as ornamental value.

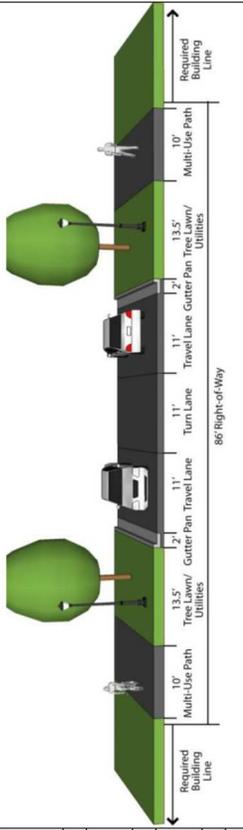
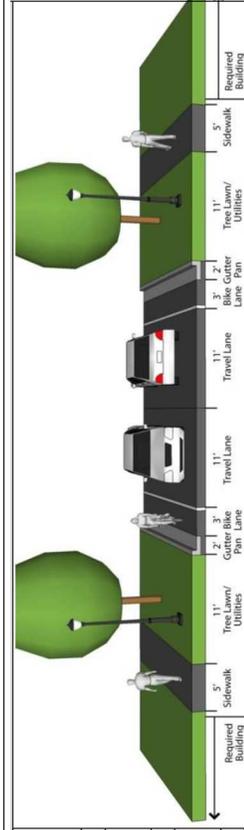
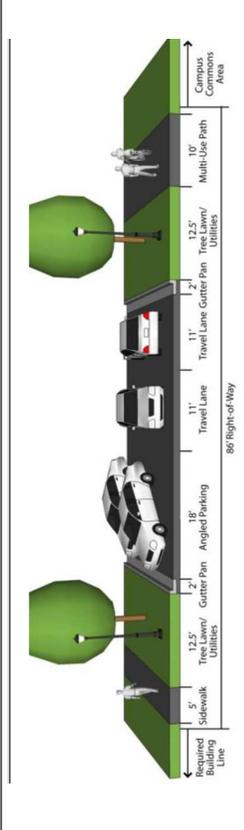
- b. *Parking lots.* One canopy tree (minimum 3 inch caliper) and three understory shrubs are required for every eight parking spaces, or portion thereof. Parking lot landscaping must be located within parking lot islands or within 20 feet of the edge of the parking lot.
 - c. *Street trees.* See section 42-285.
 - d. *Screening.* For additional buffering and screening requirements, see section 42-412(d).
- (3) *Trash enclosures and other outdoor equipment.*
- a. Dumpsters, utilities, and service areas may not be located within a front yard. They must be screened from view and separated from pedestrian use areas.
 - b. Mechanical and electrical equipment, whether on a roof or next to a building, must be screened from view unless it is a well-coordinated design element and supports the architectural design intent for the building and site.
- (4) *Fencing/walls.*
- a. Fencing may be used for specific purposes as an extension of a building, but may not define property lines.
 - b. No wood rail, rustic wood fences, or chain link fences may be used unless they are immediately adjacent to, built as part of, or reflect the character of the primary-use structure on site.
- (5) *Lighting.*
- a. Light fixtures may be no taller than 20 feet and must be provided with light cut-off fixtures that direct light downward.
 - b. Additional lighting standards can be found in section 42-304 and section 42-411(c).
- (6) *Public art.* Public art is encouraged and may be located in appropriate areas without regard to setbacks, RBLs, etc., but clear vision at corners must be maintained (see section 42-300(b)(5)).
- (7) *Accessory structures.* Accessory Structures may not be placed forward of the RBL.
- (8) *Stormwater management.*
- a. To the greatest extent possible, all drainage over impervious surfaces should be directed across the surface and into vegetated swales.
 - b. The use of rain gardens, vegetated roofs, stormwater capture and reuse, pervious paving materials, or other innovative stormwater management techniques is highly encouraged.
- (9) *Pedestrian connections*
- a. Site development must incorporate an open-space network of interior paths that links buildings through open space with pedestrian walkways, bikeways, plazas, and trails. See section 42-285.
 - b. A pedestrian pathway must be provided within the right of way connecting one property to the next to create a system of interconnected pathways throughout the O-R district, connecting to the Portland River Trail System.
 - c. Benches, bicycle racks, garbage cans, and other pedestrian-scale street furniture and accommodations must be provided.

(Ord. No. 175BB, § 1, eff. 1-16-2011)

Sec. 42-285. Streetscape requirements.

The following typical street cross-sections represent the desired street forms within the O-R district. The following are typical street sections and may vary along the length based on city engineering standards.

- (a) An applicant is not required to make any improvements to the vehicular lanes located between the curbs for any public street. However, the applicant must make all streetscape improvements outside of the street curb along the lot frontage as shown in the following cross-sections, including sidewalks, pathways, tree-lawn landscaping, and street trees.
- (b) When an applicant proposes a new street or to reconstruct an existing street, the street and associated streetscape improvements must be constructed in accordance with the following street cross-sections and all applicable city engineering and construction standards.

<p><i>(c) Primary Street</i></p>	
<p>Roadway</p>	<p>37 feet including a two-foot gutter pan on both sides, or as determined by the city. Two travel lanes, one turn lane.</p>
<p>Tree Lawn</p>	<p>Minimum: 13.5 feet on both sides of the street</p>
<p>Sidewalk/Pathway</p>	<p>Ten-foot multiuse path on both sides of the street</p>
<p>Street Lights</p>	<p>City street lights</p>
<p>Street Trees</p>	<p>Minimum: 1 tree every 30 ft. in tree-lawn or in front yard within 15 feet of the front lot line</p>
<p>Parking</p>	<p>None</p>
<p>Right-of-way</p>	<p>86 feet, or as determined by the city</p>
<p><i>(d) Service Street</i></p>	
<p>Roadway</p>	<p>32 feet including 3-foot bike lanes and two-foot gutter pans on both sides, or as determined by the city. Two travel lanes.</p>
<p>Tree Lawn</p>	<p>Minimum: 11 feet on both sides of the street</p>
<p>Sidewalk/Pathway</p>	<p>Minimum: Five-foot sidewalk on both sides of the street</p>
<p>Street Lights</p>	<p>City street lights</p>
<p>Street Trees</p>	<p>Minimum: One tree every 30 feet in tree-lawn or in front yard within 15 feet of front lot line.</p>
<p>Parking</p>	<p>None</p>
<p>Right-of-way</p>	<p>66 feet, or as determined by the city</p>
<p><i>(e) Campus Commons Perimeter Street</i></p>	
<p>Roadway</p>	<p>44 feet including two-foot gutter pans on both sides, or as determined by the city. Two travel lanes.</p>
<p>Tree Lawn</p>	<p>Minimum: 12.5 feet on both sides of the street</p>
<p>Sidewalk/Pathway</p>	<p>Minimum: Five-foot sidewalk parallel to buildings; ten-foot multiuse path along campus commons area</p>
<p>Street Lights</p>	<p>City street lights</p>
<p>Street Trees</p>	<p>Minimum: One tree every 30 feet in tree-lawn or in front yard within 15 feet of front lot line.</p>
<p>Parking</p>	<p>18-foot angled parking along building side</p>
<p>Right-of-Way</p>	<p>76 feet, or as determined by the city.</p>

(Ord. No. 175BB, § 1, eff. 1-16-2011)

Sec. 42-286. Departures, deviations, and variances.

<i>(a) Departures, deviations, and variances from the form-based requirements are considered according to the requirements of the following table:</i>		
<i>(1)Departures.</i> Departures are minor allowances from the requirements of the form-based district to consider the preservation of existing natural features or to accommodate existing grades or other similar site conditions, if necessary. The City Manager or designee may approve applications with the following departures from the form-based requirements of the district.		Building height, up to 5 ft.
		Minimum number of parking spaces, up to 5 percent
		Required Building Line, up to 5 percent
		Façade Transparency, up to 5 percent
<i>(2)Variances.</i> Variances are requests for substantial relief from the requirements of the zoning ordinance. Variances in the OR Form-Based District follow the procedures outlined in section 42-71, b.	Siting Requirements	Placement of buildings, parking areas, driveways or projections resulting in an RBL or setback that is less than or greater than the above requirements, unless an administrative departure is granted.
		All minimum lot requirements (area, width, etc.)
		Location of accessory structures
	Building Requirements	Building height and number of stories, except for an administrative departure.
	Parking	Location
		Minimum number of parking spaces, except for an administrative departure
Landscaping/Screening	Dimensions of landscaping/screening (height, number, separation, etc.)	
<i>(3)Deviations.</i> See section 42-287(d) below.	All Others	

(Ord. No. 175BB, § 1, eff. 1-16-2011)

Sec. 42-287. Procedures.

(a) Within the form-based district, special land uses are considered according to the requirements and procedures of article V, including any specific use requirements in section 42-341. Where the requirements of this article conflict with any requirements in article V, the requirements of this article prevail.

(b) *Administrative approvals.* An administrative approval provides an incentive to applicants who develop projects or sites within form-based districts that fully comply with all of the require-

ments of this article, without deviations or variances, and do not require site plan review or special land use approval.

- (1) The city manager or designee may make an administrative approval. The city manager or designee must consult with designated representatives of other city and county departments, or others, as deemed necessary, before making an approval.
- (2) Within 30 days of submitting a completed application, unless a longer period is agreed to by the applicant in writing, the city manager or designee must administratively approve the plan or must inform the applicant in writing as to why the administrative approval has not been granted.

- (3) Permits for building or site development may not be submitted or applied for until administrative approval has been granted.
- (4) Decisions by the city manager or designee may be appealed to the zoning board of appeals.
- (5) The city manager or designee submit a plan for site plan review even if it is eligible for administrative approval when the scale or effect of the project is deemed significant enough to warrant planning commission review.

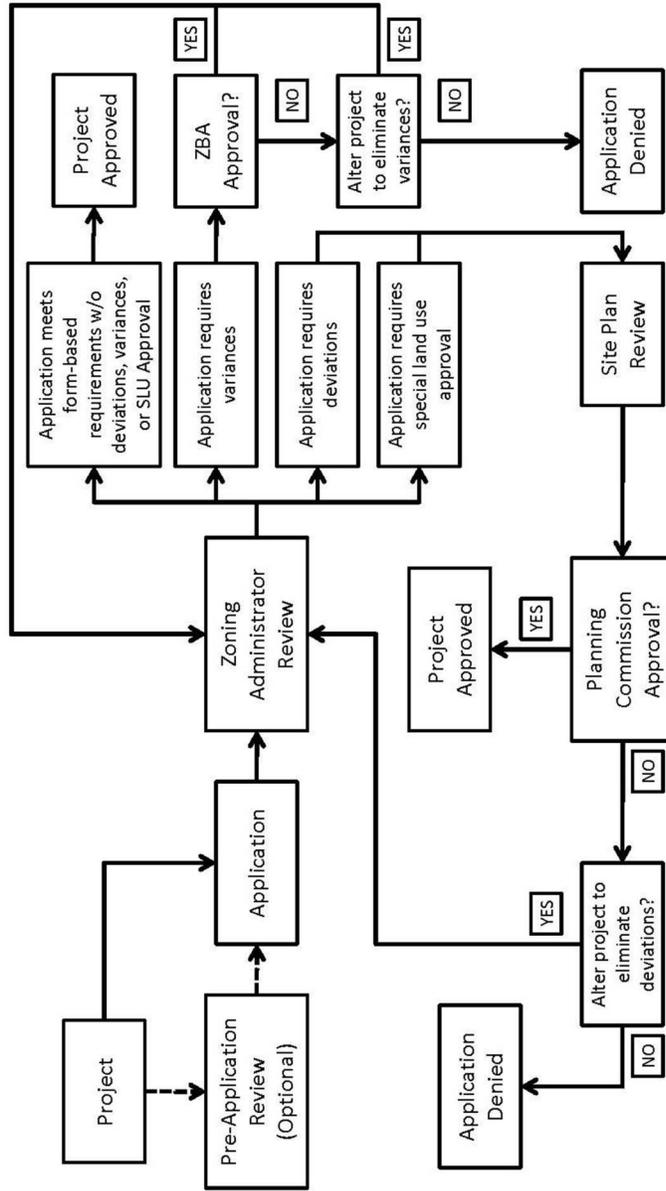
(c) *Variances.* All variances listed in section 42-286, are considered by the zoning board of appeals, in accordance with section 42-71 of the zoning ordinance.

(d) *Deviations from form-based district requirements.* A development in a form-based district that does not qualify for administrative approval requires site plan review.

- (1) Site plan review cannot permit a lesser building or site requirement than that contained in this ordinance. A request for a lesser requirement is a variance request and may only be approved by the zoning board of appeals per section 42-71 of the zoning ordinance.
- (2) A deviation from requirements not listed as variances is reviewed under the requirements of this subsection.
- (3) The planning commission may not change part of the site plan that meets the development requirements of the district or one that has been properly approved as an administrative departure.
- (4) In determining if a deviation is warranted, the planning commission must consider the following:
 - a. Deviations are permitted when an applicant demonstrates that the resulting design is superior in terms of compatibility with surrounding structures or natural features and better fits the character of the area than when it conforms to the form-based requirements.

- b. The planning commission may also allow deviations when the applicant shows that conformance with the form-based requirements is impractical due to existing building or site layouts on adjacent sites, where the deviation has no exterior effect or where the deviation is necessary to meet other laws or regulations.
 - c. The deviation must be the least deviation necessary to achieve the results in either subparagraphs a. or b., above.
 - d. The planning commission may grant a lesser deviation than requested.
 - e. The planning commission may impose conditions on the site plan when granting a deviation, if necessary to meet the intent of this article.
- (e) *Application process.* The following chart depicts the form-based application process and the various paths to approval.

Form-Based Code Application Process



(Ord. No. 175BB, § 1, eff. 1-16-2011)

Sec. 42-288. Nonconformities in the O-R district.

(a) Existing uses, structures, and lots that do not conform to the requirements of the form-based district are subject to the regulations of section 42-306, except as follows:

- (1) Any expansion of a nonconforming structure greater than 25 percent of the gross floor area of the existing building or any expansion or renovation greater than 50 percent of the assessed value of the structure at the time of the expansion requires the entire structure to meet the requirements of the form-based district. For any expansion, the more restrictive of these two criteria controls.

(2) In addition, the following apply to any expansion of a nonconforming structure:

- a. Expansion of a nonconforming structure may be undertaken only one time per structure without requiring compliance with the code, regardless of percentage of area or assessed value.
- b. The assessed value is determined at the time of the proposed expansion.
- c. An expansion on the front of a nonconforming building does not increase the extent of nonconformity if the expansion is at the same or less distance to the required build-to line as is the existing structure.
- d. Façade alterations to existing buildings or expansion that comply with the required build-to line must also comply with building elements specifications of this article.
- e. Repair and maintenance work are allowed without regard to subparagraph (1), above; such exempt activities include roof replacement, window replacement and maintenance, mechanical and electrical upgrade, interior fit out (tenant improvement work), parking resurfacing, and other

minor site work, such as stormwater improvements, landscaping, and site amenities.

- f. A structure destroyed by any means by more than 50 percent of its pre-destruction value may be replaced only by a structure that conforms to the requirements of the form-based district; however, this does not preclude the property owner from seeking variances or deviations as provided by this article.
- g. Parking lots, bicycle facilities, loading areas, landscaping, screening, and other site improvements are considered structures for the purposes of these provisions.

(Ord. No. 175BB, § 1, eff. 1-16-2011)

Secs. 42-289—42-294. Reserved.

ARTICLE IV. SUPPLEMENTAL REGULATIONS

Sec. 42-295. Application of regulations.

(a) Unless otherwise noted, the regulations in this article apply throughout the city and within each district. They shall be minimum regulations and shall apply uniformly to each class or kind of structure, land or use.

(b) All buildings, structures or land may be used, constructed, altered or occupied, only when in conformity with all of the regulations specified in this article for the district in which it is located in accordance with the procedures of this chapter.

(c) Except as otherwise permitted by this chapter, after the effective date of the ordinance from which this chapter is derived no building or other structure shall be altered:

- (1) To accommodate or house a greater number of persons or families than permitted by the zoning district; or
- (2) To have narrower or smaller rear yards, front yards, or other side yards, other than permitted.

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

(e) Essential public services: Except as may otherwise be noted in this chapter, the erection, construction, alteration or maintenance of essential public services shall be permitted in any zoning district; because the erection, construction, alteration or maintenance is exempt from the application of this chapter.

(Ord. No. 175J, § 3.01, eff. 9-17-2004)

Sec. 42-296. Access to streets.

Every main building or structure hereafter erected or moved shall have continuous minimum frontage on a lot adjacent to a public street, or with access to an approved private street. All structures shall be located on lots to provide safe and convenient access for servicing, fire protection, and required off-street parking.

(Ord. No. 175J, § 3.02, eff. 9-17-2004)

Sec. 42-297. Main building or principal use.

Except as may otherwise be noted in this article, each parcel shall contain only one main building or principal use, except for groups of related commercial, industrial, and office buildings, and multiple-family dwellings, contained within a single, integrated complex as demonstrated by sharing parking, signs, access, and other similar features which, in the opinion of the zoning administrator, form a unified function and appearance.

(Ord. No. 175J, § 3.03, eff. 9-17-2004)

Sec. 42-298. Accessory buildings and uses.

(a) *General requirements.*

(1) Accessory buildings and structures that are customarily incidental and subordinate to an existing main building, structure or use permitted within the applicable district, located on the same

lot and not otherwise regulated by this article, shall be permitted subject to the regulations of this section.

- (2) No accessory building shall be permitted on any lot, which does not contain a main building unless a permit for a principal structure has also been secured from the city for that lot.
- (3) Existing nonconforming accessory structures may be replaced on the existing footprint provided they are wholly contained within the property and meet the required front yard setback.
- (4) Attached accessory buildings and structures shall be made structurally part of the main building and shall conform to the district setback requirements of the main building.
- (5) Detached accessory buildings and structures shall be a minimum of ten feet from another building or structure or three feet from any property line as measured from the main wall of the building.
- (6) Accessory buildings shall not be erected in any required front yard.
- (7) No more than 30 percent of the rear yard area shall be occupied by accessory buildings.
- (8) No accessory building shall be used in any part for residential dwelling or sleeping purposes, unless it is part of an existing, historic structure, including but not limited to carriage houses already constructed and available for residential use.
- (9) Any accessory building with an area greater than 120 square feet must be permanently constructed on a concrete slab or foundation and must conform to all applicable building and other similar codes. The architectural character must be compatible with, and similar to, the main building with respect to materials, scale, design, and aesthetic quality as determined by the zoning administrator.

(10) No accessory building shall occupy any portion of a required greenbelt or buffer in any district.

(b) *Detached accessory buildings and structures, residential districts or uses.*

(1) One detached accessory building shall be permitted for a residential district or use, which shall not exceed the following area and height:

- a. For lots of 10,000 square feet in area or less: 800 square feet and not exceeding 15 feet in height to the midpoint of the roof except that a garage designed to be harmonious with an existing historic home may be the same height of the home at the midpoint of the main building's roof;
- b. For lots greater than 10,000 square feet in area, up to one acre: 960 square feet and not exceeding 18 feet in height to its highest point; and
- c. For lots greater than one acre: 1,500 square feet and not exceeding 20 feet in height to its highest point.

(2) One additional detached storage shed shall be permitted for a residential district or use not to exceed 120 square feet in area. A swimming pool and cover structure shall also be permitted on a lot, subject to the requirements of this section and any other applicable ordinance.

(c) *Detached accessory buildings, nonresidential districts or uses.*

- (1) The total area of all detached accessory buildings shall not exceed 50 percent of the floor area of the main building.
- (2) Detached accessory buildings shall meet all setback requirements for main buildings for the district in which it is located, as measured from the main wall of the building, except that in no case shall the setback be less than ten feet from any lot line.

(3) No detached accessory building shall exceed the permitted height for main buildings in the district in which it is located.

(4) Guard houses may be permitted in the required front yard of an industrial district.

(Ord. No. 175J, § 3.04, eff. 9-17-2004; Ord. No. 175FF, § 1, eff. 4-17-2014)

Sec. 42-299. Height exceptions.

The height limitations contained in this article do not apply to spires, belfries, cupolas, antennae, water tanks, ventilators, chimneys, or other similar appurtenances usually required to be placed above the roof level and not intended for human occupancy.

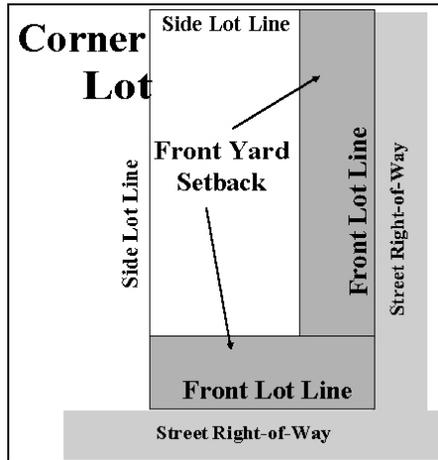
(Ord. No. 175J, § 3.05, eff. 9-17-2004)

Sec. 42-300. Lots and lot measurements.

(a) *Sufficient buildable area.* All newly created lots shall have sufficient buildable area to meet required setbacks and minimum lot size requirements of this article. The net buildable area of a lot shall be a contiguous piece of land excluding wetlands or lands under water for six months or more of the year.

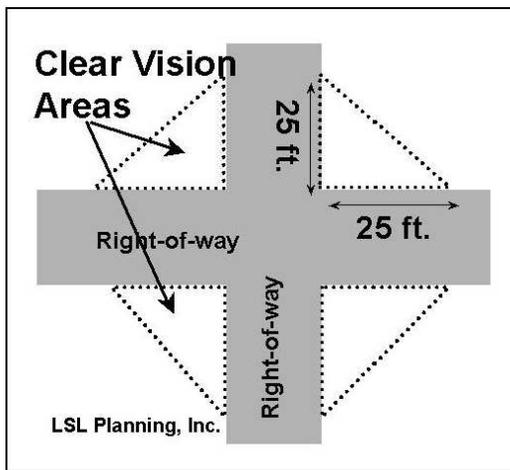
(b) *Corner lots.*

- (1) Each lot line abutting a public or private street shall be a front lot line, and the required setback along both lot frontages shall be a required front yard. The two remaining yards shall each be side yards.



- (2) Required front yard setbacks shall be measured from both front lot lines.

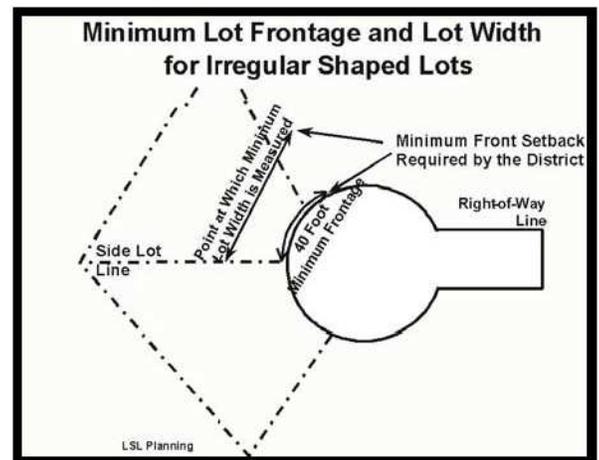
- (3) For a corner lot with three front lot lines, the remaining lot line shall be a rear lot line.
- (4) The minimum lot width of a corner lot shall be determined at the shortest front lot line.
- (5) No solid fence, wall or planting screen between 30 inches and eight feet in height as measured from grade, shall be located within a triangular section of land formed by the intersection of the street right-of-way lines and a line connecting two points which are located on those intersecting right-of-way lines 25 feet from the point of intersection of the right-of-way lines.



(c) *Average setbacks.*

- (1) In all residential districts where main buildings have nonconforming front setbacks, the required front setback for a new structure shall be equal to, or the average of the front setbacks of existing main buildings within three lots of the lot where the front yard setbacks are:
 - a. Less than the required front yard setback for the zoning district;
 - b. On the same side of the street and either side of the subject parcel; or
 - c. In the same zoning district as the subject parcel.

- (2) The permitted front setback reduction shall only be permitted if there are two or more lots occupied by main buildings within the three lot distance.
- (3) In no case shall the required front setback resulting from the application of this subsection be less than ten feet.
- (d) *Cul-de-sac lots.*
 - (1) Cul-de-sacs shall meet the minimum design standards of the city.
 - (2) A cul-de-sac shall be determined to commence at the intersection of the radius of the cul-de-sac with the street right-of-way line.
 - (3) The minimum lot width for a lot on a cul-de-sac shall be measured at a line drawn between the two points located at the intersection of a line extending along the side lot lines equal to the distance of the required front setback.
 - (4) A lot on a cul-de-sac shall have not less than 40 feet of lot frontage as measured along the front lot line.



(Ord. No. 175J, § 3.06, eff. 9-17-2004)

Sec. 42-301. Projections into yards.

- (a) Architectural elements attached to and necessary to the integrity of the building, or the health or safety of the occupants, such as ramps for the disabled, cornices, eaves, gutters, chimneys, pilasters, unenclosed steps, fire escapes,

and similar features shall be permitted to encroach upon the minimum setback requirements of this chapter; provided, the projection into a required front or rear yard area is no closer than five feet from a street right-of-way line or rear lot line. No encroachment shall be permitted into the side setback of the lot.

(b) Unenclosed terraces, patios, porches, and decks shall be permitted to encroach upon the minimum yard area and setback requirements of this article provided they are:

- (1) Attached to the main building;
- (2) Not covered with a roof;
- (3) Elevated no more than 30 inches above the average surrounding final grade;
- (4) Not fully enclosed by walls or fences over 5½ feet in height;
- (5) Located no closer than 15 feet from a rear lot line or eight feet from a street right-of-way line; and
- (6) Do not encroach into the side setback of the lot.

(c) Enclosed terraces, patios, porches, steps and decks may encroach upon the required front setback up to five feet and in the required rear setback of up to ten feet.

(d) Those structures covered in subsections (a) and (b) of this section shall not be considered nonconforming, and therefore, shall be permitted to be rebuilt even if destroyed by an act of God or by the owner/occupant of the structure. (Ord. No. 175J, § 3.07, eff. 9-17-2004)

Sec. 42-302. Home occupations.

(a) Home occupations shall be approved by the zoning administrator, who shall issue a certificate of occupancy specifying the use, size, and the specific measures by which compliance with this section will be maintained by the home occupation and provided the requirements of the residential district are met.

(b) Only members of the family residing in the home shall be engaged in connection with the home occupation.

(c) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of the floor area or 500 square feet of the dwelling unit, whichever is less, shall be used in the conduct of the home occupation. Should part of the home occupation be conducted in an accessory building, not more than 50 percent of the floor area or 500 square feet of the accessory building, whichever is less, may be used for the home occupation.

(d) There shall be no change in the outside appearance of the building that would indicate the presence of a home occupation or depart from the residential character of the dwelling, and have any visible evidence of the conduct of the home occupation, except for a home occupation sign that complies with the city sign ordinance.

(e) There shall be no sale of products or services except as are produced on the premises or those products which may be directly related to and incidental to the home occupation.

(f) There shall be no outdoor, on-site storage of materials, equipment, or accessory items and/or display of materials, goods or supplies used in the conduct of the home occupation.

(g) The home occupation will not create traffic congestion, parking shortages, or otherwise adversely affect the pedestrian or vehicular circulation of the area. The following factors shall be considered by the zoning administrator to determine whether the traffic effects on a neighborhood may be excessive:

- (1) Whether the subject parcel is located at the entrance or the interior of a residential development where increased traffic volumes may be otherwise anticipated;
- (2) Whether the nature of the proposed home occupation requires scheduled appointments or whether traffic volumes may be higher at certain times of the day;
- (3) Whether traffic volumes may vary on a seasonal basis; and
- (4) Whether the home occupation could be conducted in a manner that reduces traffic generated in the area.

(h) Any parking for vehicles associated with the home occupation shall be provided off the street. No commercial vehicles exceeding a rated capacity of one ton may be parked on the premises.

(i) No equipment or process shall be used in the home occupation that creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the premises. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in the line voltage off the premises.

(j) No more than two customers, clients, students or patients shall be on the premises in which a home occupation is located at any one time.

(k) Visits by customers, clients, students or patients to a dwelling unit in which a home occupation is located shall be limited to between the hours of 7:00 am to 8:00 pm, local time.

(l) All building, housing, fire and other local or state codes and ordinances shall be adhered to for home occupations.

(m) A registered primary caregiver, as defined by and in compliance with the General Rules of the Michigan Department of Community Health, Michigan Admin Code, R 333.101 through R 333.133 (the "General Rules"), the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 et seq (the "Act"), and the requirements of this section, shall be allowed as a home occupation. Nothing in this section, or in any companion regulatory section adopted in any other provision of this article, is intended to grant, nor shall they be construed as granting immunity from prosecution for growing, sale, consumption, use, distribution or possession of marihuana not in strict compliance with the act and the general rules. Also, since federal law is not affected by the act or the general rules, nothing in this section, or in any companion regulatory section adopted in any other provision of this section, is intended to grant, nor shall they be construed as granting immunity from criminal prosecution under federal law. The act does not protect users, caregiv-

ers or the owners of properties on which medical use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act. The following requirements for a registered primary caregiver shall apply:

- (1) The medical use of marihuana shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act and the general rules of the Michigan Department of Community Health, as they may be amended from time to time.
- (2) A registered primary caregiver must be located outside of a 1,000-foot radius from any school or library, as defined by the Michigan Public Health Code, 1978 PA 368, as amended, MCL 333.7410, to insure community compliance with federal "Drug-Free School Zone" requirements.
- (3) Not more than one primary caregiver shall be permitted to service qualifying patients on a parcel.
- (4) Not more than five qualifying patients shall be assisted with the medical use of marihuana within any given calendar week.
- (5) All medical marihuana shall be contained within the main building in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered primary caregiver or qualifying patient, as reviewed and approved by the city building official and the city police department.
- (6) All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the residential structure in which electrical wiring, lighting or watering devices that support the cultivation, growing or harvesting of marihuana are located.
- (7) If a room with windows is utilized as a growing location, any lighting methods that exceed usual residential periods between the hours of 11:00 pm to 7:00 am, local time, shall employ shielding meth-

ods, without alteration to the exterior of the residence, to prevent ambient light spillage that may create a distraction for adjacent residential properties.

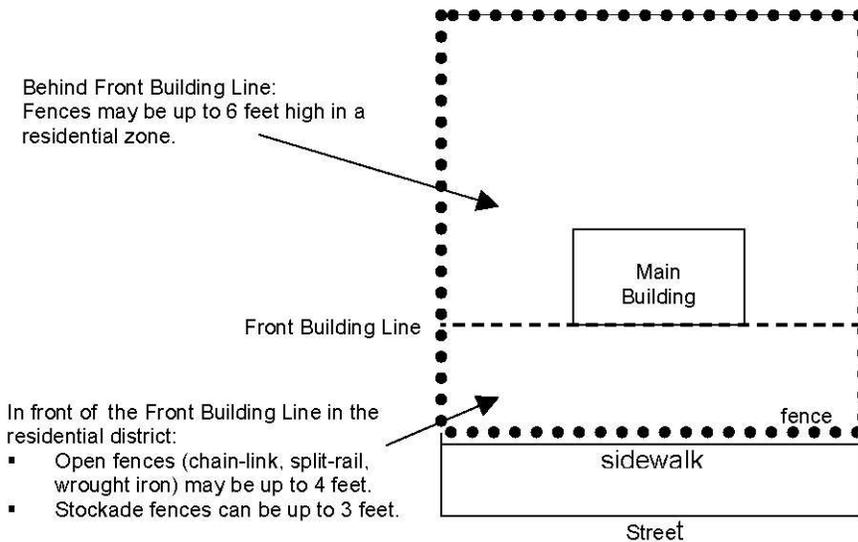
- (8) That portion of the residential structure where energy usage and heat exceeds typical residential use, such as a grow room, or where the storage of any chemicals such as herbicides, pesticides and fertilizers occurs, shall be subject to inspection and approval by the city building official or fire department to ensure compliance with applicable provisions of the fire code.
 - (9) No signage is permitted for a home occupation as a registered primary caregiver.
- (Ord. No. 175J, § 3.08, eff. 9-17-2004; Ord. No. 175CC, § 2, eff. 1-16-2011)

State law reference—Instruction in craft or fine art considered a home occupation, MCL 125.3204.

Sec. 42-303. Fences, walls, and landscape buffers.

(a) *Fences, residential districts.*

- (1) Fencing which is essentially open (e.g., wrought iron, chain link, split rail, or picket fence) may be up to 48 inches in height in the front yard.
- (2) Stockade fence and masonry walls shall be limited to three feet in height in the front yard.
- (3) Fences may be up to six feet in height behind the required front setback line of the main building.



(b) *Fences, generally.*

- (1) No solid fence, wall or planting screen greater than 30 inches in height as measured from grade, shall be located within a triangular section of land formed by two

15-foot perpendicular lines intersecting at the driveway and street pavement point and a connecting line.

- (2) All fences erected by individual property owners must be located on his property.
- (3) No electrically charged fences are permitted.

- (4) In commercial or industrial districts, a wall, fence or yard enclosure may be up to eight feet in height behind the required front setback line.
 - (5) No person shall place, string or maintain barbed wire as part of any fence, other work or structure in any zoning district unless approved by the planning commission as part of a special land use.
 - (6) No fence or wall shall be erected which constitutes a fire hazard either of itself or in connection with the existing structures in the vicinity, nor which will interfere with access by the fire department.
 - (7) It is unlawful to construct any private fence or barrier within a public right-of-way.
 - (8) All fences shall be maintained in a good condition so that they do not result in an unreasonable hazard to persons who might come near them. Failure to maintain the fence shall be considered a violation of this chapter.
 - (9) Fences constructed of wood or other material having one side designed and considered the decorative side shall be erected with that side facing the adjoining street or abutting property owner's premises.
- (Ord. No. 175J, § 3.09, eff. 9-17-2004)

Sec. 42-304. Lighting.

(a) Lighting provided for security or visibility on any site shall be shielded to reduce glare and shall be so arranged and maintained as to direct the light away from any residential district or use lot.

(b) Light fixtures shall be no higher than 30 feet and shall be provided with light cut-off fixtures that direct light downward.

(c) For parking lots serving a single building or groups of related commercial, industrial, or office buildings in excess of 500 spaces the planning commission may permit a higher light fixture in selected locations within the parking lot where existing or planned residential areas will not be affected.

(d) Lighting attached to buildings or other structures shall not permit light to be directed horizontally.

(Ord. No. 175J, § 3.10, eff. 9-17-2004)

Sec. 42-305. Private swimming pools.

(a) Every person owning land on which there is located a swimming pool, spa, hot tub, or similar device (below ground or above ground) which contains 24 inches or more of water in depth at any point, shall ensure that such device is made inaccessible to small children by means of a fence or enclosure surrounding the device or due to the height of the side walls, as approved by the zoning administrator. These side walls, fences or enclosures, including the gates, shall not be less than four feet or greater than six feet above grade. All gates shall be self-latching with latches placed no less than four feet above grade or otherwise made inaccessible from the outside to small children.

(b) Swimming pools, spas, hot tubs and similar devices shall not be located less than ten feet from any lot line.

(c) Swimming pools, spas, hot tubs and similar devices shall not be located in any front yard.

(d) No pool, spa, hot tub, or similar device regulated by this section shall be constructed, installed, enlarged, or altered until a permit has been obtained from the zoning administrator.

(e) No lights shall be erected, operated or maintained in connection with a swimming pool or hot tub in such a manner as to create an annoyance to surrounding properties.

(Ord. No. 175J, § 3.11, eff. 9-17-2004)

Sec. 42-306. Nonconforming uses, structures, and lots.

(a) *General provisions.*

- (1) Any lot, use of land, or structure which has been established in violation of the provisions of a previous zoning ordinance having jurisdiction at the time the use of land or structure was established, and any lot, use of land, or structure which has been lawfully established under a previous zoning ordinance and subse-

quently violates the terms of the permit under which it was established, shall continue to be in violation of this article.

- (2) An existing lot, use of land, or structure which does not fully comply with the provisions of this chapter, as amended, and either was lawfully established under a previous zoning ordinance, created, or commenced during a period of time when no valid zoning ordinance was in effect, or was lawfully established under the jurisdiction of this chapter (before amendment), and remains in compliance with the terms of a permit issued at that time, shall be permitted to continue provided there is compliance with this section.
- (3) A lawful use of land or structure which is under construction at the time of adoption of this chapter may continue establishment of a building or structure before the enactment of this chapter shall be permitted to continue as a nonconformity, subject to the provisions of this section.
- (b) *Nonconforming uses.*
- (1) No part of any nonconforming use shall be moved unless the movement eliminates the nonconformity.
- (2) If a nonconforming use is abandoned for any reason for a period of more than one year, any subsequent use shall conform to the requirements of this chapter. A nonconforming use shall be determined to be abandoned if one or more of the following conditions exists, and shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use:
- Utilities, such as water, gas and electricity to the property, have been disconnected;
 - The property, buildings, and grounds have fallen into disrepair;
 - Signs or other indications of the existence of the nonconforming use have been removed;
 - Removal of equipment or fixtures that is necessary for the operation of the nonconforming use;
 - Other actions, which in the opinion of the zoning administrator, constitute an intention of the part of the property owner or lessee to abandon the nonconforming use.
- (3) A nonconforming use shall not be changed in use to another use that is also nonconforming unless it is more conforming than the previous use. Once a conforming use is established the prior nonconforming use may not be reestablished.
- (4) A nonconforming use may not be enlarged or increased, or extended to occupy a greater area of land than was occupied at the effective date of the adoption or amendment of the ordinance from which this chapter is derived.
- (c) *Nonconforming buildings and structures.*
- (1) The expansion of a nonconforming structure shall be permitted provided that the addition complies with this chapter and does not increase the nonconformity.
- (2) If any nonconforming building or structure is damaged by fire, wind, or an act of God or the public enemy, it may not be rebuilt or restored unless in compliance with this chapter.
- (3) A nonconforming building or structure shall not be moved in whole or in part except when the moving results in full compliance with the provisions of this chapter.
- (d) *Nonconforming lots of record.*
- (1) A nonconforming lot may be used for the purposes for which it is zoned; provided, that:
- If already less than the minimum requirements of this chapter, a required lot area or lot width shall not be divided or reduced in dimensions or area so as to increase its noncompliance with the minimum requirements of this chapter; and
 - Any main building on the lot shall be located so that at least 66 percent of the setback requirements of the district in which the lot is located are met. See also section 42-301(c).

- (2) Combination of nonconforming lots.
 - a. For any two or more nonconforming lots of record or combination of lots and portions of lots of record, in existence at the time of the passage of this chapter, or an amendment to it, the lands involved shall be considered to be an undivided parcel for the purposes of this chapter if they:
 - 1. Are in common ownership;
 - 2. Are adjacent to each other or have continuous frontage; and
 - 3. Individually do not meet the lot width or lot area requirements of this chapter.
 - b. Parcels meeting the provisions of subsection (d)(2)a of this section, shall be combined into a lot or lots complying as nearly as possible to the lot width and lot size requirements of this chapter. No portion of the parcel shall be used or divided in a manner that diminishes compliance with lot width and area requirements of this chapter.

(Ord. No. 175J, § 3.12, eff. 9-17-2004; Ord. No. 175R, § 2, eff. 1-18-2007)

State law reference—Nonconforming uses or structures, MCL 125.3208.

Sec. 42-307. Regulations applicable to single-family dwellings outside manufactured home parks.

Any one-family dwelling, whether constructed and erected on a lot, or a manufactured home outside a manufactured home park, may be permitted only if it complies with all of the following requirements:

- (1) The dwelling shall meet the minimum square footage requirements for the district in which it is located.
- (2) Design features:
 - a. The minimum width across any front, side, or rear architectural elevation shall be at least 24 continuous feet of exterior wall.

- b. Dwellings shall have a minimum roof pitch of four inches to one foot of rise.
 - c. All dwellings shall have either a roof overhang of not less than six inches on all sides, or alternatively with window sills and roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling.
 - d. Where elevation differences make it necessary, the dwelling shall contain permanently attached steps connected to exterior door areas or to porches connected to the door areas.
 - e. The dwelling shall not contain additions or rooms or other areas that are not constructed with similar quality work as the original structure, including permanent attachment to the main building and construction of a foundation as required by the state construction code.
 - f. The dwelling shall contain an interior storage area equal to ten percent of the square footage of the dwelling or 100-square feet, whichever is less.
 - g. The dwelling unit shall be no greater in length than 2½ times its width.
 - h. The dwelling unit shall have at least two exterior doors, with one being in either the rear or the side of the dwelling unit.
- (3) The dwelling shall conform to the state construction code and all other pertinent construction and fire codes. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where the standards allow standards of construction that are less stringent than those imposed by the state construction code, then the less stringent federal or state standard or regulation shall apply. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.

- (4) In the case of a manufactured home, all construction and all plumbing, electrical apparatus and insulation within and connected to the manufactured 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, being 24 CFR 3280, and as from time to time the standards may be amended.
- (5) The dwelling shall be placed upon and secured to a permanent foundation meeting the requirements of the state construction code. The area between the elevation of the lot and the structure shall have a wall of the same dimensions of the dwelling and constructed of materials and type as required in the applicable code for one-family dwellings. In the event that the dwelling is installed pursuant to the manufacturer's set-up instructions, the dwelling shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the state manufactured home commission.
- (6) If the dwelling has wheels, towing mechanisms or undercarriages, they shall be removed.
- (7) The dwelling shall be connected to sanitary sewer and public water pursuant to the City of Portland Municipal Standards.
- (8) The dwelling shall be aesthetically compatible in design and appearance with other residences in the vicinity.
- a. Compatibility of design and appearance shall be determined in the first instance by the zoning administrator upon review of the plans (which may include elevation sketches or photographs) submitted for a particular dwelling, subject to appeal in accordance with the provisions of section 42-71(a).
 - b. Any determination of compatibility shall be based upon the standards set forth in this subsection regarding dwellings as well as the character, design and appearance of one or more residential dwellings located outside of manufactured home parks within 300 feet of the subject dwelling where the area is developed with dwellings to the extent of not less than 20 percent of the lots situated within the area; or where the area is not so developed, by the character, design and appearance of one or more residential dwellings located outside manufactured home parks in the city.
- (9) The requirements of this section shall not be construed to prohibit innovative design concepts involving matters such as solar energy, view, unique land contour, or relief from the common or standard designed home.
- (10) The foregoing requirements shall not apply to manufactured homes located in a state licensed manufactured home park except as required by state or federal law or otherwise specifically required in any city ordinance pertaining to these parks. (Ord. No. 175J, § 3.13, eff. 9-17-2004)

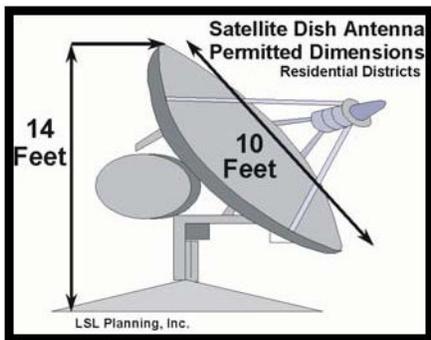
Sec. 42-308. Satellite dish antennas.

(a) *Placement.*

- (1) In residential districts a satellite dish antenna shall be permitted only in a rear yard, or mounted or attached to a building.
- (2) A satellite dish antenna of over 18 inches in diameter shall comply with the yard setback requirements applicable to main buildings in the district in which it is located.
- (3) In nonresidential districts a satellite dish antenna shall be located only in the side or rear yard or mounted on top of a building. No more than two satellite dish antennas shall be located on the same lot as a main building. Satellite dish antennas are permitted only in connection with, incidental to and on the same lot as a principal use or main building.

(b) *Height.*

- (1) In residential districts, a ground mounted satellite dish antenna, including any platform or structure upon which the antenna is mounted, shall not exceed 14 feet in height, or ten feet in diameter.
- (2) In the nonresidential districts, a satellite dish antenna, including any platform or structure upon which the antenna is mounted, shall not exceed the maximum height permitted for main buildings in the district in which it is located.



(c) *General provisions.*

- (1) These regulations shall not apply to dish antennas that are one meter (39.37 inches) or less in diameter in residential districts or two meters (78.74 inches) or less in diameter in nonresidential districts.
- (2) No portion of a satellite dish antenna shall contain any name, message, symbol, or other graphic representation visible from adjoining properties, except as required by the manufacturer or federal regulations for safety purposes.
- (3) A satellite dish antenna shall be anchored in a manner approved by the building official as being adequate to secure the satellite dish antenna during high winds.
- (4) A satellite dish antenna, shall not be erected, constructed, or installed until a building permit has been obtained from the building official.

- (5) The building official may waive any provision of this section if its enforcement inhibits or prevents the proper operation of the satellite dish antenna.
- (6) These regulations are formulated to ensure that adequate protection measures are provided in this chapter for ensuring that sight distance is not impaired, that the dish antennas are located and constructed in a manner that will not afford the potential for injury, and to ensure that the intent and purposes of this chapter are met.

(Ord. No. 175J, § 3.14, eff. 9-17-2004)

Sec. 42-309. Site condominiums.

(a) A site condominium unit shall be a unit created by the division of land on the basis of condominium ownership that is not subject to the provisions of the land division act.

(b) A site condominium unit shall be treated as a separate lot or parcel and may have buildings constructed and uses conducted thereon provided the unit meets the use and district regulations for the zoning district in which it is located.

(c) A site plan, including all the condominium documents required for the establishment of a condominium, shall be reviewed and approved by the planning commission in accordance with article VI of this chapter.

(d) Monuments shall be set at all boundary corners and deflection points and at all road right-of-way intersection corner and deflection points. Lot irons shall be set at all condominium site corners and deflection points of condominium site lines.

- (1) The zoning administrator and the city engineer may grant a delay in the setting of required monuments or irons for a reasonable time, but not to exceed one year from the date of approval by the city council, on condition that the developer deposit with the city clerk cash, a certified check, or an irrevocable bank letter of credit running to the city, whichever the

developer selects, in an amount as determined from time to time by resolution of the city council.

- (2) The deposit shall be returned to the developer upon receipt of a certificate by a surveyor registered in the state that the monuments and irons have been set as required, within the time specified.
- (3) If the developer defaults, the city council shall promptly engage a registered surveyor to set the monuments and irons in the ground as shown on the condominium site plan, at the developer's expense.

(e) All rights-of-way and utility easements shall be described separately from individual condominium sites and shall be accurately delineated by bearings and distances on the condominium subdivision plan and the final site plan.

- (1) The rights-of-way and utility easements shall be separately designed for their individual purpose, such as access, roadway, location, installation, maintenance and replacing of public utilities.
 - (2) The developer shall dedicate to the city all easements for utilities. Water, sewer and electrical easements may be placed within public rights-of-way, subject to the approval of the city engineer and the City of Portland Municipal Standards.
 - (3) All streets and roads proposed for any site condominium shall be developed within the minimum design, construction, inspection, approval, and maintenance requirements of this chapter and other ordinances of the city.
- (Ord. No. 175J, § 3.15, eff. 9-17-2004)

Sec. 42-310. Temporary buildings and uses.

Temporary uses, buildings and structures, not used for dwelling purposes, may be placed on a

lot or parcel and occupied only under the following conditions as authorized by a permit issued by the zoning administrator.

- (1) Construction buildings and structures, including trailers, incidental to construction work on a lot, provided:
 - a. Construction buildings and structures may only be used for the storage of construction materials, tools, supplies and equipment, for construction management and supervision offices, and for temporary on-site sanitation facilities, related to construction activity on the same lot. An enclosed structure for temporary sanitation facilities is required on all construction sites; and
 - b. Construction buildings and structures must be removed from the lot within 15 days after an occupancy permit is issued by the zoning administrator for the permanent structure on such lot, or within 15 days after the expiration of a building permit issued for construction on the lot.
- (2) Sales offices or model homes may be placed on a lot, provided:
 - a. The location of the office is specified in the permit;
 - b. The permit will be valid for a period of up to one year. A temporary permit may be renewed by the zoning administrator for up to two successive one year periods or less, at the same location if the office is still incidental and necessary; and
 - c. Only transactions related to the development in which the structure is located may be conducted within the structure. General offices for real estate, construction, development or other related businesses associated with the project shall not be permitted.

- (3) Administration of temporary uses.
 - a. The zoning administrator may require a performance guarantee pursuant to section 42-35 in an amount equal to the estimated cost of removing any temporary structure permitted.
 - b. All temporary uses must meet the following standards:
 - 1. The nature of the temporary use and the size and placement of any temporary structure must be planned so that the temporary use or structure will be compatible with existing development;
 - 2. The parcel must be of sufficient size to adequately accommodate the temporary use or structure;
 - 3. The location of the temporary use or structure must be such that adverse effects on surrounding properties will be minimal, particularly regarding the traffic generated by the temporary use or structure;
 - 4. Off-street parking areas are of adequate size for the particular temporary use or structure and properly located and the entrance and exit drives are laid out so as to prevent traffic hazards and nuisances;
 - 5. Signs must conform with the city's sign ordinance;
 - 6. Any lighting must be directed and controlled so as to not create a nuisance to neighboring property owners; and
 - 7. An appeal of a decision by the zoning administrator relative to denial of a temporary use, building or structure or of a temporary zoning permit or renewal thereof may be taken to the zoning board of appeals pursuant to section 42-71(a).

- (4) Temporary structures to facilitate seasonal commercial sales may be placed on commercial property for up to 30 days without a permit, subject to the standards set forth in section 42-310(3)b.
(Ord. No. 175J, § 3.16, eff. 9-17-2004; Ord. No. 175GG, § 1, 4-17-2014)

Sec. 42-311. Dumpsters and outdoor trash containers.

(a) Outdoor trash containers or dumpsters exceeding 150 gallons in capacity shall be permitted only in the nonresidential districts and for multiple-family uses; provided, that they comply with this section, except that these structures may be permitted for reasonable periods on any properties undergoing construction activities. The placement of the container shall be included in the submitted site plan.

(b) Adequate vehicular access shall be provided to the containers for truck pickup either via a public alley or vehicular access aisle that does not conflict with the use of off-street parking areas or entrances to or exits from main buildings.

(c) A solid, ornamental screening wall or fence shall be provided around all sides of the containers. An access gate shall also be provided and be of the height that completely screens the containers. The maximum height of walls, fence or gate shall be six feet.

(d) The container or containers, the screening walls, fence and gate shall be maintained in a neat and orderly manner, free from loose rubbish, wastepaper and other debris.
(Ord. No. 175J, § 3.17, eff. 9-17-2004)

Sec. 42-312. Private streets.

(a) *Purpose.* The city determines that it is in the best interest of the public health, safety, and welfare to regulate the construction, improvement, extension, relocation, and use of private streets. These provisions have been enacted to assure that private streets:

- (1) Will not be detrimental to the public health, safety, or general welfare;

- (2) Will not adversely affect the long term development policies of the city;
- (3) Will be designed and constructed with width, surface, and grade to assure safe passage and maneuverability of private vehicles, police, fire, ambulance, and other safety vehicles; and
- (4) Will be constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands, and natural environment of the city.

(b) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Driveway means an undedicated, privately controlled and maintained right-of-way or other interest in land that provides the means of access to fewer than three lots or parcels.

Frontage means the continuous linear distance of that portion of a lot or parcel abutting upon a public or private street right-of-way. Frontage is to be measured at the minimum required front yard setback of the district in which the lot or parcel is located.

Parcel means a tract of land, which can be legally described with certainty and is capable of being located by survey.

Private street means an undedicated, privately controlled and maintained right-of-way or other interest in land that provides the means of access to more than two lots or parcels. The term street shall be synonymous with the terms road, avenue, place, way, drive, lane, boulevard, highway or other thoroughfare.

Road authority means the City of Portland, Ionia County Road Commission or Michigan Department of Transportation, having jurisdiction over the roadway.

Safe and unimpeded route of travel means a roadway of adequate width to accommodate the safe, two-way passage of vehicles in all weather conditions, and of sufficient construction to accommodate any fire, police, rescue, or other emergency vehicle, which may be utilized by the city.

(c) *Frontage and access.*

- (1) Any lot created after the date of the effective date of the ordinance from which this chapter is derived shall have the minimum continuous frontage on a driveway, private street, or public street.
- (2) Any two or fewer contiguous lots not having frontage on a public or private street may be served by a driveway having a minimum easement width of 30 feet.

- (3) Any three or more contiguous lots not having frontage on a public street shall have frontage upon a private street.
- (4) All private streets shall have a minimum of one point of access to a public street, as approved by the city and road authority.
- (d) *Private street review and approval.*
 - (1) No individual, association, corporation, or entity, either public or private, shall construct a private street without first having obtained a private street permit from the city council. The planning commission shall review the application and make recommendation to the council pursuant to the standards set forth in this section.
 - (2) Prior to consideration of a private street permit, an application shall be filed with the zoning administrator and shall contain the following:
 - a. A completed private street permit application; provided, by the city;
 - b. A detailed written description of the development to be served by the private street; and
 - c. Twenty-two copies of the private street construction plan, drawn to scale, prepared by a registered engineer. However, plans for a private street may be prepared by a registered surveyor, rather than a registered engineer if the zoning administrator waives in writing the requirement for the site plan to be prepared by a registered engineer. The private street plan shall show, at a minimum:
 - 1. Precise location, grade, route, elevation, dimensions, and design of the private street;
 - 2. Any proposed future extensions of the private street;
 - 3. Existing and proposed curb cuts;
 - 4. Location and distance to any public streets which the private street is to interest;

5. Location and specifications for sidewalks;
 6. A survey of the right-of-way by a registered land surveyor, together with surveys for each parcel to be served by the private street;
 7. The location of all public utilities, including, but not limited to, water, sewer, telephone, gas, electricity, and television cable to be located within the private street right-of-way or within 20 feet of either side thereof. Copies of the instruments describing and granting such easements shall be submitted with the application;
 8. The location of any lakes, streams, wetlands, and drains within the proposed right-of-way or within 100 feet thereof; and
 9. The location of any other buildings and structures located, or to be located, within 100 feet of the private street right-of-way.
- (3) The planning commission may elect to have all design and construction plans reviewed by the city's attorney, engineer, or planner, at the expense of the applicant, prior to consideration of the application for the private street permit.
 - (4) Prior to approving a private street permit application, the city council shall determine the following:
 - a. That the proposed private street will not be detrimental to the public health, safety, or general welfare;
 - b. That the proposed private street will not adversely affect the use of land;
 - c. That the private street is constructed to assure a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions;
 - d. That the private street is constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands, and natural environment of the city;
 - e. That the location, lots served, and construction of the private street will conform to the requirements of this chapter and city road construction standards; and
 - f. That the private street is constructed to integrated into the existing city street system and that cul-de-sacs meet the criteria of section 42-300(d).
- (5) The city may require that the applicant comply with reasonable conditions relative to the design and construction of the private street.
 - (6) The city, as a condition of the private street construction permit, may require that the applicant provide a performance guarantee.
- (e) *Permits.*
- (1) The zoning administrator shall not issue building permits for any residential unit or other structure on lots served by a private street until a safe and unimpeded route of travel as approved by the city fire chief and engineer is available for emergency equipment.
 - (2) The zoning administrator shall not issue occupancy permits for any residential unit or other structure requiring a building permit on lots served by a private street until construction of the private street as approved by the city council has been completed.
 - (3) A permit shall be obtained from the road authority for any access to a public street.
 - (4) A soil erosion and sedimentation control permit shall be obtained, if required.
 - (5) All other required state permits shall be obtained prior to the issuance of any occupancy permits for lots served by the private street.

- (6) Fees for the permits and approvals required by this section shall be set by the city council from time to time by resolution. Additionally, the city council may require that the applicant put sufficient funds in escrow to cover the costs of having the city attorney, engineer, planner, or other professional review the private street plans, specifications, and maintenance agreements, and to do the necessary inspections.
- (7) The applicant/owner of the private street agree that by applying for or securing a permit to construct the private street that he shall indemnify and will hold the city harmless from any and all claims for personal injury and/or property damage arising out of the use of the private street or of the failure to properly construct, maintain, use, repair, and replace the private street.

(f) *Design requirements.* The following are the design and construction specifications and materials for newly established or reconstructed driveways and private streets.

(1) *Driveways.*

- a. A driveway may be constructed to serve no more than two contiguous lots not having frontage on a public or private street.
- b. Driveways serving more than one lot shall have a minimum traveled surface width of 12 feet and constructed so as to provide a safe and unimpeded route of travel.
- c. An access easement shall be provided for any driveway serving more than one lot. A minimum easement width of 30 feet is required, and the easement shall expressly permit the installation and maintenance of public or private utilities.

(2) *Private streets.*

- a. Private streets shall have an easement width of not less than 66 feet. The easement shall expressly permit

the installation and maintenance of public or private utilities and sidewalks.

- b. Private streets serving not more than six lots may be constructed as a gravel road with a sand and gravel base of not less than 12 inches with a minimum of six inches of gravel for the traveled portion of the street and have a minimum width of 20 feet of traveled surface.
- c. Private streets serving more than six lots may be constructed with a sand and gravel base of not less than 12 inches with a minimum of six inches of gravel and be covered with bituminous blacktop paving material of not less than 1½ inches in depth at any point for the traveled portion of the street.
- d. Pavement widths.
 - 1. Private streets serving no more than 20 lots or parcels shall have a minimum width of 20 feet of traveled surface.
 - 2. Private streets serving more than 20 lots or parcels shall have a minimum width of 24 feet of traveled surface.

(3) *Street/driveway combinations.*

- a. The city council, in considering approvals for private streets, may allow a development project to contain a combination of driveways, private streets, and public streets.
- b. The city council may separately consider each street segment within the development. For example, a collector street may be provided to serve the entire development, with a connecting street or cul-de-sac. The collector street may be constructed as a private street; the cul-de-sac or connecting street may be constructed to the standard appropriate for the num-

ber of lots served solely by the cul-de-sac or connecting street (see section 42-300(d)).

(4) *Length of private streets.*

- a. Street lengths are measured from the edge of the public street right-of-way along the centerline of the private street to the furthest point of any private street. Private streets shall not exceed the maximum length without a private street access complying with this section being provided to another public street.
- b. The maximum length of a private street shall be 800 feet without a second means of access to a public street.
- c. The city council, after recommendation of the planning commission and upon a finding that at least one of the following conditions exists, may permit the maximum length of the private street to be exceeded. Upon reaching such finding, the city council shall establish the maximum length of the proposed private street.
 - 1. That topography or other significant natural features preclude access to any other public street or adjoining property on which a public street may be constructed. Such significant natural features shall be clearly identified and marked on the proposed private street plans.
 - 2. That not allowing a longer private street would result in inefficient use of land. Alternate development plans demonstrating that no other development is feasible shall be submitted by the applicant and reviewed by the city council prior to confirming this finding.
 - 3. That other methods of access are available such that emergency vehicles are assured a safe and unimpeded route of

travel to the properties served by the private street. The access shall be reviewed by the fire chief and the recommendation forwarded to the city council.

(5) *Intersections with public streets.*

- a. The layout of the private street and the intersections of the private street with either a public or private street shall be such that clear vision, safe turning and travel in all directions at the posted speed limit is assured, as determined by the city engineer.
- b. The minimum distance between intersections of public and/or private street rights-of-way shall not be less than 150 feet, as measured along the right-of-way line thereof.

(g) *Modification of private street requirements.* Upon application the city council may modify any of the private street requirements of this section after finding that all of the following conditions exist:

- (1) That topography, soils, and/or other significant natural features physically preclude or prevent compliance with the requirements of this section without substantial alteration of such natural features. Such natural features shall be clearly identified and described in the application of any such modification;
- (2) That the justification of any modification is not due solely to financial considerations which, upon approval of the requested modification would provide a financial benefit;
- (3) That no other reasonable private street design alternatives are available that would comply with the requirements of this section; and
- (4) That the request for modification was reviewed by the fire chief, city engineer, planner or any other person or official designated by the city council.

(h) *Existing private streets.*

(1) *Status of existing private streets.*

- a. A private street existing on the effective date of the ordinance from which this section is derived may continue in existence and be maintained and used, though it may not comply with the provisions of this section. These private streets shall be continuously maintained so as to provide a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.
- b. Private streets in existence as of the effective date of this amendment whose right-of-way or easement width is less than 66 feet need not provide additional right-of-way or easement width, but this width shall not be subsequently reduced if it increases its noncompliance with these requirements.

(2) *Addition of lots or parcels of land to existing driveways or private streets.*

- a. Any private street existing on the effective date of the ordinance from which this section is derived shall be continuously maintained so as to provide a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.
- b. Should a driveway add a sufficient number of lots or parcels to change its status to a private street, it shall be treated as a new private street and comply with all applicable requirements for private streets for its entire length.
- c. Should a private street add a sufficient number of lots or parcels to change the number of lots served, it shall be upgraded as necessary to meet the requirements of a private street for the length of the private

street up to and including the portion serving the new lots or parcels.

(3) *Extensions of existing private streets.*

- a. Any private street created in accordance with the requirements of this chapter and subsequently extended shall comply in all respects to this section.
- b. If a private street existing on the effective date of the ordinance from which this section is derived is extended by the construction and use of an additional length equaling or exceeding 500 feet, the entire private street, including the existing portion and the additional portion, shall comply with the applicable requirements of subsection (f) of this section.
- c. Private streets in existence at the time of the adoption of this amendment that are subsequently extended for a distance of less than 500 feet shall be constructed in the same manner as the existing portion of the private street; provided, that the entire private street shall be maintained so as to provide a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.

(i) *Inspections / certificate of compliance.*

- (1) Upon completion of construction of the private street, the city engineer shall inspect the completed construction to determine whether it complies with the approved plan, specifications, permit and this chapter.
- (2) The applicant, at the applicant's expense, shall provide the city with a set of "as built" drawings bearing a certificate and statement from a registered engineer certifying that the private street has been completed in accordance with the requirements of the permit and the road authority.

- (3) If the completed private street does not satisfy the requirements of the permit or this chapter, the applicant shall be notified of the noncompliance in writing and shall be given a reasonable period of time within which to correct the deficiencies. Failure to correct the deficiencies within the time provided shall subject the applicant to the penalties provided for in this chapter.

(j) *Maintenance and repairs.*

- (1) Private streets shall be maintained in a manner that complies with the provisions of this section.
- (2) All driveways and private streets shall be continuously maintained in such a way that they will not constitute a danger to the health, safety, and welfare of the inhabitants of the city. All driveways and private streets shall be continuously maintained in such a way that they assure a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.
- (3) All costs for maintenance and repair of the private street shall be the responsibility of the property owners or any property owners association served by the private street.
- (4) Private street maintenance or restrictive covenant agreements.
 - a. The applicant/owner of the proposed private street right-of-way or private street shall provide the city council with a recordable private street maintenance or restrictive covenant agreement between the owner of the private street right-of-way and any other parties having any interest therein, or other documentation satisfactory to the city council which shall provide for and assure that the private street shall be regularly maintained, repaired, and snow plowed so as to

assure that the private street is safe for travel at all times and the cost thereof paid.

- b. The applicant/owner agree, by filing an application for and receiving a permit under this chapter, that he will assure that any building or parcels thereafter created or constructed on the private street shall also be subject to the street maintenance or restrictive covenant agreement and that the agreement shall be recorded and shall run with the land. A copy of the agreement shall be furnished to the city council prior to the issuance of the permit.

(Ord. No. 175J, § 3.18, eff. 9-17-2004)

Sec. 42-313. Grading, excavation, filling, soil removal, creation of ponds and clearing of trees.

Clearing vegetation and trees from a vacant site of over one-quarter acre or grading, excavation, filling, soil removal and the creation of ponds involving more than 25 cubic yards may be permitted only after review and approval of a preliminary site plan by the zoning administrator in accordance with article VI of this chapter and with applicable county and state regulations. The zoning administrator may require a site plan review of fill projects of fewer than 25 cubic yards if he believes the impact of the fill will adversely affect adjacent properties.

(Ord. No. 175J, § 3.19, eff. 9-17-2004; Ord. No. 175R, § 10, eff. 1-18-2007)

State law references—Soil erosion and sedimentation control, MCL 324.9101 et seq.; soil conservation districts law, MCL 324.9301 et seq.

Sec. 42-314. Allocation of lot areas and configuration of lots.

- (a) No portion of a lot can be used more than once in complying with the provisions for lot area and yard dimensions for construction or alteration of buildings.

(b) The depth of lots or parcels created in all zoning districts after the effective date of the ordinance from which this chapter is derived shall not be more than three times longer than their width.

(Ord. No. 175J, § 3.20, eff. 9-17-2004)

Sec. 42-315. Storage of recreational vehicles.

Recreational vehicles shall not be parked or stored in the front yard of any lot in a residential district except on an improved driveway. Recreational vehicles may be stored in the rear yard. Such equipment may also be occupied for up to 48 hours in any seven-day period.

(Ord. No. 175J, § 3.21, eff. 9-17-2004)

Sec. 42-316. Family day care home.

The following shall apply to all family day care homes:

- (1) Nonresidential parking setback and screening provisions of this chapter shall apply (see section 42-412).
- (2) The facility shall be at least 1,500 feet from any other similar facility.
- (3) A facility shall not operate between the hours of 10:00 p.m. and 6:00 a.m. unless the main building and any play area separated from any residence by more than 300 feet.
- (4) Playground equipment shall not be located in front or side yard.
- (5) An off-street drop-off area is to be provided with the capability to accommodate at least two vehicles in addition to the parking normally required for the dwelling. A driveway may be used for this purpose.
- (6) Activities associated with childcare shall not be permitted in any accessory building, structure, or attached or detached garage other than the main building.

- (7) There shall be provided on the site a useable outdoor area at the rate of 66 square feet for each child or as required by the state.

(Ord. No. 175J, § 3.22, eff. 9-17-2004)

State law reference—Licensing of child care organizations, MCL 722.111 et seq.

Sec. 42-317. Outdoor boilers prohibited.

(a) *Outdoor boilers, defined.* An outdoor boiler is considered an accessory structure consisting of an above- or below-grade chamber or furnace constructed of metal or other non-combustible material in which wood, wood pellets, grain pellets, or other combustible material is burned to heat water or other liquid that is piped aboveground or underground to provide heat for a house or other structure.

(b) *Outdoor boilers, prohibited.* Outdoor boilers are prohibited in all zoning districts.

(c) *Outdoor boilers, existing.* All existing outdoor boilers must be registered with the city clerk within thirty days after the effective date of this section. Existing outdoor boilers that are registered with the city may continue to be used but may not be replaced.

(Ord. No. 175DD, § 1, eff. 10-16-2011)

Secs. 42-318—42-335. Reserved.

ARTICLE V. SPECIAL LAND USES*

Sec. 42-336. Scope.

This article provides a set of procedures and standards for special uses of land or structures, which because of their unique characteristics require special consideration in relation to the welfare of adjacent properties and the community as a whole. The regulations and standards, herein, are designed to allow, on one hand, practical latitude for the applicant, but at the same time maintain adequate provision for the protection of the health, safety, convenience, and general welfare of the city. For purposes of this chapter, all special land uses within the various districts are subject to the conditions and standards of this

***State law reference**—Special land uses, MCL 125.3504.

article. In addition, special land uses shall conform to the specific standards cited in section 42-340, as applicable.
(Ord. No. 175J, § 11.01, eff. 9-17-2004)

Sec. 42-337. Application and review procedures.

(a) An application shall be submitted through the zoning administrator, accompanied by:

- (1) The payment of a fee as established by the city council;
- (2) A completed application form, as provided by the city;
- (3) Complete site plans as specified in article VI of this chapter; and
- (4) A narrative describing the proposed uses.

(b) Applications for a special land use shall be submitted at least 30 days prior to the next planning commission meeting.

(c) The application, along with the required site plan, shall be forwarded to the planning commission at its next scheduled meeting.

(d) The planning commission shall hold a public hearing on the application, noticed in accordance with section 42-33. The planning commission shall then review the application and other information available to it through the public hearing or from any other sources, including recommendations or reports from the city's planner, engineer, or other party, and shall approve, approve with conditions, or deny the request, and incorporate the basis for the decision and any conditions which should be imposed on an approval.

(e) No petition for special land use approval, which has been disapproved, shall be resubmitted for a period of one year from the date of disapproval, except as may be permitted by the zoning administrator after learning of new and significant facts or conditions which might result in favorable action upon resubmittal.

(f) A special land use approved pursuant to this article shall be valid for one year from the date of approval. Each development shall be un-

der construction within one year after the date of approval of the special land use, except as noted below.

- (1) The planning commission may grant one six-month extension of the approval; provided, the applicant requests the extension prior to the date of the expiration of the special land use approval.
- (2) The extension shall be approved if the applicant presents reasonable evidence to the effect that the development has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed within the extension period.
- (3) If neither of the above provisions are fulfilled or the six month extension has expired prior to construction, the special land use approval shall be null and void.

(g) The planning commission shall have the authority to revoke any special land use approval after it has been shown that the holder of the approval has failed to comply with any of the applicable requirements of this article, other applicable sections of this chapter, or conditions of the special land use approval. Prior to revocation, the planning commission shall conduct a public hearing following the notification procedures for the original approval.

(Ord. No. 175J, § 11.02, eff. 9-17-2004; Ord. No. 175R, § 7, eff. 1-18-2007)

Sec. 42-338. Existing special land uses.

Uses of land and/or development projects granted special land use status by the city prior to the adoption of this chapter may continue this status provided the rules, regulations, requirements, and conditions under which the special land use was approved are met.

(Ord. No. 175J, § 11.03, eff. 9-17-2004)

Sec. 42-339. General standards.

(a) In addition to the standards established for specific uses herein, an application for a special land use shall be reviewed for compliance with the review standards for approval of site plans in

section 42-379. Conditions, as authorized in section 42-339(c), may be placed upon a special land use.

(b) Each application shall be reviewed for the purpose of determining that the proposed special land use will:

- (1) Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance, with the existing or intended character of the general vicinity and that the use will not change the essential character of the area in which it is proposed;
- (2) Be served adequately by essential public facilities and services such as highways, streets, police, and fire protection, drainage structures, and refuse disposal, water and sewage facilities;
- (3) Not create excessive additional requirements at public cost for public facilities and services; and
- (4) Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production or effects of traffic, noise, smoke, fumes, glare, or odors.

(c) The planning commission may stipulate any additional conditions and safeguards deemed necessary to accomplish the following purposes. Failure to comply with the conditions may result in the revocation of the special land use approval, pursuant to section 42-337(g). Conditions imposed shall be those necessary to ensure that the proposed special land use will:

- (1) Meet the intent and purpose of this chapter;
- (2) Relate to the standards established in this chapter for the land use or activity under consideration;
- (3) Ensure compliance with those standards;
- (4) Protect the general welfare;
- (5) Protect individual property rights; and

- (6) Ensure that the intent and objectives of this chapter will be observed.
(Ord. No. 175J, § 11.04, eff. 9-17-2004)

Sec. 42-340. Special land use specific requirements.

The general standards and requirements of section 42-339(b), are basic to all special land uses. The specific and detailed requirements set forth in section 42-341 relate to particular uses and are requirements which must be met by those uses in addition to the foregoing general standards and requirements.

(Ord. No. 175J, § 11.05, eff. 9-17-2004)

Sec. 42-341. Specific standards; specific requirements by use.

Table of Contents for Specific Standards and Specific Requirements by Use

- (a) Accessory apartment
- (b) Adult foster care, small and large group home
- (c) Adult uses
- (d) Airport and landing field
- (e) Banquet hall or conference center
- (f) Bed and breakfast establishment
- (g) Bus passenger station
- (h) Central dry cleaning plant
- (i) Chemical product manufacturing
- (j) College or university
- (k) Commercial ministorage warehouse
- (l) Convalescent or nursing home
- (m) Day care center
- (n) Drive-through facilities (as part of another business), such as banks, credit unions, pharmacies, etc.
- (o) Drive-through restaurant
- (p) Elderly housing
- (q) Private elementary, middle, and high schools
- (r) Fraternal or social club
- (s) Fuel storage or depot facility
- (t) Funeral home and mortuary
- (u) Golf course and country club
- (v) Horse riding stable
- (w) Hospital
- (x) Laundromat

Table of Contents for Specific Standards and Specific Requirements by Use

- (y) Motor freight terminal
- (z) Multiple-family dwelling
- (aa) Municipal or public service activities
- (bb) Open air business
- (cc) Pawn shop
- (dd) Place of religious worship
- (ee) Recreation facility (outdoor, e.g., go-cart, miniature golf, batting cages skateboard park and similar uses)
- (ff) Recreation facility (indoor)
- (gg) Salvage or junk yard
- (hh) Trade or industrial school
- (ii) Truck stop
- (jj) Two-family dwelling
- (kk) Utility substation, transmission lines and switching station
- (ll) Vehicle repair facility
- (mm) Vehicle sales
- (nn) Vehicle service station
- (oo) Car wash facility
- (pp) Veterinary hospital and veterinary clinics
- (qq) Wireless communication towers

(a) *Accessory apartment.*

- (1) In residential districts, parking for the accessory unit shall be provided on site.
- (2) Existing single-family homes converted to provide an accessory apartment shall meet the setback requirements of the district.
- (3) The owner of the principal dwelling must reside in either the principal dwelling or the accessory apartment throughout the duration of the use of the accessory apartment.
- (4) The accessory apartment unit shall contain not less than 650 square feet and not more than 1,000 square feet.
- (5) Basement apartments are prohibited.

(b) *Adult foster care, small and large group home.*

- (1) Nonresidential parking setback and screening provisions shall apply.

- (2) The facility shall be at least 1,500 feet from any other similar facility.

(c) *Adult uses.*

- (1) It is the intent of this subsection to provide regulations controlling those uses that are recognized as having serious, objectionable, operational characteristics inducing a deleterious impact on adjacent uses and areas. Special regulations of these uses are necessary to ensure that the anticipated adverse impacts will not contribute to the blighting or downgrading of the surrounding neighborhood. Uses subject to these controls include: adult bookstores, adult motion picture theaters, nude artist and photography studios, and adult cabarets, as herein defined.
- (2) For purposes of this subsection, the adult uses listed above shall have the meanings as noted in section 42-6.
- (3) Establishments where uses subject to the control of this subsection are located shall not be expanded in any manner without first applying for and receiving the approval as provided herein. A special land use for adult uses shall comply with the following requirements: Adult uses shall not be allowed within 500 feet of another existing adult use, or within 1,000 feet of any residential district, existing church, school, park or playground.
- (4) Any sign or signs proposed for the adult use business must comply with the requirements of the city sign ordinance, and shall not include photographs, silhouettes, drawings, or pictorial representations of any type, nor include any animated illumination or flashing illumination.
- (5) Signs must be posted on both the exterior and interior walls of the entrances, in a location which is clearly visible to those entering or exiting the business, and using lettering which is at least two inches in height, that state:
 - a. "Persons under the age of 18 years are not permitted to enter the premises."

- b. "No alcoholic liquors of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
- (6) No product for sale or gift, nor any picture or other representation of any product for sale or gift, shall be displayed so that it is visible by a person of normal visual acuity from the nearest adjoining roadway or adjoining property.
- (7) No adult use shall be open for business prior to 10:00 a.m. nor after 10:00 p.m. However, employees or other agents, or contractors of the business are permitted to be on the premises at other hours for legitimate business purposes such as maintenance, clean-up, preparation, recordkeeping, and similar purposes not involving the general public.
- (8) A buffer strip may be required to screen the business use from nearby residential or institutional properties. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the planning commission, shall be placed within the buffer strip. The planning commission shall use the applicable provisions of section 42-412 when determining screening needs.
- (d) *Airport and landing field.*
- (1) Airports shall be located with direct access to a paved road or street.
- (2) Lodges, schools, churches, or other assembly buildings shall not be located within one-quarter mile of any runway.
- (3) A six-foot chainlink fence shall be provided along any hazardous areas as a barrier to prevent the attendant hazards of inadvertent entries onto the airport property.
- (4) All lights, used for landing strips and other lighting facilities, should be so arranged as not to reflect towards adjoining properties.
- (5) All hangers, runways and outdoor storage areas shall be a minimum of 100 feet from all property lines.
- (6) The storage and handling of flammable liquids, liquefied petroleum gases and explosives at the airport, comply with state rules and regulations, as established by the Fire Prevention Code, Public Act No. 207 of 1941 (MCL 29.1 et seq.).
- (7) Off-street parking should be provided in sufficient amounts to provide for the parking of automobiles and other motor vehicles used by the employees, patrons and visitors to the airport and which should not be less than one parking space for each one employee, and one parking space for each one aircraft harbored at the airport.
- (8) Where the site abuts a residential district, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the planning commission, shall be placed within the buffer strip. The planning commission shall use section 42-412 when determining screening needs.
- (9) All applicable state and federal aviation safety regulations shall be met.
- (e) *Banquet hall or conference center.*
- (1) The facility shall be located with direct access to a paved street.
- (2) Minimum lot size shall be two acres with a minimum of 200 feet of frontage.
- (3) Access to the site shall be located at least 100 feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.
- (4) Where the site abuts a residential district, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the planning commission, shall be placed within the buffer

strip. The planning commission shall use section 42-412 when determining screening needs.

(f) *Bed and breakfast establishment.*

- (1) The rooms utilized shall be part of a residential dwelling structure and do not involve alteration or construction not customarily found in dwellings.
- (2) A scaled floor plan of the premises shall be submitted as part of the application.
- (3) The bed and breakfast operation shall be the principal residence of the operator and the operator shall reside on the premises.
- (4) The bed and breakfast shall have eight or fewer sleeping rooms, including sleeping rooms occupied by the operator.
- (5) Sufficiently paved off-street parking must be provided for residential purposes, at the rate of one parking space per guest sleeping room and two spaces for the resident owner.
- (6) One nonilluminated sign, not exceeding 16 square feet in area, is permitted. The placement and design of signs shall not detract from the scenic environment or contribute to general traffic hazards.
- (7) All refuse and/or trash containers shall be enclosed within a privacy fence or other suitable enclosure and shall not be located in the front yard.
- (8) The conduct of all aspects of activities related to the use shall take place only within the main building.
- (9) Lavatories and bathing facilities shall be available to all persons using any bed and breakfast operation.
- (10) No premises shall be utilized for a bed and breakfast operation unless there are at least two exits to the outdoors from the premises. Rooms utilized for sleeping shall have a minimum size of 100 square feet.
- (11) The structure shall remain a residential structure and the kitchen shall not be remodeled into a commercial kitchen.

(12) Meals shall be served only to residents and overnight guests.

(13) No receptions, private parties or activities for which a fee is paid shall be permitted except for those that involve registered guests.

(14) The maximum stay for any occupant of bed and breakfast operations shall be 14 consecutive days.

(15) No guest room shall be located in a basement or cellar.

(g) *Bus passenger station.*

(1) Minimum lot size shall be one acre with at least 150 feet of frontage.

(2) The facility shall be located with direct access to a paved street.

(3) A vehicle waiting/drop off area of not less than ten spaces shall be provided on-site.

(4) Passenger loading areas must be lighted. Lighting shall be shielded to prevent light from spilling onto any residential district or use.

(5) Public access to the site shall be located at least 100 feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.

(6) Where the site abuts a residential district, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the planning commission, shall be placed within the buffer strip. The planning commission shall use section 42-412 when determining screening needs.

(h) *Central dry cleaning plant.*

(1) The minimum lot size shall be five acres with at least 300 feet of frontage.

(2) No manufacturing building, storage building or loading or unloading facility shall be closer than 300 feet from a property

line with another industrial use, nor less than 500 feet from a property line with a residential district or dwelling unit.

- (3) A buffer strip shall be maintained between the use and adjoining residential districts in accordance with section 42-412.
 - (4) The outdoor storage of trash or rubbish shall be screened in accordance with section 42-412.
 - (5) Access to the site shall be located at least 200 feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.
- (i) *Chemical product manufacturing.*
- (1) The minimum lot size shall be five acres with at least 300 feet of frontage.
 - (2) No manufacturing building, storage building or loading or unloading facility shall be closer than 300 feet from a property line with another industrial use, nor less than 500 feet from a property line with a residential district or dwelling unit.
 - (3) A buffer strip shall be maintained between the use and adjoining residential districts in accordance with section 42-412.
 - (4) The outdoor storage of trash or rubbish shall be screened in accordance with section 42-412.
 - (5) Access to the site shall be located at least 200 feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.
 - (6) Where the site abuts a residential district, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the planning commission, shall be placed within the buffer strip. The planning commission shall use section 42-412 when determining screening needs.
- (j) *College or university.*
- (1) Minimum lot size shall be three acres with a minimum of 250 feet of frontage.
 - (2) The lot location shall be such that at least one property line abuts an arterial or collector street.
 - (3) Access to the site shall be located at least 100 feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.
 - (4) Main and accessory buildings shall be set back at least 40 feet from side and rear property lines and 30 feet from the front property line.
- (k) *Commercial ministorage warehouse.*
- (1) The use shall be developed on lots of at least two acres, but not more than five acres in size. No more than 60 percent of the lot may be used for buildings, parking lots and access.
 - (2) The lot shall abut and gain access from an arterial street.
 - (3) A six-foot, solid fence of a material acceptable to the planning commission, shall enclose the area occupied by the use. The fence shall be set back at least 30 feet from the front property line.
 - (4) The front yard, up to the fence shall be landscaped in accordance with section 42-412.
 - (5) Minimum side and rear yards as specified for the district shall be maintained.
 - (6) There shall be a minimum of 35 feet between storage facilities for driveway, parking, and fire lane purposes. Where no parking is provided within the building separation areas, the building separation need only be 25 feet.
 - (7) Traffic direction and parking shall be designated by signs or painting.
 - (8) The lot area used for parking and access shall be provided with a paved surface and shall be drained so as to dispose of all surface water.

- (9) Where the site abuts a residential district, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the planning commission, shall be placed within the buffer strip. The planning commission shall use section 42-412 when determining screening needs.
- (1) *Convalescent or nursing home.*
- (1) Minimum lot size shall be three acres with at least 200 feet of frontage.
- (2) The lot location shall be such that at least one property line abuts an arterial or collector street. The ingress and egress for off-street parking areas for guests and patients shall be directly from that thoroughfare.
- (3) Main and accessory buildings shall be set back at least 75 feet from all property lines.
- (4) The facility shall be designed to provide a minimum of 500 square feet of open space for every bed used or intended bed to be used. This open space shall include landscaping and may include off-street parking, driveways, required yard setbacks and accessory uses.
- (5) Access to the site shall be located at least 100 feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.
- (m) *Day care center.*
- (1) A facility shall not operate between the hours of 10:00 p.m. and 6:00 a.m. unless the main building and any play area are separated from any residence by more than 300 feet.
- (2) Playground equipment shall not be located in a required side yard.
- (3) All outdoor play areas shall be a minimum of 50 feet from a residential district and enclosed with fencing, a minimum of four feet high, which cannot be climbed.
- (4) An off-street drop-off area is to be provided with the purpose of providing a temporary unloading area. One temporary drop-off space per ten children the facility is licensed to accept shall be provided in addition to parking required by subsection 42-186(c). Drop-off spaces shall be marked and distinguished as such. Additionally, one stacking space per ten children the facility is licensed to accept shall be provided to allow space for vehicles waiting for the temporary drop-off location. Stacking spaces shall conform to section 42-408. Stacking spaces and drop-off spaces shall be located so as not to interfere with circulation on or off the site.
- (5) Activities associated with child care shall not be permitted in any accessory building, structure, or attached or detached garage other than the main building.
- (6) There shall be provided on the site a useable outdoor area at the rate of at least 66 square feet for each child, or as required by the state.
- (n) *Drive-through facilities (as part of another business), such as banks, credit unions, pharmacies, etc.*
- (1) The accessory buildings shall be set back a minimum of 60 feet from any adjacent right-of-way line.
- (2) Public access to the site shall be located at least 100 feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.
- (3) Where the site abuts a residential district, screening shall be provided along that property line.

- (4) The following minimum stacking spaces shall be provided for the uses noted. Stacking spaces shall conform to section 42-408.

ATM stations	4 spaces per ATM
Bank drive-through windows	4 spaces per window
Pharmacy	4 spaces per window

- (5) Outdoor speakers for the drive-through facility shall be located in a way that minimizes sound transmission toward neighboring property and uses.
- (6) Where the site abuts a residential district screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the planning commission, shall be placed within the buffer strip. The planning commission shall use section 42-412 when determining screening needs.

(o) Drive-through restaurant.

- (1) Minimum lot size shall be one-half acre with a frontage of at least 125 feet.
- (2) Sufficient stacking capacity shall be provided for the drive-through portion of the operation to ensure that traffic does not extend into the public right-of-way. Stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the property or parking spaces by vehicles not using the drive-through portion of the facility. A minimum of ten stacking spaces per ordering station shall be provided. The stacking space requirement may be reduced by the Planning Commission based on the nature of the restaurant; provided, sufficient reason is provided as to the reduction, but in no case shall fewer than six spaces be provided. Stacking spaces shall conform to section 42-408.
- (3) In addition to parking and stacking space requirements, at least two standing or parking spaces shall be provided in close

proximity to the exit of the drive-through portion of the operation to allow for customers waiting for delivery of orders.

- (4) Setback areas shall be landscaped in accordance with section 42-412.
- (5) Access driveways shall be located no less than 100 feet from the right-of-way line of any street or 75 feet from the nearest edge of any other driveway.
- (6) Menu/speaker boards shall be provided that minimize verbal feedback. Speakers shall be located, positioned and controlled to minimize noise impacts.
- (7) Pedestrian elements shall be incorporated into the site plan including such features as outdoor seating areas, safe walkways to the restaurant, including measures to separate pedestrian and vehicular traffic in the areas nearest drive through windows.
- (8) Where the site abuts a residential district, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the planning commission, shall be placed within the buffer strip. The planning commission shall use section 42-412 when determining screening needs.

(p) *Elderly housing*

- (1) Parking shall be provided at the rate of 1.5 spaces per unit. Should units revert to general occupancy, then two parking spaces per unit shall be provided.
- (2) Minimum lot size shall be one acre with a minimum of 2,400 square feet of lot area per dwelling unit (18.15 dwelling units per acre).
- (3) The number of dwelling units in an elderly housing project may exceed the 20 units per building by no more than 50 percent (ten units per building) if the facility is licensed by the state for nursing care or as a home for the aged. If the facility is not licensed by the state the

number of units may exceed 20 units per building by no more than 25 percent (five units per building).

- (4) All units in the building shall have a minimum of 450 square feet per unit.
- (5) A covered drop-off and pick-up area shall be provided on-site in close proximity to the main entrance.
- (6) Walkways shall be provided from the main building entrances to the sidewalk along the adjacent public or private street.
- (q) *Private elementary, middle, and high schools.*
 - (1) Minimum lot size shall be one acre with at least 150 feet of frontage.
 - (2) Maximum height of buildings shall not exceed 45 feet.
 - (3) Front and rear setbacks shall be at least equal to the height of the building. A side yard of at least 20 feet is required on each side of any portion of the building.
 - (4) Where the site abuts a residential district, screening must be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, must be placed within the buffer strip. The planning commission will use section 42-412 when determining screening needs.
 - (5) Accessory uses located in existing structures may be exempt from provisions (1)—(4) if the following are met:
 - a. The accessory structure is located on property adjacent to the primary use, and the proposed use of the structure is related solely to the school purpose of the primary use.
 - b. The exterior of the structure and yard areas are maintained in character with that of the surrounding properties and neighborhoods.
 - c. Any modification to the structure meets all applicable zoning standards for the zoning district in which it is located.

- d. The proposed use does not adversely impact surrounding properties.
- e. The structure is adequately served by public facilities and services and is not a detriment to public health, safety, and welfare of the community.

(r) *Fraternal or social club.*

- (1) The site shall have at least one property line abutting a collector street.
- (2) All vehicular ingress and egress to the site shall be directly from a public thoroughfare, unless otherwise approved by the planning commission.
- (3) Public access to the site shall be located at least 100 feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.
- (4) Where the site abuts a residential district, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the planning commission, shall be placed within the buffer strip. The planning commission shall use section 42-412 when determining screening needs.

(s) *Fuel storage or depot facility.*

- (1) The minimum lot size shall be five acres with at least 500 feet of frontage.
- (2) The lot shall be located so that at least one side abuts an arterial street and all access shall be from that street.
- (3) The main and accessory buildings and any storage facilities shall not be located nearer than 300 feet to any adjacent residential district or use.
- (4) Proper containment facilities shall be constructed to ensure that accidental spills or ruptures will not cause the contamination of any groundwater source.
- (5) All fuel storage facilities or fuel loading areas shall be located a minimum of 100 feet from any property line.

- (6) The applicant shall submit a pollution incidence protection plan (PIPP) as part of the application. The PIPP shall describe measures to prevent groundwater contamination caused by accidental gasoline spills or leakage, such as: special check valves, drain catch basins and automatic shut off valves.
- (7) Where the site abuts a residential district, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the planning commission, shall be placed within the buffer strip. The planning commission shall use section 42-412 when determining screening needs.
- (t) *Funeral home and mortuary.*
- (1) Minimum lot area shall be one acre with at least 150 feet of frontage.
- (2) A well-designed and landscaped off-street vehicle assembly area shall be provided to be used in support of funeral procession activity. This area shall not obstruct internal circulation within the required off-street parking area or its related maneuvering space.
- (3) A caretaker's residence may be provided within the main building.
- (4) The proposed site shall front upon a paved collector street. All ingress and egress shall be from that thoroughfare.
- (5) Public access to the site shall be located at least 100 feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.
- (u) *Golf course and country club.*
- (1) The minimum site area shall be 80 acres for a nine-hole course and 160 acres for an 18-hole course and shall be so designed as to provide all ingress and egress directly onto or from a public road or street.
- (2) The site plan shall indicate the location of service roads, entrances, driveways and parking areas and shall be designed in relationship to the public road or street to ensure that pedestrian and vehicular traffic safety is encouraged.

- (3) Development features shall be shown on the site plan; including the main and accessory buildings, structures and parking areas, and these areas shall be located to minimize adverse effects upon adjacent property; all main or accessory buildings and parking areas shall be not less than 200 feet from any property line or abutting residential districts; provided, that where topographic conditions are such that buildings would be screened from view. The planning commission may reduce this requirement where additional screening is provided.
- (4) Whenever a swimming pool is to be provided, it shall be located at least 100 feet from abutting residential districts and shall be provided with a protective fence six feet in height and entry shall be by means of a controlled gate.
- (5) The minimum site area for tennis, or other racket sport shall be two acres and the courts shall be located at least 100 feet from abutting residential districts.
- (6) Where the site abuts a residential district, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the planning commission, shall be placed within the buffer strip. The planning commission shall use section 42-412 when determining screening needs.
- (7) A 50-foot minimum natural vegetation strip between turf areas and natural water bodies, watercourses or wetlands must be maintained. The natural vegetation strip shall not be chemically treated.
- (8) The outdoor storage of trash or rubbish shall be screened in accordance with section 42-412.
- (9) Accessory uses may include; clubhouse/pro shop, managerial facilities, maintenance shed, toilets, lockers, restaurant and bar, driving range, tennis, racket sport, and swimming facilities.
- (10) Major accessory uses such as a restaurant and bar shall be housed in a single building with the clubhouse. Minor accessory uses strictly related to the operation of the golf course itself, such as maintenance garage and pro shop or golf shop may be located in separate structures.
- (11) The clubhouse design is to be of a residential character and exterior materials are to be primarily wood or brick.
- (12) No building shall be erected to a height greater than that permitted in the district in which it is located.
- (13) The total lot area covered with principal and accessory buildings shall not exceed 15 percent.
- (14) All parking areas shall be paved.
- (15) No outdoor loudspeaker or call system shall be audible on adjoining property.
- (16) No dwelling units shall be provided on the premises except for living quarters for a resident manager, watchman or caretaker. Those living quarters, if any, shall be constructed as part of the main building or as an accessory use near the entry to the course.
- (17) A golf driving range accessory to the principal use of the golf course is permitted provided the area devoted to this use shall maintain a 75-foot front yard and a 100-foot side and rear yard setback. The area shall be buffered by natural vegetation and fencing to minimize the impact upon adjoining properties.
- (18) A minimum of two satellite restrooms or other acceptable facilities are required for each nine holes. The facilities are to be located away from lot lines and painted or finished in an earth tone color. Such facilities shall be approved by the county health department.
- (19) Golf courses shall retain and preserve native vegetation over at least 30 percent of the total upland area of the course to reduce water demand, excessive soil erosion and heavy nutrient run-off.

(20) Water quality protective measures are required as follows:

- a. Maintenance of erosion control barriers during construction and until all ground cover is established;
- b. To the extent practicable, runoff must be directed to on-site holding/sedimentation ponds with a water quality control structure installed at the outlet prior to water discharge from the premises;
- c. Site areas in proximity to fuel and chemical storage areas shall be designed to direct all runoff to an on-site ponding area;
- d. A chemical storage area must be designated within an accessory building;
- e. The area must provide secondary containment to prevent the spread of spills;
- f. All herbicide, insecticide, fungicide and rodenticide chemicals must be stored in a locked enclosure;
- g. An inventory manifest of stored chemicals must be posted at the entrance of the accessory building;
- h. At any time widespread or non-spot application of herbicide, insecticide, fungicide or rodenticide is to occur, notification signs must be posted at lot lines. The signs are to state the type and name of the chemical, date and time of application, and other appropriate information;
- i. All chemical applications must be by a state department of agriculture licensed applicator; and
- j. Chemicals shall meet the requirements of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), the Environmental Protection Agency (EPA), and all appropriate state statutes and administrative directives.

(21) In order to ensure that the site can be restored to prior conditions should golf

course construction not be completed, the city may require posting of a performance guarantee or other acceptable security.

(v) *Horse riding stable.*

- (1) All lots shall have a minimum of three acres for the first horse with one additional acre per each additional horse, not applicable to young equines below weaning age or six months of age, whichever is greater.
- (2) Animal holding areas shall be a minimum of 75 feet from an exterior property line or the shoreline of surface water.
- (3) Fencing shall be a minimum of four feet in height and constructed of materials with the appropriate structural strength to restrain the animals.
- (4) All areas used as arenas for exercising, training, or exhibition of animals shall be maintained in a dust-free manner by an approved and acceptable means for the prevention of detrimental and nuisance effects of dust emission to surrounding properties.
- (5) The keeping and maintenance of horses, as provided for in this section, shall comply with all regulations and provisions of the health and sanitation laws of the county and state. All premises and facilities upon which animals are permitted to be kept shall be maintained in a clean, orderly and sanitary condition at all times. All manure shall be removed or spread so as not to constitute a nuisance and in accord with state department of agriculture and state and county health department regulations. All premises and facilities shall be treated with biologically, ecologically and environmentally approved pesticides for the control of odors, insects and rodents, which in any way can be considered a clear and present nuisance or detriment to the health safety, comfort and welfare of the general public.
- (6) Parking shall be provided at a minimum of one parking space per two animals,

based on the number of horse stalls or maximum number of horses that can be accommodated in the stables.

- (7) Enclosed riding arenas associated with commercial equine establishments shall not exceed 10,000 square feet in gross floor area on a minimum of ten acre site, except that an additional 1,500 square feet of floor area may be permitted for each additional full acre in a lot area. No living quarters shall be located in any arena building or boarding stable.
- (w) *Hospital.*
- (1) Ingress and egress to the site shall be only from a paved arterial road.
 - (2) The minimum lot or parcel size for hospitals shall be five acres with a minimum of 200 feet of frontage.
 - (3) No more than 50 percent of the site area shall be covered by buildings.
 - (4) The minimum distance of any building from lot lines or streets shall be at least 50 feet for front, rear, and side yards for all two story structures.
 - (5) Access to and from any delivery or ambulance areas shall be directly from an arterial road.
 - (6) Noise producing activities, such as ambulance and delivery areas, laundry, or power plants, shall not be located closer than 300 feet from any residential area.
 - (7) Ambulance and delivery areas shall be obscured from the view of adjoining residential districts or uses by a solid masonry wall five feet in height.
 - (8) Where the site abuts a residential district, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the planning commission, shall be placed within the buffer strip. The planning commission shall use section 42-412 when determining screening needs.

(x) *Laundromat.*

- (1) Ingress and egress to the site shall be only from a paved arterial or collector road.
- (2) Parking shall be provided on site.
- (3) Arcade related uses are limited to three machines.
- (4) An attendant shall be provided during hours of operation.
- (5) Hours of operation shall be limited from 6:00 a.m. to 11:00 p.m.

(y) *Motor freight terminal.*

- (1) Minimum lot size shall be ten acres with a minimum frontage of 400 feet.
- (2) No structures, parking areas, or facilities shall be located within 40 feet of the front property line. The front setback shall be landscaped in accordance with section 42-412.
- (3) No portion of any structure, facility, access drive or parking area shall be located within 100 feet of any residential district or use.
- (4) All portions of structures facing a public right-of-way shall have at least a 25 percent faced in brick, split block or stone. Sheet metal is prohibited on the front face of buildings.
- (5) Except for the required front yard setback, all developed areas of the site shall be enclosed by a minimum six-foot chain link fence (barbed or razor wire is prohibited). On all sides abutting a residential district or use shall also be obscured by screen of appropriate landscaping, a berm or combination thereof.
- (6) Lighting shall be installed and shielded in a manner which shall not create a driving hazard on adjacent streets or which will cause direct illumination on adjacent property.
- (7) Where the site abuts a residential district, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a

type approved by the planning commission, shall be placed within the buffer strip. The planning commission shall use section 42-412 when determining screening needs.

- (8) All truck terminal access drives shall enter from or exit to a designated Class A county road or a local road which meets the same standards.
- (9) Deceleration lanes may be required by the planning commission after county road commission review.
- (10) It shall be determined that automotive or truck traffic will be no more hazardous nor the volume of traffic any greater than is normal for the road involved. The planning commission shall take into consideration vehicular turning movements in relation to routes of traffic flow, proximity and adequacy of interchanges.
- (11) Access driveways shall be located at least 150 feet from the nearest part of the intersection of any street or any other driveway.
- (12) Disabled or inoperable trucks and on-site trailer storage shall not be parked outside of an enclosed building more than five consecutive days.
- (13) No trailers shall be stored on site for use as storage containers.
- (z) *Multiple-family dwelling.*
 - (1) Parking areas shall have a front yard setback of 30 feet, and side and rear yard setbacks of 20 feet. Setbacks shall be landscaped in accordance with section 42-412.
 - (2) Access driveways shall be located no less than 100 feet from the nearest part of the intersection of any street or any other driveway for any other main building.
 - (3) Buildings shall not be constructed nearer to any other building than a distance equal to the height of the taller building.
 - (4) The site shall be located on a paved public road or street. If more than 48 units are

proposed, the development shall be located with the principal access on an arterial road.

- (5) Any multiple-family development adjoining any one-family residential district or any developed nonresidential district shall provide a landscaped buffer strip planted pursuant to the requirements of section 42-412.
- (6) The outdoor storage of trash or rubbish shall be screened in accordance with section 42-412.
- (7) Provisions shall be made for safe and efficient egress and ingress to public streets and highways that shall be designed to minimize congestion and interference with normal traffic flow.
- (8) All streets in the development shall be constructed as public streets and maintained with an all-weather road surface. No dead-end street or roadway shall serve more than 50 dwelling units as a means of vehicular access.
- (9) Unless associated with a traditional neighborhood planned unit development (TND PUD), no multiple-family structure shall be closer than 30 feet from a private access drive.
- (10) Required parking for a structure shall not be more than 150 feet from that structure.
- (11) Unless associated with a traditional neighborhood planned unit development (TND PUD), lot coverage for a multiple-family development shall be no more than 40 percent of the parcel.
- (12) All developments shall be served with public water and sewer facilities.
- (13) The site shall be developed and facilities shall be provided to ensure adequate drainage that does not run onto adjacent parcels.
- (14) There shall be provided easily accessible and useable open space in the development in an amount of at least 15 percent of the site area.

- (15) All off-street parking facilities shall be adequately lighted during hours of darkness with lighting directed so as not to shine in residential units or onto adjoining parcels.
- (16) All developments shall provide for underground installation of all utilities.
- (17) Unless associated with a traditional neighborhood planned unit development (TND PUD), only the following accessory land and/or building uses shall be permitted:
- a. One office space not greater than 1,000 square feet per 100 units for conducting the business of the development;
 - b. Utility areas for laundry facilities and auxiliary storage for tenants;
 - c. Recreation area such as community buildings, playgrounds, swimming pools, tennis courts; and
 - d. Others by approval of the planning commission.
- (aa) *Municipal or public service activities.*
- (1) The proposed site shall front upon a paved street.
 - (2) Outdoor storage must be fenced and screened. Barbed or razor wire is prohibited unless required for homeland security purposes.
- (bb) *Open air business.*
- (1) Minimum lot area shall be one acre.
 - (2) Minimum lot width shall be 200 feet.
 - (3) The planning commission may require a six-foot fence or wall to be constructed along the rear and/or sides of the lot to keep trash, paper, and other debris from blowing off the premises.
 - (4) The planning commission may, to ensure strict compliance with any regulation contained herein and required as a condition of special land use approval, require the permittee to furnish a performance bond in accordance with section 42-35.
- (5) The lot area used for parking shall be paved. Display or storage areas shall be provided with a permanent, durable, and dustless surface, and shall be graded so as to properly dispose of all surface water.
- (6) Ingress and egress shall be provided from a paved street and shall be at least 100 feet from an intersection.
- (7) All lighting shall be shielded from adjacent properties.
- (8) All loading activities and parking areas shall be provided on the same premises (off-street).
- (9) The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties.
- (10) Where the site abuts a residential district, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the planning commission, shall be placed within the buffer strip. The planning commission shall use section 42-412 when determining screening needs.
- (cc) *Pawn shop.*
- (1) The lot shall be served by a paved street.
 - (2) The lot shall be located such that it is at least 300 feet from the lot line of any property on which is situated a public library, public or private school, playground, play field, church or hospital.
 - (3) Outdoor storage is prohibited.
 - (4) The facility shall be properly licensed by the state and adhere to rules promulgated for secondhand stores.
- (dd) *Place of religious worship.*
- (1) The facility shall be located on a minimum lot size of two acres; plus an additional 15,000 square feet for each 100 seating capacity or fraction thereof in excess of 100 members.

- (2) The facility shall have a minimum of 200 feet of frontage and have direct access to a paved collector street.
- (3) Access driveways shall be located no less than 150 feet from the centerline of the intersection of any street or 50 feet from any residential driveway.
- (4) The main and accessory buildings and structures shall not be located within 50 feet of any residential district.
- (5) Lighting for parking or outdoor activity areas shall be shielded to prevent light from spilling over the property line.
- (6) Accessory uses located in existing structures may be exempt from provisions (1)—(4) if the following are met:
 - a. The accessory structure is located on property adjacent to the primary use, and the proposed use of the structure is related solely to the religious purpose of the primary use.
 - b. The exterior of the structure and yard areas are maintained in character with that of the surrounding properties and neighborhoods.
 - c. Any modification to the structure meets all applicable zoning standards for the zoning district in which it is located.
 - d. The proposed use does not adversely impact surrounding properties.
 - e. The structure is adequately served by public facilities and services and is not a detriment to public health, safety, and welfare of the community.

(ee) *Recreation facility (outdoor; e.g., go-cart, miniature golf, batting cages, skateboard, park and similar uses).*

- (1) Minimum lot size shall be three acres with a minimum of 200 feet of frontage on an arterial street.

- (2) All points of entrance or exit for motor vehicles shall be located no closer than 100 feet from the intersection of any two streets.
- (3) Where the use abuts property within a residential district, a transitional strip at least 30 feet in width shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the planning commission, shall be placed within the transition strip.
- (4) A minimum of 100 feet shall separate all uses, operation, and structures permitted herein, including fences, from any public street or highway uses for access or exit purposes. This area shall be landscaped in accordance with plans approved by the planning commission.
- (5) Where the site adjoins a residential district, outdoor loudspeaker systems shall not be used.
- (6) The intensity level of sounds leaving the site shall not exceed 65 decibels (dBA) at the lot line of residential uses.
 - (ff) *Recreation facility (indoor).* The location, design, and operation of arcades, billiard halls, bowling centers, etc., with amusement machines shall not adversely affect the continued use, enjoyment, and development of adjacent properties.
 - (gg) *Salvage or junk yard.*
 - (1) The enclosed area shall be no closer than 500 feet to any residential district, public buildings, church, hospital, institution for human care, day nursery or school.
 - (2) Ingress and egress to the facility shall be only from an arterial road. The planning commission may approve access by other roads if it finds that the access point will further minimize impacts on other properties.
 - (3) The site shall be a minimum of ten acres in size if there is any outdoor storage and a minimum of two acres in size if all material is stored within a completely enclosed building.

- (4) All outdoor storage areas shall be enclosed and set back at least 100 feet from any front street or property line. Such front yard setback shall be planted with trees, grass and shrubs to minimize the appearance of the installation. The spacing and type of plant materials shall be approved by the planning commission in accordance with the requirements of section 42-412.
- (5) Adequate parking and unloading facilities shall be provided at the site so that no loaded vehicle at any time stands on a public right-of-way awaiting entrance to the site.
- (6) Whenever the installation abuts a residential district, a buffer strip at least 100 feet in width shall be provided between the enclosed area and the adjoining district. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the planning commission, shall be placed within the buffer strip. The planning commission shall use section 42-412 when determining screening needs.
- (7) An enclosed solid fence, wall or earthen berm at least six feet in height, shall be provided around the periphery of the site.
- (8) The outdoor storage of trash or rubbish shall be screened in accordance with section 42-412.
- (9) All activities shall be confined within the enclosed area. There shall be no stacking of material above the height of any fence, berm or wall, except that movable equipment used on the site may exceed the wall or fence height. No equipment, material, signs or lighting shall be used or stored outside the enclosed area.
- (10) No open burning shall be permitted, and all industrial processes involving the use of equipment for cutting, compressing or packaging shall be conducted within a completely enclosed building.
- (11) All roads, driveways, parking lots, and loading and unloading areas within any junk yard shall be paved, watered, or chemically treated so as to limit the nuisance caused by wind-borne dust on adjoining lots and public roads.
- (12) The operation shall be licensed by the secretary of state to sell used vehicle parts or tow nonoperational vehicles.
- (13) Any hazardous substances required secondary containment and conformance with all state or federal requirements.
- (hh) *Trade or industrial school.*
- (1) Schools shall be located on a minimum lot size of two acres and have direct access to a major or minor arterial road.
- (2) Access driveways shall be located no less than 150 feet from the centerline of the intersection of any street or 50 feet from any residential driveway.
- (3) The main and accessory buildings and structures shall not be located within 50 feet of any residential district.
- (4) Lighting for parking or outdoor activity areas shall be shielded to prevent light from spilling over the property line.
- (5) Where the site abuts a residential district, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the planning commission, shall be placed within the buffer strip. The planning commission shall use section 42-412 when determining screening needs.
- (ii) *Truck stop.*
- (1) The site shall have a minimum of ten acres and 400 feet of frontage.
- (2) Driveways and roads of commercial and industrial facilities anticipated to receive truck traffic must be adequately designed to accommodate such traffic, including but not limited to deceleration lanes and turning lanes.
- (3) A landscaped, planted open space of a minimum of 40 feet in depth shall be provided along the full frontage of the site.

- (4) No structures, parking areas, or facilities shall be located within 40 feet of the front property line.
 - (5) No portion of any structure, facility, access drive or parking area shall be located within 50 feet of any residential district or use.
 - (6) All portions of structures facing a public right-of-way shall have at least a 25 percent faced in brick, split block or stone. Sheet metal is prohibited on the front face of buildings.
 - (7) Where the site abuts a residential district, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the planning commission, shall be placed within the buffer strip. The planning commission shall use section 42-412 when determining screening needs.
 - (8) There shall be provided, except at entrances and exits, a minimum six-foot fence constructed around the development area (barbed or razor wire is prohibited).
 - (9) Lighting shall be installed and shielded in a manner which shall not create a driving hazard on adjacent streets or which will cause direct illumination on adjacent property.
 - (10) All truck terminal access drives shall enter from or exit to a designated class A arterial.
 - (11) It shall be determined that automotive or truck traffic will be no more hazardous nor the volume of traffic any greater than is normal for the road involved. The planning commission shall take into consideration vehicular turning movements in relation to routes of traffic flow, proximity and adequacy of interchanges.
- (jj) *Two-family dwelling.*
- (1) Parking for the units shall be provided on site.
- (2) Existing single-family homes that are converted to a two-family dwelling shall meet the setback requirements of the district.
- (kk) *Utility substation, transmission lines and switching station.*
- (1) Any building shall be generally compatible with the surrounding neighborhood, with respect to materials and color.
 - (2) Any building shall comply with yard setback requirements of the district in which it is located.
 - (3) A security fence shall be constructed around the perimeter of the building of at least six feet in height.
 - (4) Where the site abuts a residential district, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the planning commission, shall be placed within the buffer strip. The planning commission shall use section 42-412 when determining screening needs.
- (ll) *Vehicle repair facility.*
- (1) The minimum lot size shall be one-half acre with a minimum of 150 feet of frontage on an arterial street.
 - (2) The facility shall meet all pertinent licensing requirements of the State of Michigan, the County of Ionia and the City of Portland.
 - (3) All buildings, structures, and equipment shall be located at least 20 feet from any right-of-way line, and not less than 20 feet from any side or rear lot line.
 - (4) No part of any drive or curb opening shall be located nearer than 75 feet to any intersection or less than 50 feet from any adjacent residential district property line. No drive shall be located nearer than 75 feet, as measured along the property line, to any other driveway measured to the nearest part of the access driveway to the nearest part of the other driveway.

- (5) All lubrication equipment, hydraulic hoists, and pits shall be enclosed entirely within a building and all repair, servicing or other related activities shall take place within the building.
 - (6) Parking and storage areas for disabled, wrecked, or partially dismantled vehicles awaiting repair shall be paved with asphalt or poured concrete, and parking of such vehicles shall not exceed a maximum of three vehicles. This area shall be screened from the view of any abutting property. The planning commission shall approve the method of screening.
 - (7) A landscaped, planted open space of a minimum of ten feet in depth shall be provided along the full frontage of the site.
 - (8) All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed by a six-foot sight obscuring wall or fence. No outside storage area shall exceed an area of 200 square feet.
 - (9) The rental of trucks, trailers, and any other vehicles on the premises shall not occupy required setbacks or parking areas.
 - (10) All exterior lighting shall be erected and hooded so as to shield the glare of such lights from spilling onto adjacent property.
 - (11) Where the site abuts a residential district, a minimum 20-foot buffer strip shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the planning commission, shall be placed within the buffer strip. The planning commission shall use section 42-412 when determining screening needs.
 - (12) Where applicable, vehicle queuing space shall be provided in front of each service bay for at least two vehicles.
 - (13) Hours of operation shall not have an adverse effect on adjoining areas and be subject to planning commission review.
 - (14) The use shall be supported by certain infrastructure features, including paved roads, natural gas, public water supply, and public sanitary sewer.
 - (15) The applicant shall submit a pollution incidence protection plan (PIPP) as part of the application. The PIPP shall describe measures to prevent groundwater contamination caused by accidental gasoline spills or leakage, such as: special check valves, drain catch basins and automatic shut off valves.
- (mm) *Vehicle sales.*
- (1) The facility shall meet all pertinent licensing requirements of the State of Michigan, the County of Ionia and the City of Portland.
 - (2) All buildings, structures, and equipment shall be located at least 50 feet from any right-of-way line, and not less than 30 feet from any side or rear lot line.
 - (3) A landscaped, planted open space of a minimum of ten feet in depth shall be provided along the full frontage of the site.
 - (4) No part of any drive or curb opening shall be located nearer than 75 feet to any intersection or less than 50 feet from any adjacent residential district property line. No drive shall be located nearer than 75 feet, as measured along the property line, to any other driveway measured to the nearest part of the access driveway to the nearest part of the other driveway.
 - (5) The minimum lot width shall be 250 feet and the minimum lot area one acre.
 - (6) The planning commission may require a six-foot, solid wall or solid fence along a side or rear lot line abutting a residential district.
- (nn) *Vehicle service station.*
- (1) The lot shall be a minimum of three-quarters of an acre with a minimum frontage of 150 feet.

- (2) The lot shall have direct access to an arterial road.
- (3) Vehicle fuel stations and their accessory uses (except parking areas) and buildings shall be located not less than 50 feet from any right-of-way line or from any side or rear lot line abutting a residential district.
- (4) The planning commission may require a six-foot, solid wall or solid fence along a side or rear lot line abutting a residential district.
- (5) Accessory vehicle related facilities located on the premises such as wash facilities, and vehicle repair are allowed, however, if required by this chapter, the uses must obtain separate special land use approvals as provided for in this article.
- (6) The site shall be limited to no more than one driveway for each street on which it fronts.
- (7) All storage of material, merchandise and equipment shall be within the building.
- (8) Gasoline or other flammable mixtures shall not be used to wash down the premises.
- (9) In the event that a vehicle fuel station has been abandoned or not used as a vehicle fuel station for a period of more than one year, any application to operate the premises as a vehicle fuel station shall be considered as an application for a new vehicle fuel station.
- (10) The applicant shall submit a pollution incidence protection plan (PIPP) as part of the application. The PIPP shall describe measures to prevent groundwater contamination caused by accidental gasoline spills or leakage, such as: special check valves, drain catch basins and automatic shut off valves.
- (11) Each service bay shall be provided ample space for required stacking spaces that is not located within the public or private right-of-way and that does not conflict with vehicle maneuvering areas and does not conflict with other activities on the

site. A minimum of two stacking spaces per service bay shall be provided. Stacking spaces shall conform to section 42-408.

(oo) *Car wash facility.*

- (1) The minimum lot area shall be one-half acre with a minimum frontage of 100 feet.
- (2) The lot shall have immediate access to an arterial road.
- (3) Additional vehicle related facilities located on the premises such as motor vehicle service facilities are allowed, however, if required by this chapter, the uses must obtain separate special land use approvals as provided for in this article.
- (4) All washing activities must be within a building.
- (5) The vehicular exit from the building shall be at least 75 feet from the driveway egress.
- (6) The vehicle wash establishment operator shall comply with section 42-412.
- (7) Wastewater shall be filtered or otherwise cleansed so as to minimize discharge of soap, wax and solid matter into the public sewer.
- (8) The site shall be limited to no more than one driveway for each street on which it fronts.
- (9) Each wash bay shall be provided ample space for required stacking spaces that is not located within the public or private right-of-way and that does not conflict with vehicle maneuvering areas and does not conflict with other activities on the site such as gasoline pumps or vacuums. The following minimum number of stacking spaces shall be provided for the uses noted in addition to parking required per section 42-186. Stacking spaces shall conform to section 42-408.

Self-service wash bay	2 spaces per bay
Automatic wash bay	4 spaces per bay

- (10) A by-pass lane around the building is required for automated drive-through wash facilities.
- (11) No permitted activity shall emit noise that is readily discernible to the average person in any adjacent residential district providing that air handling equipment in proper working condition deemed to comply with this provision is located on a roof with intervening noise reduction baffles. Nothing herein shall be interpreted to relieve the property owner or operator of the need to comply with all noise regulations of the city.
- (12) The minimum front yard setback for the structure shall be 50 feet; minimum side yard setback shall be 25 feet; minimum rear yard setback shall be 50 feet.
- (13) The entrances and exits of the facility shall not be from an adjoining residential street or alley. A street or alley shall not be used as a maneuvering or parking area for vehicles using the facility.
- (14) The entire site, other than the portion occupied by the building and landscaping, shall be surfaced with concrete or bituminous surfacing to control dust and provide adequate drainage.
- (15) There shall be no aboveground outdoor storage/dispensing tanks on the site.
- (16) When adjoining a residential district, a six-foot high wall or fence shall be erected and maintained along the connecting interior lot line or other landscaping providing a six-foot high barrier may be approved by the planning commission pursuant to the requirements of section 42-412.
- (17) All lighting shall be shielded from adjacent residential districts or uses.
- (18) The outdoor storage of trash or rubbish shall be screened in compliance with section 42-412.
- (19) All washing activities shall be conducted within a completely, or partially enclosed structure, except one tall vehicle washing area is permitted.
- (20) Vacuuming activities shall be at least 25 feet from any lot line except where the property abuts a residential district in which case a 50-foot separation shall be maintained.
- (21) All drains shall be connected to a public sanitary sewer system.
- (22) Vehicle wash facilities shall not be operated between the hours of 11:00 p.m. and 8:00 a.m.
- (pp) *Veterinary hospital and veterinary clinic.*
 - (1) Outdoor areas in which animals are kept, such as runs, pens, and/or exercise areas shall not be located nearer than 100 feet to any residential district and shall not be located within any required yard area.
 - (2) Outdoor runs, pens, and/or exercise areas that face residential districts shall be screened with a six-foot high fence. Suitable shade, including some natural vegetation shall be provided around these outdoor areas.
 - (3) All indoor and outdoor hospital and clinic areas, runs, pens, and/or exercise areas shall be maintained to create safe and suitable environments for animals, including the daily elimination of animal waste.
- (qq) *Wireless communication tower.*
 - (1) The lot size shall be a minimum of 20,000 square feet.
 - (2) The tower shall be of a monopole design unless an alternative design can be presented that blends suitably in the city landscape.
 - (3) The tower shall be set back from all lot lines a minimum distance equal to one-half the height of the tower. All other buildings, structures, and guy wires shall meet the minimum setback requirements of the zoning district.

- (4) A security fence at least six feet in height shall be constructed around the tower and supports.
- (5) Where possible, joint use of tower facilities, including city elevated storage tanks, shall be required in order to minimize the number of separate towers and individual locations throughout the city. As a condition of approval, the applicant shall agree to permit future users to share the tower facility and shall demonstrate that it is not feasible to locate the proposed tower on public lands or collocate on an existing tower.
- (6) Unless located on the same site or tower with another user, no new tower shall be erected within a one-half mile radius of an existing radio, television, cellular, or wireless communications tower.
- (7) No signs, except warning or other cautionary signs shall be permitted on the site.

(Ord. No. 175J, § 11.06, eff. 9-17-2004; Ord. No. 175L, §§ 4, 5, eff. 3-1-2005; Ord. No. 175S, § 1, eff. 1-18-2007; Ord. No. 175 V, § 1, eff. 2-12-2010; Ord. No. 175 W, § 1, eff. 3-11-2010; Ord. No. 175 Y, §§ 1—5, eff. 3-11-2010; Ord. No. 175AA, § 2, eff. 12-16-2010)

Secs. 42-342—42-372. Reserved.

ARTICLE VI. SITE PLAN REVIEW*

Sec. 42-373. Purpose.

The purpose of this article is to provide for consultation and cooperation between the applicant and the planning commission in order that the applicant may realize planned objectives in the use of land within the regulations of this chapter. It is also intended to ensure that the development be completed with minimum adverse effect on the use of adjacent streets and highways, and on the existing and future uses and the environment in the general vicinity. (Ord. No. 175J, § 12.01, eff. 9-17-2004)

*State law reference—Submission and approval of site plan, MCL 125.3501.

Sec. 42-374. Site plans reviewed.

(a) *Required.* In accordance with the provisions of this article, a site plan review by the planning commission shall be required prior to the establishment of a new use or the erection of a building in the districts and conditions cited below, unless excepted by subsection (b) of this section:

- (1) All uses permitted in the following districts:
 - a. R-3 residential district;
 - b. C-1 central business district;
 - c. C-2 general business district;
 - d. C-3 highway commercial district;
 - e. IND industrial district;
 - f. Multifamily developments; and
 - g. R-4 manufactured home community district;
- (2) Special land uses in all zoning districts;
- (3) Site condominiums in any district;
- (4) Planned unit developments;
- (5) Open space neighborhood developments; or
- (6) Grading, excavation, filling, soil removal, creation of ponds or tree clearing over one acre.

(b) *Exceptions.* Site plan review and approval by the planning commission shall not be required for the following uses. Site plan review for these uses will be conducted by the zoning administrator. See also section 42-408(e):

- (1) One-family detached dwellings (except as may be provided in a site condominium development);
- (2) Agricultural uses;
- (3) A change of use that does not result in the change in the building footprint;
- (4) Districts outside the C-1 zoning district that create the need for more than five additional parking spaces;
- (5) Family day care and foster care facilities; and

(6) Accessory buildings and uses.

(c) *Staff referral.* In cases where the zoning administrator reasonably determines that a site plan presents problems or issues which should be reviewed by the planning commission because of area wide effects, or technical difficulties or considerations, the zoning administrator may, with proper notice to the owner, refer the matter to the planning commission for review and action in accordance with the procedures and standards set forth for all planning commission review activities by this chapter.

(Ord. No. 175J, § 12.02, eff. 9-17-2004)

Sec. 42-375. Site plan review requirements.

(a) *Optional preliminary site plan review.*

- (1) Twenty-two copies of a preliminary site plan may be submitted by the applicant for review by the planning commission prior to final site plan submittal. The purpose of this optional procedure is to allow discussion between the applicant and the planning commissioners, to better inform the applicant of the acceptability of the proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval.
- (2) Preliminary site plan submittal shall include the information as listed within subsection (c) of this section, unless deemed unnecessary by the zoning administrator. Preliminary site plans shall be at a scale not to exceed one inch equals 100 feet.
- (3) The planning commission shall review the preliminary site plan and make any recommendations to the applicant that will cause the plan to be in conformance with the review standards required by this article. The planning commission shall advise the applicant as to the general acceptability of the proposed plan, but shall not be bound by any statements or indications of acceptance of the plan.

(b) *Final site plan review.*

- (1) If submission of a preliminary site plan is not desired by the applicant, 22 copies of a

final site plan prepared by a professional engineer, architect, or land surveyor may be submitted for review without first receiving a review of a preliminary plan. Final site plans shall be at a scale not less than one inch equals 20 feet for property under three acres and at least one inch equals 100 feet for those three acres or more.

(2) Applications for final site plan reviews shall include the information as listed within subsection (c) of this section, unless deemed unnecessary by the zoning administrator, and the requirements of section 42-376(a).

(c) *Required site plan submission requirements.*

<i>Preliminary and Final Site Plan Requirements</i>	
A location sketch showing at minimum, properties, streets and use of land within one-half mile of the area.	
Zoning of surrounding properties.	
Legal description of the subject property.	
The date, north arrow, and scale.	
Name and address of the property owner or petitioner.	
Name and address of the person and/or firm who drafted the plan and the date on which the plan was prepared.	
Existing zoning and use of all properties abutting the subject property.	
All buildings, parking and driveways within 100 feet of all property lines.	
Narrative:	The overall objectives of the proposed development.
Shown on the site plan or submitted separately, describing in general terms:	Size (in acres) of the subject property and approximate number of acres allocated to each proposed use and gross area in building, structures, parking, public streets and drives, and open space.
	Dwelling unit densities by type, if applicable.
	Proposed method of providing sewer and water service, as well as other public and private utilities.
	Proposed method of providing storm drainage.
<i>Preliminary Site Plan Requirements</i>	
Property lines and approximate dimensions.	
Existing adjacent streets and proposed streets.	
Parking lots and access points.	
Proposed buffer strips or screening.	
Significant natural features; and other natural characteristics, including but not limited to open space, wetlands, stands of trees, brooks, ponds, floodplains, hills, slopes of over 15 percent, and similar natural assets or hazards.	
Any signs not attached to the building.	
General topographical features at contour intervals no greater than five feet.	
Existing and proposed uses, buildings and structures.	
<i>Final Site Plan Requirements</i>	
Seal, name, and firm address of the professional individual responsible for the preparation of the site plan.	
Property lines and required setbacks shown and dimensioned.	
Dimensions of all existing and proposed structures on the subject property including dwelling unit densities by type, if applicable.	

<i>Final Site Plan Requirements</i>	
Size and location of existing and proposed utilities, including any proposed connections to public, or private community sewer or water supply systems.	
All existing and proposed drives (including dimensions and radii), acceleration/deceleration lanes, sidewalks, signs, exterior lighting, curbing, parking areas (including the dimensions of a typical parking space and the total number of parking spaces to be provided), fire lanes, and unloading areas.	
Existing and proposed topographic contours - minimum two-foot intervals.	
Pavement width and right-of-way width of all roads, streets, and access easements within 100 feet of the subject property.	
Location and size of all surface water drainage facilities.	
Location of all solid waste disposal facilities, including recycling, and screening.	
Location and specifications for existing or proposed outside, aboveground or belowground storage facilities for hazardous materials.	
All existing vegetation and the location, type, and size of all proposed landscaping, and the location, height and type of existing and proposed fences and walls.	
Recreation areas, common use areas, floodplain areas and areas to be conveyed for public use and purpose.	
Exterior lighting showing area of illumination and indicating the type and height of fixture to be used.	
Elevation drawings of proposed buildings.	
Traffic im- pact assess- ment; traffic impact study	The planning commission may require a traffic impact assessment or traffic impact study pursuant to Institute for Transportation Engineers standards as part of final site plan review. The level of detail required for either a traffic impact assessment of study is based upon the expected amount of traffic to be generated by the proposed use, as noted below.
	Traffic impact assessment: A traffic impact assessment shall be required for projects expected to generate either between 50—99 direction trips during the peak hour or 500—750 directional trips during a typical day. The assessment shall evaluate current and future inbound and outbound traffic operations at site access points and shall include proposed access design and other mitigation measures that will positively affect traffic operations at these points.
	Traffic impact study: A traffic impact study shall be required for projects expected to generate either 100 or more directional trips in the peak hour or over 750 trips on an average day. The study shall evaluate pedestrian access, circulation and safety, and current, background and future traffic operations at site access points and major signalized or nonsignalized intersections in proximity to the site. The study must also include proposed access design and other mitigation measures that will positively affect traffic operations at the site and nearby intersections. The study must take into account the master plan in analyzing future traffic developments.

(d) *Additional information.* The planning commission, prior to granting approval of a site plan, may request from the applicant any additional graphics or written materials, prepared by a qualified person or persons to assist in determining the appropriateness of the site plan. Such

material may include, but need not be limited to, aerial photography, photographs, impacts on significant natural features and drainage, soil tests and other pertinent information.

(Ord. No. 175J, § 12.03, eff. 9-17-2004)

Sec. 42-376. Application and review.

(a) Required site plans, application form, escrow fees (if applicable), and an application fee shall be submitted to the zoning administrator by the applicant or his agent, at least 15 days prior to the next regular planning commission meeting. If submitted within this time, the zoning administrator shall cause the submittal to be placed on the agenda of the next regular planning commission meeting. Applications shall not be accepted unless all required materials and fees are submitted and are declared complete by the zoning administrator.

(b) The planning commission shall approve, deny, or approve subject to conditions, the site plan, in accordance with the provisions of this article.

(c) Any conditions or modifications recommended by the planning commission shall be recorded in the minutes.

(d) Two copies of the final approved site plan shall be signed and dated by the zoning administrator or designee and the applicant. The city shall keep one of these approved copies on file, one shall be returned to the applicant or his designated representative.

(e) Each development subject to site plan review shall be substantially under construction within one year after the date of approval of the site plan, except as noted below.

- (1) The planning commission may grant a single one-year extension of the time period; provided, the applicant requests, in writing, an extension prior to the date of the expiration of the site plan;
- (2) The extension shall be approved if the applicant presents reasonable evidence to the effect that the development has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed within the extension period; and
- (3) If neither of the above provisions are fulfilled or the one-year extension has expired prior to construction, the site plan approval shall be null and void.

(f) Construction related to each development subject to site plan review, or approved phase of that development, shall be completed within three years after the date of approval of the final site plan.

- (1) The planning commission may grant a single one-year extension of the time period for the phase; provided, the applicant requests, in writing, an extension prior to the required completion date. The planning commission may require a performance guarantee as part of the extension.
- (2) The extension shall be approved only for the phase in question if the applicant presents reasonable evidence to the effect that the development has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed to completion within the extension period.
- (3) If neither of the above provisions are fulfilled or the one-year extension of site plan approval shall be null and void and any performance guarantees may be exercised to finalize required improvements.
(Ord. No. 175J, § 12.04, eff. 9-17-2004)

Sec. 42-377. Administrative and escrow fees.

(a) Any site plan application shall be accompanied by a fee, in an amount to be established by the city council by resolution. The application fee shall be for the purpose of payment for the administrative costs and services expended by the city in the implementation of this article and the processing of the application. No part of this fee shall be returnable.

(b) A separate deposit may be collected from the applicant, as determined by the city council, and used to reimburse another party retained by the city to provide expert consultation and advice including but not limited to legal, planning and engineering professionals regarding the application. The basis for the amount of the deposit must be based on a reasonable estimate to provide such services. Any unused portions of this fee shall be returned to the applicant after all costs have been received by the city.
(Ord. No. 175J, § 12.05, eff. 9-17-2004)

Sec. 42-378. Changes in the approved site plan.

(a) The holder of an approved site plan shall notify the zoning administrator of any proposed change to the site plan.

(b) Minor changes may be approved by the zoning administrator upon determining that the proposed revisions meet the standards of this chapter and the intent of the design and will not alter the basic design or any specified conditions imposed as part of the original approval. Minor changes shall include the following:

- (1) Change in the building size, up to five percent in total floor area;
- (2) Movement of buildings or other structures by no more than ten feet;
- (3) Replacement of plant material specified in the landscape plan with comparable materials of an equal or greater size;
- (4) Changes in approved building materials to a comparable or higher quality;
- (5) Relocation of an outdoor waste receptacle;
- (6) Modification of up to ten percent of the total parking area provided the number of parking spaces are not reduced below that required by this chapter;
- (7) Sign location or reduction in size or height;
- (8) The addition of small accessory buildings of not more than 120-square feet in area;
- (9) Changes in floor plans that do not alter the character of the use; and
- (10) Changes required or requested by the city, or other county, state, or federal regulatory agency in order to conform to other laws or regulations.

(c) A proposed change not determined by the zoning administrator to be minor shall be submitted to the planning commission as a site plan amendment and shall be reviewed in the same manner as the original application. If the zoning administrator determines that a proposed minor change may have a major impact on the neighborhood or area involved, he may refer the plan to

the planning commission and the plan shall be reviewed in the same manner as the original application.

(Ord. No. 175J, § 12.06, eff. 9-17-2004)

Sec. 42-379. Review standards.

The following standards shall be utilized by the planning commission in reviewing all site plans. These standards are intended to provide a frame of reference for the applicant in the preparation of site plans as well as for the reviewing authority in making judgment concerning them. These standards shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention, or innovation.

(1) *Site development standards.*

- a. The uses proposed will not adversely affect the public health, safety, or welfare. Uses and structures located on the site shall take into account topography, size of the property, the uses on adjoining property and the relationship and size of buildings to the site. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this chapter.
- b. The site plan shall provide reasonable visual and sound privacy for all dwelling units located therein, and adjacent thereto. Fences, walls, barriers, and landscaping shall be used, as appropriate, to accomplish these purposes.
- c. All buildings and groups of buildings shall be arranged so as to permit necessary emergency vehicle access as requested by the fire department.
- d. Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not interfere with the vision of motorists along adjacent streets. Lighting of buildings or structures shall be minimized to reduce light pollution.

- e. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts or public streets, shall be screened by a vertical screen consisting of structural or plant materials no less than six feet in height.
 - f. Site plans shall conform to all applicable requirements of city, county, state, federal agencies. Approval may be conditioned on the applicant receiving necessary city, county, state, and federal permits before final site plan approval or an occupancy permit is granted.
 - g. Appropriate fencing may be required by the planning commission around the boundaries of the development if deemed necessary to minimize or prevent trespassing or other adverse effects on adjacent lands.
 - h. The general purposes and spirit of this chapter and the master plan of city shall be maintained.
- (2) *Vehicular and pedestrian standards.*
- a. Safe, convenient, uncongested, and well-defined vehicular and pedestrian circulation shall be provided for ingress/egress points and within the site. Drives, streets and other circulation routes shall be designed to promote safe and efficient traffic operations within the site and at ingress/egress points.
 - b. The arrangement of public or private vehicular and pedestrian connections to existing or planned streets in the area shall be planned to provide a safe and efficient circulation system for traffic within the city.
 - c. All streets and driveways shall be developed in accordance with the city subdivision control ordinance, section 42-410, the East Grand River Avenue Access Management Plan or MDOT specifications, as appropriate. Except that the planning commission may impose more stringent requirements than those for the MDOT with respect to driveway location and spacing.
- d. Sidewalks appropriate for pedestrians or nonmotorized vehicles shall be required but may be deferred with an appropriate performance guarantee.
 - e. The minimum number of vehicular entrances and exits shall be provided at appropriate locations so as to maximize the convenience and safety for persons entering or leaving the site. The number of vehicular entrances to and exits from the site shall be determined with reference to the number of dwelling units or other land uses within the site, the nature and location of the surrounding streets, the effect of traffic in the area, nearby topography, and other factors.
 - f. The planning commission may require shared driveways or the consolidation of existing driveways where appropriate consistent with the requirements of section 42-410.
- (3) *Environmental and natural features standards.*
- a. Removal or alteration of significant natural features shall be restricted to those areas which are reasonably necessary to develop the site in accordance with the requirements of this chapter. The planning commission may require that landscaping, buffers, and/or buffer strips be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.
 - b. Areas of natural drainage such as swales, wetlands, ponds, or swamps shall be protected and preserved insofar as practical in their natural state to provide areas for natural

habitat, preserve drainage patterns and maintain the natural characteristics of the land.

- c. Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made to accommodate stormwater, prevent erosion and the formation of dust. The use of detention/retention ponds may be required. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create puddles in paved areas. Catch basins may be required to contain oil filters or traps to prevent contaminants from being directly discharged to the natural drainage system.
- d. Stormwater drainage design shall recognize existing natural drainage patterns. Stormwater removal shall not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made to accommodate stormwater on-site, as deemed necessary by the city engineer using sound engineering practices.

(Ord. No. 175J, § 12.07, eff. 9-17-2004)

Sec. 42-380. Site plan approvals.

(a) As part of an approval to any site plan, the planning commission may impose any additional conditions or limitations as in its judgment may be necessary for protection of the public interest. A record of conditions shall be maintained. The conditions shall remain unchanged unless an amendment to the site plan is approved in accordance with this chapter.

(b) Conditions imposed shall be related to and ensure that the review standards of this article are met and shall meet the requirements of the Zoning Act.

(c) Approval of a site plan, including conditions made as part of the approval, shall apply to the property described as part of the application and to all subsequent owners and occupants.

(d) A record of the decision of the planning commission, the reason for the decision reached, and any conditions attached to the decision shall be kept and made a part of the minutes of the planning commission.

(e) The zoning administrator shall make periodic investigations of developments for which site plans have been approved. Failure to maintain or comply with the requirements and conditions of the approved site plan shall be considered violations of this chapter.

(f) Any site plan review approval may be voided by the zoning administrator or planning commission if it has been determined that a material error in the original approval has been discovered either because of inaccurate information supplied by the applicant or administrative error by a staff member or other agency. The voiding of an approved site plan shall be communicated in writing with reasons for revocation to the property owner. The building official shall also be notified to withhold permits until a new site plan is approved.

(Ord. No. 175J, § 12.08, eff. 9-17-2004)

Sec. 42-381. Performance guarantees.

The planning commission and zoning administrator may require a performance guarantee in accordance with section 42-35 to ensure compliance with the approved site plan.

(Ord. No. 175J, § 12.09, eff. 9-17-2004)

State law reference—Performance guarantee, MCL 125.3505.

Sec. 42-382. Appeal.

If any person is aggrieved by the action of the zoning administrator or planning commission, appeal in writing to the zoning board of appeals may be taken in accordance with the provisions of section 42-71 within 14 days after the date of the action.

(Ord. No. 175J, § 12.10, eff. 9-17-2004; Ord. No. 175R, § 4, eff. 1-18-2007)

Secs. 42-383—42-407. Reserved.

**ARTICLE VII. SITE DEVELOPMENT
REQUIREMENTS**

Sec. 42-408. Parking requirements.

(a) *Parking, general.*

- (1) *Off-street parking, front yard.* Unless otherwise permitted in this chapter, off-street parking shall not be located within the required front yard.
- (2) *Replacement.* Minimum required off-street parking spaces shall not be replaced by any other use unless and until equal facilities are provided elsewhere, in compliance with this article.
- (3) *Reduction.* Off-street parking, existing at the effective date of the ordinance from which this chapter is derived, or amendment thereto, in connection with the operation of an existing building or use, shall not be reduced to an amount less than required for a similar new building or new use.
- (4) *Deference.* The planning commission may defer construction of the required number of parking spaces if the following conditions are met:
 - a. Areas proposed for deferred parking shall be shown on the site plan, and shall be sufficient for construction of the required number of parking spaces in accordance with the standards of this chapter for parking area design and other site development requirements;
 - b. Alterations to the deferred parking area may be initiated by the owner or required by the zoning administrator; and
 - c. All or a portion of such deferred parking shall be constructed if required by the zoning administrator upon a finding that such additional parking is needed.

(5) *Maximum parking requirement.*

- a. To minimize excessive areas of pavement which detract from the aesthetics of an area and contribute to high rates of stormwater runoff, no parking lot shall have parking spaces totaling more than an amount equal to ten percent greater than the minimum parking space requirements, as determined by the parking requirements as noted in each zoning district, except as may be approved by the planning commission.
- b. The planning commission, upon application, may grant additional spaces beyond those permitted in subsection (a)(5)a. of this section. In granting additional spaces the planning commission shall determine that the parking area otherwise permitted will be inadequate to accommodate the minimum parking needs of the particular use and that the additional parking will be required to avoid overcrowding of the parking area. The actual number of permitted spaces shall be based on professional documented evidence of use and demand provided by the applicant.

(b) *Parking, residential districts.*

- (1) *Required.* Residential off-street parking spaces shall consist of a parking strip, parking bay, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve. Such parking spaces shall be constructed with an asphalt or Portland cement binder, graveled, or compacted earth so as to provide a durable and dustless surface, and shall occupy no greater than 33 percent of the required front yard.
 - (2) *Overnight parking.* Overnight parking of semitruck tractors and trailers, and commercial vehicles exceeding 1½ tons shall be prohibited in any residential district.
- (c) *Parking, nonresidential districts.*
- (1) *Location, on same lot or within 300 feet.* Off-street parking in the C-2, general com-

mercial and IND, industrial districts shall be either on the same lot or within 300 feet of the building or use it is intended to serve, measured from the nearest public entrance of the building to the nearest point of the off-street parking lot.

- (2) *Location, within 1,000 feet.* Off-street parking in the C-1, central business district zone, may be within 1,000 feet of the building or use it is intended to serve, measured from the lot line. On-street or public parking may account for up to 75 percent of the required parking.
- (3) *Joint recorded agreement.* Two or more buildings or uses may collectively provide the required off-street parking; provided, a joint recorded agreement is provided and registered with the county register of deeds.
- (4) *Common parking area.*
 - a. The zoning administrator may approve a shared parking arrangement for two or more uses to utilize the same off-street parking facility where the operating hours of the uses do not significantly overlap.
 - b. Required parking shall be calculated from the use that requires the greatest number of spaces.
 - c. Should any use involved in the shared parking arrangement change to another use, the zoning administrator

may revoke this approval and require separate parking facilities as required by this chapter.

(d) *Off-street parking lot construction and design requirements.*

- (1) *Standards.* Wherever the parking requirements of each zoning district require the building of an off-street parking facility, it shall be laid out, constructed and maintained in accordance with the standards and regulations of this subsection.
- (2) *Permits.*
 - a. No parking lot shall be constructed unless and until the zoning administrator issues a permit.
 - b. Application for a permit shall be submitted in a form provided by the zoning administrator and shall be accompanied with two sets of plans for the development and construction of the parking lot showing compliance with the provisions of this article.
 - c. No final occupancy permit shall be issued for a use for which the parking lot is intended by the building official until the parking lot has been completed, or a performance guarantee is in place for its completion.
- (3) *Minimum size of parking spaces.* Parking spaces shall be a minimum of nine feet by 18 feet, but in any case shall comply with the parking space requirements of the parking table.

<i>Parking Table</i>								
<i>Parking Pattern (degrees)</i>	<i>Parking Space (feet)</i>		<i>Aisle Lane Width (feet)</i>		<i>Total Width - Spaces + Aisle Lane (feet)</i>			
					<i>One Tier</i>		<i>Two Tiers</i>	
	<i>Width</i>	<i>Depth</i>	<i>One Way**</i>	<i>Two Way</i>	<i>One Way</i>	<i>Two Way</i>	<i>One Way</i>	<i>Two Way</i>
0 (parallel)	9	22	12	20	22	34	32	44
.1 to 29	9	18	15	NP	33	NP	50	NP
30 to 53	9	18	15	NP	36	NP	56	NP
54 to 74	9	18	15	NP	40	NP	60	NP

<i>Parking Table</i>								
<i>Parking Pattern (degrees)</i>	<i>Parking Space (feet)</i>		<i>Aisle Lane Width (feet)</i>		<i>Total Width - Spaces + Aisle Lane (feet)</i>			
	<i>Width</i>	<i>Depth</i>	<i>One Way**</i>	<i>Two Way</i>	<i>One Tier</i>		<i>Two Tiers</i>	
					<i>One Way</i>	<i>Two Way</i>	<i>One Way</i>	<i>Two Way</i>
75 to 89	9	18	15	NP	42	NP	60	NP
90	9	18	15	24	33	42	51	60

**Where one-way drives for access abut buildings, the minimum width shall be 20 feet.
NP = Not Permitted

- (4) *Maneuvering aisles.* All spaces shall be provided adequate access by means of maneuvering aisles. Backing directly onto a street shall be prohibited.
- (5) *Parking lot access.*
 - a. Adequate ingress and egress to and from the parking lot by means of clearly limited and defined drives shall be provided for all vehicles.
 - b. Ingress and egress to and from a parking lot located in a nonresidential district shall not be across land zoned in a residential district or land used for residential purposes.
 - c. Except as may otherwise be required by this article, each entrance and exit to and from any off-street parking lot located in an area zoned for other than one-family residential use shall be at least 20 feet from any adjacent property located in a residential district.
 - d. Access drives shall be a minimum of 15 feet in width for one-way traffic and 24 feet in width for two-way traffic.
- (6) *Construction and reconstruction requirements.*
 - a. The entire parking area, including parking spaces and maneuvering lanes, shall be provided with asphalt or concrete surfacing in accordance with approved specifications.
 - b. Surfacing of the parking area shall be completed prior to occupancy unless seasonal restrictions apply in which case a performance guarantee which ensures that paving occurs by a specified time the following season.
 - c. 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.
 - d. All parking spaces shall be striped with paint or other approved material, at least four inches in width. The striping shall be maintained and clearly visible.
 - e. Curbing meeting city standards shall be constructed along the perimeter of all paved and landscaped areas.
 - f. A brick or split block wall, wrought iron fence, or landscape buffer shall be provided between any public sidewalk and parking area. A wall, fence or landscape buffer which complies with section 42-303 shall be provided within the front setback. Landscape buffers shall be a minimum of five feet in width. Planted materials must provide a significant screen when fully grown that is at least 42 inches in height as measured from the base of the sidewalk adjacent to the street, unless the parking lot is

higher than the sidewalk, in which case it shall be measured from the base of the parking lot adjacent to the street.

- g. Fire hydrants accessed from parking areas shall not be located closer than five feet from the back of the curb next to any parking space, loading area, fire lane or maneuvering aisle.
- h. The off-street parking area shall be provided with lighting, landscaping and screening as required in this article.

(7) *Snow storage.*

- a. For parking lots having more than 100 spaces, where the planning commission determines that snow removal and storage may pose a problem to traffic circulation or reduce the amount of required parking, the site plan shall designate snow storage areas.
- b. Storage areas may be provided only within a side or rear yard, and shall not be permitted to hinder the vision of drivers or pedestrians within the parking area.
- c. The snow storage area shall be equal to at least ten percent of the size of the planned parking lot. The area used for calculation of snow storage shall not include deferred parking areas, until such time as the deferred parking area is converted to parking.
- d. Snow shall be removed as necessary to maintain the number of required parking spaces.

(8) *Outdoor storage.* 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.

(e) *Change of use of an existing structure.* When a commercial, industrial or office building has a change of use which does not require site plan

review because there is no change in a building footprint or the increase in the parking requires less than five spaces, the new use shall comply with the following:

- (1) The previously approved site plan, should one exist;
- (2) All maintenance-related standards of this chapter;
- (3) Screening and landscaping requirements of this chapter;
- (4) In the C-2 and C-3 zones, for sites that cannot meet yard setback requirements for parking areas due to insufficient building setbacks, an area equivalent to at least 50 percent of the required front setback shall be landscaped. This area may meander or include islands if noncontiguous areas; and
- (5) Sites that add more than five parking spaces or reconfigure access points and parking areas shall obtain site plan approval.

(f) *Off-street parking requirements.*

- (1) *Respective zoning district.* Parking space requirements for specific uses are found in the respective zoning districts.
- (2) *Units of measure.*
 - a. When units of measurements determining the number of required parking or loading 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.
 - b. Gross floor area will be used to compute the number of parking spaces required, unless otherwise noted. Eighty-five percent of the gross floor area shall be used to calculate usable floor area for parking computations when usable floor area is not known.
- (3) *Uses similar in type.* For those uses not specifically mentioned, the requirements

for off-street parking facilities shall be in accord with a use that is similar in type. If there is no requirement that is reasonably applicable to the use, the zoning administrator shall determine the number of parking spaces that must be provided.

(g) *Stacking spaces.*

- (1) *Uses reliant on vehicle access.* Certain uses are greatly reliant on vehicle access and possess characteristics that create the need for additional area devoted to stacking of vehicles. This subsection outlines requirements for stacking spaces.
- (2) *Shown on site plan map.* Each stacking space must be shown on a site plan. Each

stacking space shall have a minimum dimension shown of 22 feet in length by nine feet in width.

- (3) *Location.* The location of stacking spaces shall be placed to avoid undue interference with on-site parking and to prevent unnecessary hazards to pedestrians.
- (4) *Prohibited.* Regardless of the number of stacking spaces required or provided, in no instance shall the operator permit vehicles to stack up out into any adjacent public or private street.

(Ord. No. 175J, § 13.01, eff. 9-17-2004; Ord. No. 175O, § 3, eff. 6-15-2006; Ord. No. 175Y, § 6, eff. 3-11-2010)

Sec. 42-409. Loading requirements.

(a) Adequate space for standing, loading and unloading, that avoids undue interference with public use of dedicated rights-of-way, shall be provided and maintained on the same premises with every building, structure or part thereof involving the receipt or distribution of vehicles or materials or merchandise.

(b) Loading, unloading or parking of delivery vehicles and trailers in a nonresidential district shall take place only in approved areas. Under no circumstances shall a delivery vehicle or trailer be allowed to park in a designated loading/unloading zone for longer than 48 hours.

(c) At least one loading space per commercial or service establishment shall be provided in the C-2 and C-3 districts in addition to any required off-street parking area. Required spaces shall be provided in the rear yard. The planning commission may permit the side yard to be used for loading spaces; provided, adequate screening is provided. No loading spaces are required in the C-1 district.

(d) All loading spaces in the IND Industrial district shall be at least ten by 50 feet, or other dimensions totaling at least 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 cement binder. Spaces shall be provided as follows:

<i>Gross Floor Area (sq. ft.)</i>	<i>Loading and Unloading Spaces Required</i>
0—1,400	None
1,401—20,000	1 space
20,001—100,000	1 space plus 1 for each 20,000 sq. ft. UFA over 20,001 sq. ft. UFA
100,001 and over	5 spaces plus 1 for each 40,000 sq. ft. UFA over 100,001 sq. ft. UFA

(Ord. No. 175J, § 13.02, eff. 9-17-2004)

Sec. 42-410. Access requirements.

(a) *Description and intent.* The intent of access management regulations is to provide access requirements that will facilitate through traffic operations, ensure public safety along roadways, and protect the public investment in the street system; while providing property owners with reasonable, though not always direct, access. The requirements are generally designed for streets whose primary function is the movement of through-traffic, as opposed to local streets whose primary function is access to adjacent properties.

(b) *Scope.* The requirements contained in this subsection shall apply to all uses, except permitted residential uses.

(c) *MDOT requirements, in addition to.* The access requirements contained herein shall be required in addition to, and where not in conflict shall supersede, the requirements of the Michigan Department of Transportation (MDOT).

(d) *Maximum extent.* For expansion and/or re-development of existing sites where the city determines that compliance with all the requirements of this section is unreasonable, the requirements shall be applied to the maximum extent possible. In these situations, suitable alternatives that substantially achieve the purpose of this section may be accepted by the planning commission; provided, that the applicant demonstrates that all of the following apply:

- (1) The size of the parcel is insufficient to meet the dimensional standards;
- (2) The spacing of existing, adjacent driveways or environmental constraints prohibit adherence to the access standards at a reasonable cost;
- (3) The use will generate less than 500 total vehicle trips per day or less than 75 total vehicle trips in the peak hour of travel on the adjacent street, based on the most recent rates developed by the Institute of Transportation Engineers; and
- (4) There is no other reasonable means of access.

(e) *Number of driveways.*

- (1) In commercial, industrial, or multifamily developments, access to a parcel may be required to consist of either a single two-way driveway or a pair of one-way driveways wherein one driveway is designed and appropriately signed to accommodate ingress movements and the other egress movements.
- (2) Where parcel frontage is insufficient to provide a driveway meeting the minimum driveway width and radii, a shared driveway or other means of access shall be required.
- (3) Where a parcel has frontage along two streets, access shall be provided only along the street with the lower average daily traffic volume, unless the planning commission determines this would negatively affect traffic operations or surrounding land uses.

- (4) Where the property has continuous frontage of over 300 feet and the applicant can demonstrate, using the Institute of Transportation Engineers manual Trip Generation or another accepted reference, that a second access is warranted, the planning commission may allow an additional access point.
- (5) Where the property has continuous frontage of over 600 feet, a maximum of three driveways may be allowed, with at least one driveway being designed and signed for right-turns in, right-turns out only.

(f) *Shared access, frontage roads, parking lot connections and rear service drives.*

- (1) Shared use of access between two or more property owners may be required through use of driveways constructed along property lines, connecting parking lots and construction on-site of frontage roads and rear service drives, where frontage dimensions are less than 300 feet, at locations with sight distance problems, and/or along roadway segments experiencing congestion or accidents. In these cases, shared access of some type may be the only access design allowed.
- (2) In cases where a site is adjacent to an existing frontage road, parking lot of a compatible use, or rear service drive, a connection to the adjacent facility shall be required by the planning commission, where feasible.
- (3) In cases where a site is adjacent to undeveloped property, the site shall be designed to accommodate a future frontage road, parking lot connection and/or rear service drive.
- (4) The applicant shall provide the city manager with irrevocable letters of agreement or access easements from all affected property owners.
- (5) Frontage roads, rear service drives and drives connecting two or more parking lots shall be constructed in accordance with the following requirements:
 - a. Pavement width shall be a maximum of 30 feet, measured from face

of curb to face of curb; intersection approaches may be widened to 39 feet for a left turn lane;

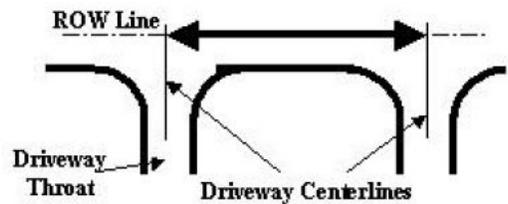
- b. Frontage roads shall have a setback of at least 30 feet between the outer edge of pavement and the right-of-way line, with at least 60 feet of uninterrupted stacking space at the intersections; and
- c. Parking along or which backs into a frontage road shall be prohibited.

(g) *Setback from property lines.* Driveways, frontage roads, and rear service drives shall be no closer than ten feet from a property line, except in the case of shared driveways along property lines.

(h) *Adequate sight distance and driveway spacing.* Adequate sight distance and driveway spacing from intersections for areas outside of Grand River Avenue corridor between Bridge Street and North Water.

- (1) Requirements for minimum intersection or corner sight distance for driveways shall be in accordance with the American Association of State Highway and Transportation Officials (AASHTO) guidelines defined in chapter 9 of A Policy on Geometric Design of Highways and Streets. 1994.

Driveway Spacing Measurement



- (2) The planning commission may require driveway locations to be adjusted where there is a concern regarding adequate sight distance.
- (3) Driveway spacing from intersections shall be measured from the centerline of the driveway to the extended edge of the intersecting street's right-of-way line.

(4) In order to preserve intersection operations and safety, the minimum distance between a driveway and an intersecting street right-of-way shall be based on the following:

- a. For locations in the vicinity of intersections experiencing congestion (peak hour operations below level of service "D" for one or more movements) and/or a significant number of traffic accidents (five or more annually), the city may require that access be constructed along the property lien furthest from the intersection and at least a minimum of 150 feet from the intersection. Where this spacing cannot be provided, driveways designed for "right-turn in, right-turn out only" movements may be allowed, with a minimum spacing of 75 feet from the intersecting street right-of-way;
- b. For locations within 200 feet of any signalized or four-way stop intersection, driveways shall be spaced a minimum of 150 feet from the intersection. Where this spacing cannot be provided, driveways designed for "right-turn in, right-turn out only" movements may be allowed, with a minimum spacing of 75 feet from the intersecting street right-of-way; and
- c. For locations not addressed by subsection (h)(4)a and (h)(4)b of this section, minimum spacing requirements between a proposed commercial driveway and an intersection either adjacent to the property or on the opposite side of the street may be set on a case-by-case basis, but in no instance shall be less than 100 feet. These measurements are from the near edge of the proposed driveway, measured at the throat perpendicular to the street, to the near lane edge of the intersecting street or pavement edge for uncurbed sections.

(i) *Driveway spacing from other driveways.*

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

<i>Posted Speed (mph)</i>	<i>Minimum Driveway Spacing (feet)</i>
25	100
30	125
35	150
40	185
45	230
50	275
55	350

- (3) To reduce left-turn conflicts, new driveways shall be aligned with those across the roadway, where possible. If alignment is not possible, driveways shall be offset a minimum of 100 feet from those on the opposite side of the roadway. These requirements may be reduced by the planning commission in cases where compliance is not possible.

(j) *Directional driveways, divided driveways and deceleration tapers.*

- (1) Directional driveways, divided driveways, and deceleration tapers and/or by-pass lanes shall be required by the planning commission where they will reduce congestion and accident potential for vehicles accessing the proposed use or site. The city engineer shall determine the need for acceleration and deceleration lanes.
- (2) The typical driveway design shall include one ingress and one egress lane, with a combined maximum throat width of 30 feet, measured from face to face of curb.

- (3) Wherever the planning commission determines that traffic volumes or conditions will cause significant delays for traffic exiting left, two exit lanes will be required.
- (4) For one way paired driveway systems, each driveway shall be 15 feet wide, measured perpendicularly.
- (5) In areas with regular pedestrian traffic, the exit and enter lanes shall be separated by a median with a maximum width of ten feet.
- (6) Driveways shall be designed with a 25-foot radius or a 30-foot radius where daily semitruck traffic is expected.

(k) *Driveway storage.* Driveway storage shall be determined by the city based on traffic volumes and conditions. A minimum of 40 feet of driveway storage shall be provided for less intense developments and a minimum of 120 feet of driveway storage shall be required for larger developments. Driveway storage shall be measured from the right-of-way line.

(Ord. No. 175J, § 13.03, eff. 9-17-2004)

Sec. 42-411. Design standards.

(a) In the C-1 central business district any side of a building immediately adjacent to a public road must be:

- (1) Comprised of at least 50 percent windows on the first floor and 25 percent on every floor thereafter;
- (2) Comprised of at least 30 percent of the following materials for the remaining portions of the building immediately adjacent to a public road:
 - a. Brick;
 - b. Decorative concrete block;
 - c. Cut stone;
 - d. Horizontal clapboard siding; and
 - e. Commercial grade horizontal vinyl siding (at least 0.44 gauge).

In no case will vertical siding, sheet metal, cement board, or EIFS be considered an acceptable building cover.

(b) In the C-2 and C-3 business districts any side of a building facing a public road must be:

- (1) Comprised of at least 25 percent windows on each floor;
- (2) Comprised of at least 25 percent of the following materials for the remaining portions of the building immediately adjacent to a public road:
 - a. Brick;
 - b. Decorative concrete block;
 - c. Cut stone;
 - d. Horizontal clapboard siding;
 - e. Commercial grade horizontal vinyl siding (at least 0.44 gauge); and
 - f. Architectural sheet metal that not only meets the purpose of creating a water tight structure but also lends to the aesthetic beauty of a structure by incorporating architectural accents or design elements.

(3) The planning commission may, in its sole discretion, deviate from the minimum percentages in the above design standards where the building design incorporates patterns and materials that provide visual interest through changes in color, material, or relief, such as the inclusion of beltlines, pilasters, recesses, and pop-outs.

(c) Lighting must comply with the provisions of section 42-304, in addition to the provisions noted below:

- (1) Off-street parking areas must be adequately lit to ensure security and safety;
- (2) Light fixtures must use light cut-off fixtures that direct light downward. Lighting may not be attached to buildings or other structures that permit light to be directed horizontally;
- (3) Lighting may only illuminate only the parking lot or other areas approved for illumination by the planning commission; and

(4) Canopy lighting must be mounted flush with the canopy surface.
 (Ord. No. 175J, § 13.04, eff. 9-17-2004; Ord. No. 175EE, § 1, 4-17-2014)

Sec. 42-412. Landscaping requirements.

(a) *Description and intent.* The intent of these regulations is to provide specific landscaping requirements that achieve the following:

- (1) Conserve the value of land and buildings;
- (2) Integrate various elements of a site to attain and maintain attractive properties;
- (3) Blend harmonious land uses, buffer incompatible land uses, and define outdoor and architectural spaces;
- (4) Control soil erosion by slowing or constraining the effects of wind or water;
- (5) Minimize the transmission from one land use to another of nuisances associated with noise, dust and glare;
- (6) Distinguish and separate vehicular and pedestrian traffic;
- (7) 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;
- (8) Establish a greater sense of privacy from visual or physical intrusion of intense land uses, the degree of privacy varying with the intensity of the screening; and
- (9) Safeguard the public health, safety and welfare, and preserve the aesthetic qualities and enhance the community character.

(b) *Necessary minimum.* The landscape requirements of this section are considered the minimum necessary to achieve the intent noted above. In several instances, the standards or

requirements are intentionally flexible to encourage adaptability to specific circumstances and creative design. Applicants are encouraged to provide additional landscaping to improve the function, appearance and value of their property.

(c) *General requirements.*

- (1) *Preliminary landscape/screening plan.* Whenever landscaping or screening is required in this chapter, a preliminary landscape/screening plan shall be submitted to the city for review and approval. The plan shall be prepared by a landscape architect and sealed by an architect, landscape architect or engineer, and shall contain the following:
 - a. All applicable information listed in article VI of this chapter;
 - b. All applicable information listed in this section pertaining to plant materials;
 - c. The location, general size, and type of existing vegetation to be retained;
 - d. Existing and proposed grades;
 - e. A planting schedule and plan providing the following information:
 - 1. The botanical and common name of each plant used;
 - 2. The size of each plant to be used at the time of planting;
 - 3. The quantity of each plant to be used;
 - 4. Whether plants to be used are balled and burlapped container grown or bare root;
 - 5. The spacing and location of all proposed trees, shrubs and ground cover; and
 - 6. The percentage of landscaped area, excluding detention ponds, to be provided on site.
- (2) *Required plant materials.* Required plant materials shall be of the following sizes at the time of planting:

<i>Minimum Plant Material Size</i>			
<i>Plant Type</i>	<i>Minimum Caliper¹</i>	<i>Minimum Height</i>	<i>Minimum Spread</i>
Large deciduous trees	2½ inches	4 feet to first branch	—
Medium deciduous trees	2 inches	4 feet to first branch	—
Small deciduous trees	2 inches	4 feet	—
Evergreen trees	—	5 feet	—

<i>Minimum Plant Material Size</i>			
<i>Plant Type</i>	<i>Minimum Caliper¹</i>	<i>Minimum Height</i>	<i>Minimum Spread</i>
Narrow evergreen trees	—	3 feet	—
Large deciduous shrubs	—	2 feet	15 inches
Hedges ²	—	4 feet	—

Footnotes:

¹Measured 12 inches above grade

²Hedges shall be planted and maintained so as to form a continuous, unbroken, visual screen within two years after planting

(3) *Trees not permitted.* For the purposes of this section, the following trees shall not be permitted because they split easily, their wood is brittle and breaks easily, their roots clog drains, or they are unusually susceptible to disease or insect pests. The zoning administrator, however, may allow trees from this list when associated with an appropriate ecosystem, such as a wetland area:

- a. Ash;
- b. Box elder;
- c. Soft maples;
- d. Elms;
- e. Poplars;
- f. Ailanthus (Tree of Heaven);
- g. Willows;
- h. Eastern Red Cedar;
- i. European Barberry; and
- j. Northern Catalpa

(4) *Mixing of species.* The overall landscape plan shall not contain more than 33 percent of any single plant species. The use of trees native to the area and Central Michigan, and mixture of trees from the same species association, is encouraged.

(5) *Plant material spacing.* At planting, materials shall be spaced so as to ensure their survival over the length of their growing period.

(6) *Installation.*

- a. Whenever a landscape planting screen or other plantings are required under this section, it shall be installed according to accepted planting procedures and in a sound workmanlike manner. All plant material shall meet current standards of the American Association of Nurserymen.
- b. All landscaped areas shall be provided with an irrigation system or a readily available and acceptable water supply, as approved by the city.
- c. All required plantings shall be installed within six months of their approval by the city.
- d. Plant material shall be installed so that at maturity, it does not obscure traffic signs or lighting, obstruct access for emergency vehicles, interfere with adequate sight distance for motorists, or disrupt drainage patterns on the site or on adjacent properties.
- e. Landscaped areas shall be covered by grass or other living ground cover.
- f. Trees and shrubs shall be setback ten feet from the edge of a road and five feet from a vehicular access or pathway.

(7) *Maintenance.*

- a. Maintenance of plantings shall be done to ensure a healthy and neat appearance.
- b. Required landscaping (including buffer strips, trees, lawns, and ground cover) shall be maintained in a healthy, neat, and orderly appearance free of disease and insect infestations as well as clear of weeds and debris.
- c. All unhealthy and dead plant material shall be replaced in the earliest appropriate planting period.
- d. The landscape plan shall indicate all individuals or businesses that will be responsible for continued maintenance of the landscaping, including a method of contacting them.
- e. Those charged with this responsibility shall also be responsible for maintenance of adjacent landscaped areas in public rights-of-way.
- f. Planting beds shall be maintained with woodchips or similar natural material, nonstone, at a minimum depth of three inches.

(8) *Existing vegetation.*

- a. Where healthy plant material exists on a site prior to its development or redevelopment variations from the landscape requirements may be approved to allow credit for the existing plant material if the adjustment is keeping with the intent of this section.
- b. All existing live trees in excess of 12 inches in diameter and at 4½ feet above the ground shall be preserved as much as practical.
- c. Should any tree required by this chapter to be preserved die, it shall be the responsibility of the owner/developer to replace the dead tree with two trees for every one tree lost.

- d. A means of protecting site trees against injury from mowing equipment and vehicles shall be provided.

(d) *Landscape buffers.*

- (1) *Side yard and rear yard screening.* Side yards and rear yards for nonresidential districts and uses abutting residential districts or residential uses shall be screened by any of the following.
 - a. A natural buffer ten feet wide measured at the property line and planted with evergreens or shrubbery which maintains their density and screening effect throughout the calendar year, not less than four feet in height at the time of planting and maintained in a neat and attractive manner commensurate with the adjoining residential district; or
 - b. An artificial wall or fence of sufficient density or compactness to screen the structures and activities of the business from the view of occupants of adjoining premises, not less than five feet in height and maintained in a neat and attractive manner, commensurate with the adjoining residential district.

- (2) *Wall or fence.* For side yard screening, no wall or fence used for screening shall terminate closer than 20 feet from any adjoining street right-of-way (or rear alley into which a lot has vehicular access/egress), in order to provide safe visual sight distances.

- (3) *Inadequate screening.* Additional screening may be required where he determines that proposed or existing screening is inadequate to prevent the creation of any nuisance or annoyance by artificial lighting or activity or to break up long building expanses and walls devoid of windows.

- (4) *Windbreaks.* Landscaping may be required to serve as windbreaks.

- (5) *Berms and swales.* Berms and swales shall be constructed with slopes not to exceed a 1:3 gradient with side slopes designed

and planted to prevent erosion. Slopes shall be protected with sod, seed, shrubs or other form of natural groundcover. Berms shall be sculpted to provide interest. Berms shall be no more than four feet in height and shall be a minimum of two feet in width at the highest point of the berm.

(e) *Parking lot landscaping.* All off-street parking areas shall provide the following landscaping within the parking lot envelope, described as the area including the parking lot surface and extending ten feet from the edge of the parking lot.

- (1) *Deciduous canopy tree.* One deciduous canopy tree shall be required for each ten parking spaces, or one tree per 30 feet of road frontage, whichever is greater; provided, that in no case less than one tree shall be provided.
- (2) *Understory shrubs.* Three understory shrubs shall be required for each ten parking spaces.
- (3) *Interior placement.* A minimum of one-third of the trees required shall be placed within the interior of the parking lot.
- (4) *Parking lot islands.* Parking lot islands shall be at least 100 square feet in area, ten feet in width and two feet shorter than adjacent parking space. Indented landscape islands with rolled curb and/or curbing with drainage gaps are encouraged to help manage stormwater runoff.
- (5) *Screening from residential district.* When off-street parking and loading of a non-residential use abuts a residential district, the parking lot and loading area shall be screened from such residential district by a solid, ornamental masonry wall at least six feet high. In lieu of a wall, the zoning administrator may allow one evergreen tree planted every 15 feet along the mutual property boundary, in addition to the landscape plant materials required in section 42-412.
- (6) *Refuse and debris.* When a front yard setback is required in front of the parking area, all land between the parking area and the front property line or street right-of-way line shall be kept free from refuse and debris and shall be landscaped with deciduous shrubs, evergreen material and ornamental trees. The ground area shall be planted and kept in lawn. All such landscaping and planting shall be maintained in a healthy, growing condition, neat and orderly in appearance.
- (7) *Wall end.* 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.
- (8) *Landscaped islands.* Landscaped islands shall be provided to aid the traffic flow, control speeds and break visual monotony of large expanses of parking area. Parking lot layout, location, size and design of landscaped islands and landscaping in parking areas shall be approved as part of the site plan review by the city to ensure the intent of this section is met.
- (9) *Protection of landscaping.* Landscaped islands shall be curbed, designed to protect landscaping from damage by vehicles and provided at the ratio of at least 150 square feet of island for every ten parking spaces or a fraction thereof. When more than one island will be provided, islands shall be distributed throughout the parking lot to fulfill the stated objectives.
- (10) *Medium deciduous tree.* For every 300 square feet of landscaped island required, at least one medium deciduous tree, as required in section 42-412 shall be planted. At least one medium deciduous tree shall be planted for each island. All islands shall be planted and maintained with landscape materials and kept free of debris. The size, configuration and landscaping of islands shall be approved as part of the site plan review for the site.
- (11) *Irrigation system or water supply.* Each landscaped island shall be provided with an irrigation system or a readily available

and acceptable water supply, as approved by the zoning administrator. Ground cover of low-growing woody shrubs, deciduous or evergreen plants, perennial plants and vines, such as cranberry, cotoneaster (*Cotoneaster apiculata*), blue rug juniper (*Juniperus horizontalis* "Wiltoni"), myrtle (*Vincetoxicum minor*), or Baltic ivy (*Hedera helix* "Baltica"), and/or grass, shredded bark, wood chips, other similar mulch or landscaping stones shall be required on all landscaped islands.

- (12) *Performance guarantee.* When one or more landscaped islands are required, the developer shall submit a performance guarantee in accordance with the requirements of section 42-412 to ensure completion of the improvement. A portion not exceeding ten percent of the total of the performance guarantee shall be maintained for a year following the completion and inspection of all planting to ensure that any unhealthy and dead plant materials are replaced. The developer shall provide a cost estimate indicating the full amount of the landscape improvement.
- (13) *Modification.* The zoning administrator may modify the parking lot landscaping requirements upon determining that compliance would impose a practical difficulty on the applicant because of the nature of the physical condition of the site, or that it would create safety hazards to pedestrians or motorists.

(f) *Detention and retention ponds.*

- (1) *Planting rate.* Plantings shall be provided a rate of one deciduous canopy or evergreen tree and ten shrubs per 50 linear feet of pond perimeter as measured along the top elevation of the pond bank.
- (2) *Configuration.* To the extent possible, pond configuration shall be incorporated into the natural topography of the site. Where this is not practical, the pond shall be shaped to emulate a naturally formed free-form depression and shall be part of the natural landscape and open space system of the site.

- (3) *Replication.* Plantings shall replicate a natural environment. Trees and shrubs shall be clustered around the basin and contain a variety of plant material.

(g) *Utility buildings, outdoor equipment, outdoor storage and waste receptacles.*

- (1) *Screening.* For utility buildings, stations, and/or substations, screening shall be provided consisting of a six-foot high wall, berm or fence, except when all equipment is contained within a building or structure which is comparable in appearance to residential buildings in the surrounding area.
- (2) *Enclosure of trash receptacles.* Any trash receptacle or trash storage area shall be contained within an enclosure constructed of masonry material and sturdy obscuring wood gates. The enclosure must be at least six feet in height, or the minimum height of the trash collection or storage receptacle, and the location of the trash receptacle or storage area shall be approved by the building official, unless part of a site plan approval, and then by the approving authority for the site plan.
- (3) *Support equipment.* When located outside of a building, support equipment including air conditioning and heating devices, and water and gas meters, but not including plumbing or exhaust vents or chimneys, are to be screened to the height of the particular piece of equipment.
- (4) *Outdoor open storage.* Outdoor open storage of any equipment, vehicles and materials, shall be screened from public right-of-way and residential uses or districts. Such storage shall not be located in the required front setback. Commercial and industrial uses do not have to screen from one another.

(Ord. No. 175J, § 13.05, eff. 9-17-2004)

ARTICLE VIII. Wind Energy Conversion Systems (WECS)*

Sec. 42-413. Definitions.

An *anemometer* is a temporary wind speed indicator constructed to analyze the potential for utilizing a WECS at a given site. An anemometer includes, but is not limited to, the tower, base plate, anchors, cables and hardware, wind direction vanes, booms to hold equipment, data logger, instrument wiring, and any telemetry devices used to monitor or transmit wind data.

Decibel is the unit of measure used to express the magnitude of sound pressure and sound intensity. Decibels are measured on the dB(A) weighted scale as defined by the American National Standards Institute.

Decommissioning is the process of terminating operation and completely removing a WECS and all related buildings, Structures, foundations, access roads, and equipment.

A *large wind energy conversion system (LWECS)* is a tower-mounted WECS that exceeds 100 feet in total height.

A *medium wind energy conversion system (MWECS)* is a tower-mounted WECS with a total height of not more than 100 feet.

An *occupied building* is a residence, or a school, hospital, church, public library, business, or other building used for public gatherings.

Operator is the individual or entity responsible for the day-to-day operation and maintenance of a WECS.

Owner is any individual or entity with an equity interest in the WECS.

Rotor diameter is the cross-sectional dimension of the circle swept by the rotating blades of a WECS.

Shadow flicker is the moving shadow created by the sun shining through the rotating blades of an MWECS or LWECS.

***Editor's note**—Ord. No. 175 Z, §§ 1—10, 4-15-2010, did not specifically amend the Code. Therefore, said ordinance has been added as §§ 42-413—42-420, at the editor's discretion.

A *small structure-mounted wind energy conversion system (SSMWECS)* is a WECS with a total height of not more than 15 feet and that is attached to a structure's roof, walls, or other elevated surface.

A *small tower-mounted wind energy conversion system (STMWECS)* is a tower-mounted WECS with a total height of not more than 35 feet.

A *structure* is any building or other structure, such as a municipal water tower, that is at least 12 feet high at its highest point of roof and is secured to frost footings or a concrete slab.

Total height

1. *LWECS, MWECS, STMWECS*: Total Height is the vertical distance measured from the ground level at the base of the Tower to the maximum height reached by any part of the WECS.
2. *SSMWECS*: Total Height is the distance measured from the highest point of the roof, excluding chimneys, antennae, and other similar protuberances, to the furthest outward extension of any part, unless specifically provided otherwise.

A *tower* is a freestanding monopole that supports a WECS.

A *wind energy conversion system (WECS)* converts wind energy into electricity through the use of equipment that includes any base, blade, foundation, generator, nacelle, rotor, Tower, transformer, vane, wire, inverter, batteries, or other components used in the system. A WECS includes any LWECS, MWECS, STMWECS, or SSMWECS. (Ord. No. 175Z, § 2, eff. 4-15-2010)

Sec. 42-414. Requirements for all WECS.

(a) *Visual appearance*

- (1) A WECS must be non-reflective and non-obtrusive in color (e.g. white or gray), and its design must conform to all applicable industry standards. The appearance of the turbine, tower, and any ancillary facility must be maintained throughout the life of the WECS.

- (2) A WECS may not include artificial lighting, except as necessary for reasonable safety and security, including as required by the FAA or other authority.
- (3) A WECS may not be used to display any advertising, except for unobtrusive identification of the turbine manufacturer.

(b) *Ground clearance:* The lowest extension of any blade or other exposed moving component of a WECS must be at least 15 feet above the ground and at least 15 feet above any outdoor surface intended for human use, such as a balcony or roof garden located directly below the WECS.

(c) *Noise*

- (1) Ambient sound level is the amount of background noise at a given location before the installation of a WECS. Ambient sound level may include, but is not limited to, traffic, machinery, lawnmowers, human activity, and the interaction of wind with the landscape. The ambient sound level is measured in decibels. For purposes of this article, ambient sound level is measured between 9:00 p.m. and 9:00 a.m.
- (2) Noise emanating from the operation of a WECS in a residential-use parcel, an agricultural-use parcel, or a park, school, hospital, or church may not exceed the lowest ambient sound level present at any property line.
- (3) Noise emanating from the operation of a WECS in all other parcels may not exceed the lowest ambient sound level plus 5 dB(A) present at any property line.

(d) *Vibration:* A WECS may not produce vibrations that are humanly perceptible beyond the property on which the WECS is located.

(e) *Guy wires:* A WECS may not include guy wires.

(f) *Safety requirements:*

- (1) A WECS must be equipped with an automatic braking or governing system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower, Struc-

ture, rotor, blades, or other components unless the manufacturer certifies that a braking system is not necessary.

- (2) All spent lubricants, cooling fluids, and any other hazardous materials must be properly and safely removed in a timely manner.
 - (3) Each WECS must have one warning sign, not to exceed two square feet in area. For an LWECS, MWECS, STMWECS, the sign must be posted at the base of the tower and on the security fence if applicable. For an SSMWECS, the sign must be posted at the base where the WECS is attached to the structure. The sign must contain at least the following:
 - a. "Warning: high voltage"
 - b. Manufacturer's, owner's, and operator's names
 - c. Two or more emergency contact numbers
 - (4) The structural integrity of a WECS must conform to the design standards of the International Electrical Commission, specifically, the following or any similar successor standards: IEC 61400-1, "Wind Turbine Safety and Design"; IEC 61400-22, "Wind Turbine Certification"; and IEC 61400-23, "Blade Structural Testing."
 - (5) A WECS must not interfere with communication systems, including, but not limited to, radio, telephone, television, satellite, or emergency communication systems.
 - (6) All electrical controls, control wiring, grounding wires, power lines, and system components for an STMWECS must be placed underground within the boundary of each parcel, at a depth designed to accommodate the existing land use to the maximum extent practicable. Wires necessary to connect the wind generator to the tower wiring are exempt from this requirement.
 - (7) The city reserves the right to inspect any WECS to ensure article compliance.
- (Ord. No. 175Z, § 3, eff. 4-15-2010)

Sec. 42-415. Net metering.

(a) Net-Metering is a special metering and billing agreement between utility companies and their customers, which facilitates the connection of renewable energy-generating systems to the power grid.

(b) A WECS that is connected to a public utility system for net-metering purposes must meet all requirements set forth in the utility's regulations for wind-power generation facilities and must meet all City of Portland Ordinances that govern the connection.
(Ord. No. 175Z, § 4, eff. 4-15-2010)

Sec. 42-416. Temporary use of an anemometer.

(a) An anemometer is permitted in all zoning districts as a temporary use, subject to all article requirements for the WECS that is proposed to be constructed on the site.

(b) An anemometer is not permitted for more than three years for an LWECS or more than 13 months for an MWECS, SSMWECS, or STMWECS. The planning commission may grant an extension for good cause.
(Ord. No. 175Z, § 5, eff. 4-15-2010)

Sec. 42-417. Zoning.

(a) *Zoning districts*

- (1) An SSMWECS and an STMWECS is a permitted land use in all zoning districts.
- (2) An MWECS and LWECS is a special land use in commercial zoning districts, Industrial zoning districts, and PUDs.

(b) *Setbacks*

- (1) A WECS must meet the minimum setbacks provided in the chart below.
- (2) Property-line setbacks for an LWECS or MWECS may be reduced as part of the application or special land use process if the applicant provides a registered engineer's certification that the WECS is designed to collapse, fall curl, or bend within a distance or zone shorter than its height.
- (3) The setback for an LWECS, MWECS, or STMWECS is measured from the base of the tower to the closest point of the occupied building, property line, underlying right-of-way of the public road, or existing communication or power line.
- (4) The setback for an SSMWECS is measured from the closest extension of a moving part of the SSMWECS to the closest point of the occupied building, property line, underlying right-of-way of the public road, or existing communication or power line.

	Occupied building on the same parcel	Property Line Setback	Public Road Setback	Above Ground Communications & Power Lines
LWECS	The greater of: (1) 1,000 feet, or (2) 2 times the Total Height of the LWECS	1.5 times the Total Height of the LWECS	The greater of: (1) 400 feet, or (2) 1.5 times the Total Height	
MWECS	The Total Height of the MWECS			
STMWECS	The Total Height of the STMWECS			
SSMWECS mounted directly on a roof or other elevated structure	1.5 times the Total Height of the SSMWECS			

SSMWECS affixed by any extension to the side, roof, or other elevated surface	2 times the Total Height of the SSMWECS
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(c) A WECS must meet the height, separation, and location requirements in the chart below

System	Total Height	Quantity	Separation	Location Limits
LWECS	Limited by setback and separation requirements		Must comply with industry standards & manufacturer recommendations	Limited by setback and separation requirements
MWECS	No more than 100 feet	No more than 1 for every 2.5 acres of land included in the parcel		
SSMWECS	No more than 15 feet	No more than 3 per parcel	Total Height of the highest SSMWECS must be maintained between the bases	May not be affixed to the wall on the side of a structure facing a road
STMWECS	No more than 35 feet	No more than 1 per parcel	N/A	Residential District: only in a rear yard of a property that has an occupied building

(Ord. No. 175Z, § 6, eff. 4-15-2010)

Sec. 42-418. Application, certification, and compliance.

(a) A WECS and an anemometer are subject to all State of Michigan Building Codes and may not be erected, constructed, installed, or modified without a building permit.

(b) Neither a WECS nor an Anemometer may be installed without an approved application. In addition, an LWECS, an MWECS, or an anemometer for those uses requires a special land use permit. The application requirements are listed in the chart below. An application for an anemometer must comply with the WECS that is to be proposed on the site.

<i>Description</i>	<i>LWECS</i>	<i>MWECS</i>	<i>SSMWECS & STMWECS</i>
Name of property owner, address, and parcel number	✓	✓	✓
A scaled site plan illustrating the proposed location of all WECS components and ancillary equipment, property lines, physical dimensions of the property, existing buildings, setback and right-of-way lines, public easements, overhead utility lines, sidewalks, non-motorized pathways, roads, and contours. The site plan must also include adjoining properties, including the location and use of all structures.	✓	✓	✓
A detailed site plan in accordance with the City of Portland Zoning Ordinance.	✓	✓	

<i>Description</i>	<i>LWECS</i>	<i>MWECS</i>	<i>SSMWECS & STMWECS</i>
The proposed quantity, type, and height of each WECS to be constructed, including the manufacturer, model, and product specifications, and including maximum noise output (decibels), total rated generating capacity, dimensions, rotor diameter, and a description of ancillary facilities	✓	✓	✓
Documented compliance with the ordinance noise requirements	✓	✓	✓
Documented compliance with applicable local, state, and federal regulations including, but not limited to, safety, construction, environmental, electrical, and communications requirements.	✓	✓	✓
Documented compliance with Federal Aviation Administration (FAA) requirements, the Michigan Airport Zoning Act, the Michigan Tall Structures Act, and any applicable airport overlay zone regulations	✓	✓	
A description of the methods that will be used to maintain the WECS and the procedures for lowering or removing a WECS, if necessary, to conduct maintenance	✓	✓	✓
If applicable, evidence that the utility company has been informed of a customer's intent to install an interconnected, customer-owned generator and that the connection has been approved	✓	✓	✓
Documents from the developer or manufacturer, confirming specifications for tower separation	✓	✓	
Documented compliance with the shadow flicker requirements set forth in this ordinance, including an analysis on potential shadow flicker at any occupied building with direct line of sight to the WECS. The analysis must identify the locations of shadow flicker that may be caused by the project and the expected durations of the shadow flicker at these locations from sunrise to sunset over the course of a year. The analysis must identify situations where shadow flicker may affect the occupants of the buildings for more than 24 hours per year and must describe measures that will be taken to eliminate or mitigate the problems. Shadow flicker on a building may not exceed 24 hours per year.	✓	✓	
Engineering data for construction of the WECS and its base or foundation, including, but not limited to, soil boring data	✓	✓	
A certified registered engineer's certification that the proposed installation meets or exceeds the manufacturer's construction and installation standards	✓	✓	
Anticipated construction schedule	✓	✓	
A maintenance and operation plan, including regular maintenance and parameters for performing unscheduled maintenance	✓	✓	

<i>Description</i>	<i>LWECS</i>	<i>MWECS</i>	<i>SSMWECS & STMWECS</i>
A written description of the anticipated life of each WECS, the estimated cost of decommissioning, and the method of ensuring that funds will be available for decommissioning and site restoration	✓	✓	
A decommissioning plan that will be carried out at the end of the WECS's useful life, and which includes removal and restoration procedures and schedules, and any agreement with the land owner regarding equipment removal on termination of the lease	✓	✓	
A description of the routes to be used by construction and delivery vehicles and of any road improvements necessary to accommodate vehicles, equipment, or other traffic, and an agreement, bond, or other approved form of surety guaranteeing repair of damage to public roads and other areas caused by construction	✓		
Identification of hazardous materials that will be used and stored on the site	✓	✓	
Assessment of potential impacts on the natural environment, including, but not limited to, endangered species; eagles, birds, and other wildlife, and the land and fragile ecosystems. The assessment must conform to state and federal wildlife agency recommendations based on local conditions.	✓	✓	
Other relevant information as reasonably requested	✓	✓	✓

(c) If the WECS is not owned by the property owner, the applicant must provide the city with a bond or other approved form of surety, to be used for the cost of decommissioning each WECS. The city may also require a surety under other reasonable circumstances.

(d) An LWECS requires the construction of a private road to offer an adequate means by which the city may readily access the site in case of an emergency. Private roads must be constructed to the city's private-road standards.

(e) If the ownership of property on which a WECS is located changes, the owner or operator must notify the city within 30 days.

(f) Within 90 days after an LWECS becomes operational, proof of compliance with the noise standards in this article must be provided to the city. A sound-pressure-level analysis, by a qualified third-party professional, must be conducted from a reasonable number of sampled locations at the perimeter and in the interior of the property containing the LWECS.

(g) A WECS Owner or operator must provide the city zoning administrator with a copy of the yearly maintenance inspection.

(Ord. No. 175Z, § 7, eff. 4-15-2010)

Sec. 42-419. Decommissioning.

(a) *Useful life:* A WECS is presumed to be at the end of its useful life if no electricity is generated for a continuous period of 12 months. All decommissioning expenses are the responsibility

of the owner or operator, and the city may require financial guarantees to assure compliance. Formal, written agreements may be required to ensure compliance with all decommissioning requirements.

(b) *Deadline:* The WECS owner or operator must complete decommissioning within 12 months after the end of the useful life.

(c) *Extension:* At the owner's request and on a showing of good cause, the city council may grant a reasonable extension of time.

(d) *Restoration:*

- (1) The foundation for a WECS must be removed to a minimum depth of the lower of:
 - a. 60 inches below grade, or
 - b. The level of the bedrock
- (2) During decommissioning, the owner must stabilize and grade the site and any disturbed earth, and must clear any debris from the site.

(e) *Default:* If the WECS Owner or Operator fails to complete Decommissioning within the period prescribed above, the City may do any or all of the following:

- (1) Designate a contractor to complete decommissioning,
 - (2) Charge the violator with the decommissioning expense, or
 - (3) Impose a lien against the premises.
- (Ord. No. 175Z, § 8, eff. 4-15-2010)

Sec. 42-420. Public inquiries and complaints.

(a) *An aggrieved property owner may notify the city to allege that a WECS is not in compliance with the article's noise or shadow flicker requirements. Notice must be in writing.*

(b) *Noise:*

- (1) If the city finds no violation and the aggrieved property owner requests further investigation, the city will request that property owner to deposit funds for a noise-level test to be conducted by a certified acoustic technician.
- (2) If the test indicates that the noise level is within the article's noise requirements, the city will use the deposit to pay for the test.

(3) If the test indicates that the WECS violates the article's noise requirements, the city will refund the deposit to the aggrieved property owner.

(4) If the city determines, through its own test or those conducted by an acoustic technician, that the WECS violates the article, the owner must reimburse the city for the test.

(c) *Shadow flicker:* If the city deems a complaint sufficient to warrant further investigation, the owner must provide a shadow flicker analysis of the turbine as constructed.

(d) *If a WECS violates the noise or shadow flicker requirements of the article, the owner must take immediate action to bring the WECS into compliance, which may include ceasing operation of the WECS until the violations are corrected.* (Ord. No. 175Z, § 10, eff. 4-15-2010)