

CHAPTER 154: ZONING CODE

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(I) GENERAL PROVISIONS

§ 154.001 SHORT TITLE.

This chapter shall be known as the "City of Auburn Zoning Ordinance".
(Ord. passed 7-16-18)

§ 154.002 PURPOSE AND OBJECTIVES.

The general purpose of this chapter is to promote the public safety, health, morals, convenience and general welfare.

To accomplish this purpose, this chapter will address the following objectives:

- (1) Guide the use and development of land, buildings and natural resources according to their suitability for particular activities;
- (2) Protect the community's quality of life and enhance the social and economic stability of the city;
- (3) Reduce congestion on public streets and highways and facilitate safe and convenient access to buildings and land uses;
- (4) Guide efforts to provide public services, such as water supply, sewer, storm drainage, waste disposal, transportation, education, recreation and public safety;
- (5) Establish standards to guide physical development of each zoning district and of the city as a whole, and provide for enforcement of these standards;
- (6) Educate citizens and public officials about their shared responsibilities for wise use of community resources; and
- (7) Strive to balance one property owner's right to the peaceful use and enjoyment of his or her parcel with the rights of neighboring property owners to the peaceful use and enjoyment of theirs.

(Ord. passed 7-16-18)

§ 154.003 INTERPRETATION.

The provisions of this chapter shall be held to be minimum requirements, adopted to promote public health, safety, comfort, convenience and general welfare. This chapter is not intended to repeal, abrogate, annul, impair or interfere with any existing provisions of law or ordinance. Nor is it intended to overturn any previously approved or adopted rules, regulations or permits that relate to the use of land or buildings. Nor is this chapter intended to interfere with, abrogate or annul any lawful easements, covenants or other agreements.

Where this chapter imposes a greater restriction upon the use of land or buildings than is imposed by other laws or ordinances, or by rules, regulations permits, easements, covenants or agreements that may

be in force, the provisions of this chapter shall control. Where provisions of any other ordinance or regulation of the city impose stricter requirements for the use of land or buildings, the provisions of the other ordinance or regulation shall govern.

(Ord. passed 7-16-18)

§ 154.004 LIABILITY.

The City Zoning Administrator or any person charged with the interpretation and enforcement of this chapter, acting in good faith and without malice for the city in the discharge of his or her duties shall not thereby render himself or herself liable personally and he or she is hereby relieved from all personal liability for any damage that may occur to persons or property as a result of any act required or by reason of any act or omission in the discharge of his or her duties.

(Ord. passed 7-16-18)

§ 154.005 DEFINITIONS.

(A) *General.*

When not inconsistent with the context, words in the present tense include the future tense, words used in the singular number include the plural number and words used in the plural number include the singular. The word "shall" is always mandatory and not merely directory. The word "building" includes the word "structure" or vice versa. Terms not herein defined shall have the meaning customarily assigned to them. Definitions will be in two locations so citizens can read relevant definitions along with ordinance language (see also § 154.182).

(B) *Specific terms.*

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONMENT. The cessation of a permitted activity in, or a permitted use of a dwelling structure, or lot, other than that which would normally occur on a seasonal basis, and that has fallen into disrepair or is neglected in some way for a period of 12 months or longer.

ABOVE-GROUND LEVEL (AGL). A measurement of height from the natural grade of a site to the highest point of a structure.

ABUTTING. Having property or district line in common, e.g., two lots are abutting if they have property lines in common.

ACCELERATED SOIL EROSION. The increased removal of the land surface that occurs as a result of human activities.

ACCESS. A way of approaching or entering a property. For purposes of this chapter, all lots of record shall have ACCESS to a public street or highway.

ACCESSORY BUILDING or ACCESSORY STRUCTURE. Any unattached subordinate building or structure, such as a private garage, which is incidental to that of the main building, located on the same lot with the main building.

ACCESSORY USE. Any use customarily incidental and subordinate to the main use of the premises. These may include, but are not limited to, private garages, permanent storage sheds, playhouses, decks, porches and carports.

ACRE. A measure of land area containing 43,560 square feet.

ACTIVITY. See **PERMITTED USE**.

ADDITION. A structure added to the original structure at some time after the completion of the original.

ADJOINING LOT OR LAND. A lot or parcel of land that shares all or part of a common lot line with another lot or parcel of land.

ADULT MEDIA. Magazines, books, slides, CD-ROMs or devices used to record computer images, or other media that are distinguished or characterized by their emphasis on matter depicting, describing or relating to sexually oriented hard-core material.

ADULT MEDIA STORE. An establishment that rents and/or sells media, and that meets any of the following three tests:

- (1) Forty percent or more of the gross public floor area is devoted to adult media;
- (2) Forty percent or more of the stock in trade consists of adult media; and
- (3) It advertises or holds itself out in any form as "XXX", "adult", "sex" or otherwise as a sexually oriented business other than adult media store, adult motion picture theater or adult cabaret.

ADULT MOTION PICTURE THEATER. An establishment emphasizing or predominately showing sexually oriented movies.

AISLE. The traveled way by which cars enter and depart parking places.

ALLEY. A public thoroughfare that affords only a secondary means of access to abutting property.

ALTERATION OF BUILDING. A change in the supporting members of a building, an addition to, or a diminution, a change in use, or a conversion of a building or a part thereof.

AMENITY. A natural or artificial feature that enhances or makes a particular property more attractive or satisfying.

ANIMAL (SMALL). A small animal shall mean a dog, cat, bird, reptile, mammal, fish or other creature that can be kept in a relatively small or confined space and normally treated as a pet.

ANIMAL HOSPITAL. See **KENNEL**.

ANTENNA. The surface from which wireless radio signals are sent and received by a personal wireless facility.

APPEAL. The process, as prescribed in this chapter, for contesting a zoning interpretation made by the Zoning Administrator or decision made by the Planning Commission.

APPLICANT. A person or entity submitting an application for review and action by the city or any of its departments or commissions.

APPROVED PLAN. A plan that has been granted final approval by the appropriate approving authority.

APPROVING AUTHORITY. The agency, board, group or other legally designated individual or authority that has been charged with review and approval of plans and applications.

AREA. See **LOT AREA**.

ASSEMBLY BUILDING. A building for the primary purpose of group gatherings of 50 people or more for any purpose.

ATTACHED. Any structure or part of a structure immediately adjacent to another structure or part of a structure and fastened securely to it.

ATTIC. The part of a building that is immediately above the ceiling beams of the top story and wholly or partly within the roof framing.

AUTOMOBILE. A self-propelled, free moving vehicle, with four or more wheels, primarily for conveyance on a street or roadway.

BANK. A financial institution.

BAR. A building or portion thereof where liquors are sold to be consumed on the premises, but not including restaurants where the principal business is serving food.

BASEMENT. See City of Auburn's adopted Building Code (Chapter 151).

BED AND BREAKFAST. A use that is subordinate to the principal use of a dwelling unit as a single-family dwelling unit, in which transient guests are provided a sleeping room and breakfast in return for payment, and that does not provide separate cooking facilities for such guests.

BERM. An earthen mound of definite height and location designed to serve as an obscuring device in carrying out the requirements of this chapter.

BLOCK. A property surrounded by streets or abutting one side of a street and situated between the two nearest intersecting streets, or bounded by a combination of streets, waterways, parks, unplatted acreage, corporate boundary lines or other natural or human-made, physical or artificial barrier to continual development.

BOARD OF APPEALS. The Zoning Board of Appeals of the City of Auburn.

BODY SHOP. See **VEHICLE REPAIR.**

BUFFER. Open space, landscaped areas, fences, walls, berms or any combination thereof to physically separate or screen one use or property from another so as to visually shield or block noise, lights or other nuisances. A greenbelt is considered a **BUFFER**.

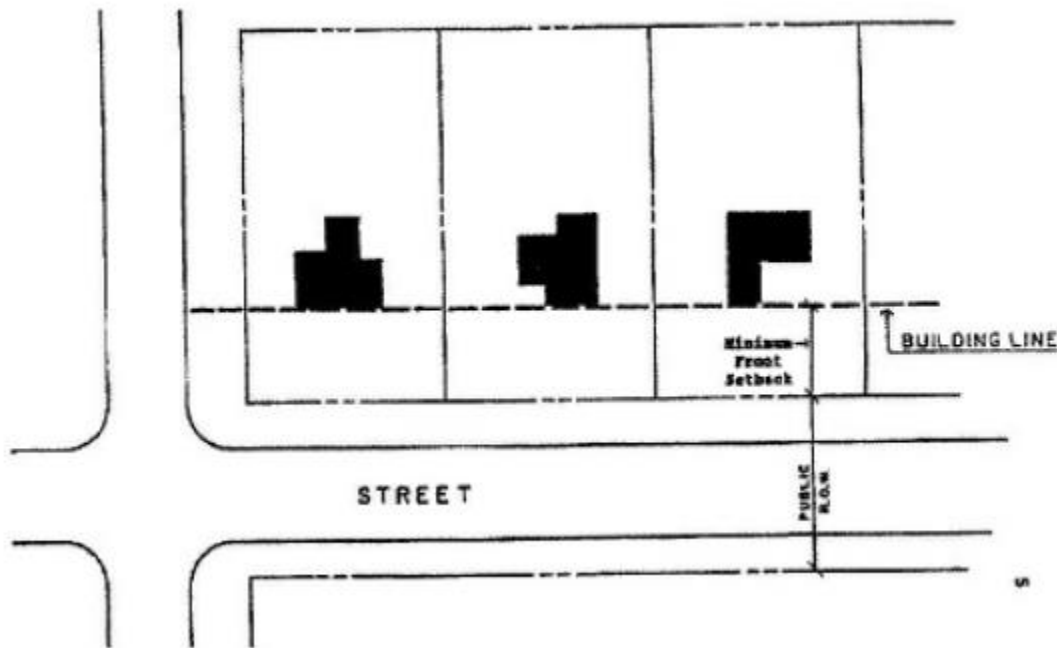
BUILDABLE AREA. The space remaining on a lot or lots of record after the minimum setback and open space requirements have been met.

BUILDING. A structure erected on-site, a manufactured home, a mobile home or mobile structure, or a premanufactured or precut structure that is above or below ground and is designed primarily for the use or intended use of shelter, support or enclosure of persons, animals or property of any kind.

BUILDING COVERAGE. The horizontal area measured within exterior walls of the ground floor of all principal and accessory buildings on a lot.

BUILDING HEIGHT. See **HEIGHT OF BUILDING.**

BUILDING LINE. A line formed by the face of the building and, for the purposes of this chapter, a minimum building line is the same as a **FRONT SETBACK LINE**.



BUILDING OFFICIAL. City staff appointed by the City Manager and licensed pursuant to the state's regulation to enforce and administer the city's adopted Building Code.

BUILDING PERMIT. A permit signifying compliance with the provisions of this chapter as to use, activity, bulk, density and with the requirements of all other development codes and ordinances currently in effect in the city.

BUSINESS CENTER. A business center is more than one business on the same parcel.

BUSINESS SERVICES. Establishments primarily engaged in rendering services to business establishments for a fee or on a contract basis, such as advertising and mailing, building maintenance, employment services, management and consulting services, protective services, equipment rental and leasing, commercial research, development and testing, photo finishing and personal supply services.

CALIPER. The diameter of a tree trunk measured two feet above grade.

CAMOUFLAGE. To disguise or hide a building or use.

CANOPY. A roof-like cover that projects from the wall of a building for the purpose of shielding a doorway or window from the elements.

CAR WASH. A structure containing facilities for washing automobiles using a chain conveyer or other method of moving the cars along, or machinery that moves around a stationary vehicle, and automatic or semiautomatic application of cleaner, brushes, rinse water and heat for drying.

CARRIER. A company that provides wireless service.

CARRY-OUT RESTAURANT. See **DRIVE-IN RESTAURANT/FAST FOOD.**

CELLULAR TOWER. See **WIRELESS COMMUNICATION FACILITY.**

CEMETERY. Any publicly or privately owned place for the interment of human remains.

CERTIFICATE OF OCCUPANCY. A document issued by the proper authority (Building Official and Zoning Administrator) allowing the occupancy or use of a building and certifying that the structure or use has been constructed and/or will be used in compliance with all applicable municipal codes and ordinances and approved plans and specifications.

CHILD CARE ORGANIZATION. A facility for the care of children under 18 years of age, as licensed and regulated by the state under Public Act 116 of 1973, being M.C.L.A. §§ 722.111 through 722.128, and the associated rules promulgated by the State Department of Social Services. Such organizations shall be further defined as follows.

- (1) **CHILD CARE CENTER** or **DAY CARE CENTER.** A facility, other than a private residence, receiving more than six preschool or school age children for group care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. It includes a facility that provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group or drop-in center. **CHILD CARE CENTER** or **DAY CARE CENTER** does not include a Sunday School conducted by a religious institution or a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.
- (2) **FOSTER FAMILY HOME.** A private home in which one but not more than four minor children, who are not related to an adult member of the household by blood, marriage or

adoption, are given care and supervision for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.

- (3) ***FOSTER FAMILY GROUP HOME.*** A private home in which more than four but less than seven children, who are not related to an adult member of the household by blood, marriage or adoption, are provided care for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.

(4) ***FAMILY DAY CARE HOME.***

- (a) A private home in which one but less than seven minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption.
- (b) It includes a home that gives care to an unrelated child for more than four weeks during a calendar year.

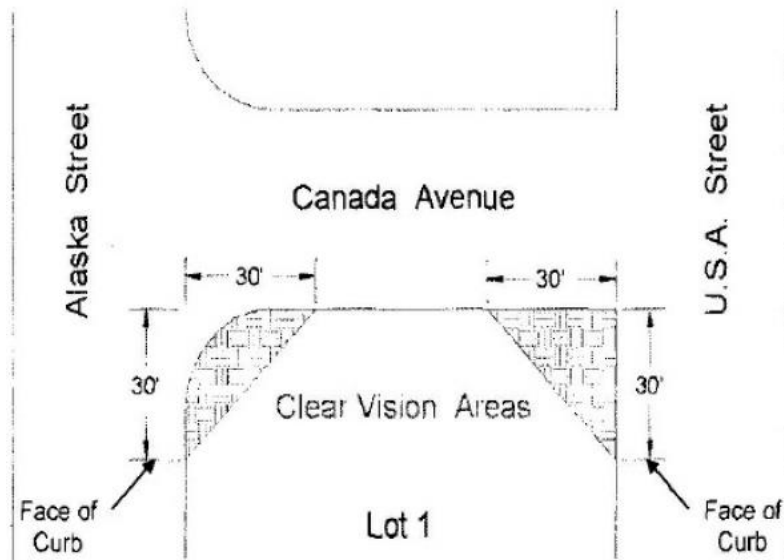
(5) ***GROUP DAY CARE HOME.***

- (a) A private home in which more than six but not more than 12 children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption.
- (b) It includes a home that gives care to an unrelated child for more than four weeks during a calendar year.

CHURCHES/SYNAGOGUES/MOSQUES. See ***INSTITUTION, RELIGIOUS.***

CIRCULATION PATTERN. Systems, structures and physical improvements for the movement of people, goods, water, air, sewage or power by such means as streets, highways, railways, waterways, towers, airways, pipes and conduits; and the handling of people and goods by such means as terminals, stations, warehouses and other storage buildings or shipment points.

CLEAR VISION. An area 30 feet along each street at its intersection with another street, drive or alley where no visual obstruction of sight may exist above 36 inches from established street grades.



CLUBHOUSE. A building to house a club or social organization not conducted for private profit, as documented by state or federal records, and that is not an adjunct to or operated by or in connection with a public tavern, café or other public place.

CLUB/LODGE. See *INSTITUTION, SOCIAL*.

CLUSTER. A development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space and preservation of environmentally sensitive features.

COLLOCATION. The use of a single mount on the ground by more than one telecommunications carrier (vertical collocation) and/or several mounts on an existing building or structure by more than one carrier.

COMMERCIAL. A term relating to the use of property in connection with the purchase, sale or trading of goods for personal services or maintenance of service offices or recreation or amusement enterprise or garage/basement/porch sales lasting more than 14 days during any 12-month period.

COMMERCIAL RECREATION. Establishments with the primary purpose of providing amusement or entertainment for a fee or admission charge, and including such activities as dance halls, studios, bowling alleys and billiard and pool establishments, commercial sports such as arenas, rings, racetracks, golf courses, amusement parks, carnival operations, exposition, game parlors and swimming pools.

COMMERCIAL SCHOOL. A school or facility offering training to perform any of the uses by right in the district in which a commercial school is permitted either by right or by special use permit. A **COMMERCIAL SCHOOL** is a distinct use, not to be confused with an institution, educational.

COMMISSION. The Planning Commission of the City of Auburn.

CONDOMINIUM. See *PLANNED UNIT DEVELOPMENT*.

CONTIGUOUS. Next to, abutting or touching and having a common boundary or portion thereof, that is co-terminus.

CONTRACTOR. General contractors and builders engaged in the construction of buildings, either residences or commercial structures as well as heavy construction contractors engaged in activities such as paving, highway construction and utility construction.

CONTRACTOR, LANDSCAPE.

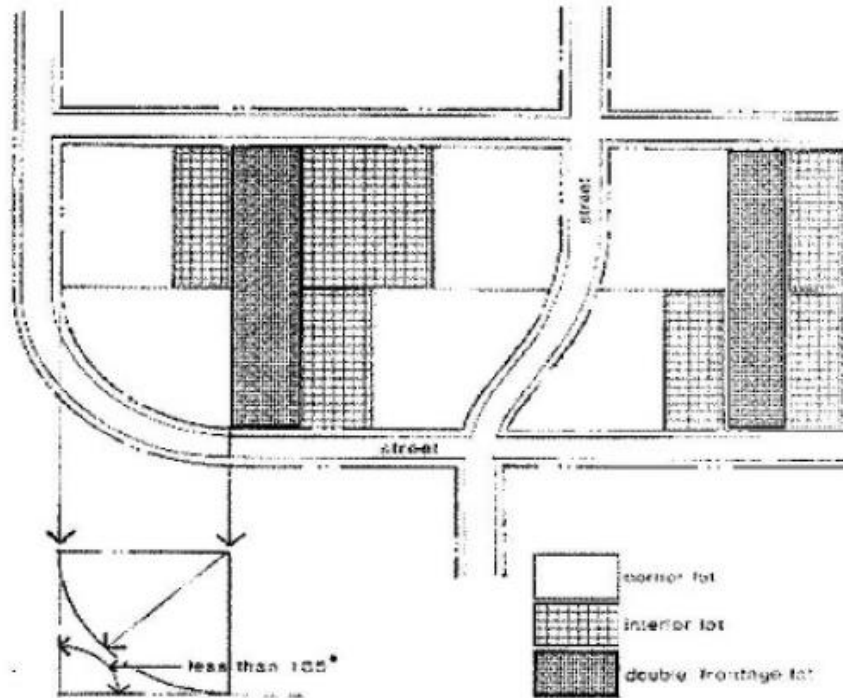
- (1) Landscaping includes businesses principally engaged in lawn mowing and yard maintenance. It also includes decorative and functional alteration, planting and maintenance of such grounds. Such a business may engage in the installation and construction of underground improvements but only to the extent that such improvements (e.g., drainage/irrigation facilities) are accessible and on the same parcel as the principal use.
- (2) **LANDSCAPE CONTRACTOR** also includes businesses that apply fertilizers, pesticides and other treatments for plants, trees and grass. This definition also includes tree services and commercial plant maintenance services.

CONTRACTOR'S STORAGE YARD.

- (1) An unenclosed portion of the lot or parcel upon which a construction contractor maintains its principal office or a permanent business office.
- (2) Designation of the lot or parcel as a **CONTRACTOR'S STORAGE YARD** would allow this area to be used to store and maintain construction equipment and other materials customarily used in the trade carried on by a construction contractor.
- (3) If permitted to be used in this manner, the entire lot or parcel would then be classified as a **CONTRACTOR'S STORAGE YARD** and will be required to conform to all applicable zoning district standards and other legislative regulations.

CONVALESCENT OR NURSING HOME. See **INSTITUTION, HUMAN CARE.**

CORNER LOT. See **LOT.** Any lot having at least two contiguous sides abutting upon a street, provided that the interior angle of the intersection of the two sides is less than 135 degrees. A lot abutting upon a curved street or streets shall be considered a **CORNER LOT** if the tangents to the curve, at its points of beginning within the lot or at the points of intersection of the side lines with the street line, intersect at an interior angle of less than 135 degrees. The outside yard shall be the side yard adjacent to the street.



Corner, Interior & Double Frontage Lots

COVERAGE. See **LOT COVERAGE**.

CROSS-POLARIZED. A low mount dual polarized antenna that has three panels flush mounted or attached very close to the shaft.

DECK. A horizontal structure of a single elevation or varying elevations, commonly used as a floor attached or adjacent to the main building. A **DECK** may be open or partially or completely covered by a roof and wall structure.

DENSITY. The intensity of development in any given area, measured in this chapter by the number of dwelling units per acre.

DENSITY, HIGH RESIDENTIAL. Fifteen or more dwelling units per acre.

DENSITY, LOW RESIDENTIAL. Fewer than five dwelling units per acre.

DENSITY, MEDIUM RESIDENTIAL. Five to 15 dwelling units per acre.

DEVELOPMENT. The construction of a new building or other structure on a zoning lot, the relocation of an existing building on another zoning lot, or the use of open land for a new use.

DISH SATELLITE SIGNAL-RECEIVING ANTENNAE. Also referred to as **EARTH STATIONS** or **GROUND STATIONS**, shall mean one, or a combination of two or more of the following:

- (1) A signal-receiving device (antenna, dish antenna or dish-type antenna), the purpose of which is to receive communication or other signals from satellites in Earth orbit and other extra-terrestrial sources;
- (2) A low-noise amplifier (LNA) that is situated at the focal point of the receiving component and the purpose of which is to magnify, store, transfer and/or transmit electronic or light signals; and/or
- (3) A coaxial cable, the purpose of which is to carry or transmit said signals to a receiver.

DISTRIBUTION CENTER. A use where goods are received and/or stored for delivery to the ultimate customer at remote locations.

DISTRICT. See ***ZONE***.

DRIVE-IN. A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure, or to provide self-service for patrons.

DRIVE-IN RESTAURANT/FAST FOOD. A restaurant developed so that its retail or service character is primarily dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle or to permit patrons to eat while in the motor vehicle, as well as within a building or structure, or primarily to provide self-service for patrons and food carry-out. Any establishment whose principal business is the sale of foods, frozen desserts or beverages to the customer in a ready-to-consume state for consumption either within the restaurant building or for carry-out with the consumption off the premises, and whose design or principal method of operation includes one or both of the following:

- (1) Food, frozen desserts or beverages usually served in edible containers or in paper, plastic or other disposable containers; and/or
- (2) More than 45% of the available floor space devoted to food preparation, related activities and other floor space not available to the public.

DUMPSTER. A container capable of holding a volume of material greater than two cubic yards and used for the purpose of collecting garbage, solid or liquid waste, or refuse of any type.

DWELLINGS. Any building or portion thereof usable exclusively for residential purposes. A dwelling is classified as one of the following

- (1) ***GROUP DWELLINGS (CONGREGATE LIVING).*** A building or group of buildings, designed and used for residential habitation where joint and/or separate sleeping rooms share common living, kitchen, eating and bathroom facilities, housing persons unrelated by blood or marriage.
- (2) ***MULTIPLE-FAMILY DWELLING.*** A building containing three or more dwelling units designed for residential use. These can include triplexes, fourplexes, courtyard apartments, Bungalow courts, townhouses, apartments and live/work housing.
- (3) ***SINGLE-FAMILY DWELLING.*** A building containing not more than one dwelling unit designed for residential use.

(4) ***TWO-FAMILY DWELLING (DUPLEX).*** A building containing no more than two separate dwelling units designed for residential use.

DWELLING UNIT. A building or portion thereof providing complete housekeeping facilities for one family.

EASEMENT. Any private or dedicated public way other than a street or alley, providing a secondary means of access to a property.

EAVE. The projecting lower edges of a roof overhanging the wall of a building.

EGRESS (EXIT). An exit from a building or site.

ELDERLY HOUSING. See ***SENIOR HOUSING.***

ELEVATION, TOPOGRAPHIC. The measurement of height above sea level.

ELEVATION, VIEW. An architectural or engineered rendering of each side of a building for purposes of site plan review.

EMISSION. A discharge into the air or water.

ENGINEERED HOME. See ***MANUFACTURED HOME.***

ENVIRONMENTAL ASSESSMENT (EA). An EA is the document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a personal wireless service facility is placed in a certain designated area.

ENVIRONMENTALLY SENSITIVE AREA. An area with one or more of the following characteristics:

- (1) Slopes in excess of 20%;
- (2) Floodplain;
- (3) Soils classified as having a high water table;
- (4) Soils classified as highly erodible, subject to erosion or highly acidic;
- (5) Land incapable of meeting percolation requirements;
- (6) Land formerly used for landfill operations or hazardous industrial uses;
- (7) Fault areas;
- (8) Stream corridors;
- (9) Estuaries; and/or
- (10) Aquifer recharge and discharge areas.

EQUIPMENT RENTAL/SALES. A business that provides construction, household and other similar equipment for rent to the general public or contractors for a limited period of time. Used equipment and a limited proportion (up to 10%) of new items in the inventory of the business may be advertised for sale.

EQUIPMENT SHELTER. An enclosed structure, cabinet, shed or box at the base of the mount within which are housed batteries and electrical equipment.

ERECTED. Signifies the construction, alteration, reconstruction, placement upon or any physical alteration to a piece of land, including the excavating, moving and filling of earth.

EROSION. The process by which the ground surface is worn away by action of wind, water, gravity or a combination thereof.

ESSENTIAL SERVICES.

(1) The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions of underground, surface or overhead gas, electrical, steam or water transmission, distribution or collection systems, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, electric sub-stations, telephone exchange buildings, gas regulator stations and other similar equipment and accessories in connection therewith.

(2) **ESSENTIAL SERVICES** are those that are reasonably necessary to furnish adequate service by the public utilities or municipal departments or commissions or for the public health or safety or general welfare, but do not include buildings other than the buildings that are primarily enclosures or shelters of the mentioned equipment in this definition.

(3) Private wireless communication facilities are not considered **ESSENTIAL SERVICES**.

ESTABLISHMENT. An economic unit, generally at a single physical location, where business is conducted or services or industrial operations are performed.

EXCAVATION. The removal of rock, sand, soil or fill material below the average grade of the surrounding land and/or road grade, whichever is highest. This does not include alterations for farming or gardening purposes.

FALL ZONE. The area on the ground within a prescribed radius from the base of a personal wireless facility. The **FALL ZONE** is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

FAMILY. A person living alone, or two or more persons related by blood, marriage or adoption, customarily living together as a single housekeeping unit in a dwelling unit as distinguished from a group occupying a hotel, club, religious or institutional building, boarding or lodging house, or fraternity or sorority house.

FAMILY DAYCARE HOME. See **CHILD CARE ORGANIZATION**.

FAST FOOD RESTAURANT. See **DRIVE-IN RESTAURANT/FAST FOOD**.

FENCE. A permanent or temporary partition or structure (including gate) created as a property line dividing marker, barrier or enclosure. Landscape berms, plantings, hedges and similar effects shall be considered a **FENCE** for issues related to clear vision areas. Minimum heights may apply if berms, plantings, hedges and similar effects are required for buffers.

FIRE STATION. Public building devoted to the storage and housing of fire equipment and personnel.

FIREWORKS.

(1) A device made from explosive or flammable compositions used primarily for the purpose of producing a visible display or audible effect, or both, by combustion, deflagration or detonation. FIREWORKS include Class B fireworks and Class C fireworks.

(2) Should the definitions of these items change per the Michigan Penal Code, Public Act 328 of 1931, being M.C.L.A. §§750.1 through 750.568, as amended, this chapter's definitions will change with the state law, and must be interpreted as those contained in the state law.

(a) **CLASS B FIREWORKS.** These are toy torpedoes, railway torpedoes, firecrackers or salutes that do not qualify as Class C fireworks, exhibition display pieces, airplane flares, illuminating projectiles, incendiary projectiles, incendiary grenades, smoke projectiles or bombs containing expelling charges but without bursting charges, flash powders in inner units not exceeding two ounces each, flash sheets in interior packages, flash powder or spreader cartridges containing not more than 72 grains of flash powder each and other similar devices.

(b) **CLASS C FIREWORKS.** These are toy smoke devices, toy caps containing not more than 25 grains of explosive mixture, toy propellant devices, cigarette loads, trick matches, trick noise makers, smoke candles, smoke pots, smoke grenades, smoke signals, hand signal devices, signal cartridges, sparklers, explosive auto alarms and other similar devices.

FLAG LOT. A lot not fronting entirely on or abutting a public road and where access to the road is a narrow, private right-of-way.

FLEA MARKET. See **OUTDOOR TEMPORARY USE.**

FLOODPLAIN.

(1) The relatively flat area or low lands adjoining the channel of watercourse or a body of standing water, that has been or may be covered by flood water.

(2) Determination of a **FLOODPLAIN** is made by the Federal Emergency Management Agency for those areas to be covered by flood insurance and consists of:

(a) Contiguous areas paralleling a river, stream or other body of water that constitute at their maximum edge the highest flood levels experienced in a period of 100 years;

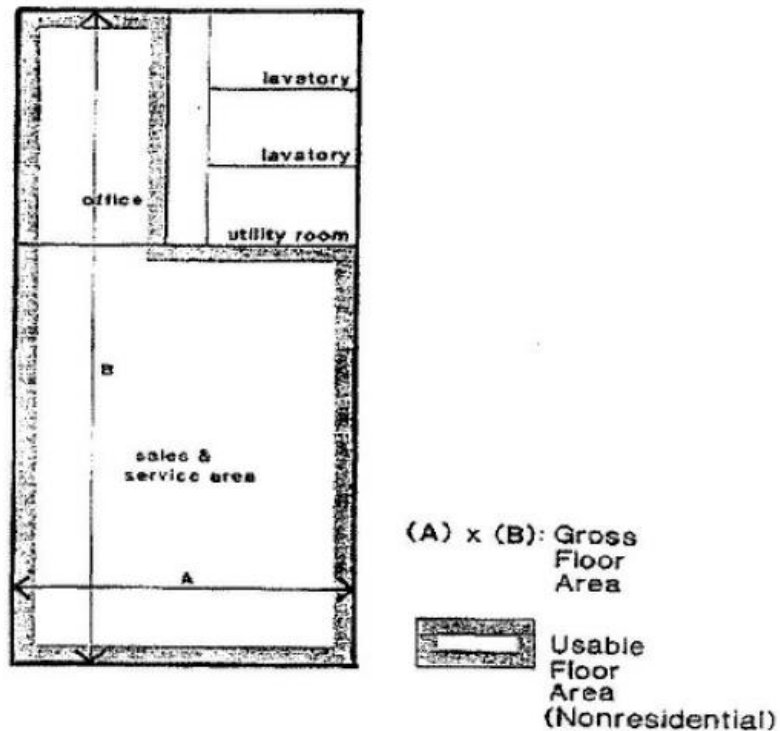
(b) Principal estuary courses of wetland areas that are part of the river flow system; and/or

- (c) Contiguous area paralleling a river stream or other body of water that exhibits unstable soil conditions for development.

FLOOR AREA. The area of all floors computed by measuring the dimensions of the outside walls, excluding attic and basement floors, porches, patios, breezeways, carports and garages, or portions of rooms with less than seven feet of space between the floor and ceiling.

FLOOR AREA, USEABLE.

- (1) The area of a nonresidential building used for or intended to be used for the sale of merchandise or services.
- (2) Such floor area that is used for or intended to be used primarily for the storage or processing of merchandise which may include hallways, breezeways, stairways and elevator shafts, or for utilities and sanitary facilities, shall be excluded from the computation of **USEABLE FLOOR AREA**.



Floor Area Terminology

FOSTER FAMILY GROUP HOME. See **CHILD CARE ORGANIZATION**.

FOSTER FAMILY HOME. See **CHILD CARE ORGANIZATION**.

FRATERNAL ORGANIZATION. See **INSTITUTION, SOCIAL**.

FUNCTIONAL EQUIVALENT SERVICES. Cellular, personal communication services (PCS), enhanced specialized mobile radio, specialized mobile radio and paging.

FUNERAL HOME/MORTUARY. A building used for the storage and preparation of the deceased for burial and display, and for ceremonies connected therewith before burial or cremation.

GARAGES. Includes the following.

- (1) **ATTACHED.** An attached outbuilding customarily used for the storage of vehicles, and is attached to a residential dwelling as either an integral part thereof, or, at a minimum, connected to the dwelling by a completely enclosed breezeway.
- (2) **PRIVATE GARAGE.** A detached accessory building or portion of a main building used for the storage of vehicles without provision for repair or servicing such vehicles for profit.
- (3) **SERVICE GARAGE.** Any building or structure designed or used for the hire, sale, storage, service, repair or refinishing of motor vehicles or trailers, but not for the storage of dismantled vehicles or parts thereof for purposes of reuse or resale.

GARBAGE. Animal, vegetable and mineral waste resulting from the handling, storage, sale, preparation, cooking and serving of foods.

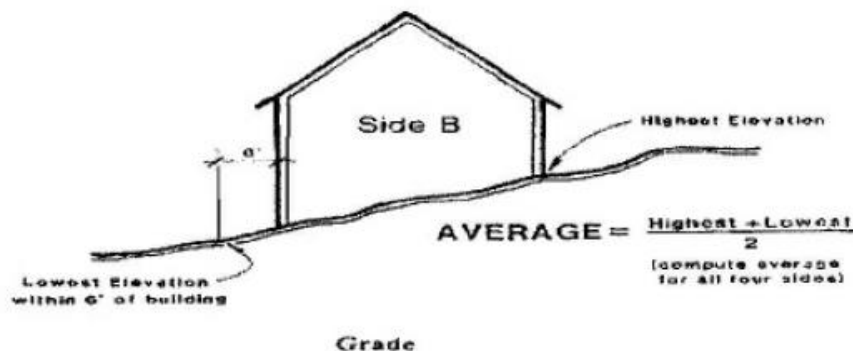
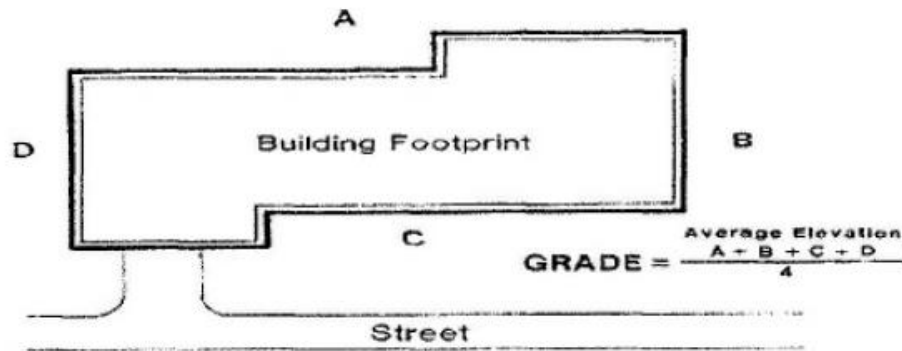
GAS STATION/SERVICE STATION.

- (1) A place where gasoline, kerosene or any other motor fuel or lubricating oil or grease for operation of motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles, including sale of accessories, greasing, oiling and light motor service on the premises, but in no case to include automobile or truck mechanical repair.
- (2) Convenience food sales and/or fast food restaurants may also be provided on the premises.

GLARE. The effect produced by brightness sufficient to cause annoyance, discomfort or loss in visual performance and visibility.

GRADE.

- (1) For purposes of this chapter, the level of the ground adjacent to the exterior walls of a building or structure.
- (2) In the case of lots with a sloping terrain, the GRADE shall be the average elevation of the ground adjacent to the walls.



GRADING. Any stripping, excavating, filling, stockpiling or any combination thereof, and also included shall be the land in its excavated or filled condition.

GRADING PERMIT. The written authority issued by the City of Auburn permitting the grading, excavating or filling of land including drainage and soil erosion control in conformity with the Erosion Control Section of this chapter and Public Act 347 of 1972.

GREEN AREA. Land shown on a development plan, master plan or official map for preservation, recreation, landscaping or a park.

GREENBELT. See **BUFFER**.

GREENHOUSE. A temporary or permanent building whose roof and sides are made largely of glass or other transparent or translucent material, and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or personal enjoyment.

GROUND COVER. Grasses or other cultivated plants grown to keep soil from being blown or washed away, not including weeds or other overgrown, unkempt vegetation.

GROUNDWATER RUNOFF. Storm water that is discharged into a stream channel as spring or seepage water.

GROUP DAY CARE HOME. See **CHILD CARE ORGANIZATION**.

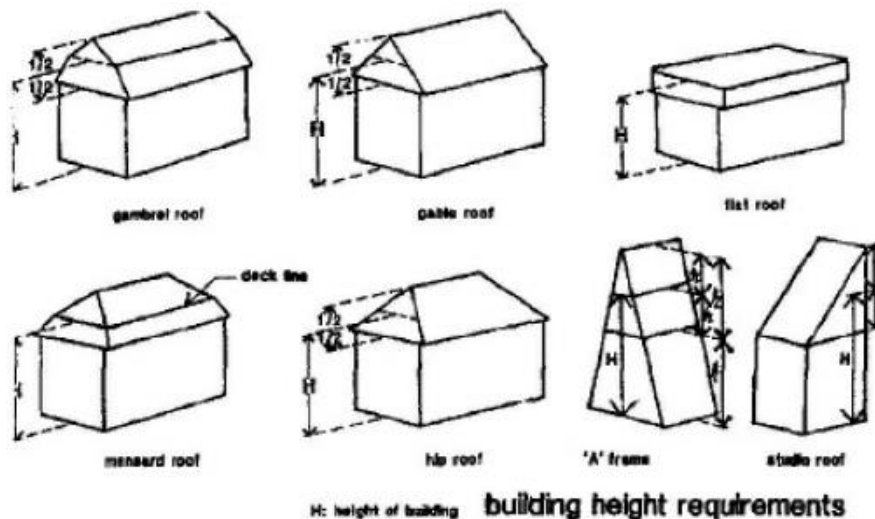
GUYED TOWER. A monopole or lattice tower that is tied to the ground or other surface by cables.

HARD CORE MATERIAL. Media characterized by sexual activity that includes one or more of the following: erect male organ; contact of the mouth of one person with the genitals of another; penetration with a finger or male organ into any orifice in another person; open female labia; penetration of a sex toy into an orifice; male ejaculation; or the aftermath of male ejaculation.

HAZARDOUS MATERIALS. Any materials that have been declared to be hazardous by any agency of the State of Michigan or of the United States, including, but not limited to, toxic materials and metal hydroxides.

HEALTH CARE (SERVICES) FACILITIES. See **INSTITUTION, HUMAN CARE.**

HEIGHT OF BUILDING. The vertical distance, measured from the adjoining curb level, to the highest point of the roof of the top story in the case of a flat roof; to the deck line of a mansard roof; and to the mean height level between eaves and ridge of a gable, hip or gambrel roof; however, where buildings are set back from the street line, the **HEIGHT OF THE BUILDING** may be measured from the average elevation of the finished lot grade at the front of the building.



HIGHWAY. A public thoroughfare or street, excluding alleys, but including federal, state and county roads and those appearing upon plats recorded in the office of the Register of Deeds and accepted for public maintenance.

HOME OCCUPATION.

- (1) While the city recognizes that many residents feel the necessity to work at home, the city also recognizes the rights of all residents to be free from actual or potential nuisance which may be caused by non-residential activities conducted in a residential zone.
- (2) The intent of this definition is to ensure that any **HOME OCCUPATION** is compatible with other permitted uses in residential districts and to maintain and preserve the residential character of the neighborhood.

(3) A **HOME OCCUPATION** or **BUSINESS** must:

- (a) Be clearly incidental and secondary to the use of the dwelling as a residence and must not change the residential character of the dwelling or lot in any visible manner. The dwelling must be the primary residence of the business owner(s);
- (b) Not produce noise, odor, fumes, vibration, dust, smoke, heat, glare, electrical disturbance or other nuisance that is transmitted beyond the property lines. In the case of a multi-family, no such nuisance should carry beyond the individual dwelling;
- (c) Maintain the outside of the buildings free from the storage of any equipment, materials or any items related to the home occupation. The outside of the dwelling shall not hold any display of merchandise, nor should an interior display be visible from the outside; and
- (d) Not advertise with any sign beyond what is allowed in § 154.090 through § 154.098.

HORTICULTURE. The cultivation of a garden or orchard. **HORTICULTURE** specifically excludes operation of a landscaping business.

HOSPITAL. See **INSTITUTION, HUMAN CARE**.

HOTEL. See **MOTEL**.

IMPERVIOUS SURFACE. Any material that reduces and prevents the absorption of storm water into previously undeveloped land.

INDOOR RECREATION. An indoor facility, with or without seating for spectators, and providing accommodations for a variety of individual, organized, or franchised sports, sports related or other leisure time activities including but not limited to basketball, ice hockey, soccer, tennis, volleyball, racquetball, archery, golf ranges, batting cages, etc.

INDUSTRIAL INCUBATORS. An area designated for the cultivation and enhancement of future businesses or business oriented developments.

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

INFRASTRUCTURE. Facilities and services needed to sustain industrial, residential and business activities.

INGRESS. Access or entry.

INSTITUTION, EDUCATIONAL. A school for kindergarten through twelfth grade or any colleges or universities authorized by the state to award degrees.

INSTITUTION, HUMAN CARE. A public or private facility for physical, as opposed to mental, care. A **HUMAN CARE INSTITUTION** may include hospitals, convalescent, assisted care facilities and

nursing homes. It does not include homes for the mentally disadvantaged or substance abuse rehabilitation facilities.

INSTITUTION, REHABILITATION. A public or private facility for mental or substance abuse rehabilitation. A ***REHABILITATION INSTITUTION*** may include inpatient or outpatient hospitals, halfway houses and similar facilities.

INSTITUTION, RELIGIOUS. A structure or place in which worship, ceremonies, rituals and education pertaining to a particular system of beliefs are held.

INSTITUTION, SOCIAL. Any profit or nonprofit use or facility in which activities for pleasure or philanthropy are carried out. Such institutions may include service clubs, scout organizations, hobby clubs and veteran's organizations, churches, schools, hospitals, convalescent or nursing homes, public or quasi-public non-profit uses, community facilities, parks and playgrounds.

INTERSECTION. The point where two or more roads cross at grade.

JUNK MOTOR VEHICLE. An automobile, truck or other motor vehicle which has been damaged to such an extent that it cannot be operated under its own power, and will require major repairs before being made usable; or such a vehicle which does not comply with state or city laws or ordinances.

JUNK/SALVAGE YARD. A place where waste or discarded or salvaged materials are bought, sold, exchanged, stored, baled, packaged, disassembled, cleaned or handled, including house and vehicle wrecking yards, used lumber yards, and places or yards for use of salvaged house and vehicle parts, and structural steel materials and equipment. A ***JUNK OR SALVAGE YARD*** shall not include uses conducted entirely within a completely enclosed building; pawn shops and establishments for the sale, purchase or storage of used cars in operable condition, salvaged machinery, used furniture and household equipment; and the processing of used, discarded or salvaged materials as part of manufacturing operations.

KENNEL or ANIMAL HOSPITAL. Any building or land used for the sale, boarding, treatment or breeding of more than two dogs or three cats or other household pets as a business.

LABORATORY.

- (1) ***MEDICAL OR DENTAL.*** A laboratory that provides analytical or diagnostic services to physicians and dentists. No fabrication is conducted on the premises except the custom fabrication of dentures or surgical supports.
- (2) ***EXPERIMENTAL.*** A building or part of a building devoted to the testing and analysis of any product or scientific theory.

LAND. Ground, soil or earth, including structures on, above or below the surface.

LAND USE. A use of land which may result in an earth change, including, but not limited to, subdivision, residential, commercial, industrial, recreational or other development, private and public highway, road and street construction, drainage construction, agricultural practices and mining.

LAND USE PLAN. A plan showing the existing and proposed location, extent and intensity of development of land to be used for varying types of residential, commercial, industrial, agricultural, recreational, educational and other public and private purposes or combination of purposes.

LATTICE TOWER. A type of mount that is self-supporting with multiple legs and cross bracing of structural steel.

LEGISLATIVE BODY. The City Commission of the City of Auburn.

LIBRARY. Institutions for the storage and circulation of books, compact discs, videotapes and other materials for use by the general public.

LICENSED CARRIER. A company authorized by the FCC to construct and operate a commercial mobile radio services system.

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

LOT. A parcel or portion of land, exclusive of any adjoining street, separated from other parcels or portions by description, as on a subdivision of record or survey map.

LOT AREA. The total horizontal area included within lot lines. Where the front lot line is the centerline of a street or lies in part or in whole in the street area, the **LOT AREA** shall not include that part of the lot in use or to be used as the street.

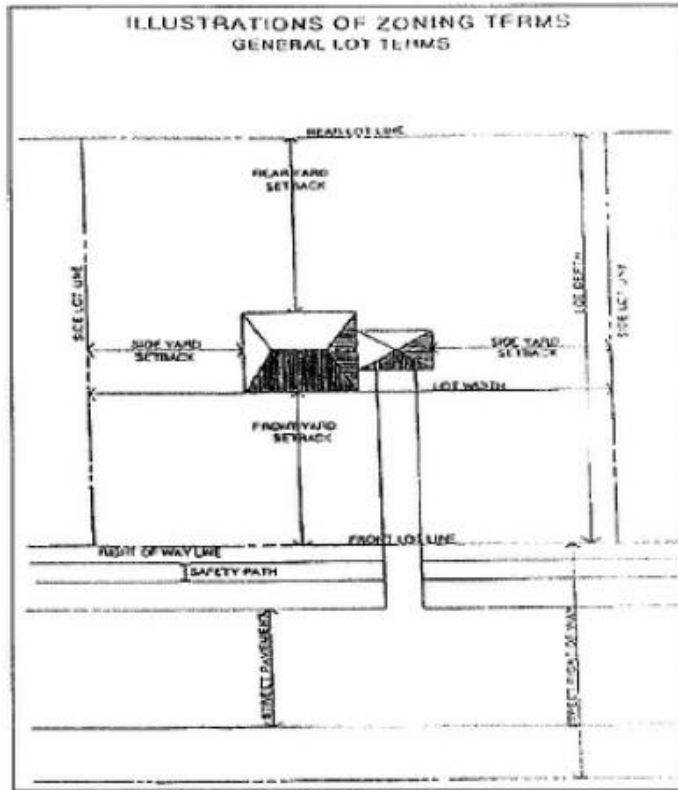
LOT, CORNER. See **CORNER LOT**. See graphic for **CORNER LOT**.

LOT COVERAGE. The part or percent of the lot occupied by buildings, including accessory buildings.

LOT DEPTH. The mean horizontal distance from the front street line to the rear lot line. **LOT, INTERIOR.** Any lot other than a corner lot. See graphic for **CORNER LOT**.

LOT LINES. Any line bounding a lot, including the following:

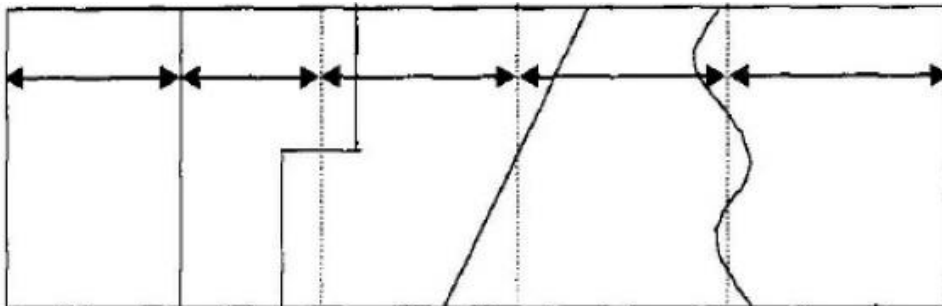
- (1) **FRONT LOT LINE.** The line separating the lot from the right-of-way of the street; in the case of a corner line, the address of record is the front lot line.
- (2) **REAR LOT LINE.** The line opposite to and most distant from the front line; in irregularly shaped lots, it shall be the straight line entirely within the lot, ten feet long, parallel to and most distant from the front lot line.
- (3) **SIDE LOT LINE.** Any line other than front or rear lot lines.



LOT, THROUGH. 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 said lots adjacent to streets shall be considered frontage, and front yards shall be provided as required. See graphic for **CORNER LOT**.

LOT OF RECORD. A parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by city or county officials, and which actually exists as so shown, or any part of such parcel held in separate recorded ownership at the time of adoption of this chapter.

LOT WIDTH. The average of the width between side lot lines.



LOT, ZONING. A single tract of land that, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed or built upon as a unit, under single ownership or control.

LOUNGE. See ***BAR.***

LUMBERYARD. A commercial or wholesale facility where building materials are sold and where lumber and other construction materials are warehoused within an enclosed yard or building.

MALLS. A shopping center where stores front on both sides of a pedestrian way that may be enclosed or open.

MANUFACTURED HOME. A dwelling unit, designed and built in a factory.

MANUFACTURING. The manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging of such products, and incidental storage, sales and distribution of such products, but excluding basic industrial processing and custom manufacturing. The manufacturing or compounding process of raw materials. These activities or processes would necessitate the storage of large volumes of highly flammable, toxic matter or explosive materials needed for the ***MANUFACTURING*** process. These activities may involve outdoor operations as part of their ***MANUFACTURING*** process.

MARQUEE. Any hood, canopy, awning or permanent structure that projects from a wall of a building, usually above an entrance.

MASTER PLAN. A comprehensive long-range plan intended to guide the growth and development of a community. The plan includes analysis, recommendations and proposals for the community's population, economy, housing, transportation, community facilities and land use.

MINI-STORAGE/SELF STORAGE. A structure containing separate storage areas of varying sizes that are leased or rented on an individual basis.

MIXED USE ZONING. Regulations that permit a combination of different uses within a single development, under special regulations.

MOBILE HOME. A structure, transportable in one or more sections, that is built on a chassis and designed for use as a dwelling with or without a permanent foundation, and which includes the plumbing, heating, air conditioning and electrical systems contained in the structure. A ***MOBILE HOME*** does not include a recreational vehicle.

MANUFACTURED HOME DEVELOPMENT. A parcel of land under the control of a person upon which three or more mobile homes are located on a continual nonrecreational basis and which is offered to the public for that purpose, regardless whether a charge is made therefore, together with any building, structure, enclosure, street, equipment or facility used or intended for use incident to the occupancy of a mobile home.

MOBILE HOME SITE/MANUFACTURED HOME SITE. A measured parcel of land within a manufactured home development that is delineated by lot lines on a final development plan and which is intended for the placement of a mobile home and the exclusive use of the occupants of such mobile home.

MOBILE HOME SUBDIVISION. A manufactured home development except that the mobile home lots are subdivided, surveyed, recorded and sold in accordance with Michigan Act 288 of 1967, being M.C.L.A. §§ 560.101 through 560.293, as amended.

MONOPOLE. The type of mount that is self-supporting with a single shaft of wood, steel or concrete, without guy wires and a platform (or racks) for panel antennas arrayed at the top.

MORTUARY. See **FUNERAL HOME**.

MOTEL. A building or group of buildings, whether detached or in connecting units, used as individual sleeping or dwelling units designed primarily for transients traveling by automobile. The term **MOTEL** shall include buildings designed as auto courts, tourist courts, motor hotels, hotels and similar names that are designed as integrated units of individual rooms under common ownership. For the purposes of this chapter, **MOTEL** and **HOTEL** have the same meaning.

MOUNT. The structure of surface upon which antennas are mounted, including the following four types of mounts.

- (1) **GROUND-MOUNTED.** Mounted on the ground.
- (2) **ROOF-MOUNTED.** Mounted on the roof of a building.
- (3) **SIDE-MOUNTED.** Mounted on the side of a building.
- (4) **STRUCTURE-MOUNTED.** Mounted on a structure other than a building.

MUNICIPAL BUILDING. A structure housing an operation of the City of Auburn.

MUNICIPALITY. The City of Auburn.

MUSEUM. A building having public significance by reason of its architecture or former use or occupancy or building serving as a repository for a collection of natural, scientific, or literary curiosities or objects of interest, or works of art, and arranged, intended and designed to be used by members of the public for viewing, with or without an admission charge, and which may include as an accessory use the sale of goods to the public as gifts or for their own use.

NATURAL RETENTION AREA. A naturally occurring pond or wetland that retains storm water runoff.

NONCONFORMING BUILDING, LEGAL. Any building or portion thereof lawfully existing at the time this chapter became effective and that does not comply with this chapter's regulations.

NONCONFORMING LOT, LEGAL. A lot, the area, dimensions or location of which was lawful prior to the adoption, revisions, or amendment of the zoning code; but which fails, by reason of such adoption, revisions or amendment, to conform to current requirements of the Zoning District.

NONCONFORMING SIGN, LEGAL. Any sign lawfully existing as of the effective date of an ordinance, or amendment thereto, that renders the sign nonconforming because it does not conform to all the standards and regulations of the adopted or amended ordinance.

NONCONFORMING USE, LEGAL. Any property use that was lawful at the time the zoning Ordinance became effective and which now does not comply with its regulations. A **LEGAL NONCONFORMING USE** is a use that is in compliance with the requirements of this chapter.

NORTH POINT or **NORTH ARROW.** The designation on a map illustrating the direction of north.

NOXIOUS. Offensive or disturbing.

NUISANCE. An offensive, annoying, unpleasant or obnoxious thing, or practice, a cause or source of annoyance, especially a continual or repeated invasion of a use or activity that invades the property line of another so as to cause harm or discomfort to the owner or resident of that property.

NURSERY, PLANT MATERIALS. Any lot or structure used for the growing, harvesting, processing, storing and/or selling of plants, shrubs, trees and flowers, including products used for gardening and landscaping, but not including fruit and vegetable sales.

OCCUPANCY PERMIT. A required permit allowing occupancy of a building or structure after it has been determined that the building meets all of the requirements of applicable ordinances.

OCCUPANCY PERMIT, TEMPORARY. A certificate of occupancy that is issued for a fixed time period to allow occupancy, because seasonal conditions make it impossible to complete all needed external improvements.

OFFICE. A room or group of rooms used for conducting the affairs of a business, profession, service, industry or government.

OFFICE BUILDING. A building used primarily for conducting the affairs of a business, profession, service, industry, government or like activity; it may include ancillary services for office workers such as a restaurant, coffee shop, newspaper or candy stand.

OMNIDIRECTIONAL (WHIP) ANTENNA. A thin rod that beams and receives signals in all directions.

OPEN SPACE. The part of a zoning lot, including courts or yards, which:

- (1) Is open and unobstructed from its lowest level to the sky;
- (2) Is accessible to all residents upon the zoning lot;
- (3) Is not part of the roof of that portion of a building containing dwelling units;
- (4) Is comprised of lawn and landscaped area; and
- (5) Is not part of the roof of an attached garage if said roof is used for a swimming pool deck or recreation deck; and is not higher than 23 feet above grade; and is directly accessible by passageway from the residential building.

ORCHARD. The establishment, care and harvesting of more than 25 fruit-bearing trees or vines, such as apples, cherries or grapes for the purpose of selling the fruit to others.

OUTDOOR AMUSEMENT FACILITY. A commercial business that provides amusement facilities, such as miniature golf, carnival rides, petting zoo and other similar attractions and open to the general public.

OUTDOOR SALES. Uses not conducted from a wholly enclosed building, operated for a profit, and including the following uses:

- (1) Bicycle, mobile home, travel trailer, motor vehicle, boat or home equipment sale or rental services;
- (2) Outdoor display and sale of garages, swimming pools and similar uses;
- (3) Retail sale of trees, fruits, vegetables, shrubbery, plants, seed, topsoil, humus, fertilizer, trellis, lawn furniture, playground equipment and other home garden supplies and equipment; and
- (4) Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving range, children's amusement park or similar recreation uses.

OUTDOOR USE. A use, the majority of which is carried outside of a structure of any kind. These may include outdoor displays of merchandise, outdoor eating areas, outdoor storage and outdoor recreation under certain circumstances.

OUTDOOR USE, TEMPORARY. A use carried out in an open area or uncovered or temporary structure that is disbanded when the designated time period, activity or use for which the temporary structure was erected has ceased.

PANEL ANTENNA. A flat surface antenna usually developed in multiples.

PARK, NEIGHBORHOOD. City- or county-owned land intended to serve the recreation needs of people living or working within one-half mile radius of the park. A **NEIGHBORHOOD PARK** is less than two and one-half acres in size.

PARK, RECREATIONAL. An open area designed for the active and/or passive use of the general public and which may or may not contain playground or exercise facilities and equipment.

PARKING AISLE. The area behind a parking space used for backing and turning into and out of the parking space. See § 154.070 through § 154.075 for parking space and aisle required sizes.

PARKING AREA. An area used for the parking, parking aisle or access of motor vehicles for a fee or as an accommodation for clients, customers, residents, employees or the general public.

PARKING AREA, TOTAL. The parking lot and all connecting access drives and landscaping.

PARKING ACCESS. The area of a parking lot that allows motor vehicles ingress and egress from the street to the parking aisle or parking space of not longer than 100 feet.

PARKING BAY. A parking module consisting of one or two rows of parking spaces and the aisle from which motor vehicles enter and leave spaces.

PARKING LOT. An off-street, ground level area, surfaced and improved, for the temporary storage of motor vehicles.

PARKING, OFF-STREET. Any parking area located on the same property it is intended to serve, or in a joint use lot.

PARKING SPACE. Any vehicle accessible area designated for vehicle parking and exclusive of drives and aisles.

PATIO, PORCH. Roofed open area that, while it may be glassed or screened, is usually attached to, or part of, and with direct access to or from a building.

PERFORMANCE STANDARDS. A set of criteria or limits relating to nuisance elements (noise, odor, vibration, toxic and hazardous materials, radiation, flooding and other similar occurrences) that a particular use or process may not exceed.

PERMANENTLY AFFIXED. To affix a structure to the ground or to another structure in accordance with the design and material specification of applicable building codes.

PERMITTED USE. Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

PERSON. Any individual, partnership, organization, association, trust or corporation. When used as a penalty provision, PERSON shall include the members of such partnership, the trustees of such trust, and the officers and members of such organization, association or corporation.

PERSONAL SERVICES FACILITIES. Establishments primarily engaged in providing services involving the care of a person or his or her apparel.

PERSONAL WIRELESS SERVICE FACILITY. A facility for the provision of personal wireless services, as defined by the Telecommunications Act.

PERSONAL WIRELESS SERVICE. The three types of services regulated by this chapter as specified in the special use permit regulations. These services are cellular, radio and satellite.

PETROLEUM BULK PLANT. An establishment for the purpose of storage of petroleum products, in bulk or in packages, distributed by tank car, tank vehicle or motor truck.

PLAN, FINAL. A site plan that has been approved by the Planning Commission.

PLAN, PRELIMINARY. A site plan that is under review by the Planning Commission or proper review authority and indicates the proposed layout of the subdivision, planned unit development (PUD) or other development.

PLAN, TENTATIVE PRELIMINARY. A conceptual site plan or sketch showing ideas for development and site use.

PLANNED UNIT DEVELOPMENT or PUD. An area of minimum contiguous size, as specified by ordinance, to be planned and developed as a single entity containing one or more residential clusters or

planned unit residential developments and one or more public, quasi-public, business or industrial areas in such range or ratios of nonresidential to residential uses as shall be specified.

PLANNING COMMISSION. The duly designated Advisory Plan Commission of the municipality.

POND. A permanent or temporary body of human-made open water that is more than 0.25 acres in size and less than one acre in size.

POOL, COMMERCIAL SWIMMING. An artificially constructed basin for holding water for use by paying customers or patrons of a commercial facility.

POOL, PRIVATE SWIMMING. Any artificially constructed basin or other structure for holding water for use in swimming, diving and other aquatic sports and recreation. The term **SWIMMING POOL** does not include any plastic, canvas or rubber pool temporarily erected upon the ground holding less than 500 gallons of water and not over 24 inches deep. Section AG102 of Appendix G in the 2003 Michigan Residential Code defines **SWIMMING POOL** as any structure intended for swimming or recreational bathing that contains water over 24 inches (610 mm) deep. This includes in-ground, above-ground and on-ground swimming pools, hot tubs and spas.

POTABLE WATER. Water suitable for drinking or cooking purposes.

PRINCIPAL BUILDING. A building in which is conducted the principal use allowed of the lot in the district in which it is situated.

PRINCIPAL USE. The primary and predominate use of the premises including customary accessory uses.

PRIVATE. Not publicly owned or otherwise regulated by the state, either by statute or by rules and regulations of one of its administrative bodies.

PROFESSIONAL SERVICES. Services offered to the general public such as law, medicine, engineering, accounting and architecture.

PROCESSING. Any operation changing the nature of material or materials such as the chemical composition, physical qualities or size or shape. Does not include operations described as fabrication or assembly.

PUBLIC FACILITIES. Facilities that are owned and operated by a municipality, government agency or publicly owned utility.

PUBLIC HEARING. A meeting announced and advertised in advance and open to the public, with the public being given an opportunity to speak or participate.

PUBLIC SERVICE INSTALLATION. A building, structure or use of land that provides a service that is essential to the general public's convenience or safety and is also defined as a **PUBLIC UTILITY**.

PUBLIC UTILITY. See **PUBLIC SERVICE UTILITY**. Any person, firm, corporation, municipal department or board, duly authorized to furnish and furnishing under federal, state or municipal

regulations to the public, electricity, gas, steam, communication, telegraph, transportation or water, sanitary sewer or storm sewer.

PUBLIC WAY. A highway, street, avenue, boulevard, road, lane, alley or other area specifically designated and continuously maintained for public access.

QUASI-PUBLIC AGENCY. A service owned and operated by a nonprofit, religious or missionary institution and providing educational, cultural, recreational or similar types of public programs.

QUORUM. A simple majority of the full membership of a board or agency.

RADIO ANTENNA. A signal-receiving device, the purpose of which is to receive radio signals from radio transmitters in the area.

RADIO FREQUENCY (RF) ENGINEER. An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

RADIO FREQUENCY RADIATION (RFR). The emissions from personal wireless service facilities.

RADIO TOWER. A signal-sending device, the purpose of which is to distribute radio signals from a radio transmitter or transmitters in the area.

RECREATION, COMMERCIAL INDOOR. A commercial recreational land use conducted entirely within a building, including arcade, arena, art gallery and studio, art center, assembly hall, athletics and health clubs, auditorium, bowling alley, club or lounge, community center, conference center, exhibit hall, gymnasium, library, movie theater, museum, performance theater, pool or billiard hall, skating rink, swimming pool and tennis court.

RECREATION, OUTDOOR. Recreational uses conducted almost wholly outdoors, including golf driving ranges (not associated with a golf course), miniature golf, firing ranges, water parks, amusement parks and similar uses.

RECREATION, PRIVATE. Recreational, playgrounds and parks activities that are not open to the general public and for which a fee may or may not be charged.

RECREATIONAL EQUIPMENT. Includes travel trailers, pickup campers, motor homes, ice fishing houses, tent trailers, tents, boats and boat trailers, personal watercraft, snowmobiles, off-road vehicles of any kind, and similar equipment and cases or boxes used for transporting recreational equipment, whether occupied by the equipment or not.

RECREATIONAL VEHICLE. A vehicle primarily designed and used as 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.

RECREATIONAL VEHICLE (RV) PARK/CAMPGROUND. A parcel of land reserved for the location of recreational vehicles, including building sites set aside for group camping and similar recreational vehicles.

RECYCLING FACILITY. The process by which waste products are reduced to raw materials and transformed into new and often different products.

RELIGIOUS INSTITUTION. See *INSTITUTION, RELIGIOUS*.

RESEARCH AND DEVELOPMENT FACILITY. Any facility that is involved in the inquiry, examination, investigation or experimentation aimed at the discovery and/or interpretation of facts, revision of accepted theories or laws in the light of new facts, or practical application of such new or revised theories of laws and the development thereof. **DEVELOPMENT** may include a limited number of test units of a given product resulting from such research and shall include limited production while a product is being test- marketed, which is the interim step between full research and development and ultimate full-scale production.

RESIDENCE. A home, abode or place where an individual is residing at a specific point in time.

RESIDENTIAL, RESIDENTIAL USE or RESIDENTIAL DISTRICT. The use of land parcels for human habitation under the terms of this chapter. RESIDENTIAL shall not be construed or interpreted to mean the storage, sale (wholesale or retail), trade, transfer, fabrication, production, manufacture or development of goods and services.

RESOURCE RECOVERY FACILITY. A fully enclosed building where waste is sorted and classified by type and material, such as ferrous metal, nonferrous metal, aluminum, paper, newsprint, boxed board, plastic and glass colors. The purpose of such a building is to reuse the recovered materials.

RESTRICTION. A limitation on property, which may be created in a deed, lease, mortgage or other appropriate document, through certain zoning or subdivision regulations, or as a condition of approval of an application for development.

RESTRICTIVE COVENANT. A restriction on the use of land usually set forth in a deed or other appropriate document.

RETAIL TRADE. Establishments engaged in selling goods or merchandise to the general public for personal or household consumption, and rendering services incidental to the sale of such goods.

RESTAURANT. A business located in a building where, in consideration for the payment of money, meals are habitually prepared, sold and served to persons for consumption on or off the premises, having suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of goods that may be required for ordinary meals, and deriving the major portion of its receipts from the sale of food and complying with state and federal health regulations.

RIGHT-OF-WAY. A strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation, and intended to be occupied or occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, waterline, sanitary storm sewer or other similar uses.

RIGHT-OF-WAY LINE. The boundary of a dedicated street, highway or strip of land used or reserved for the placement or location of utilities and facilities. See graphic for **LOT LINES**.

RINGELMANN CHART. A device to measure the opacity of smoke emitted from stacks and other sources.

ROAD FRONTAGE. The length of the lot line that borders a public or private road at the right-of-way line.

RUNOFF. The portion of rainfall, melted snow or irrigation water that flows across ground surface and is eventually returned to streams.

SALVAGE YARD. A place where waste or discarded or salvaged materials are bought, sold, exchanged, stored, baled, packaged, disassembled, cleaned or handled, including house and vehicle wrecking yards, used lumber yards and places or yards for use of salvaged house and vehicle parts, and structural steel materials and equipment. **SALVAGE YARD** shall not include uses conducted entirely within a completely enclosed building; pawn shops and establishments for the sale, purchase or storage of used cars in operable condition, salvaged machinery, used furniture and household equipment; and the processing of used, discarded or salvaged materials as part of manufacturing operations.

SANITARY LANDFILL. Any operation that is licensed by the State of Michigan or its agencies as a sanitary landfill or is subject to the requirement of having such a license.

SCALE. The relationship between distances on a map and actual ground distances.

SCHOOL. See **INSTITUTION, EDUCATIONAL.**

SCREENING. A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms or densely planted vegetation.

SEASONAL BUSINESS. A retail business or service business that is not normally used as a business for more than six months during any one calendar year.

SEASONAL RESIDENCE. A dwelling unit not normally the permanent residence of the occupant(s) and not normally used as a dwelling unit for more than six months during any calendar year.

SECURITY BARRIER. A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass.

SENIOR HOUSING. A residential complex containing multiple family dwellings designed for and principally occupied by senior citizens. Such facilities may include a congregate meals program in a common dining area, but exclude institutional care such as medical or nursing care where patients are confined to bed.

SEPARATION. The distance between one carrier's array of antennas and another carrier's array.

SETBACK. The minimum required horizontal distance measured from the front, side or rear lot line, whichever is applicable, of a lot of record for purposes of determining the minimum amount of open space surrounding the main structure on that lot. See graphic for **LOT LINES.**

SEWAGE TREATMENT PLANT. A facility designed for the collection, removal, treatment and disposal of waterborne sewage generated within a given service area.

SIGNS.

- (1) A name identification, description, display or illustration that is affixed to or represented directly or indirectly upon a building, structure or piece of land and which is intended to direct attention to an object, product, place, activity, person, institution, organization or business; however, a **SIGN** shall not include a sign located completely within an enclosed building.
- (2) For the purpose of this chapter, the following sign or sign-related terms are here defined.
 - (a) **AREA, OR SURFACE AREA, OF SIGN.** Measurement of a sign includes the entire area within a circle, triangle or parallelogram enclosing the extreme limits of writing, representation, emblem or any figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed. This excludes the necessary supports or uprights on which the sign is placed but includes any sign tower.
 1. Where a sign has two or more faces, the area of all faces shall be included in determining the **AREA OF THE SIGN**, except that where two such faces are placed back-to-back and are at no point more than two feet from one another, the **AREA OF THE SIGN** shall be taken as the area of one face if the two faces are of equal area, or as the area of the larger face if the two faces are of unequal area.
 2. In the case of a sphere, the total area of the sphere shall be divided by four to determine the maximum permitted **SIGN AREA**.
 3. The height of a sign shall be measured from the average grade of the lot at the setback line.
 4. If a sign includes a numeric address, the portion of the sign containing the address numbers shall not be counted toward the total square footage of the sign.
 - (b) **ABANDONED SIGN.** If a sign advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer being offered or conducted at that site for a period of 14 days, that sign shall be considered abandoned.
 - (c) **BANNER.** Either a temporary sign or portable sign, depending on how it is used.
 - (d) **DIRECTIONAL SIGNS.** Signs posted to show direction of traffic flow through the property.
 - (e) **ELECTRIC SIGN.** Any sign containing electric wiring. This does not include signs illuminated by an exterior floodlight source.
 - (f) **ELECTRONIC MESSAGE BOARD.** Changeable copy/image signs in which the copy/image consists of an array of lights activated and deactivated.
 - (g) **FREESTANDING SIGNS.** Signs that are supported from the ground by a structure and are not attached to a building. Types:
 1. A sign elevated high above ground level, typically on a pole or other structure;

2. Ground sign: A sign low to the ground and typically used to identify large buildings, institutions and real estate developments; and
 3. High-rise signs/highway billboards: signs that may be erected for visibility from the U.S. 10 freeway.
- (h) **ILLUMINATED SIGN.** A sign that provides artificial light directly or through any transparent or translucent material.
 - (i) **INTEGRAL SIGN.** Names of buildings or farm, date of erection, monumental citations, commemorative tablets and the like when made an integral part of the walls of the structure (or roof for farm buildings).
 - (j) **JOINT SIGN.** A sign that gives direction and identification to a group of adjacent businesses whether or not under single management.
 - (k) **LOCATION.** A lot, premise, building, wall or any place whatsoever upon which a sign is located.
 - (l) **MARQUEE.** An identification sign attached to or made a part of a marquee, canopy or awning projecting from and supported by the building.
 - (m) **MERCHANDISING SIGNS.** Signs identifying products or services available at the establishment and their prices. This is a descriptive term. Regulation depends on whether the sign is permanent, portable, temporary, a sign cover or a safety concern.
 - (n) **MONUMENT or GROUND MOUNTED.** A freestanding sign where the base of the sign structure is on the ground or integrated into landscaping or other solid structural features other than support poles.
 - (o) **MULTI-TENANT SIGNS.** Wall, ground or freestanding signs for unified developments, such as shopping centers and office parks, shall identify only the development, individual tenants or establishments.
 - (p) **NON-DWELLING USE SIGN.** A sign located on a parcel that does not have a dwelling as its principal structure and is located in the R-1 or R-2 District. Examples of the uses that may be associated with non-dwellings in these districts include, but are not limited to, subdivisions, schools, religious institutions, public buildings, cemeteries and agricultural retail facilities.
 - (q) **POLITICAL SIGNS/POSTERS.** Signs intended for use in promoting either a candidate for public office or proposal or similar issue that will be placed before the public to vote.
 - (r) **PORTABLE SIGNS.** Those signs that are designed to be transported. Illustrations of signs designed to be transported include, but are not limited to, signs on a trailer or trailer frame and designed to be transported by means of wheels; signs converted to "A" or "T" frames that sit on the ground or lean against a permanent structure; menus and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in

normal day-to-day operation of the business. **PORTABLE SIGNS** may be a printed banner, changeable copy or portable LED messaging units. If a sign more accurately fits the definition of a "temporary sign", it shall not be considered **PORTABLE** for the purposes of this subchapter.

- (s) **REAL ESTATE SIGNS.** Signs intended for temporary use in promoting the sale of real estate, with or without structures, shall conform to § 154.093(I)
- (t) **ROOF LINE.** Either the high point of the roof or the top of the parapet, whichever forms the top line of the building silhouette and where a building has several roof levels; this roof or parapet shall be the one belonging to that portion of the building on whose wall the sign is located.
- (u) **ROOF SIGNS.** Signs placed on the roofs of buildings, supported by the roof and within the lines of exterior walls. If a wall extends above a roofline and supports a sign, it shall be considered a "wall sign" and not a **ROOF SIGN** in this chapter.
- (v) **SETBACK.** A distance measured from the outer boundary of a parcel in which erection of a sign is not permitted. A **FRONT SETBACK** is measured from the edge of the right-of-way of any abutting roadway. A **REAR SETBACK** is measured from the property line opposite the roadway. A **SIDE SETBACK** is measured from any other abutting property line. Corner lots shall require two front setbacks, but only one rear **SETBACK**.
- (w) **SIGN.** A name identification, description, display or illustration that is affixed to or represented directly or indirectly upon a building, structure or piece of land and that is intended to direct attention to an object, product, place, activity, person, institution, organization or business. This includes changeable copy and LED (light-emitting diode) portable signs. For this chapter, a national flag or official court or public office notice is not considered a **SIGN**. A sign located inside of a window shall not be regulated under this chapter.
- (x) **SIGN COVER.** Signs are defined as **SIGN COVER** only when they are located on permitted signs and cover up the content of the permitted sign. This includes a display sign, banner or other advertising device, with or without a structural frame, constructed of nondurable materials and intended for a limited period of use.
- (y) **STREET BANNERS.** Fabric signs, suspended across public streets advertising a public entertainment or event. The location and contents of each street banner must be specially approved by the city.
- (z) **SUBDIVISION SIGN.** A sign intended as identification for a residential subdivision.
- (aa) **TEMPORARY SIGN.**
 - 1. A display sign, banner or other advertising device, with or without a structural frame, intended for a limited period of use.
 - 2. Signs are defined as **TEMPORARY** when they are attached to a permanent structure, including but not limited to a building, light pole, trees, bushes or fences.

3. If a sign more accurately fits the definition of a "portable sign", it shall not be considered **TEMPORARY** for the purposes of this chapter.

(bb) **WALL SIGNS.**

1. Signs permanently attached to the exterior wall of a building and projecting out from such walls no more than 14 inches.
2. The area of the **WALL SIGN** includes that area within a continuous line enclosing all letters and graphic symbols of the sign.

(cc) **WINDOW SIGNS.** Signs hung outside of a window and within the framework of any window of a business or residence.

SINGLE OWNERSHIP. Ownership by one person or by two or more persons whether jointly, as tenants by the entirety, or as tenants in common, of a separate parcel of real property not adjacent to land in the same ownership.

SITE. Any plot or parcel of land or combination of contiguous lots or parcels of land.

SITE CONDOMINIUM. See **PLANNED UNIT DEVELOPMENT**.

SITE PLAN. The development plan for one or more lots, on which is shown the existing and proposed conditions of the lot.

SITE PLAN REVIEW AND APPROVAL. The submission of plans for review and approval, as required by this chapter and special use permits.

SLOPE. The degree of deviation of a surface from the horizontal, usually expressed as percent or degrees.

SOIL. All unconsolidated mineral and organic material, of whatever origin, that overlies bedrock and can be readily excavated.

SOIL RESOURCE EXTRACTION. All or any part of the process involved in the mining of minerals by removing excess materials and mining directly from the mineral deposits, open pit mining or minerals naturally exposed, mining by auger method, dredging and quarrying, underground mining and surface work incidental to an underground mine.

SPECIAL LAND USE. A use, permitted within certain zoning districts, of such a nature that the public has reserved the right to approve its exact location, subject to conditions stated in this chapter and to any special conditions imposed by the Planning Commission to protect the use by right of other properties in the city.

SPECIFIED ANATOMICAL AREA.

- (1) Less than completely opaquely covered human genitals, pubic region, buttock, female breast below a point immediately above the top of the areola.
- (2) Human genitals in a discernable turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITY. Human genitals in a state of sexual stimulation or arousal or acts of human masturbation, sexual intercourse, sodomy or fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

SPOT ZONING. Rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding uses, and not for the purpose or effect of furthering the objectives of the City Comprehensive Plan.

SQUARE FOOTAGE. The length times width of a building, structure or use.

STADIUM. A large open or enclosed place used for games and major events, partly or completely surrounded by tiers of seats for spectators.

STALL, PARKING. The parking space in which vehicles park.

STATE LICENSED RESIDENTIAL FACILITY. A private home licensed by the State Department of Social Services for care of sick, elderly or handicapped adults. A **FAMILY HOME** is defined as having one to six adults; a **GROUP HOME** has seven to 20.

STORAGE, BULK. The holding or stockpiling on land of material and/or products where such storage constitutes 40% of the developed site area and the storage area is at least one acre, and where at least three of the following criteria are met by the storage activity:

- (1) In a bulk form or in bulk containers;
- (2) Under protective cover to the essential exclusion of other uses of the same space due to special fixtures or exposure to the elements;
- (3) In sufficient number, quantities or spatial allocation of the site to determine and rank such uses as the principal use of the site;
- (4) The major function is the collection and/or distribution of the material and/or products rather than processing; and
- (5) The presence of fixed bulk containers or visible stockpiles for a substantial period of a year.

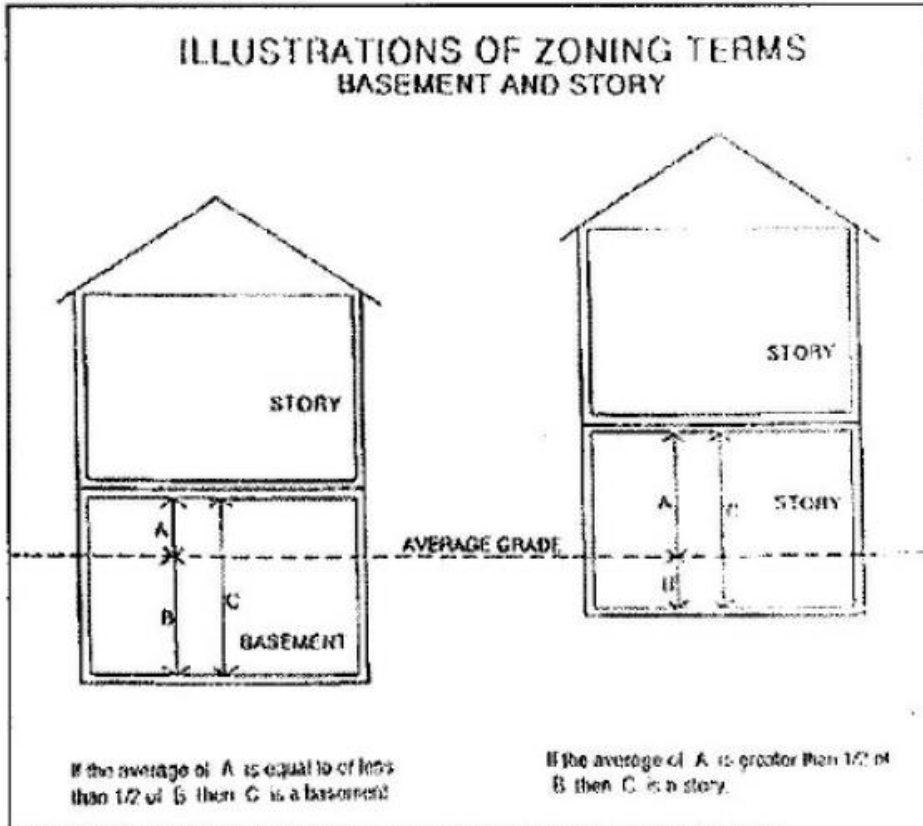
STORAGE, INDOOR. See **WAREHOUSE**.

STORAGE, OUTDOOR. See **OUTDOOR USE**.

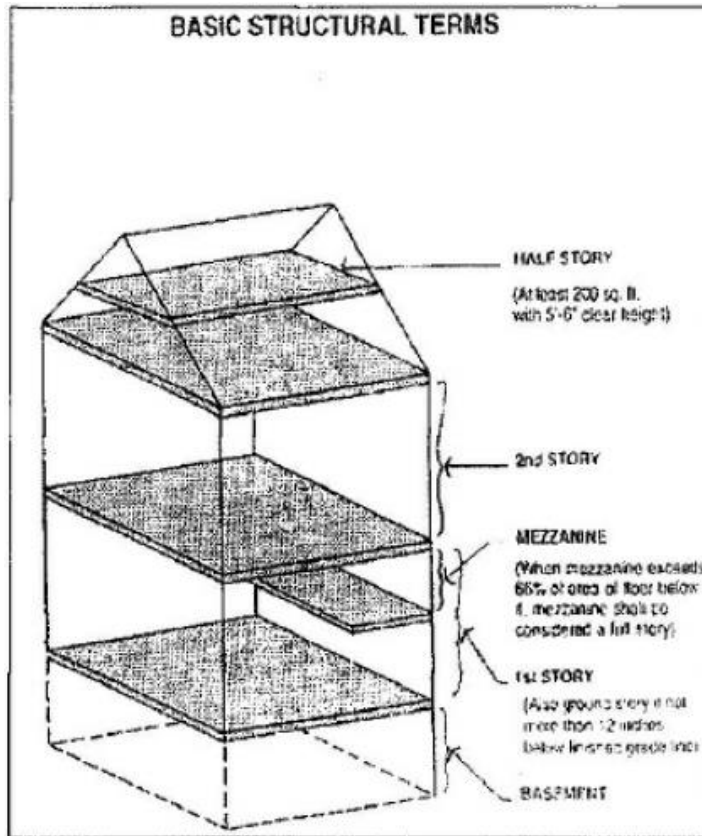
STORM SEWER. A conduit that collects and transports runoff of storm water.

STORM WATER DETENTION. Any storm drainage technique that retards or detains runoff, such as a detention or retention basin, parking lot storage, rooftop storage, porous pavement, dry wells or any combination thereof.

STORY. The portion of a building included between the surface of any floor above the average elevation or ground at the foundation wall and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.



STORY, HALF. An uppermost story lying under a sloping roof having an area of at least 200 square feet with a clear height of seven feet six inches. For the purposes of this chapter, the **USABLE FLOOR AREA** is only that area having at least four feet clear height between floor and ceiling.



STREET. A public right-of-way that has been dedicated to the public and accepted for the purpose of providing access to abutting private lots or land, including space for curb, gutter, paving and sidewalks.

STREET, COLLECTOR. A street that collects traffic from local streets and connects with minor and major arterials.

STREET, CUL-DE-SAC. A street with a single, common ingress and egress, and with a turnaround at the end.

STREET, GRADE. The top of the curb or the top of the edge of the pavement or traveled way where no curb exists.

STREET, LOCAL. A street designed to provide vehicular access to abutting property and to discourage through traffic.

STREET, MAJOR ARTERIAL. A street or highway so designated on the major road plan of the City Comprehensive Plan that is designed and intended to carry heavy traffic volumes.

STREET, MINOR ARTERIAL. A dedicated public way or recorded private street that affords access to abutting properties and is designed primarily to serve immediate neighborhood needs.

STREET, PRIVATE. A street that is not public as defined by this chapter.

STREET, PUBLIC. Any public right-of-way, conforming to the city standards, that provides vehicular access to adjacent properties.

STRUCTURE. See ***BUILDING.***

STRUCTURE CHANGES OR ALTERATIONS. Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial change in the roof.

STUDIO FOR VISUAL AND GRAPHIC ARTS. Work space for artists or artisans, including individuals practicing one of the fine arts or skilled in an applied art or craft including painting, music, film, sculpture, etc.

SUBDIVISION. The division of single lot or parcel of land, or part thereof, into two or more lots, tracts or parcels of land for the purpose, whether immediate or future, of transfer of ownership for residential, commercial or industrial purposes; or the division of a single lot, tract or parcel of land, or a part thereof, into two or more lots, tracts or parcels by means of buildings, building groups, streets, alleys, parking areas or leaseholds, for the purpose, whether immediate or future, of building development for residential, commercial or industrial purposes; provided, however, that divisions of land for agricultural purposes only, not involving any new street or easement of access, shall not be included.

SUBSTANCE ABUSE REHABILITATIONS CENTER. See ***INSTITUTION, REHABILITATION.***

SUPPLY YARD. A fenced yard for the open or enclosed storage of supplies, equipment or merchandise.

SWALE. A depression in the ground that channels runoff.

SYSTEM BUILT HOME. See ***MANUFACTURED HOME.***

TAVERN. See ***BAR.***

TENANT. An occupant of land or premises who occupies, uses or enjoys real property for a fixed time, usually through a lease arrangement with the property owner and with the owner's consent.

THEATER. A building, or part of a building, devoted to showing motion pictures, or dramatic, musical or live performances.

TRAILER. Any vehicle designed to be drawn by an automotive/motorized vehicle.

TRUCK AND RAILROAD TERMINALS.

(1) A place where transfer between modes of transportation takes place.

(2) A terminating point where goods are transferred from a truck to a storage area or to other trucks, or picked up by other forms of transportation.

TRUCK TRACTOR. The driving and control component of a trailer rig. A ***TRUCK TRACTOR*** is a self-propelled vehicle to which a trailer is attached.

UNIFIED CONTROL. The combination of two or more tracts of land, wherein each owner has agreed that his or her tract of land shall be developed as part of a planned development and shall be subject to the control applicable to the planned development.

USE, BY RIGHT. Any use that is listed as a use by right in any given zoning district in this chapter. **USES BY RIGHT** are not required to show need for their location.

USE, CHANGE OF. Any use which substantially differs from the previous use of a building or land, or which imposes other special provisions of law governing building construction, equipment, egress or ingress.

USE, LAWFUL. The legal use of any structure or land that conforms with all of the regulations of this code or any amendment that exists at the time of the enactment of this code or any amendment thereto. All other uses are considered "nonconforming uses" that may be deemed legal or illegal.

USE, TEMPORARY. A use in a temporary building or structure on a parcel, established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period granted in the administrative permit.

USED CAR LOT. See **VEHICLE SALES**.

VARIANCE. A modification of the required provisions of the physical development or land use standards of the zoning code granted when strict enforcement of the zoning code would cause undue hardship owing to circumstances unique to the individual property on which the **VARIANCE** is granted.

VEHICLE, MOTOR. A self-propelled device used for transportation of people or goods over land surfaces, and licensed as a motor vehicle.

VEHICLE REPAIR. General repair, rebuilding or reconditioning of engines, motor vehicles or trailers; collision service, including body frame or fender straightening or repair; overall painting or paint shop; vehicle steam cleaning and oil change.

VEHICLE SALES. A lot or portion thereof to be used only for the display and sale of automobiles that are in condition to be driven off the lot. A **USED CAR LOT** shall not be used for the storage of wrecked automobiles, the dismantling of automobiles or the storage of automobile parts.

VETERINARY HOSPITAL. See **KENNEL**.

WALL, OBSCURING. A structure of definite height and location to serve as an obscuring screen in carrying out the requirements of this chapter.

WAREHOUSE. A building primarily used for the storage of goods and materials.

WATER SUPPLY SYSTEM. The system for the collection, treatment, storage and distribution of potable water from the source of supply to the consumer.

WETLANDS. Areas delineated by the Department of Environmental Quality as wetlands.

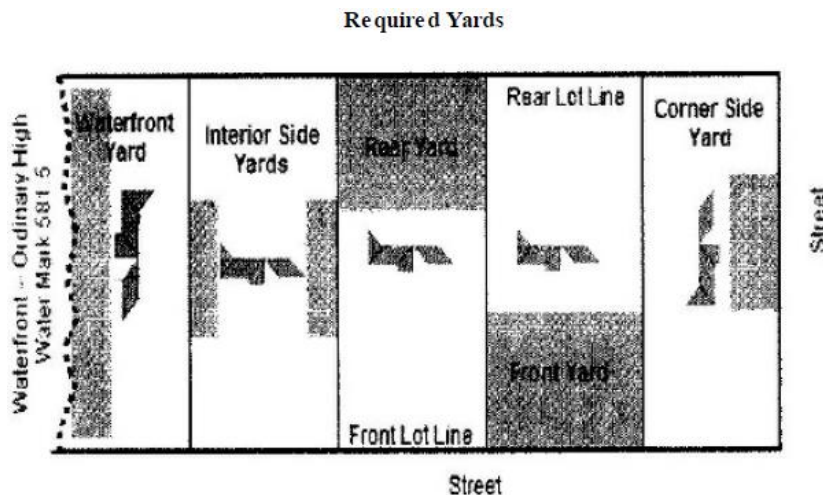
WHOLESALE SALES. Establishments or places of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

WIRELESS COMMUNICATION FACILITY. Any device, including cellular towers, used for transmitting and receiving radio waves, microwaves and other similar frequencies.

YARD SALE. Any sale of materials within a residential or business area for the purpose of selling, swapping or giving away residential or personal belongings to the general public. This includes the common definitions of terms such as rummage sale, garage sale, estate sale, block or city rummage sale and similar terms. A **YARD SALE** is not determined by the visibility of materials in front yards or within structures.

YARDS. Includes the following:

- (1) **FRONT YARD.** The open space, on a corner lot or otherwise, extending the full width of the lot between the main building and front lot line.
- (2) **REAR YARD.** The open space extending the full width of the lot between the main building and rear lot line.
- (3) **SIDE YARD.** The open space extending from the front yard to the rear yard between the main building and the side lot line.
- (4) **YARD, LEAST DEPTH OR WIDTH.** The shortest horizontal distance from each of the lot lines to the building thereon.



ZERO LOT LINE. The location of a building in such a manner that one or more of the building's sides is directly on a lot line.

ZONE. A specifically delineated area or district in a municipality, within which regulations and requirements uniformly govern the use, placement, spacing and size of lots and buildings.

ZONING. The dividing of a municipality into districts and the establishment of regulations governing the use, placement, spacing and size of land and buildings.

(Ord. passed 7-16-18)

§ 154.006 USE REGULATIONS.

(A) Dumping of soil, sand, clay materials.

The extensive dumping of soil, sand, clay or similar materials not resulting in landscaping shall not be allowed on any lot or parcel and concurring with the currently adopted International Property Maintenance Code.

(B) Excavation and holes.

- (1) The construction, maintenance or existence of unprotected or un-barricaded holes, pits, wells, building pads or similar excavations that are in conflict with MIOSHA regulations that cause, and are likely to cause a danger to life, health and safety to the general public shall be prohibited. This section shall not, however, prevent any excavation that is required for constructing, remodeling or expanding structures, or for industrial or farming operations, including the mining of sand and gravel, provided appropriate precautionary measures, such as the placement of warning signs, fences and the like, have been approved by the Zoning Administrator and placed on the premises. Nothing in this section shall apply to bodies of water, ditches, streams or other major natural resources created or existing by the authority of the state, the county, the city or other units of government.
- (2) Excavation resulting from the extraction of sand, gravel or other minerals for commercial purposes shall be required, upon termination of such activities for a period of one year or more, to be refilled by the person, firm or corporation engaging in such excavation. The excavated site shall be graded and returned, as far as possible, to its natural state, including planting of vegetation indigenous to the area, within 90 days after the one year anniversary of termination of excavation or extraction activities. If the site is immediately vacated after termination of activities, the site shall be graded and returned to its natural state within 90 days after activities are terminated. In all other instances in which excavation of holes for construction or remodeling has occurred, the filling and grading of such holes shall occur as soon as practical.

(C) Storage, dumping of waste, junk and the like.

- (1) In all residential districts, the use of land or water resources for the dumping or disposal of scrap iron, metal, rubber, plastic refuse, junk, slag, ash, wood chips or timber infected or quarantined shall not be permitted.
- (2) In business and industrial districts, the use of land or water resources for the dumping or disposal of scrap iron, metal, rubber, plastic refuse, junk, slag, ash, wood chips or timber infected or quarantined shall not be permitted, unless the following process is followed:
 - (a) Request for special permit sent to Planning Commission;
 - (b) Public hearing in accordance with Part 115 of the Michigan Natural Resources and Environment Protection Act, as amended;

- (c) Approval of the Planning Commission; and
 - (d) Temporary permit issued by the Zoning Administrator.
- (3) Such permit shall not exceed one year from the date of issuance and may be renewed on an annual basis only after approval is granted by the Planning Commission.
- (4) Bond/agreement: an appropriate bond and agreement shall be required of the applicant to ensure compliance with the directives set forth by the Planning Commission. Such dumping or disposal shall not negatively affect the water table, or cause pollution of stagnant or running water in any area of the city or attract rodents, vectors or other nuisances so as to create health or safety problems to the natural environment and the inhabitants of the city. Nor shall the natural terrain be altered in any fashion to create safety or health hazards at the expiration date of the permit. The character of the land shall not be substantially altered so as to make it unusable for the uses for which it was originally zoned.

(D) *Temporary use permit.*

- (1) The Zoning Administrator may issue temporary use permits for the following uses after determining that these uses will not be detrimental to adjacent conforming uses during the permitted period of use. A second temporary use permit may be issued by the Zoning Administrator at the end of a time limit if the applicant shows good cause.
- (2) The Zoning Administrator may attach the conditions and requirements deemed necessary to meet the intent of the provisions of this section.
- (3) A third temporary use permit may only be authorized by the Zoning Board of Appeals.
- (a) *Mobile homes.* An individual mobile home or other temporary structure may be used as temporary living or working quarters for up to 90 days while a dwelling or structure is being constructed or reconstructed on the same premises.
 - (b) *Signs and supplies.* The storage of building supplies and machinery; temporary storage buildings; the assembly of materials associated with a customary trade; and contractor, architect and identification signs in connection with a construction project may be authorized by the Building Department for a period of up to 12 months.

(E) *Zoning affects every structure and use of property.*

Except as specified, no building, structure, land or premises shall be used or occupied, and no building or part of a building or other structure shall be erected, raised, moved, placed, reconstructed, extended, enlarged or altered, unless it conforms with the regulations of the district in which it is located.

(F) *Fences.*

- (1) *Definitions.* For the purpose of this division (F), the following fence-related definitions shall apply unless the context clearly indicates or requires a different meaning.

BUILDING LINE. A line formed by the face of the building and, for the purposes of this chapter, a minimum building line is the same as a front setback line.

FENCE. A permanent or temporary partition or structure (including gate) created as a property line dividing marker, barrier or enclosure. Landscape berms, plantings, hedges and similar effects shall be considered a **FENCE** for issues related to clear vision areas. Minimum heights may apply if berms, plantings, hedges and similar effects are required for buffers.

GRADE. The average elevation/level of lot lines of the property in question. **STREET GRADE** is the top of the curb or the top of the edge of the pavement or traveled way where no curb exists.

LOT LINES. Any line bounding a lot, including the following:

(1) **FRONT LOT LINE.** The line separating the lot from the right-of-way of the street; in the case of a corner line, the address of record is the **FRONT LOT LINE**.

(2) **REAR LOT LINE.** The line opposite to and most distant from the front line; in irregularly shaped lots, it shall be the straight line entirely within the lot, ten feet long, parallel to and most distant from the front lot line.

(3) **SIDE LOT LINE.** Any line other than front or rear lot lines.

POOL PRIVATE. Any artificially constructed basin or other structure for holding water for use in swimming, diving and other aquatic sports and recreation. The term **SWIMMING POOL** does not include any plastic, canvas or rubber pool temporarily erected upon the ground holding less than 500 gallons of water and not over 24 inches deep.

PRIVATE. Not publicly owned or otherwise regulated by the state either by statute or by rules and regulations of one of its administrative bodies.

(1) Permits.

(a) *Permits required.* No fence shall be erected or altered without first obtaining a permit from the city. Permits shall be valid for 12 months from the time they are issued.

(b) *Application.* Written application for such permits shall be made upon forms provided for by the City Clerk, which shall contain:

1. Name, address and telephone number of the property owner;
2. Address of the property proposed to be fenced;
3. Names and addresses of adjacent property owners; and
4. Type of fence to be erected, including the kind and size of posts, proposed length and height, and types of material to be used.

(c) *Determination of property lot lines.* It shall be the obligation and sole responsibility of persons obtaining fence permits under this section and erecting fences to determine property or lot lines. The issuance of a fence permit shall in no way be construed as a determination of the correct, valid or legal location for the fence or prejudice in any way the rights of adjacent or abutting property owners.

- (d) *Application.* Fence regulations do not apply to public playgrounds, play field, parks, school grounds or recreation areas.
- (2) *Fees.* A fee established by the City Commission shall be paid with each application for a permit filed.
- (3) *Restrictions on fence construction.* This division (F) shall apply to all classes of property.
- (a) Any fence erected in an area from the front lot line and ten feet toward the rear lot line shall not have a height greater than 36 inches. From the ten-foot point to the front building line, the height shall be restricted to five feet. Shrub plantings as fences shall be maintained at or below these height restrictions so as to not encroach on the adjacent property or right-of-way. Shrub plantings may require trimming to comply with visual requirements in divisions (F)(3)(c) or (d) below.
- (b) Any fence erected for the side yard or the rear yard shall not have a height exceeding six feet and shall not be erected closer to the front lot line than the front building line of the structure. Shrub plantings shall be maintained at or below these height restrictions. Trees and shrub plantings as fences shall be maintained so as not to encroach on the adjacent lot or right-of-way.
- (c) To protect clear vision at intersections, fences, walls, berm, shrubs, hedges and other obstructions to vision (excluding trees) within the triangular area formed by the intersection of any street right-of-way lines at a distance along each line of 30 feet from their point of intersection shall not exceed 36 inches in height. Trees planted in the same area that become obstructions to vision shall have their branches trimmed to eight feet above street grade.
- (d) To protect clear vision at intersections, fences, walls, shrubs, berms hedges or other obstructions to vision (excluding trees) within the triangular area formed by the intersection of any driveway and any existing or proposed sidewalk, alley, street or public right-of-way at a distance along each line of 15 feet from their point of intersection shall not exceed 36 inches in height. Trees planted in the same area that become obstructions to vision shall have their branches trimmed to eight feet above street grade.
- (e) Fences in proximity to fire hydrants: any fence that comes within 36 inches of a fire hydrant shall conform to requirements of the International Fire Code to assure unfettered access in case of emergency. Disagreements over requirements shall be resolved by the Auburn Williams Township Fire Department.
- (f) No spike, nail, pointed device or pointed extension of a fence component shall be placed atop or extended from a fence. It shall not contain barbed wire, electric current or charges of electricity.
- (g) No fence shall be located nearer than one foot to the property line, except by written mutual agreement of the adjoining property owners, which agreement shall be filed with the City Clerk at the time of application for a permit.
- (h) Gates in fences shall not open over public property.

- (i) All fences shall be located entirely on the property of the person, firm or corporation erecting the fence.
- (j) Fences over four feet in height must have posts at least three feet into the ground.
- (k) Fences must be built with chain link fence, standard fence wood, or metal such as wrought iron. Fences may not be built with scrap lumber, chicken wire, wire mesh, wood pallets or other unapproved materials.
- (l) For vacant property, a fence across the lot or parcel shall not be erected closer to the street than the established front building lot line along said street.
- (m) Fence posts, with the exception of posts for chain-link fence, lateral supports and framework not a specific part of decoration, shall be inside the fence, facing inward toward the property enclosed by the fence.
- (n) A snow fence shall be allowed between November 1 and April 1 without permit. Such fences shall be subject to ordinance requirements relative to clear vision, other safety issues and proximity to lot lines. Any fence in violation of those requirements shall be brought into compliance immediately upon the request of the city.
- (o) Pool fencing:
 - 1. All private pools shall be enclosed by a fence that shall be at least four feet in height above grade and of a type not readily climbable by children. A dwelling or accessory building may be used as part of such an enclosure. A pool with sides at least four feet in height above grade may be exempt from complete enclosure by a fence as specified in this section if the ladders, steps or similar means of access to such pool or attached deck area is enclosed within a fence with one or more gates constructed as specified in this section. A pool with sides at least four feet in height above grade may be exempt from complete enclosure by a fence as specified in this section if the ladders, steps or similar means of access to such pool can be raised, removed or secured so as to prevent access;
 - 2. Each gate in such fence and all doorways giving direct access to the enclosure shall be secured when the pool is not in use. Likewise, ladders or steps giving access to above-ground pools shall be removed or raised to prevent access when the pool is not in use;
 - 3. Inspection and compliance: the city or its designated agents shall have the right, at any reasonable hour, to inspect any fence surrounding any pool for the purpose of determining compliance with this code; and
 - 4. Pools, installed or erected before the date of this division (F) (Ord. 187, passed - -2007) shall be made to comply with this division (F) within 90 days after this division (F)'s adoption.

(4) Maintenance.

- (a) *Generally.* All fences shall be maintained in a sound and safe condition. Any fence that through lack of repair, type of construction, location, deterioration or other reason, imperils life or property shall subject the property owner to the penalty provisions of § 154.199.

- (b) *Nonconforming fences.* The lawful use of a fence existing at the effective date of this ordinance may be continued although such use does not conform with the provisions of this chapter or the ordinance it replaces. A nonconforming use in this chapter may be changed, repaired or altered provided that it is not to an extent greater than 50% of the total lineal footage, with the exception that any repairs, changes or alterations made to fences in the required clear vision area shall comply with this chapter.

(5) Parallel fences.

- (a) Fences parallel to one another shall be prohibited unless special provision is made to specifically provide for proper maintenance of both fences; this shall include provision for adequate distances between the fences and construction design details.
- (b) Fencing panels and posts shall not be structurally attached to an existing fence where a safety concern can be identified by the city's Building Inspector.

- (6) *Appeals.* Any person directly or indirectly affected by the strict application of the provisions of this chapter may appeal by filing the request in writing to the Zoning Board of Appeals. The Zoning Board of Appeals will consider the appeal in accordance with established procedures.

- (7) *Non-applicability.* This chapter shall not apply to construction fences as authorized and required in the Building Code.

(G) Noise.

Any use established in any commercial or industrial zoning district or any commercial or industrial use operated in any zoning district shall not be permitted to carry on any activity or operation or use of land, building, equipment that produces noise that exceeds the following;

- (1) The emission of measurable noises from the premises shall not exceed sixty-five (65) decibels as measured at the boundary property lines, except that where normal street traffic noises exceed sixty-five (65) decibels during such periods, the measurable noise emanating from premises may equal, but not exceed such traffic noises. Sound levels in no case shall exceed seventy (70) decibels.
- (2) In addition, objectionable sounds of an intermittent nature, or characterized by high frequencies even if falling below the aforementioned decibel reading shall be controlled so as not to become a nuisance to adjacent uses.

(Ord. passed 7-16-18; Ord. 187, passed - -2007)

§ 154.007 GENERAL DEVELOPMENT REGULATIONS.

(A) Clear vision area.

No fence, wall, shrubbery, sign or other obstruction to vision above the height of three feet from the established street grades shall be permitted within the triangular area formed at the intersection of any face of curb lines by a straight line drawn between said face of curb lines at a distance along each line of 30 feet from their point of intersection.

(B) *Mixed occupancy.*

- (1) Before issuing a building permit for construction on any premises that is:
 - (a) Intended for a combination of dwelling and business or dwelling and industrial occupancy;
 - (b) That would result in an increased number of dwelling units within a building partly occupied by business or industrial use; or
 - (c) That would result in an increased area devoted to business or industrial use, within a building partly occupied as a dwelling, the Zoning Administrator shall refer the plans to the Fire Chief and Health Department for their review of any existing or anticipated fire or health hazards.
- (2) Recommendations as to additional provisions or changes in the interest of safety or health shall be complied with before issuance of a permit.

(C) *Public nuisance, per se.*

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

(D) *Sidewalks.*

Upon adoption of this chapter and subsequent to the city's initiative to establish city-wide sidewalks in 2004-2005, sidewalks are required in accordance with the City Sidewalk Ordinance (contained in Chapter 95 of the city's code of ordinances).

(E) *Fences.*

- (1) *Definitions.* For the purpose of this subchapter, certain fence-related terms are defined as follows.

BUILDING LINE. A line formed by the face of the building and, for the purposes of this chapter, a minimum building line is the same as a front setback line.

FENCE. A permanent or temporary partition or structure (including gate) created as a property line dividing marker, barrier or enclosure. Landscape berms, plantings, hedges and similar effects shall be considered a FENCE for issues related to clear vision areas. Minimum heights may apply if berms, plantings, hedges and similar effects are required for buffers.

GRADE. The average elevation/level of lot lines of the property in question. ***STREET GRADE*** is the top of the curb or the top of the edge of the pavement or traveled way where no curb exists.

LOT LINES. Any line bounding a lot, including the following:

- (1) ***FRONT LOT LINE.*** The line separating the lot from the right-of-way of the street; in the case of a corner line, the address of record is the front lot line.

(2) **REAR LOT LINE.** The line opposite to and most distant from the front line; in irregularly shaped lots, it shall be the straight line entirely within the lot, ten feet long, parallel to and most distant from the front lot line.

(3) **SIDE LOT LINE.** Any line other than front or rear lot lines.

POOL PRIVATE. Any artificially constructed basin or other structure for holding water for use in swimming, diving and other aquatic sports and recreation. The term **SWIMMING POOL** does not include any plastic, canvas or rubber pool temporarily erected upon the ground holding less than 500 gallons of water and not over 24 inches deep.

PRIVATE. Not publicly owned or otherwise regulated by the state either by statute or by rules and regulations of one of its administrative bodies.

(1) Permits.

(a) *Permits required.* No fence shall be erected or altered without first obtaining a permit from the city. Permits shall be valid for 12 months from the time they are issued.

(b) *Application.* Written application for such permits shall be made upon forms provided for by the City Clerk, which shall contain:

1. Name, address and telephone number of the property owner;
2. Address of the property proposed to be fenced;
3. Names and addresses of adjacent property owners; and
4. Type of fence to be erected, including the kind and size of posts, proposed length and height, and types of material to be used.

(c) *Determination of property lot lines.* It shall be the obligation and sole responsibility of persons obtaining fence permits under this section and erecting fences to determine property or lot lines. The issuance of a fence permit shall in no way be construed as a determination of the correct, valid or legal location for the fence or prejudice in any way the rights of adjacent or abutting property owners.

(d) *Application.* Fence regulations do not apply to public playgrounds, play field, parks, school grounds or recreation areas.

(2) *Fees.* A fee established by the City Commission shall be paid with each application for a permit filed.

(3) *Restrictions on fence construction.* This section shall apply to all classes of property.

(a) Any fence erected in an area from the front lot line and ten feet toward the rear lot line shall not have a height greater than 36 inches. From the ten-foot point to the front building line, the height shall be restricted to five feet. Shrub plantings as fences shall be maintained at or below these height restrictions so as to not encroach on the adjacent property or right-of-way.

Shrub plantings may require trimming to comply with visual requirements in divisions (E)(3)(c) or (d) below.

- (b) Any fence erected for the side yard or the rear yard shall not have a height exceeding six feet and shall not be erected closer to the front lot line than the front building line of the structure. Shrub plantings shall be maintained at or below these height restrictions. Trees and shrub plantings as fences shall be maintained so as not to encroach on the adjacent lot or right-of-way.
- (c) To protect clear vision at intersections, fences, walls, berms, shrubs, hedges and other obstructions to vision (excluding trees) within the triangular area formed by the intersection of any face of curb lines at a distance along each line of 30 feet from their point of intersection shall not exceed 36 inches in height. Trees planted in the same area that become obstructions to vision shall have their branches trimmed to eight feet above street grade.
- (d) To protect clear vision at intersections, fences, walls, shrubs, berms, hedges or other obstructions to vision (excluding trees) within the triangular area formed by the intersection of any driveway and any existing or proposed sidewalk, alley, street or face of curb line at a distance along each line of 15 feet from their point of intersection shall not exceed 36 inches in height. Trees planted in the same area that become obstructions to vision shall have their branches trimmed to eight feet above street grade.
- (e) Any fence that comes within 36 inches of a fire hydrant shall conform to requirements of the International Fire Code to assure unfettered access in case of emergency. Disagreements over requirements shall be resolved by the Auburn Williams Township Fire Department.
- (f) No spike, nail, pointed device or pointed extension of a fence component shall be placed atop or extended from a fence. It shall not contain barbed wire, electric current or charges of electricity.
- (g) No fence shall be located nearer than one foot to the property line, except by written mutual agreement of the adjoining property owners, which agreement shall be filed with the City Clerk at the time of application for a permit.
- (h) Gates in fences shall not open over public property.
- (i) All fences shall be located entirely on the property of the person, firm or corporation erecting the fence.
- (j) Fences over four feet in height must have posts at least three feet into the ground.
- (k) *Materials.* Fences must be built with chain link fence, standard fence wood, prefabricated vinyl fence, masonry materials or metal such as wrought iron. Fences may not be built with scrap lumber, chicken wire, wire mesh, wood pallets or other unapproved materials.
- (l) Masonry walls higher than 24 inches will require engineering drawings for construction that assure the safety of such walls before a permit will be issued.

- (m) Fence posts, with the exception of posts for chain-link fence, lateral supports and framework not a specific part of decoration, shall be inside the fence, facing inward toward the property enclosed by the fence.
- (n) A snow fence shall be allowed between November 1 and April 1 without permit. Such fences shall be subject to ordinance requirements relative to clear vision, other safety issues and proximity to lot lines. Any fence in violation of those requirements shall be brought into compliance immediately upon the request of the city.
- (o) Pool fencing:
 - 1. *Required.* All private pools shall be enclosed by a fence that shall be at least four feet in height above grade and of a type not readily climbable by children. A dwelling or accessory building may be used as part of such an enclosure. A pool with sides at least four feet in height above grade may be exempt from complete enclosure by a fence as specified in this section if the ladders, steps or similar means of access to such pool or attached deck area is enclosed within a fence with one or more gates constructed as specified in this section. A pool with sides at least four feet in height above grade may be exempt from complete enclosure by a fence as specified in this section if the ladders, steps or similar means of access to such pool can be raised, removed or secured so as to prevent access;
 - 2. *Access.* Each gate in such fence and all doorways giving direct access to the enclosure shall be secured when the pool is not in use. Likewise, ladders or steps giving access to above-ground pools shall be removed or raised to prevent access when the pool is not in use; and
 - 3. *Inspection and compliance.* The city or its designated agents shall have the right, at any reasonable hour, to inspect any fence surrounding any pool for the purpose of determining compliance with this code. Pools, installed or erected before the date of Ord. 187, passed - -2007 shall be made to comply with this section within 90 days after the Ordinance 187's adoption.

(4) Maintenance.

- (a) *Generally.* All fences shall be maintained in a sound and safe condition. Any fence that through lack of repair, type of construction, location, deterioration or other reason, imperils life or property shall subject the property owner to the penalty provisions of § 154.199.
- (b) Nonconforming fences.
 - 1. The lawful use of a fence existing at the effective date of this chapter may be continued although such use does not conform with the provisions of this chapter or the ordinance it replaces.
 - 2. A nonconforming use in this chapter may be changed, repaired or altered provided that it is not to an extent greater than 50% of the total lineal footage, with the exception that any repairs, changes or alterations made to fences in the required clear vision area shall comply with this chapter.

3. Fences parallel to one another shall be prohibited unless special provision is made to specifically provide for proper maintenance of both fences; this shall include provision for adequate distances between the fences and construction design details. Fencing panels and posts shall not be structurally attached to an existing fence where a safety concern can be identified by the city's Building Inspector.
- (5) *Appeals.* Any person directly or indirectly affected by the strict application of the provisions of this chapter may appeal by filing the request in writing to the Zoning Board of Appeals. The Zoning Board of Appeals will consider the appeal in accordance with established procedures.
- (6) *Non-applicability.* This chapter shall not apply to construction fences as authorized and required in the Building Code.

(F) *Exterior lighting.*

- (1) All outdoor lighting in all districts used to light the general areas shall be so arranged as to reduce glare and to reflect light away from all adjacent residential districts or adjacent residences. The maximum light intensity at the shared property line shall be 0.1 candle foot or less.
- (2) Lighting for outdoor purposes such as sidewalks, parking, loading areas and similar uses shall be directed toward and confined to the ground areas. In no case should a light interfere with the vision of persons on adjacent highways or adjacent property.
- (3) Lighting for the purpose of external illumination of buildings or signs shall be placed and shielded so as not to interfere with the vision of persons on adjacent highways or adjacent property.
- (4) Exterior lighting hardware shall be maintained in a manner so as not to constitute a hazard or nuisance. Regulatory standards may have to be met where mentioned elsewhere in city ordinances.
- (5) Lighting established or maintained by city, county, state or federal authorities shall be exempt from this chapter.

(Ord. passed 7-16-18; Ord. 192, passed 3-21-2011)

§ 154.008 STRUCTURE REGULATIONS.

(A) *Abandoned buildings and structures.*

Any building or structure not in continuous use as defined by permitted, special land use or nonconforming uses in any district for a period greater than six months shall be considered abandoned and come under the provisions of this chapter and other city codes for buildings and structures. In order to obtain a certificate of occupancy as a use in the future, once six months have passed, the building or structure shall have to meet all the current standards of all applicable city codes.

(B) *Accessory buildings or structures in R-1, R-2 and R-3.*

- (1) No accessory building or structure may be built upon any lot on which there is no principal building.

- (2) Accessory structures and buildings may not be inhabited for residential use.
- (3) No accessory building (except for school bus shelters) shall be placed in any required front or side yard nor closer than ten (10) feet to any other building.
- (4) *Size of accessory structures.* There may be a total of two detached accessory buildings on a residential lot. The combined total square footage of accessory buildings or structures on the lot, may not exceed two hundred forty (240) square feet.
- (5) Structures must meet all required yard, lot coverage, and other dimensional requirements for the zoning district in which it is located (see § 154.031).
- (6) Accessory structures on a residential lot may not exceed 12' in height, except that the height of the accessory building may be increased by one foot for each three feet the building exceeds the minimum required side and rear setback requirements.
- (7) If setback and lot coverage requirements cannot be met, the total square footage of the accessory structure must be reduced or a variance obtained from the Zoning Board of Appeals.
- (8) Attached Accessory Buildings. Unless otherwise specified by this ordinance, accessory uses or buildings that are attached to the principal building (such as an attached garage) shall be considered a part of the principal building.

(C) *Accessory buildings or accessory structures in Business, Mixed-Use, and Industrial Districts.*

- (1) No accessory building or structure may be built upon any lot on which there is no principal building.
- (2) No accessory building shall be placed in any required front yard nor closer than ten feet to any other building. An accessory building or structure located in a rear yard shall conform with required setbacks.
- (3) As long as accessory buildings meet all yard setback requirements, there are no maximum building size restrictions on an accessory building in the Industrial or Business Districts.
- (4) The total area of accessory buildings or uses shall not exceed the total area of the principal use in the Mixed-Use district.
- (5) Accessory buildings must be buffered from adjacent residentially zoned property, consistent with § 154.009(A).
- (6) Attached Accessory Buildings. Unless otherwise specified by this ordinance, accessory uses or buildings that are attached to the principal building shall be considered a part of the principal building.

(D) *Building and occupancy permits.*

- (1) *Building permits required.* Any construction related to any type of zoning administrative approval shall be commenced only after a building permit has been obtained.
- (2) *Prior building permits.* Any building permit issued prior to the effective date of this chapter shall be valid, even though not conforming to the provisions of this chapter, provided that construction

is commenced within 90 days, with continuous substantial progress, after the date the permit was issued and that the building is completed according to the plans filed with the permit application within one year of the date of issuance.

- (3) *Occupancy permit.* Upon completion of a structure and all required site improvements per approved site plan, and before moving into a building in any district, an occupancy permit is required

(E) *Storage and screening of garbage.*

In multiple-family residential, business and industrial districts, all garbage and rubbish must be stored in closed containers or in a dumpster. All containers and dumpsters must be screened from view so as not to be visible to pedestrian or vehicular traffic passing on a public thoroughfare. More specific screening may be required during a site plan review.

(F) *Connections to drainage system.*

Surface drains, ground water drains and foundation or footing drains shall be connected whenever possible to an enclosed storm sewer, but they shall not discharge to a sanitary sewer or private waste water treatment plant.

(G) *Dwelling unit standards.*

The following standards shall be applied to each dwelling unit constructed or placed in the city:

- (1) It complies with the minimum square footage requirements of the zone in which it is located;
- (2) It has a minimum width across any section of twenty (20') feet and complies in all respects with the City building code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or State standards or regulations for construction, and where the standards of construction are less stringent than those imposed by the City building code, then the more stringent City regulations shall apply.
- (3) It is firmly attached to a permanent foundation, constructed on the site in accordance with the City Building Code;
- (4) It does not have exposed wheels, towing mechanism, undercarriage or chassis; and
- (5) The dwelling is connected to a public sewer and water.
- (6) The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity, with 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; a roof pitch of not less than 4/12; has not less than two exterior doors with the second one being in the rear or side of the dwelling; and contains permanently attached steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same. The compatibility of design and appearance shall be determined in the first instance by the zoning administrator upon review of the plans submitted for a particular dwelling, subject to appeal by an aggrieved party to the zoning board of appeals.

(H) *Height and area zoning exceptions to uses and structures.*

The height and area requirements of all zones shall apply except for the following:

- (1) *Height.* Height exceptions include parapet walls not exceeding four feet in height; chimneys; cooling towers; elevator bulkhead; fire towers; gas tanks; grain elevators; stacks; stage towers or scenery lofts; television antennas; refineries; tanks; water towers; radio towers; ornamental towers; monuments; cupolas; domes and spires; and necessary mechanical appurtenances.
- (2) *Permitted yard encroachments.* Accessory structures, even though they may be attached to a principal building, may project into the required side or rear yards for the principal building to the following extent.
 - (a) Structural elements such as cornices, sills, chimneys, gutters and similar features may project a maximum of two and one-half feet from the principal structure.
 - (b) Fire escapes, outside stairways and balconies, if of open construction, may project a maximum of five feet from the principal structure.
 - (c) Signs must be in compliance with § 154.090 through § 154.098 (sign regulations).
 - (d) School bus shelters when do not interfere with a clear vision area.

(Ord. passed 7-16-18, Amend. 8-15-22)

§ 154.009 PARCEL REGULATIONS.

(A) *Buffering.*

- (1) The intent and purpose of the buffer zone is to protect residential uses from the negative impacts associated with nonresidential uses where residential and nonresidential uses abut. These negative impacts include noise, debris, odors, dust, dirt, traffic, soil erosion, rain water runoff and in some cases visible aspects of the abutting use. The buffer zone is also intended to prevent and improve blight in both residential and business areas by encouraging improvements to uses that abut residential districts.
 - (a) The objectives of this approach are:
 1. To give the Planning Commission and the proponent as much opportunity to achieve the regulations by any suitable means; and
 2. To encourage business owners to continue to invest in commercial improvements, including relocating on lots where a strict interpretation of the distance requirement cannot be met.
 - (b) Buffers are required on business or industrial property on the side that abuts residentially zoned property. Buffers are required even when the adjacent lot is unimproved. A buffer will be required when any parcel used for business or industrial purposes is expanded by way of an addition or demolition or a special land use approval is requested or a site plan review is requested. Buffers are not required on business lots that are already developed as such.

- (c) A buffer may consist of both a physical distance separation and a physical sight, sound and odor separation as described in this chapter by a fence, wall, berm or screen. In all cases, the buffer plan shall incorporate the equivalent of one canopy tree and one evergreen tree per 30 lineal feet or fraction of buffer area length.
- (d) The Planning Commission shall determine the character of the buffer based on the following criteria:
 - 1. Traffic impact;
 - 2. Increased building and parking lot coverage;
 - 3. Increased outdoor sales, display and manufacturing area;
 - 4. Physical characteristics of the site and surrounding area such as topography, vegetation and the like;
 - 5. Visual, noise and air pollution levels; and
 - 6. Health, safety and welfare of the city.

(2) Buffer options:

- (a) Buffer area width: a greenbelt alone may serve as a buffer. In lieu of trees, shrubs, berms, fences or walls, the table below shows the distances required between zones, in addition to the required yard on the side on which a residential district abuts a business or industrial district:

<i>District</i>	<i>Distance from R-1, R-2, R-3 Zones</i>
I	45 feet
B	30 feet

- (b) In this buffer zone, all areas outside of planting beds shall be covered with grass or other living ground cover; and
- (c) Continuous rolling screen six feet in height comprised of plant material, berming, screen walls or fences or any combination of these elements is required.

(3) Construction standards:

- (a) If a screen wall or fence is used for all or part of the buffer area, then:
 - 1. The equivalent of two shrubs are required per 30 feet of wall or fence with at least 50% being 24 inches high at the time of planting and none being less than 12 inches at the time of planting; and
 - 2. All required plants shall be placed on the side facing the exterior.
- (b) If a berm is used for part of the buffer, the guiding principle for berms is that if they do not provide six feet of screening by themselves, then plant material, screen walls or fences shall

bring the screen to a minimum of six feet above grade. If a berm is used for all or part of the buffer zone, all required plant material shall be placed on top and side slopes facing the exterior of the site.

1. Berms shall be constructed so as to maintain a side slope not to exceed one foot rise to three foot run ratio.
 2. Berm areas not containing planting beds shall be covered with grass or living ground cover maintained in a healthy growing condition.
 3. Berms shall be constructed in such a manner so as not to alter drainage patterns on site or adjacent properties or obstruct vision for reasons of safety, ingress or egress.
 4. If a berm is constructed with a retaining wall or by terracing, the earthen slope shall face the exterior of the site.
- (c) If berming is used for all or part of the buffer zone, all required plant material shall be placed on top and side slopes facing the exterior of the site.
- (d) Buffers are required to extend into the front yard area but shall not be closer to a road right-of-way than 15 feet. The Planning Commission may require the buffer to extend to the road right-of-way if it deems it necessary to accomplish the intent of this chapter.
- (e) All plantings including grass must be maintained in good healthy condition and must be replaced if they should die at any time.
- (f) Buffer areas may be required to be designed by a person who is a licensed landscaper, certified landscape designer, engineer or architect. A drawing of all required landscaping, top and side profile, must be submitted to the Planning Commission for review prior to site plan approval.
- (g) The Planning Commission may require a performance bond, cash, irrevocable letter of credit or other similar financial assurance satisfactory to the city. All financial deposits must be deposited with the city prior to the issuance of a building permit, in the amount of the Planning Commission's estimated cost of installing landscaping on a parcel and shall be held until all approved landscaping is installed. If landscaping is not installed in accordance with the approved site plan as determined solely by the city, the deposited financial assurance may be used to install the required landscaping and only any unused portion thereof will be returned.

(B) *Parking of commercial vehicles in residential zones.*

Commercial vehicles, truck and/or trailers with a rated capacity exceeding one ton shall not be parked or stored on residentially zoned property or on city streets within residential districts. This prohibition is not intended to prevent parking for the purpose of stopping for deliveries.

(C) *Required area or space.*

- (1) No lot, or lots in common ownership and no yard, court, parking area or other space shall be divided, altered or reduced to make its area dimensions less than the minimum required under this chapter, and the area or dimension shall not be further divided or reduced.
- (2) Where the lot plan presented in the application for a permit includes more than one recorded lot, the Building Inspector shall execute an affidavit in which the facts related to the use of the platted lots, or parts of platted lots, shall be stated and shall cause the plat and affidavit to be recorded in the office of the Register of Deeds in the county, with the cost of recording to be borne by the applicant.
 - (a) *Minimum lot frontage.* The front lot lines of all parcels shall abut a public street and shall have a contiguous permanent frontage at the front lot line equal to the required parcel width. Flag lots are not permitted. In the case of a cul-de-sac, parcel width is measured at the front yard setback line.
 - (b) *Space used once.* Any yard or other open space provided around any building or structure for the purpose of complying with the provisions of this chapter shall not again be used as a yard or other required open space for another building or structure except where one is to be demolished upon completion of the other.

(Ord. passed 7-16-18)

§ 154.010 YARD SALES IN RESIDENTIAL/BUSINESS AREAS.

(A) *Yard sales are allowed in residential/business areas.*

(B) *Because it is the intent of this chapter to maintain and preserve the residential character of our neighborhoods, the following limitations shall apply.*

- (1) The signage shall comply with § 154.094. Sign type: small freestanding.
- (2) The yard sale shall not last beyond eight days.
- (3) A previous yard sale shall not have been held at the same address in the previous 60 days.
- (4) Items for sale and yard sale signage should not be visible from front yard sidewalks when the sale is over.
- (5) Merchandise for sale in a residential area that is not considered "personal belongings" shall be considered as part of a home occupation and shall fall under that ordinance.

(Ord. 7-16-18)

(II) DISTRICT REGULATIONS

§ 154.025 DIVISION OF THE CITY.

For the purposes of this chapter, all land within the city, except streets, are divided into the following zoning districts:

(A) *R-1 Residential: Single- and Two-Family;*

(B) *R-3 Residential: Multiple-Family;*

(C) *B Business;*

(D) *D-MU Downtown – Mixed Use; and*

(E) *I Industrial.*

(Ord. passed 7-16-18)

§ 154.026 OFFICIAL ZONING MAP.

The boundaries of zoning districts are defined and established as shown on a map, entitled "City of Auburn Zoning Map" that accompanies this chapter. This map, with all explanatory text, is a part of this chapter. The official zoning map shall be kept and maintained by the City Clerk or his or her designee.

(Ord. passed 7-16-18)

§ 154.027 INTERPRETATION OF BOUNDARIES.

Where uncertainty exists with respect to the boundaries of any of the districts indicated on the official zoning map, the following rules shall apply.

- (1) Boundaries indicated as approximately following streets or highways shall be presumed to follow the centerline of said roadways.
- (2) Boundaries indicated as approximately following city boundary lines or property lines shall be presumed to follow said lines.

- (3) Boundaries indicated approximately parallel to the centerlines of streets or highways shall be interpreted as being parallel to and at such distance from as indicated by given distance or scaled dimension.

(Ord. passed 7-16-18)

§ 154.028 SCOPE OF REGULATIONS.

- (1) No building or structure or part thereof shall be erected, moved, constructed or altered, and no new use or change in use of a parcel shall be made unless it conforms with the provisions of this chapter, including the regulations for the zoning district in which it is located.
- (2) The regulations applying to zoning districts include specific limitations on the use of land and structures, height and bulk of structures, parcel area and dimensions, setback of structures from public thoroughfares and neighboring properties, and area of a parcel that can be covered by structures.
- (3) The Zoning Board of Appeals shall have the power to classify a use that is not specifically mentioned by this chapter. Said use shall be treated in a like manner with a comparable permitted or prohibited use for the purpose of clarifying the district regulations of any zoning district.

(Ord. passed 7-16-18)

§ 154.029 DISTRICT REGULATIONS TAB LES.

Regulations for all zoning districts are contained together in the following tables. Each table specifies a related set of information for all zoning districts. These tables do not include general requirements of this chapter.

The reader is urged to become familiar with all ordinance provisions before making any decision regarding use of a parcel or structure in the city.

- (1) *Intent and purpose table.* This table lists the intent and purpose of each zoning district.
- (2) *Uses table.* This table appears on multiple pages. Each page describes permitted activities for two to four related zoning districts that are identified in the left-hand column of each page. Each zoning district may be host to several types of activity, but only the activities specified for a given zoning district will be permitted there. Uses permitted by right may be allowed upon meeting all other requirements of this chapter. Uses permitted by special permit are subject to the process described by § 154.110 through § 154.124.
- (3) *Dimensions table.* This table specifies parcel dimensions and setback requirements for parcels in each zoning district.

(Ord. passed 7-16-18)

§ 154.030 INTENT AND PURPOSE; PERMITTED USES; TABLES.

Table A: Intent and Purposes of Zoning Districts	
R-1 Residential Single and Two Family	This district is intended for single family residential uses. The purpose of this zone is to encourage a residential environment of low-density dwellings and planned unit developments.
R-3 Multiple Family	The intent and purpose of this district is to provide a variety of housing styles, designs and costs to meet the needs of existing and potential residents while promoting development and preservation of neighborhoods of higher density than in the R-1 district.
B Business District	The intent and purpose of this district is to provide neighborhood shopping areas to meet the day-to-day shopping, service and professional needs of area residents as well as to provide essential service needs to the highway traveler and to accommodate businesses serving a regional market.
D-MU Downtown – Mixed Use	The intent and purpose of this district is to promote a mixed use of multi-family residential, office, commercial and certain light industrial uses along the Midland Road Corridor in a manner that promotes a unified urban character.
I Industrial	This district is intended for light industrial uses and also permits nonretail business and service establishments. It is designed to permit manufacturing, production, processing, assembling, packaging and treatment of products from previously prepared or finished products. The purpose of this district is to promote industrial areas that are protected from incompatible uses.

Table B: City Table of Permitted Uses		
District	Uses Permitted by Right	Uses Permitted by Special Use Permit
R-1 Residential Single and Two Family	Day Nurseries, limited size Home Occupations Neighborhood Parks within subdivisions or residential developments Single Family dwellings State Licensed Residential Facilities for 6 or fewer residents Accessory Uses	Bed and Breakfasts Public Service Installations
R-3 Multiple Family	All uses by right in R-1 Accessory Uses Multifamily dwellings Senior Housing Two-Family dwellings	Museums, Libraries Planned Unit Development Public Service Installations Religious, Social, Educational and Human Care Institutions State Licensed Residential Facilities for 7 or more residents

Table B: City Table of Permitted Uses		
District	Uses Permitted by Right	Uses Permitted by Special Use Permit
B Business District	Bed and Breakfasts Commercial Recreation Commercial Schools Contractors Day Nurseries Drive-in establishments Equipment Rental/Sales Funeral Homes/Mortuaries Gas Stations Libraries Lumber Yard Museums Dwellings above the first floor meeting multiple family regulations Other retail goods, service, repair Outdoor sales Personal Services Professional and Admin. Offices Public Buildings Restaurants Retail Food Senior Housing Temporary Outdoor Uses Utility Service Buildings Vehicle sales Veterinary hospitals Wholesale sales Accessory Uses	Assembly Buildings Car Wash Hotel/Motel Kennels Ministorage Outdoor Assembly Planned Unit Developments Religious, Social, Rehabilitation and Human Care Institutions. RV Parks

Table B: City Table of Permitted Uses		
District	Uses Permitted by Right	Uses Permitted by Special Use Permit
D-MU Downtown Mixed Use	Accessory Uses Bed and Breakfasts Commercial Recreation Commercial Schools Contractors Day Nurseries Drive-in establishments Equipment Rental/Sales Funeral Homes/Mortuaries Gas Stations Libraries Lumber Yard Multifamily dwellings Museums Dwellings above the first floor meeting multiple family regulations Other retail goods, service, repair Outdoor sales Personal Services Professional and Admin. Offices Public Buildings Restaurants Retail Food Senior Housing Single Family dwellings Temporary Outdoor Uses Two-Family dwellings Utility Service Buildings Vehicle sales Veterinary hospitals Wholesale sales Accessory Uses	Assembly Buildings Commercial schools Distribution Greenhouses Hotel/Motel Kennels Laboratories Manufacturing Ministorage Planned Unit Developments Production, processing, assembling, treatment or packaging of goods Public Utility installations Religious, Social, Rehabilitation and Human Care Institutions. Vehicle Repair
I Industrial	All uses allowed by right in the B district Accessory Uses Agricultural bulk storage and processing Commercial schools Distribution Fuel sales Greenhouses Heavy Vehicle repair Industrial Incubators Laboratories Manufacturing Ministorage Production, processing, assembling, treatment or packaging of goods Public Utility installations Research and Development Truck terminals Vehicle Repair Warehousing and storage	Fireworks Storage High Intensity Food processing Indoor recreation Incarceration Facility Incinerators Industrial parks Junk Yard Petroleum or flammable liquid production, refining and storage. Sewage treatment and disposal Sexually Oriented Business Soil Resource Extraction Studios for visual and graphic arts

(Ord. passed 7-16-18)

§ 154.031 DIMENSIONS TABLE.

District	R-1	R-3	B	D-MU	I
Lot area Minimum	8,500 s.f.	7,500 s.f. for first two units plus 2,000 s.f. for each add unit	None	None	8,000 s.f.
Lot width Minimum	80'	60'	None	None	40'
Front yard Minimum for lots of > 8,500 s.f.	25'	25'	10'	None	25'
Front yard Minimum for lots of 5,000 - 8,500 s.f.	18'	20'	10'	None	10'
Front yard Minimum for lots of 1,600 – 4,999 s.f.	10' See footnote B.	15' See footnote B.	10'	None	10'
Rear yard Minimum	30'	25'	8'	8'	None
	Accessory structures: 5'	Accessory structures: 5'			
Side yard, Minimum each, lots >8,500 s.f.	10'	8'	8'	8' if adjacent to an R-1, or R-3 zoning district, otherwise none	10'
	Acc. Structures: 8'	5' for detached garages			
Side yard Minimum for lots of 5,000 - 8,500 s.f.	8'	5' for detached garages	None	8' if adjacent to an R-1, or R-3 zoning district, otherwise none	None
Side yard Minimum for lots of 1,600 – 4,999 s.f.	6'	5' for detached garages	None	8' if adjacent to an R-1, or R-3 zoning district, otherwise none	None
Corner Lot Minimum yards for principal and accessory structures	25' on outside yard, 4' interior side yard	25' on outside yard, 4' interior side yard	25' on outside yard, 4' interior side yard	None on outside yard, 8' interior side yard if adjacent to an R-1, or R-3 zoning district, otherwise none	25' on outside yard, 4' interior side yard
Minimum housing unit one family	1,000 s.f.	1,000 s.f.	Permitted above first floor. See footnote A. for sq. ft. by type.	See Sec. 308	Permitted above first floor. See footnote A. for sq. ft. by type.
Minimum housing unit two family	1,500 s.f.	1,500 s.f.	Permitted above first floor. See footnote A. for sq. ft. by type.	See Sec. 308	Permitted above first floor. See footnote A. for sq. ft. by type.
Minimum housing unit multifamily	Not permitted	See footnote A.	Permitted above first floor. See footnote A. for sq. ft. by type.	See § 154.032	Permitted above first floor. See footnote A. for sq. ft. by type.
Maximum structure height	35' or 2.5 stories	35' or 2.5 stories	45' or 3.0 stories	45' or 3.0 stories	45' or 3.0 stories
Maximum lot Coverage	35%	50%	None	None	None
Accessory Buildings & Structures	See § 154.008 STRUCTURE REGULATIONS.	See Sec. § 154.008 STRUCTURE REGULATIONS.	See § 154.008 STRUCTURE REGULATIONS.	See § 154.008 STRUCTURE REGULATIONS.	See § 154.008 STRUCTURE REGULATIONS.

(A) Minimum required square footage per unit by unit type:

- (1) **EFFICIENCY UNIT.** Is a dwelling unit containing a minimum floor area of five hundred (500) square feet per unit, consisting of not more than one room and sanitary facilities.
- (2) **ONE BEDROOM UNIT.** Is a dwelling unit containing a minimum floor area of at least six hundred and forty (640) square feet per unit, consisting of not more than two (2) rooms in addition to kitchen, dining and sanitary facilities, and for the purposes of computing density shall be considered a two (2) room unit.
- (3) **TWO BEDROOM UNIT.** Is a dwelling unit containing a minimum floor area of at least eight hundred (800) square feet per unit, consisting of not more than three (3) rooms in addition to kitchen, dining and necessary sanitary facilities, and for the purposes of computing density shall be considered as a three (3) room unit.
- (4) **THREE OR MORE BEDROOM UNIT.** Is a dwelling unit wherein for each room in addition to the three (3) rooms permitted in a two (2) bedroom unit, there shall be provided an additional area of two hundred (200) square feet to the minimum floor area of eight hundred (800) square feet. For the purpose of computing density, said three (3) bedroom unit shall be considered a four (4) room unit and each increase in a bedroom over three (3) shall be an increase in the room count by one (1) over the four (4).

(B) Setback exceptions:

The Planning Commission recognizes that the original City lots in Auburn are small and may restrict homeowners who seek to maintain and improve a house built before the establishment of the current minimum setbacks. The Zoning Administrator can approve building permits for projects that infringe on the front setback requirements as long as the approval:

- (1) Is not inconsistent with the density and coverages of the immediate neighborhood and the setback of adjacent homes.
- (2) Maintains clear vision areas.
- (3) Does not create a safety hazard.
- (4) Does not extend roof lines further into the front yard setback.

(Ord. passed 7-16-18)

§ 154.032 DOWNTOWN MIXED-USE REGULATIONS.

(A) Build to line requirements.

- (1) All development within the area designated on the zoning map as the Build-To-Line area shall be required to be built within 5 feet of the front lot line and shall be built along the full width of the lot permitted under the Ordinance unless otherwise permitted by the Planning Commission to address unique design considerations.
- (2) This standard will apply for redevelopment of an existing principal building within the Build-To-Line area if the building is being expanded or rebuilt.

(B) *Parking lots.*

- (1) All new or redeveloped parking areas shall be located in the side or rear yards

(C) *Windows.*

- (1) Window shapes shall be rectangular, square, arched, or palladian (mostly rectangular with semi-circular top). Circular, octagonal, or diamond shaped windows are not permitted other than for stairwell areas, storage rooms or restrooms, and/or decorative gable windows. Horizontal windows are permitted with a recommended width-to-height ratio of between one (1) to one (1) and four (4) to one (1). Vertical windows are permitted with a maximum width-to-height ratio of one (1) to two (2).
- (2) Windows shall be recessed and include visually obvious sills. Spaces between windows shall be formed by columns, mullions, or material found elsewhere on the façade. Clear window glass is required unless approved by the Planning Commission.
- (3) The first floor of front facades of non-residential buildings shall include at least thirty percent (30%) windows, and remaining floors of front facades shall include at least twenty percent (20%) windows. Second floor windows may be spandrel glass depending on the use and/or function of the area upon approval by the Planning Commission.

(D) *Entrances.*

- (1) Main entrances shall be provided along the street frontage and will be emphasized with larger doors and framing devices such as deep overhangs, recesses, peaked roof forms, porches, or arches. Secondary rear and side accessory entrances are encouraged where possible but should be clearly identified as secondary by their size and design. The Planning Commission may modify this requirement and allow main entrances based on particular circumstances that make a front entrance impractical.

(E) *Building materials.*

- (1) Building materials must be consistent with the surrounding neighborhood character, as determined by the Planning Commission. Building materials on the front facade or any facade visible from a public right-of-way must be primarily of natural materials conveying permanence, as determined by the Planning Commission. Each front facade, any facade visible from a public right-of-way, and any facade with a dedicated public entrance into the building should contain at least sixty percent (60%) of the recommended materials listed below, excluding window areas.
- (2) *Recommended materials.* Brick masonry; clear and reflective glass; stone; concrete slab (poured-in-place, tilt-up construction).
- (3) *Acceptable materials.* Split face, scored, or ground face block; tile, cement board, beveled wood siding (lap, board and batter, shake).
- (4) *Discouraged materials.* Smooth face block; vinyl siding; metal siding (standing seam panels, aluminum siding); T-111 and other wood panel siding. A log stacked wall making up a vertical face of a building, also known as a “log cabin look” is not permitted.

- (5) The use of exterior insulation finish systems (EIFS) or other synthetic materials may be approved by the Planning Commission for decorative or accent features. Such materials may be used as primary facade material provided it is installed at a height of ten (10) feet or greater above grade and provided that it constitutes not more than 20% of the total facade area, excluding window areas. Whenever EIFS is used on the first floor (below ten (10) feet), it can only be used as a decorative or accent feature and it shall incorporate high impact reinforcing mesh. EIFS shall not come within eight (8) inches of exterior grade, sidewalks, parking lots, and/or driveways.
- (6) Highly reflective materials should not be used except for decorative or accent features only. Size and area of such materials should be noted and samples submitted for review by the Planning Commission for approval.

(F) Colors.

- (1) The following natural colors shall be used for the main portions of building facades and roof forms; neutral earth tones (sand to brown); shades of gray; traditional colors (e.g., brick red, forest green, navy blue); light, subdued hues (e.g., salmon); or white. Contrasting, accent colors which are compatible with the primary colors listed above are encouraged for trim, accent, and other decorative architectural features. The use of bright or fluorescent colors (e.g., purple, orange, pink, lime, yellow) is prohibited unless allowed by the Planning Commission. Colors should be natural to the material or pigmented, and not painted on the material whenever possible. Color of exterior building materials (excluding accent colors) shall be limited to no more than four major colors per development. All exterior colors and material samples shall be submitted or presented to the Planning Commission at the time of Site Plan approval.

§ 154.033 MANUFACTURED HOME DEVELOPMENT REGULATIONS.

(A) Purpose.

The R-4 Manufactured Home Development District is intended to preserve the interests of alternate types of residential developments that should be permitted in every community and to protect the residents of any manufactured home type development. These regulations are minimum standards to be applied to all manufactured home developments in the district.

(B) Permitted uses.

- (1) Manufactured home developments, subject to the requirements established and regulated by the Manufactured Housing Commission rules, and the provisions of this subchapter;
- (2) Clubhouse, swimming pool, playgrounds, common areas and recreation facilities for the use of manufactured home development residents;
- (3) Accessory uses or structures such as manufactured home development business office, laundry facilities and home occupations otherwise permitted in residential districts under this subchapter; and
- (4) Public service installations.

(C) Compliance with Michigan Manufactured Housing Commission.

No manufactured home development shall be established within the R-4 District unless the park complies with the rules of the Michigan Manufactured Housing Commission.

(D) *Greenbelt buffer.*

Within the premises upon which a manufactured home development is located there shall be constructed a greenbelt buffer. After approval as a part of the preliminary plan review process, there shall be no requirement that the buffer be changed due to future development.

- (1) *Landscaping materials.* if the manufactured home development abuts an existing residential development, the development shall be required to provide screening along the boundary abutting the residential development.
 - (a) If a development abuts a nonresidential development, it need not provide screening. In all cases, however, a development shall provide screening along the boundary abutting a public right-of-way.
 - (b) The landscaping shall consist of evergreen trees or shrubs at least three feet in height spaced so they provide a continuous screen at maturity.
 - (c) Alternative screening devices may be utilized if they conceal the manufactured home development as effectively as the required landscaping above.
 - (d) Property owners are allowed flexibility in material selection as long as these standards are met. If a wood fence is used, the materials shall be pressure-treated lumber. If a masonry fence is used, it shall have a foundation of at least 42 inches deep in the ground.
 - (e) Trees, shrubs and all planted vegetation within the buffer must be appropriate to the climate and provided further, that they are not infested with pests, insects or diseases.
 - (f) The buffer shall be landscaped in such fashion as to assure that it will not erode and shall be landscaped with grass or ground cover appropriate for the climate.
- (2) Screening shall be maintained in a condition very similar to the condition at the time of installation. This means fences shall be straight and broken boards shall be replaced. Dead trees, bushes, shrubs and vegetation shall be replaced with new, live, smaller plants that will grow to the same height as the dead plant being replaced. Masonry fences shall have all cracks repaired and maintained by pointing.
- (3) The Planning Commission shall be authorized to grant an exception from the foregoing screening requirements where the screening would serve no useful practical purpose in providing peace and quiet for the occupants of the adjoining premises and may grant an exception during the preliminary plan review process.

(E) *Streets, sidewalks and public ways.*

Every manufactured home development shall be provided with a network of streets with access points to adjacent public ways, at least as set forth hereinafter.

- (1) All streets within the manufactured home development shall be paved with a hard surface in accordance with the most recent edition of the ASSHTO Standards.
- (2) Every street shall be provided with drains designed according to the design standards of the Michigan Department of Environmental Quality drainage standards.
- (3) Two-way streets within the manufactured home development shall have a minimum traveled width of 21 feet of pavement with no parking.
 - (a) All streets and street rights-of-way shall be of adequate width to allow for snow storage and removal.
 - (b) In the event that parking is permitted on any street within the manufactured home development, the minimum width of each street, in addition to the traveled portion, shall be ten feet wide for each parallel parking lane and 16 feet wide for each diagonal parking lane.
 - (c) If a parking lane is not provided, "no parking" signs will be installed and enforced on the side of the street.

(F) *Off-street parking and driveways.*

- (1) Driveways shall be provided for access to service entrances and buildings for delivery and collection points for fuel, refuse and other materials and elsewhere as needed. Every driveway entrance shall have a flare or radii in horizontal alignment necessary for safe and convenient ingress and egress.
- (2) A minimum of one parking space for every three manufactured home sites shall be provided for visitor parking. Each visitor parking site shall be located within 500 feet of the manufactured home site it is intended to serve. The 500 feet shall be measured along a road or sidewalk.
- (3) In addition to the foregoing, a separate parking area may be provided for vehicles that cannot be accommodated within the parking areas set forth above, such as recreational vehicles, travel trailers, snow mobiles, and the like.

(G) *Illumination.*

All streets and sidewalks and areas open to travel by manufactured home development residents shall be illuminated as follows.

- (1) Access points shall be lighted. If the public thoroughfare is lighted, the illumination level shall not exceed the average illumination level of the public thoroughfare.
- (2) At all internal street intersections and designated pedestrian crosswalks, the minimum illumination shall be not less than 0.15 foot candles.
- (3) All internal roads, parking bays and sidewalks shall be illuminated at no less than 0.05 foot candles.

(H) *Water supply, fire hydrants and sanitary system.*

Public sewer systems shall be required in a manufactured home development if available within 200 feet at the time of preliminary plan approval. If a public sewer system is unavailable, the development shall connect to a state-approved sewage system.

(I) *Open space.*

An open space dedicated to use by manufactured home development residents as a recreation area, playground or gathering area, including, at the option of the owner/developer, clubhouses, swimming pools and the like, shall be provided.

- (1) The areas shall consist of not less than 2% of the park's gross acreage but not less than 25,000 square feet.
- (2) The areas shall not be included in the border greenbelt buffer and shall not be swamp or other marshland. This open space requirement shall not apply to manufactured home developments with less than 50 sites.
- (3) If a development is built in stages, when the fifty-first site is developed, this requirement shall apply to all the sites in both stages of the development.

(J) *Manufactured home installation.*

Installation of manufactured homes upon each manufactured home site shall be accomplished in accordance with Part 6 of the Michigan Manufactured Housing Commission rules. All manufactured homes shall be connected to utilities and shall be skirted and anchored in accordance with Part 6 of the Michigan Manufactured Housing Commission rules.

(Ord. passed 7-16-18)

(III) NONCONFORMING USES AND BUILDINGS

§ 154.045 INTENT.

The intent of this section is to permit the continuation of any lawful use of building or land existing as of the effective date of this chapter. Nonconformance with the provisions of this chapter is not in the best interest of the city and should be discontinued as circumstances permit. Any nonconforming building, structure or use shall not be enlarged or expanded and may be changed, repaired or reconstructed only as prescribed by this section.

Whenever changes occur in the boundaries of zoning districts, the provisions of this section shall apply to any uses or parcels that become nonconforming as a result of the boundary changes.

(Ord. passed 7-16-18)

§ 154.046 HISTORIC PROPERTIES.

Any nonconforming property in the city that is listed on the State or National Register of Historic Places is specifically excluded from any requirement of this section that would damage the historic character of the property. When any such property is the subject of any administrative decision, the input of the State Historic Preservation Officer shall be requested in writing not less than 30 days before any regulatory action may take effect.

(Ord. passed 7-16-18)

§ 154.047 LEGALITY OF NONCONFORMITIES.

(A) *Classification of Nonconformities*

Nonconformities will be classified as "legal" or "illegal" based on the following guidelines. Regulation of nonconformities will vary based on their legality.

- (1) **ILLEGAL NONCONFORMITIES** are those that have been developed in conflict with zoning regulations. The buildings or structures that extend into a public right-of-way, or over a neighboring property line are illegal nonconformities.
- (2) **LEGAL NONCONFORMITIES** are those that meet each applicable criterion listed below. Note that temporary signs are not considered legal nonconforming structures.
 - (a) The nonconformity existed legally before the effective date of this chapter.
 - (b) The nonconformity complied with the district regulations of the previous zoning ordinance, or existed legally through a special use permit or variance.
 - (c) *Nonconforming setback or lot size only.* The nonconformity resulted from land acquisition by a government agency, such as for a road right-of-way.

- (d) For otherwise legal nonconforming buildings or structures only: the building or structure may not extend into a public right-of-way, or over a neighboring property line.

(Ord. passed 7-16-18)

§ 154.048 LOSS OF LEGAL NONCONFORMING STATUS.

If a nonconforming use of land or structure ceases for any reason for a period of six months or more, any reuse of the land or structure must conform to all requirements of this chapter. If the status of the land use is contested, it is the obligation of the owner or lessee to provide to the Zoning Enforcement Officer documentation that a legal nonconforming use is being continued within 30 days of written notification of abandoned status.

(Ord. passed 7-16-18)

§ 154.049 EXPANSION, RECONSTRUCTION AND REPAIR.

(A) Occupied dwelling units.

Occupied dwelling units in business districts at the time of adoption of this chapter are considered legal nonconforming uses with special rights to expand, reconstruct and repair. Any expansion, reconstruction or repair of an occupied dwelling unit must meet all yard requirements for dwelling units in the R-1 District.

(B) Expansion of structural nonconformity prohibited.

No structure may be enlarged or structurally altered in such a way as to increase its nonconformity. A reduction of the degree of nonconformance in one respect is not permitted to offset an increase in the degree of nonconformance in another respect. Bartering of nonconformities is not permitted. For example, square footage may not be "traded" from one portion of a building to another.

(C) Uses.

One nonconforming use may be replaced by another if the degree of nonconformance in use is reduced in some way.

(D) Reconstruction and restoration.

Any lawful nonconforming use damaged by fire, explosion, act of God, or by other causes may be restored, rebuilt or repaired provided that the reconstruction or restoration work does not increase the gross floor area. All such restoration must be started within a period of one year of the time of such damage and diligently pursued to completion. The Board of Appeals may extend the period of time for restoration of any such building or structure when a bona fide emergency renders it impossible to make the restoration of the building or structure within the required time period. Any basements, large holes and the like remaining on the site after removal of the structure shall be filled in and leveled within 90 days of removal of the structure.

(E) *Repair.*

Nothing in this chapter shall prohibit the repair, improvement or modernizing of a lawful nonconforming building to correct deterioration, obsolescence, depreciation or wear, provided that such repair does not exceed an aggregate cost thereby increasing the assessed value by more than 50% as determined by the assessing officer unless the subject building is changed by such repair to a conforming use. No repair may enlarge or structurally alter the structure in such a way as to increase the nonconformity.

(Ord. passed 7-16-18)

§ 154.050 CHANGING USES.

The use of a lawful nonconforming building or structure may be changed only to a conforming use or a use that is less nonconforming. This use may or may not be a permitted use in that district. The determination of relative nonconformance of a proposed use with respect to the previous lawful nonconforming use shall be at the discretion of the Board of Appeals. The proposed use shall be subject to all the requirements applying to that use in the district, including parking, signage and all other aspects of the site. Where the use of a lawful nonconforming building or structure is changed to a less lawful nonconforming use, it may not be changed back to the previous lawful nonconforming use or to another more nonconforming use.

(Ord. passed 7-16-18)

§ 154.051 PLANS ALREADY FILED.

In any case where plans and specifications for a building or structure that would conform with the zoning regulations prior to the date of this chapter or any amendment thereof have been filed, and where a building permit for such building or structure has been issued and construction work started at the effective date of this chapter or amendment, such work may proceed, provided it is completed within one year.

(Ord. passed 7-16-18)

§ 154.052 REGULATION OF NONCONFORMITIES.

Should any question arise concerning the interpretation of any provision of the regulation of nonconformities table or if a situation is encountered that was not anticipated by the table, the question shall be submitted to the Zoning Board of Appeals for their interpretation, which shall be final.

(Ord. passed 7-16-18)

§ 154.053 NONCONFORMING LOTS.

In any district in which single family dwellings are permitted, a single-family dwelling and the accessory buildings may be erected on any single legal lot of record at the effective date of adoption or amendment of this chapter.

Yard dimensions shall conform to the regulations for the district in which the lot is located. No existing conforming lots may be changed to nonconforming lots. Contiguous lots under one ownership may not be changed back to separate lots unless they meet lot requirements for newly created lots.

(Ord. passed 7-16-18)

§ 154.054 INVENTORY OF NONCONFORMITIES.

(A) City Zoning Administrator.

The City Zoning Administrator is hereby required to establish and maintain an inventory of legal nonconformities known to exist in the city.

- (1) This inventory should not list illegal nonconformities. Illegal nonconformities are violations of the ordinance and should be kept in the active files of the Code Enforcement Officer.
- (2) In theory, the inventory of legal nonconformities should only expand if a Board of Appeals action allowing the nonconformity is issued.
- (3) All listed properties shall also be identified on a large-scale map of the city that shall be available for public inspection.

(B) Inventory Data

Each listing in the inventory of nonconformities shall include the following information:

- (1) Date each parcel listed on inventory;
- (2) Parcel identification number;
- (3) Property address;
- (4) Current owner(s);
- (5) Property description;
- (6) Parcel dimensions;
- (7) Sketch with dimensions and setbacks of buildings, structures and parking areas on the parcel;

(8) Current zoning district; and

(9) Current use of property.

(Ord. passed 7-16-18)

§ 154.055 ELIMINATION OF NONCONFORMING USES BY ACQUISITION.

The City Commission may, from time to time, acquire properties on which nonconforming uses or structures are located, by condemnation or otherwise, and may remove such uses or develop the property for a public use. The net cost of such acquisition may be made a special assessment against a benefit district, or may be paid from other sources of revenue legally available to the city.

(Ord. passed 7-16-18)

§ 154.056 TABLE OF NONCONFORMING SITUATIONS AND ACTIONS.

Instructions: locate the situation in top line and nonconformity type in first column.

Type	If discontinued for 6 months	If damaged more than S.E.V.	If damaged less than S.E.V.	Change in use (including new buildings)	Remodeling, maintenance, code work
Illegal nonconforming parcel	NA	NA	NA	NA	Property must be kept in safe condition
Illegal nonconforming use of land	May not be resumed	NA	NA	Not permitted unless use becomes conforming	Property must be kept in safe condition
Illegal nonconforming use of building or structure	May not be resumed	Use not permitted; use must stop and may not be resumed	Use not permitted; may repair building	Not permitted unless use becomes conforming	Use not permitted; may repair building
Illegal nonconforming dimensions or setback of building or structure	NA	Building must be rebuilt to fully comply with applicable district regulations	May repair, but must reduce degree of nonconformance	New use and new building must adhere to all district regulations	Permitted, but may not create any greater degree of nonconformance
Legal nonconforming parcel	NA	NA	NA	Permitted, but requires a variance	Property must be kept in safe condition
Legal nonconforming use of land	May not be resumed	NA	NA	Permitted, but must reduce degree of nonconformance; see § 154.052	Property must be kept in safe condition
Legal nonconforming use of building or structure	May not be resumed	May rebuild if all plans meet all other district regulations	May repair to pre-damage status	Permitted, but must reduce degree of nonconformance; see § 154.052	Permitted so long as use is not expanded
Legal nonconforming dimensions or setback of building or structure	NA	May rebuild, but must reduce degree of nonconformance	May repair to pre-damage status	Permitted, but requires a variance	Permitted, but may not create any greater degree of nonconformance

(Ord. passed 7-16-18)

(IV) PARKING REGULATIONS

§ 154.070 INTENT.

This section is intended to provide efficient and safe access management and adequate parking area for specific uses as well as promote the efficient use of land. It also seeks to prevent adverse environmental impacts of large paved areas.

(Ord. passed 7-16-18)

§ 154.071 APPLICATION TO ESTABLISH OR CHANGE PARKING AREAS.

(A) Single-family dwelling in R-1 or R-2 Districts.

A building permit that is required for new construction of a dwelling shall address related parking. A building permit shall also be required for a change of an existing parking area when it involves a curb cut for access.

(B) Two-family dwellings in R-1 and R-2 Districts.

A building permit that is required for new construction of a dwelling shall address related parking. A building permit shall also be required for a change of an existing parking area whether or not it involves a curb cut for access.

(C) Multi-family R-3 District.

Same requirements as for business and industrial districts (below).

(D) Manufactured housing development, R-4 District.

See § 154.033.

(E) Business and industrial districts.

Development of parking areas shall require the submittal of professional site plans to the City Manager or City Engineer and the Zoning Administrator, who will then present them to the Planning Commission for approval.

(Ord. passed 7-16-18)

§ 154.072 STANDARDS IN CONSTRUCTION/DESIGN/USE.

The design/construction/use of parking areas shall conform to the following requirements.

(A) *Single family dwelling in R-1 or R-2 Districts.*

- (1) Provisions shall be made for at least one usable off-street parking space for each single-family dwelling in R-1 and R-2.
- (2) The parking space shall be a minimum of 162 square feet excluding the use of a sidewalk and outlawn area. Exceptions shall be made by the Zoning Administrator when a dwelling is on an historically small city lot and lot space is not readily available.
- (3) No commercial repair work, commercial servicing or selling of any kind except for periodic garage or yard sales shall be conducted on parking areas in R-1 and R-2 Districts.
- (4) Parking in residential zones is permitted only as an accessory use.

(B) *Two-family dwellings.*

For two-family dwellings, minimal parking provided shall be two spaces of 162 square feet each. Parking space may be subject to shared access described for Multi-Family R-3, Business and Industrial.

(C) *Multi-Family R-3, Business and Industrial.*

- (1) Parking spaces shall be a minimum of ten feet by 20 feet in size. The length of the space may be 18 feet if curbs or bumpers are designed to define one end of the parking space. Handicapped spaces must comply with the current Michigan Building Code.
- (2) There shall be a curb or curb stop provided wherever an off-street parking and loading area adjoins a public sidewalk, right-of-way or adjoining property line. The curb or curb stop shall be designed to prevent any portion of a vehicle from encroaching upon the sidewalk, right-of-way or adjoining property.
- (3) Any lighting used to illuminate any off-street parking and loading areas shall conform to the lighting ordinance found in § 154.007(F).
- (4) Each off-street parking driveway opening to a public street must be approved by the agency having jurisdiction over the street following site plan review by the Planning Commission. Lanes for entering and exiting traffic shall be clearly marked on the pavement. Each driveway shall intersect a public street at a 90-degree angle.
- (5) Each off-street parking driveway shall include an on-site stacking area that does not function as an access aisle for parking spaces, equivalent to at least 5% of the spaces in the parking area.
- (6) All off-street parking driveways shall have a clear vision area unobstructed by accessory structures or plantings, within 20 feet of any public street right-of-way, for a sight distance of 50 feet along the near edge of the pavement in either direction.
- (7) Except for parallel parking, all parking spaces shall be clearly marked with striping that shall be maintained.
- (8) Landscaping regulations apply to parking areas of 100 spaces or more. Off-street parking shall be permitted to occupy required front, side and rear yards after approval of the parking plan layout, provided that there shall be maintained a minimum landscaped setback of ten feet between the

nearest point of the off-street parking area, exclusive of access driveways and the nearest right-of-way line.

- (9) Off-street parking areas shall be effectively screened on any side that abuts a residentially zoned district or institutional use, by a screening of evergreen hedge or other natural landscaping. If the owners of adjacent residential properties request, in writing, this screening shall be done by a solid uniformly painted fence or wall not less than four or more than six feet in height and maintained in good condition. In all cases, the screening shall comply with the need for a clear vision area.
- (10) Maneuvering lanes to and from a parking area shall be paved. Access drives are not part of the required parking area. Design and construction of access drives must be reviewed and approved by the city staff and be designed in accordance with the following standards.

Parking Pattern	Maneuvering Lane Width		Min. parking space width ¹	Min. parking space length ²	Total width 2 tiers of spaces plus maneuvering lane	
	One-way	Two-way			One-way	Two-way
0 degree (parallel parking)	11 ft.	18 ft.	8 ft. 6 in.	25 ft.	28 ft.	35 ft.
30-50 degrees	12 ft.	20 ft.	9 ft.	21 ft.	54 ft.	62 ft.
54-70 degrees	13 ft.	24 ft.	9 ft.	21 ft.	55 ft.	66 ft.
75-90 degrees	15 ft.	26 ft.	9 ft. 6 in.	20 ft.	55 ft.	66 ft.
1. Measured perpendicular to the longitudinal space centerline						
2. Measured along the longitudinal space centerline						

- (11) For properties that have employees, employee parking shall consist of one parking space for every one employee on the largest shift and handicapped parking shall be required.
- (12) Parking surface: all parking shall be on an approved paved surface with the exception of parking for campgrounds, RV parks, cemeteries, parks and other outdoor recreational areas.
- (13) In the case of multiple uses of a single structure, the following calculations may be applied by the Planning Commission for determining off-street requirements. The Planning Commission shall have the power to reduce parking further in the case of shared drives, shared parking or other circumstances where a reduction in parking will contribute to safety, function or the overall site design.
- (a) For two uses per structure, the parking required may be 80% of the parking required for the two uses calculated individually.
 - (b) For three uses: 75%.
 - (c) For four uses: 70%.
 - (d) For five uses: 65%.
- (14) In no case shall less than 65% be allowed.

(D) *Shared access.*

The Planning Commission must require shared access between and among uses where feasible, excluding single-family residential uses.

- (1) Feasibility is determined with respect to the physical design of the site and not the effort or costs involved with achieving joint access.
- (2) This requirement applies to driveways and access drives associated with site redevelopment or new construction.
- (3) In the case of new development, a joint driveway agreement must be signed by all property owners involved prior to a construction permit being issued.
- (4) Driveways must be designed to allow joint access in the future, where feasible, and an agreement to allow future use of the drive for joint access must be signed at the time of site plan approval.
- (5) Shared drives must be shown on site plans at the time of review by the Planning Commission.
- (6) Refusal to design a site with provisions for joint access or refusal to participate in a joint access agreement is justification for site plan denial by the Planning Commission.

(E) *Driveway closure.*

Nonconforming driveways, per this chapter, shall be made to be less nonconforming at the time a site is redeveloped. Lessening the degree of driveway nonconformance may include the Planning Commission requiring closing a driveway or combining driveways or access points at the time of site plan review.

(F) *Occupancy.*

- (1) The occupancy of a building or any part of a building shall not change it from one use to a use in another classification unless the minimum parking requirements are provided for the new use.
- (2) No building shall be enlarged if the enlargement requires additional parking space, unless the minimum requirements for off- street parking are provided.

(G) *Parking spaces.*

Parking spaces may count toward the requirement for a parcel if they are located on it or on an adjoining parcel where the farthest space is not over 500 feet from the nearest public entrance to the principal building, with a continuous paved walkway between the lot and entrance.

(H) *Bicycle parking spaces.*

Developers can reduce parking lot requirements by providing on site bicycle parking spaces at the rate of one automobile space reduced for each 10 bicycle parking spaces provided to a maximum of 20 bicycle spaces.

(Ord. passed 7-16-18)

§ 154.073 BUSINESS DISTRICTS.

(A) *Off-street waiting area for drive-through facilities:*

- (1) An off-street waiting space is defined as an area with a minimum width of ten feet and a minimum length of 20 feet and shall not include the use of any public space, street, alley or sidewalk and shall be located entirely within any business district;
- (2) For uses occupied or built for the purpose of serving customers in their vehicles by a service window or similar arrangements, off-street waiting spaces shall be provided as shown in the following chart;
- (3) Drive-through lanes shall not utilize any space that is necessary for adequate access to parking spaces from internal maneuvering lanes;
- (4) Drive-through lanes shall have a minimum centerline radius of 25 feet;
- (5) Drive-through lanes shall be striped, marked or otherwise distinctively delineated; and
- (6) No space shall be located closer than 50 feet to any lot in any residential district, unless wholly within a completely enclosed building or enclosed on all sides facing residential zones, by a wall or uniformly painted solid board or masonry fence of uniform appearance that is not less than six feet in height.

(B) *Stacking requirements:*

<i>Use Served by Drive-Through Lane</i>	<i>Minimum Stacking Requirements (per lane)</i>
(1) Restaurant	Storage shall be provided for three vehicles in advance of the menu board (not including the vehicles at the pick-up window and menu board)
(2) Financial institution	Three vehicles per lane inclusive of the vehicle at the window
(3) Car wash (coin- operated)	Two vehicles in advance of the washing bay and storage for one and one-half vehicles beyond the washing bay as a drying and vacuum area
(4) Car wash (tunnel wash)	Four times the maximum capacity of the car wash in advance of the tunnel and three vehicles beyond the tunnel for drying areas
(5) Child care centers	One vehicle per 15 children inclusive of the vehicle at the drop-off point; no parking area or maneuvering lanes shall be permitted between the drop-off point and the principal entrance to the building
(6) Dry cleaners	Two vehicles per lane inclusive of the vehicle at the window
(7) Quick oil change	Three vehicles per lane inclusive of the vehicle being serviced
(8) Convenience market	Three vehicles per lane inclusive of the vehicle at the window
(9) Other uses	For uses not listed above, the Planning Commission shall make a determination of minimum required vehicle stacking at

<i>Use Served by Drive-Through Lane</i>	<i>Minimum Stacking Requirements (per lane)</i>
	the time of site plan review, based upon analysis by the Traffic Engineer and City Planner

(C) *Proximity to Residential Districts.*

No such space shall be located closer than 50 feet to any lot in any residence district, unless wholly within a completely enclosed building or enclosed on all sides facing the residence district by a wall or uniformly painted solid board or masonry fence of uniform appearance that is not less than six feet in height.

(D) *Similar Uses.*

In cases where the use is not listed, regulations for the most similar use shall apply. In cases where a similar use cannot be found, the Planning Commission shall determine the number of parking spaces required.

(Ord. passed 7-16-18)

§ 154.074 INDUSTRIAL DISTRICTS.

Every parcel of land used as a public or private parking area in any industrial district shall be developed and maintained in accordance with the following requirements.

- (1) Parking shall be provided and maintained to service any building that involves a use requiring the receipt or distribution of materials or merchandise in vehicles. Parking shall be determined by the Planning Commission.
- (2) If retail sales or services exist within an Industrial site, required spaces shall be determined by using § 154.075.

(Ord. passed 7-16-18)

§ 154.075 NUMBER OF PARKING SPACES REQUIRED.

- (1) Parking or storage of motor vehicles shall be provided for in all districts in connection with all industrial, commercial, business, trade, institutional, recreational or dwelling uses and similar uses.
- (2) In the case of a building, structure or premises, the use of which is not specifically mentioned, the provisions for a use that is mentioned and to which the use in question is similar, shall apply.
- (3) Handicapped parking shall be provided.

<i>Table of Parking Uses and Spaces</i>	
<i>Uses</i>	<i>Number of Spaces</i>
Barber, salons, beauty shops	One space for each chair or booth
Bowling centers	One space for each lane. If, in addition to bowling lanes, patrons are provided with assembly hall, bars, restaurants or other businesses, additional off-street parking spaces will be required in accordance with those uses
Commercial recreation, indoor	One space for 200 square feet of usable building floor space
Commercial recreation, outdoor	25% of the lot area shall be devoted to parking lots, but in no case less than ten parking spaces
Funeral homes	One space per 50 square feet of building
Furniture sales, retail	One space for each 1,000 square feet of sales display area
Gasoline/service stations	One space for each service bay
Hospitals, nursing homes, health care facilities	One space for each hospital bed and one space for each four beds in longer-term care facilities
Laundromats	One space for every three washing machines or 400 square feet of usable building floor area, whichever is greater
Motels, hotels, motor courts, tourist or lodging homes	One space for each sleeping room. If, in addition to sleeping rooms, patrons are provided with assembly halls, bars, restaurants or other businesses, additional off-street parking spaces will be required in accordance with those uses
Office building, banks, business and professional offices	One space for each 400 square feet of usable building floor area, but in no case less than five spaces
Places of public assembly without fixed seating, including dance halls, clubs and roller rinks	The parking lot shall be 200% of the building floor area used for public activity
Places of public assembly; clubs with seating provided	One space for each four seats
Restaurants; eat-in, including taverns, bars, cocktail lounges and similar eating establishments	One space for each four seats for patron use
Restaurants; carry out, grocery/food markets	One space per 250 square feet of public floor space
Restaurants; drive through	One space per 100 square feet of public floor space
Retail sales and personal services	One space per 300 square feet of the public floor area. In any case, parking greater than one space per 100 square feet shall not be required
Theaters	One space for each four public seats
Vehicle sales	One space per 1,000 square feet of sales display area
Vehicle service garages	One space per 1,000 square feet of usable floor area

(Ord. passed 7-16-18)

(V) SIGN REGULATIONS

§ 154.090 INTENT.

The intent and purpose of this subchapter is to regulate all exterior signs so as to protect health and safety, reduce traffic hazards and visual disturbance and to meet a community-based standard for aesthetic qualities. Nothing in this subchapter should be taken as a constraint upon freedom of speech.

(Ord. passed 7-16-18)

§ 154.091 FEES.

Application fees for sign permits shall be established by the City Commission.

(Ord. passed 7-16-18)

§ 154.092 ISSUANCE OR DENIAL OF PERMITS.

The City Administrator or designated agent shall approve the application for a sign permit when it is found that a sign will comply with the provisions of this chapter. When a sign permit is denied by the Administrator or designated agent, written notice of the denial shall be given to the applicant, together with a written statement of the reason for such denial.

(Ord. passed 7-16-18)

§ 154.093 REGULATIONS WITHIN BUSINESS AND INDUSTRIAL ZONES.

(A) *Generally.*

For the following regulations, in the event of a conflict between regulations of signs, resolution shall be based on the principle of the greater restriction shall apply. The signs are listed in this manner:

- (1) Freestanding (pole/ground/highway);
- (2) Wall;
- (3) Unified development signs;
- (4) Portable;
- (5) Temporary signs;
- (6) Directional signs;

(7) Political signs and posters; and

(8) Real estate signs.

(B) *Freestanding signs.*

Each property is limited to one unless it is a corner parcel with 300 feet or more of frontage on both streets. The sign may be a pole sign or a ground sign. Although there may be multiple businesses or establishments on the property, the limit does not change.

(1) Pole signs.

- (a) In a permit application, each sign will require drawings of sign structure, electrical circuits, foundation and materials.
- (b) *Maximum height.* 16 feet above the grade of the frontage street. Base of sign shall be a minimum of eight feet from that grade to the bottom of the sign.
- (c) *Maximum area per side.* 50 square feet
- (d) *Minimum setback.* No portion of the sign shall be nearer than ten feet to any street easement or dedicated public right-of-way.
- (e) *Identification.* Sign cabinet must display address number of property on the leading edge to the road.
- (f) *Illuminated sign.* If internal lighting is part of a sign, the lighting equipment that is part of the sign shall have UL listings and shall be labeled for easy reading.

(2) Ground signs.

- (a) In a permit application, each sign will require drawings of sign structure, any electrical circuits, foundation and materials.
- (b) *Maximum height.* Six feet above normal ground level.
- (c) *Maximum area per side.* 50 square feet.
- (d) *Minimum setback.* No portion of the sign shall be nearer than eight feet to any street easement or dedicated public right-of-way.
- (e) *Identification.* Sign cabinet must display address number of property on the leading edge to the road.
- (f) *Illuminated sign.* If internal lighting is part of a sign, the lighting equipment that is part of the sign shall have UL listings and shall be labeled for easy reading.

(3) High-rise or highway billboard signs.

- (a) Permit application requires engineered and approved drawings of pole structure, any electrical circuits and structures used for illumination, base and all sign cabinet structures.
- (b) These signs are allowed if property is within 735 feet from the state right-of-way for the westbound exit ramp from U.S. 10 to Garfield Road. Other than that specific area, no billboard shall be erected or maintained in any district within 100 feet of any sidewalk or public highway, nor within 300 feet of any residential or business building, nor within any distance from adjoining property of less than twice the height of the billboard. The provisions of this code are not intended to conflict with any provisions controlling signs regulated under the authority of Public Act 106 of 1972, the Highway Advertising Act, being M.C.L.A. §§ 252.301 through 252.325, as amended.
- (c) Maximum square feet allowed is 275 square feet.
 - 1. Maximum height not to exceed 90 feet from average grade of property.
 - 2. *Wind load.* Because signs must resist a minimum of 135 mph wind load, the base hole must be inspected before installation is to begin. Failure to have a base hole inspected shall be cause for removal of the sign structure at the expense of the sign owner.

(C) Wall signs.

- (1) *Permit required.* In a permit application, details of structure and dimensions are required of the sign and wall that it is attached to. Outside window signs, if permanent, are covered by this section. Interior window signs are not regulated.
- (2) *Maximum sign area.* Total number of wall sign(s) shall not exceed an area equal to 15% of the area of the wall to which it is affixed. No wall sign shall have an area greater than 100 square feet; except that, if the sign has a setback greater than 50 feet from its frontage street, its area may be increased by one square foot for each additional foot of setback up to a maximum of 150 square feet.

(D) Unified development signs.

- (1) *Permit required.* In a permit application, each sign will require drawings of sign structure, any electrical circuits, foundation and materials.
- (2) *Maximum height.* Sixteen feet above the grade of the frontage street.
- (3) *Maximum area.* Eighty square feet.
- (4) *Increase of area.* For every foot of street frontage in excess of 200 feet, maximum sign area may be increased by one square foot for each 12 inches over 200 feet of property frontage.

(E) Portable signs.

- (1) *Permit required.* In a permit application, each sign will require drawings or a description of the sign structure, electrical circuits and power supply if illuminated, and materials.

- (2) *Portable signs.* These can be displayed for 14 consecutive days; however, if a display is taken down for any reason prior to that period ending, there is another 14 consecutive days required before a display will be allowed to be displayed again.
 - (a) The intended dates to put such temporary advertisements and banners in place shall be detailed in requests that shall be put on file at City Hall prior to putting the display out.
 - (b) Permits can cover the sign(s) and the time period(s) they shall be permitted to be displayed. Multiple signs can be described in one permit.
 - (c) The intended schedule for using the sign(s) over the year can be detailed in one permit.
- (3) *Size.* The size of portable signs shall not exceed 32 square feet or seven feet in height.

(F) *Temporary signs.*

- (1) *Permit required.* In a permit application, each sign will require drawings or a description of the sign structure, period of use, electrical circuits and power supply if illuminated, and materials.
- (2) *Attached to a permanent structure.* To qualify as a temporary sign, the signage must be attached to a permanent structure. The point of attachment must be detailed in the permit.
 - (a) *Buildings.* If a building wall is to be used for temporary signage, there must be a specific framed area of the wall where the sign will be attached. Whether there is a natural architectural frame on the wall or one that is designated, the cumulative size of the sign(s) placed within that designated area shall be consistent with the size regulations for a permanent wall sign; however, these temporary signs can be changed as often as the business desires. The city can require that out-of-date signs be removed. A history of "out-of-date" signs can be considered in denying a permit for these signs. City Hall has the authority to determine what constitutes a "framed" area.
 - (b) Between permanent structures or attached to a permanent structure that is not a building. These signs are regulated in the following manner.
 - 1. A fence shall be considered a wall and the total temporary signage attached to the fence shall not exceed an area equal to 15% of the area of the fence to which it is affixed. Fence signage shall be confined to single area defined in the permit. Space used for signage shall not have an area greater than 100 square feet; except that, if the signage area has a setback greater than 50 feet from its frontage street, its area may be increased by one square foot for each additional foot of setback up to a maximum of 150 square feet.
 - 2. Temporary signs attached to a permanent structure other than a building or fence shall be prohibited unless the structure is more than 90 feet from the street. The total signage allowed for a property is 32 square feet per 100 feet of frontage.

(G) *Directional signs.*

- (1) *Permit required.* permit application requires drawings, any electrical circuits if illuminated, and base.

- (2) *Maximum square feet.* four and one-half square feet.
- (3) *Maximum height.* three feet from average grade of property.
- (4) *Setback.* at least five feet from easement and right-of-way.
- (5) Two directional signs shall be allowed for a single access drive. One sign for each entrance and another for each exit shall be allowed if there are two or more access drives.

(H) Political signs and posters.

- (1) No permit required but signs shall conform to this section.
- (2) The size of the sign or poster shall not exceed two feet by three feet.
- (3) The owner of the property where the sign or poster is to be placed must be notified and must give approval for its placement.

(I) Real estate signs.

- (1) No permit required but signs shall conform to this section.
- (2) The size of the real estate sign or poster shall not exceed two feet by three feet, provided that a "sold" sign not to exceed five inches by 16 inches may be affixed to the sign to indicate a sale.

(Ord. passed 7-16-18: Ord. 187, passed - -2007)

§ 154.094 REGULATIONS WITHIN RESIDENTIAL ZONES.

- (1) In residential zones R-1 and R-2, one of three signs may be used.

<i>Type</i>	<i>Size Limit</i>	<i>Placement</i>	<i>Height Limit</i>
Home occupation	2 square feet	Any wall	NA
Non-dwelling use; permit required	24 square feet	Within required yard	5 feet
Small freestanding; no permit	6 square feet	Within required yard	4 feet
Wall sign; no permit	6 square feet	Any wall	Height of wall

- (2) In Residential Zones R-3 and R-4, the signage for ownership, leasing or rental of multi-family dwellings is regulated by the standards for business and industrial.
- (3) Political signs in residential areas R-1 and R-2 are also governed by the same restrictions as political signs in business or industrial.
- (4) Home occupations may be identified to the public by a non-illuminated wall sign no greater than two square feet.

(Ord. passed 7-16-18; Ord. 187, passed - -2007)

§ 154.095 PROHIBITED SIGNS.

(A) The following signs are prohibited under this chapter.

(B) Temporary exceptions to certain prohibited signs are noted in this section:

- (1) Signs or billboards that advertise a commodity or service that is not available on the premises on which the sign is located;
- (2) Roof signs;
- (3) Projecting wall signs exceeding eight square feet in area;
- (4) Abandoned signs, including the related sign structure. Once determined to be abandoned, structures supporting these signs cannot be reused unless they are brought into compliance with the sign regulations.
 - (a) Owners of abandoned signs shall be responsible for removing the sign's message.
 - (b) If the status of an abandoned sign is challenged, it is the obligation of the owner or lessee to provide to the Zoning Enforcement Officer documentation that a business is still being conducted on the premises.
 - (c) Proof that a business exists on paper is not sufficient proof for this chapter that the business is operating on a particular site.
- (5) Signs using such words as "stop", "danger" or similar words, phrases, symbols or characters, in such a manner to interfere with, mislead or confuse the public in matters of public safety as determined by the city;
- (6) Portable signs and temporary signs will be prohibited in these situations:
 - (a) Signs that fail to meet the height and setback requirements that apply to ground signs will be prohibited; and
 - (b) Electrified portable/temporary signs when the power source is not in compliance with safety requirements as deemed applicable by the City Inspector will be prohibited.
- (7) No signs, except those established and maintained by the city, county, state or federal governments, shall be located in, project into or overhand a street right-of-way or dedicated public easement. This regulation includes railroad rights-of-way;
- (8) Signs that block the required clear vision areas for intersections; and
- (9) Electronic message signs when placement is judged by a public safety officer and City Administrator to be a public safety concern.

(Ord. passed 7-16-18)

§ 154.096 MAINTENANCE AND REPAIR.

Every sign, regardless of its permit requirement, shall be maintained in a safe and presentable condition at all times, including, but not limited to, the replacement of defective parts, painting and cleaning; however, a sign that is not conforming to the sign regulations at the time of its adoption shall be allowed to remain, provided the structure of such nonconforming signs shall not be enlarged or otherwise changed. Maintenance shall be limited to replacement of defective parts, painting and cleaning.

(Ord. passed 7-16-18)

§ 154.097 MANDATORY SIGN REMOVAL.

(A) *Emergency conditions.*

Should the City Administrator or designated agent determine that a sign is so dangerous that it requires immediate removal, the Administrator shall attempt to provide the sign owner or property owner with a notice of the danger and the need for immediate abatement. If such notice is not possible due to the emergency nature of the danger, the Administrator or designated agent shall abate the danger. The cost of the abatement shall be billed to the owner or become a lien against the property.

(B) *Nuisance abatement.*

Any other sign regulated by this chapter that fails to comply with the provisions of this chapter, but which does not require emergency action, shall constitute a nuisance. The owner of such sign and the property owner shall be given written notice of 30 days by certified mail for the abatement thereof. If such abatement is not accomplished within the 30-day period, the Administrator or designated agent shall abate the nuisance. The cost of the abatement shall be billed to the owner of the sign or become a lien against the property.

(Ord. passed 7-16-18)

§ 154.098 APPEALS.

Any person directly or indirectly affected by the strict application of the provisions of this chapter may appeal by filing the request in writing to the Zoning Board of Appeals. The Zoning Board of Appeals will consider the appeal in accordance with established procedures.

(Ord. passed 7-16-18)

(VI) SPECIAL USE PERMIT REGULATIONS

§ 154.110 INTENT, PURPOSE AND PROCESS OF A SPECIAL USE PERMIT.

(A) *Intent.*

In contrast to the definitive and objective process desired for most zoning decisions, the special use permit process is intended to be at least partly subjective. It relies upon the judgment of the Planning Commissioners, the sincerity of the applicant, and the opinions or feelings of people who live or own property near the site of a proposed special use. The special uses that are designated for a particular zoning district are generally complementary to the uses permitted by right; however, because of their unique characteristics or more intensive natures, these uses require special consideration of the welfare of adjacent properties and the community as a whole.

(B) *Purpose.*

This chapter provides procedures and standards for regulating activities identified as uses by special use permit for each zoning district. Special uses represent a middle range between uses that are clearly permitted and uses that are clearly denied in any zoning district. The purpose of designating special uses is to allow practical latitude for a property owner or developer to use a parcel of land while maintaining protection of the health, safety, comfort, convenience and general welfare of neighbors and the community at large.

(C) *Process.*

Regulation of special uses includes two separate steps. First is the review of the site plan for the proposed use. Second is the decision of whether a special use permit will be granted.

- (1) *Standards.* During the special use permit process, various considerations will be explored before approval of the site plan or the special use permit. Some of these are defined in this chapter as additional site plan review standards for various special uses. These standards are intended to reduce the impact of a special use on surrounding properties. They are minimum requirements that must always be met.
- (2) *Conditions.* The Planning Commission may attach additional conditions to the approval of the site plan or the special use permit. These conditions must be based on requirements or concerns defined by this chapter.
- (3) *Precaution.*
 - (a) No person should think that compliance with the standards defined by this chapter automatically grants them the right to establish a special use in a given zoning district. Rather, the privilege of establishing a special use is granted or denied by the Planning Commission following the process outlined in this chapter.
 - (b) This process includes notification of nearby residents and property owners who may voice their opinions at a public hearing before a decision is made to grant a special use permit. Since special uses generally impose physical, visual or psychological impacts on neighboring

parcels, the input of neighboring residents or property owners is a legitimate factor for the Planning Commission to consider when deciding whether to allow such uses.

- (4) *Permanence.* Note that once a special use permit has been granted, it may only be revoked if the conditions mentioned above, or other requirements of this chapter, have been violated. Otherwise, the special use permit "runs with the land" and is one of the rights that transfers when the parcel is rented or sold. Therefore, this chapter does not provide for placement of any time limit on a special use permit, except that the special use permit may expire or be revoked.

(Ord. passed 7-16-18)

§ 154.111 HOW A SPECIAL USE PERMIT IS REVIEWED.

(A) Submission of application.

The application package is to be submitted to the City Zoning Administrator.

- (1) *Contents.* The application package consists of a special use permit application form completed in full by the applicant, accompanied by a fee as established by the City Commission and a site plan.
- (2) *Application deadline.* The complete application package must be submitted to the Zoning Administrator at least 20 days before the Planning Commission meeting at which it will be considered.

(B) Simultaneous consideration of rezoning and special use permit.

In the event that allowance of a desired use requires both a rezoning (change in zoning district designation for the parcel) and a special use permit, both requests may be submitted jointly and considered at a single meeting of the Planning Commission, subject to the following requirements.

- (1) *Separate.* The rezoning shall be considered separately from the special use permit.
- (2) *Procedures.* The ordinance procedures for each decision shall be followed as specified. Any special use permit approval must be conditioned upon adoption of the rezoning by the City Commission.
- (3) *Standards.* All standards required by this chapter shall be observed for each action.
- (4) *Public hearings.* The public shall be given the opportunity for input on both the rezoning and special use decisions. Thus, two separate public hearings shall be held at the same meeting.

(C) Planning Commission review and hearing.

The special use permit application package shall be the subject of both a site plan review and a public hearing conducted by the Planning Commission. If the applicant wishes to have the site plan review and special use permit considered at a single Planning Commission meeting, the following process occurs.

- (1) *Public hearing on special use.* The Planning Commission shall hold a public hearing on the application as part of the meeting in which the special use permit is considered.

- (a) *Notice.* A notice of public hearing shall be mailed to all parties specified in § 154.154 and published in a newspaper of general circulation in the city not less than five nor more than 15 days before the date of such hearing.
 - (b) *Delay at applicant's request.* If a site plan for a special use has been denied, the applicant may ask that the special use permit, including the public hearing, be postponed; however, postponing the hearing prior to the hearing taking place requires an additional notification of neighboring property owners and newspaper publication of another notice. Therefore, the applicant will be required to pay an additional application fee to offset the Commission's added cost.
- (2) *Consideration of special use permit.* Following the close of the public hearing, consideration of the special use permit shall take place.
- (a) *Open meeting.* Note that the Open Meetings Act requires this vote to take place in an open public meeting.
 - (b) *Prompt decision.* In the interest of fairness and a timely response for all concerned parties, the Planning Commission shall render their decision on the special use permit during the same meeting in which the public hearing is held, unless further information must be obtained before a decision can be made. In such cases, action upon the special use permit may be tabled to a public meeting of the Planning Commission to be held on a specific date that is identified in the motion to table.
- (3) *Site plan review.* The Planning Commission shall conduct a site plan review for the proposed use, using the procedure and standards presented in § 154.135, and any specific standards identified for the special use by this chapter. The Planning Commission may approve the site plan as presented, approve it with conditions, deny it or table approval of it to a specific meeting date.
- (a) *Public input.* The site plan review may be completed before public input is heard on the question of granting the special use permit. This is because the site plan review process is intended to be an objective review of factual information to determine whether precise standards have been met; however, the Planning Commission may choose to accept public comments or questions relating only to design considerations of the site plan.
 - (b) *If the site plan is denied.* In the event the site plan is denied, consideration of the special use permit shall still occur, including the public hearing. The special use permit may still be approved with the condition that site plan approval must be obtained before the special use permit is valid.

(D) *Re-application.*

An application for a special use permit that has been denied may not be resubmitted until one year after the date of denial has passed.

(E) *Terms of permit.*

A special use permit consists of a permit that specifies the special use which is to be allowed and any conditions which were attached by the Planning Commission. If a use established under a special use

permit is discontinued for a period of one year, the special use permit shall expire. To reestablish the use after such expiration will require granting a new special use permit, starting with a new application.

- (1) *Revocation.* The privilege of a special use permit is subject to all the conditions that have been attached to it during the process described above. Except as noted in division (1)(5) below, the permit remains valid as long as all of those conditions are met; however, the city, via the Planning Commission, shall revoke any special use permit after it has been proven that the permit conditions have been violated.
- (2) *First notice.* The Zoning Administrator shall send written notice of a violation to the holder of the permit by certified mail. The notice shall state that correction must be made within 30 days or the Planning Commission will revoke the special use permit and order the use to cease.
- (3) *Considered nonconforming.* From the time the Zoning Administrator's notice of violation is issued, until compliance with all special use permit conditions is restored, the use in question shall be treated as an unacceptable nonconforming use.
- (4) Planning Commission action.
 - (a) The Zoning Administrator shall notify the Planning Commission of the violation of conditions of the special use permit at the next regular Planning Commission meeting, and revocation of the special use permit shall be considered then.
 - (b) The Planning Commission's meeting will usually take place before the 30-day period for the first notice has expired. In that case, the resolution to revoke the special use permit should be worded so that it takes effect only if compliance with all requirements is not restored.
 - (c) It shall also include authorization for the Zoning Administrator to order the permit holder to cease the permitted use if the violations are not corrected by the end of the first notice period.
- (5) *Second notice and order.* After expiration of the 30-day period, the Zoning Administrator shall notify the permit holder by certified mail that the special use permit has been revoked, and the use for which the permit was granted must cease within 60 days from the date of this second notice.
- (6) *Enforcement of order.* Failure to comply with the order to cease an activity for which a special use permit has been revoked is a violation of this chapter, subject to all penalties thereof.

(F) *Standards to consider when reviewing a special use permit.*

- (1) *Standards attached to site plan review.* Before approving or denying a special use permit Application, the Planning Commission reviews the site plan for said use, to establish that all applicable standards are satisfied. The site plan review shall determine compliance with the applicable district regulations, the site plan review standards from § 154.135 and any applicable standards from this chapter.
- (2) Additional conditions.
 - (a) The Planning Commission may stipulate any additional conditions or safeguards deemed necessary to achieve the objectives of this chapter.

- (b) These may be defined during the site plan review process or during consideration of whether to grant the special use permit.
 - (c) All conditions attached to the approval of the site plan are also conditions of the special use permit. These conditions, and the reasoning behind them, must be documented in the Planning Commission's minutes, written on the site plan itself and communicated to the applicant in writing.
 - (d) The permit will not take affect until the conditions of approval are accepted by the applicant, signified by the signatures on the site plan itself, of both the applicant and the Planning Commission Chairperson.
- (3) *Enforcement of conditions.* The breach of any condition shall be cause for the Planning Commission to revoke a special use permit.

(Ord. passed 7-16-18)

§ 154.112 BED AND BREAKFAST.

- (1) *Licensing.* A bed and breakfast must be licensed by city according to current licensing regulations.
- (2) *Single-family construction.* Each premises must have been originally designed and constructed as a single-family residence and must be occupied and operated by its owner. The structure shall remain a residential structure; i.e., the kitchen shall not be remodeled into a commercial kitchen.
- (3) *Maximum floor area.* Not more than 25% of the total floor area of the dwelling unit shall be used for bed and breakfast sleeping rooms.
- (4) *Location of rooms.* No bed and breakfast sleeping rooms shall be located in a basement or attic.
- (5) *Cooking.* Cooking for bed and breakfast guests shall take place in the same kitchen as used by the property owner. There shall be no separate cooking facilities in the rented rooms for bed and breakfast stay. Breakfast is the only meal that may be served to guests.
- (6) *Bedroom size.* Bed and breakfast bedrooms shall contain a minimum of 120 square feet for the first two occupants, with an additional 30 square feet for each additional occupant.
- (7) *Occupants.* Bed and breakfast occupants shall be limited to four in one room at any one time.
- (8) *Length of stay.* The stay of bed and breakfast guests shall be no more than 14 consecutive days and not more than 30 days in any one calendar year.
- (9) *Restroom.* If one restroom, no more than six people (residents and guests) shall occupy the residence overnight. For each additional restroom, six additional people shall be permitted for overnight stays provided all other aspects of this ordinance are satisfied.
- (10) *Sign.* A two-foot square sign, affixed flat against the dwelling and not illuminated, will be permitted.

- (11) *Parking surface and screening.* All parking required per § 154.070 through § 154.075, shall be off the street, in the side or back (not front) yard. In addition to parking places for the owners of a bed and breakfast, one additional parking place must be provided for each room available to be rented. All parking spaces shall be paved or graded to city standards with materials that maintain the historical character of the neighborhood. Natural screening by use of plant materials or other screening may be required to screen parking areas from adjoining residential properties.
- (12) *Structural additions.* No additions to existing structures will be approved for the purpose of adding bed and breakfast space. New construction in residential zones will be permitted subject to review and approval of the Planning Commission.
- (13) *Common areas.* Bed and breakfast guests shall have access to all common areas, including, but not limited to, dining rooms, parlors, screened-in porches and the like.

(Ord. passed 7-16-18)

§ 154.113 CAR WASH.

- (1) Minimum lot size shall be 12,000 square feet; minimum lot width shall be 100 feet.
- (2) All washing activities must be carried on within a building.
- (3) The entrances and exits of the facility shall be from within the lot and not directly to or from an adjoining street or alley. A street or alley shall not be used as maneuvering or parking space for vehicles to be serviced by the subject facility.
- (4) Ingress and egress drives shall not be less than 15 feet wide.
- (5) The entire lot, excluding the area occupied by a building, shall be hard surfaced with concrete or a plant-mixed bituminous material except desirable landscaped areas that shall be separated from all paved areas by a low barrier or curb.

(Ord. passed 7-16-18)

§ 154.114 HIGH INTENSITY USES.

Standards in this section shall apply to all of the following uses in zoning districts where they are identified as special uses in the district regulations for each zone.

These uses are: petroleum or inflammable liquids production, refining, storage, junk yard, incinerator, incarceration facility, high intensity food processing, fireworks storage and sewage treatment and disposal facility.

- (1) *General.* All uses shall be established and maintained in accordance with all applicable state statutes. If any of the requirements of this division are less than those in applicable state statutes, the state requirements shall prevail. All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property and individual, or to the community in general.

- (2) *Tree buffers for junk yards.* Buffers of tree cover shall be provided on the periphery of the property. The buffer shall be no less than 50 feet in width, and may be natural vegetation or planted evergreens if the existing cover is destroyed.
- (3) *No hazardous or toxic waste.* No hazardous or toxic wastes, as defined by the Department of Environmental Quality, may be deposited or stored by any use in this group.
- (4) *Truck access.* Routes for truck movement to and from the site shall be identified by the County Road Commission. Wear on public roads, traffic hazards and encroachment of noise, dust and other nuisances upon adjacent uses must be considered.
- (5) *Activity restrictions.* No open burning shall be permitted and all industrial processes involving the use of equipment for cutting, compressing (other than landfill compaction operations), or packaging shall be conducted within a completely enclosed building.
- (6) Fence requirements.
 - (a) Around incinerator. Berms and fences shall be constructed around any landfill or incinerator as required by the regulations promulgated by solid waste laws of the state. The berms and fences shall be placed on the interior of the vegetated buffers mentioned above and shall not decrease their width. Fences shall have a gate entrance that can be locked during hours when no operation is taking place.
 - (b) Around junk yard or resource recovery. A solid fence or wall at least eight feet in height shall be provided around the active area of a junk yard or resource recovery operation to screen said activity from surrounding property. Such fence or wall shall be of sound construction, painted or otherwise finished neatly and inconspicuously. All activities shall be confined within the fenced-in area. There shall be no stacking of material above the height of the fence or wall, except that moveable 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 fenced-in area. Aesthetic and structural qualities of fencing shall be regulated by the Planning Commission at the time of site plan review.
 - (c) Around sewage treatment or disposal facility. All operations shall be completely enclosed by a wire link fence not less than eight feet high.

(Ord. passed 7-16-18)

§ 154.115 INDUSTRIAL PARK.

(A) *Permitted uses in industrial park.*

Uses primarily engaged in research and light manufacturing activities.

- (1) Uses are allowed that do not have or create external noise, light or a discharge that cannot be disposed of in a municipal sanitary sewer. Uses that meet these requirements are at the determination of the Planning Commission.
- (2) Distribution and warehousing plants.

- (3) Administrative, professional and business offices associated with and accessory to a permitted use.
- (4) Cafeteria, café, restaurant or auditorium accessory with and incidental to any of the foregoing uses.
- (5) Agricultural uses, pending development.

(B) *Development standards.*

- (1) Setbacks: no building shall be located on any one or more lots nearer to the front line or nearer to the side lot line than the minimum setback set forth below.
- (2) Front yard setback: 20 feet, except that unsupported roofs or sun screens may project six feet into the setback area.
- (3) Side yard setback: ten feet, provided that a single building is constructed on two or more lots. No fences shall be constructed within the required side yard.
- (4) Rear yard setback: the rear yard shall be 30 feet.

(C) *Site coverage.*

Maximum building coverage of 50% of a site is allowed. Parking structures shall not be calculated as a building area; however, said structures shall be used only for the parking of company vehicles, employees' vehicles or vehicles belonging to persons visiting the subject firm.

(D) *Building height.*

The maximum building height shall be 35 feet.

(E) *Building construction and materials.*

- (1) All buildings shall create a credible and acceptable appearance on all four sides. Buildings, including buildings associated with the principal structure, shall be constructed of a material other than unfinished galvanized steel or sheet aluminum for exterior walls. All associated equipment, including roof mounted units, shall be screened from view from any public street. At least 35% of the wall area on the front of the building shall be of face brick, stone, exposed aggregate or of other architectural masonry of equal standard.
- (2) The owner shall take appropriate measures to minimize dust, storm water runoff and construction debris during construction and shall be prohibited from allowing construction activities from injuring other properties.

(F) *Parking.*

Each owner of a parcel shall provide adequate off-street parking to accommodate all parking needs for the parcel. Required off-street parking shall be provided on the parcel of the use served, or on a contiguous parcel or within 800 feet of the subject parcel. Where parking is provided on other than the parcel concerned, a recorded document shall be filed with the city and signed by the owners of the alternate parcel stipulating to the permanent reservation of the use of the parcel for said parking.

- (1) Exceptions to these guidelines shall be made where an approved ride-sharing program to service the industrial park is implemented.
- (2) The following guide shall be used to determine parking requirements: office, manufacture, research and assembly: one space for each full time employee (per shift) and one space per 2,000 square feet of total office space (excluding such areas as pedestrian corridors, restrooms, elevator shafts, equipment areas). Warehouse: one parking space for each full time employee (per shift).

(G) *Landscaping.*

The front yard setback area of each site shall be landscaped with an effective combination of trees, ground cover and shrubbery. All unpaved areas not utilized for parking shall be landscaped in a similar manner. The entire area between the right-of-way and a point ten feet in back of the front property line shall be landscaped, except for any access driveway in said area.

- (1) Side and rear yard setback areas not used for parking or storage shall be landscaped utilizing ground cover and/or shrub and tree materials.
- (2) Undeveloped areas proposed for future expansion shall be maintained in a weed-free condition.

(H) *Loading areas.*

No loading shall be allowed that is visible from adjacent streets. Street side loading shall be allowed provided the loading dock is set back a minimum of 90 feet from the street right-of-way line, or 130 feet from the street centerline, whichever is greater. Said loading area must be screened from view from adjacent streets.

(I) *Storage areas.*

No outdoor storage shall be allowed.

(J) *Refuse collection areas.*

All outdoor refuse collection areas shall be visually screened from access streets, freeways and adjacent property by a complete opaque screen made of materials compatible with the building materials used in the principal structure. No refuse collection areas shall be permitted between a frontage street and building line.

(K) *Lighting.*

All employee, public and loading entrances shall be lighted. Lights shall be deflected in such a way as to not create a traffic hazard or affect adjoining residents.

(L) *Telephone and electrical service.*

All on-site electrical lines and telephone lines shall be placed underground. Transformer or terminal equipment shall be visually screened from view streets and adjacent properties.

(M) *Nuisances.*

No portion of the park shall be used in such a manner as to create a nuisance to adjacent sites, such as, but not limited to, vibration, sound, electro-mechanical disturbance, radiation, air or water pollution, dust emission of odorous, toxic or noxious matter. The result of every action or omission whereby any restriction or covenant in this document is violated in whole or in part is hereby declared to be a nuisance.

(Ord. passed 7-16-18)

§ 154.116 INSTITUTIONS.

(A) *Standards.*

Standards in this section shall apply to all of the following uses in zoning districts where they are identified as special uses in Chapter (II) for each zone. These uses are: religious, social, educational, rehabilitation, incarceration institutions, kennels, museums, libraries and state licensed residential facilities for seven or more residents.

(B) *Site location principles.*

- (1) It is desirable that any institutional structure or use to be located within a residential district should be located at the edge of a residential district, abutting either a business or industrial district or adjacent to public open space.
- (2) Motor vehicle entrances should be made on a major thoroughfare, or as immediately accessible from a major thoroughfare. This is to avoid the impact of traffic generated by the institutional use upon the residential area.
- (3) Site locations that offer a natural or human-made barrier that would lessen the effect of the intrusion of the institutional use into a residential area are preferred.

(C) *Development requirements.*

Ambulance and delivery areas shall be obscured from all residential view by a solid masonry wall six feet in height. Access to and from the delivery and ambulance area shall be directly from a major, minor or principal collector thoroughfare.

(D) *Substance abuse rehabilitations center.*

- (1) Such uses shall front onto a primary road. The main means of access to the facility for patients, visitors and employees shall be via the primary road. In no case shall access be from a residential street.
- (2) The principal building shall be set back at least 50 feet from side and rear property lines. The front yard setback shall meet the requirements of the district in which the facility is located.
- (3) Open space will be required and will be site specific.
- (4) Screening will be required and will be site specific.

(E) *Kennels, animal shelters and veterinary hospitals.*

No animal runs shall be less than 150 feet from a lot line abutting a residential district.

(Ord. passed 7-16-18)

§ 154.117 MINI-STORAGE.

- (1) Site shall be enclosed on side lot lines of development to the front of the building and on the rear lot line by a privacy fence with a minimum height of five feet and a maximum height of six feet.
- (2) Site shall be enclosed at the front setback line of the development by an open-face fence with a minimum height of four feet and maximum height of five feet.
- (3) All parking and driveways shall be paved and supplied with proper drainage structures.
- (4) Hours of operation must be approved as part of the site plan review process.
- (5) No storage of hazardous or flammable liquids, solids or gases.
- (6) No business activity shall occur from the storage units.
- (7) Site must contain a minimum of 40,000 square feet.
- (8) No additional uses will be permitted per 40,000 square feet in addition to mini-storage.
- (9) No open storage will be permitted excluding RVs. If RVs are being stored, they must be fully screened from residential view.
- (10) Buffering meeting the requirements of § 154.009(A) is required.
- (11) All access aisles and entrances to the site shall be paved with asphalt or concrete with appropriate storm water drainage. Where possible, access to individual units shall face the interior of the site to avoid perimeter traffic.

(Ord. passed 7-16-18)

§ 154.118 OUTDOOR ASSEMBLY.

(A) *Exempt activities.*

School fund raising activities are exempt from the special use permit requirements of this section. Private garage and yard sales in any R District are exempt from the special use permit requirements of this section.

(B) *Evidence of ownership or permission.*

Evidence of ownership, lease or permission for use of any site for which a temporary permit or approval is sought must accompany all permit requests.

(C) *Length of permit.*

A temporary permit may be granted by the Planning Commission for a maximum of three consecutive months. Additional temporary permits for the same proponent on the same site may be granted no sooner than one month following the expiration of the previous permit. The total time period for all temporary permits granted to one proponent shall not exceed six months in one calendar year.

(D) *Temporary structures.*

Temporary structures used to support outdoor assembly activities are those with no foundation.

- (1) No portion of the structure may become unattached or move as the result of wind.
- (2) The temporary structure must be anchored to withstand a 30 pounds per square foot wind stress factor.
- (3) Temporary structures must be removed prior to expiration of the permit.
- (4) Temporary structures used to support outdoor assembly activities for which the permit is requested shall not be used to provide overnight shelter for people participating in or requesting the special use.

(E) *Uses requiring an official site plan and Planning Commission review.*

If the use is for greater than three days, within a 30- day period, a site plan, in conformance with the requirements outlined in Chapter (VII), site plan review, must be submitted to the Planning Commission, and all other provisions of this section must be followed, but no fee is required. The owner of the property on which the temporary use is located is responsible for providing the site plan showing the temporary indoor or outdoor use and its conformance with ordinance requirements. This site plan may be an addition to the original plan for the property. Any violations of the temporary use are the responsibility of the owner of the property on which it is located.

- (1) *Overnight residing on temporary site.* The temporary site may not be occupied for more than 12 hours per day. In no event shall overnight occupation be automatically permitted. Overnight residing on a temporary site of outdoor assembly is only allowed if specific permission is granted by the Planning Commission or Zoning Administrator.
- (2) *Temporary signs.* Temporary signs shall be allowed, by permit, for a total of 30 days in any six-month period. A total of two temporary sign permits may be granted for one parcel in a year.
- (3) *Sanitary facilities.* Sites selling items for human consumption must have access to hand washing and toilet facilities. Sites selling items not for human consumption must have access to toilet facilities only.
- (4) *Display of goods.* Display and sale of goods may not be within the required yards for the zoning district.

(F) *Uses not requiring an official site plan or Planning Commission approval.*

Private temporary outdoor uses and those associated with nonprofit organizations meeting the definition of "nonprofit organizations" in § 154.005, may be granted temporary use permits by the Zoning Administrator, at no cost to the organization. The site plan must be approved by the Fire and Police Departments.

(Ord. passed 7-16-18)

§ 154.119 PLANNED UNIT DEVELOPMENT.

(A) *Intent.*

This section is intended to encourage innovation in land use patterns and variety in design for development of parcels as well as encouraging economy and efficiency in provision of public services, the use of land, natural resources and energy. These regulations provide flexibility for developers while protecting public values.

(B) *Permitted uses and standards.*

- (1) A planned unit development (PUD) may include all uses by right and special uses listed for the zoning district that applies to its site, and for the zoning district that immediately precedes and follows it in the following list of districts:
 - (a) R-1;
 - (b) R-3;
 - (c) B; and
 - (d) I.
- (2) For example, a PUD proposed for a parcel zoned R-2 could include all uses identified for the R-1, R-2 and B Zoning Districts.
- (3) When a Use is listed only as a special use for the applicable zoning districts, all special use permit standards for said use will apply. When a use is listed as a special use in one of the applicable zoning districts, and as a use by right in another, it may be treated as a use by right for the PUD.

(C) *Use density and parcel coverage.*

Parcel coverage limits for the applicable zoning district must be met overall, with the following additions.

- (1) *Residential coverage in business zoning districts.* For a PUD located in the B Zoning Districts, up to 50% of the allowable parcel coverage may be devoted to structures for residential uses.

- (2) *Nonresidential coverage in residential zoning districts.* For a PUD located in the R-1 or R-2 Zoning Districts, up to 20% of the allowable parcel coverage may be devoted to structures for nonresidential uses.
- (3) *Residential density.* The maximum residential density shall be one dwelling unit for every 4,000 square feet of parcel area. Single-family or two-family dwellings shall meet the dwelling unit area requirements specified for the R-2 Zoning District. Multiple-family dwellings shall conform to the R-2 requirements.

(D) *Dimensional requirements.*

Front yard setback requirements for the applicable zoning district shall apply to all boundaries of the PUD. Building height limitations and minimum yards between dwelling structures shall be as specified for the C-1 Zoning District; however, if plots of land in a PUD are proposed for resale as either fee simple parcels or site condominiums, said parcels or condominium units, and any buildings thereon, must meet the parcel dimension and yard requirements for the R-3 Zoning District.

(E) *Buffering for residential uses.*

When a PUD contains a mix of residential and other uses, the following provisions shall be enforced.

- (1) *Separate buildings.* In any PUD, a building devoted to nonresidential use must be separated from adjacent residential buildings by a yard area not less than 30 feet across, developed as landscaped open space and not used for parking or circulation of motor vehicles. This area may apply toward satisfaction of the PUD's open space requirement, as noted below.
- (2) *Within same building.* When residential and nonresidential uses occupy space in a single building in a PUD, a continuous physical separation must be provided between spaces devoted to said uses. Access doorways are allowed, but the separation must provide at least a one-hour fire rating between residential and nonresidential space.

(F) *Open space.*

At least 10% of any parcel containing a PUD must be devoted to landscaped open space. Forest, wetland or other unique environmental areas may be left in a natural state. Cropland may not be counted as landscaped open space, nor may yard areas of individual residential lots be included; however, landscaped yard areas for multiple dwellings or nonresidential uses may be included. If the PUD includes multiple dwellings, it must have at least 1,000 square feet of open space per dwelling unit.

(G) *Parking and circulation.*

Parking for uses in a PUD shall conform to the requirements of individual uses. Roadways in a PUD are intended to be public streets, and must be built to the standards of the applicable public agency.

(Ord. passed 7-16-18)

§ 154.120 RECREATIONAL VEHICLE (RV) PARK.

(A) *Occupancy.*

Spaces in RV parks or campgrounds may be used by motor homes, travel trailers, campers, tents or other short- term housing or shelter arrangements.

(B) *Resident manager.*

Each RV park or campground shall be directly supervised by a resident manager who may share such duties with other members of his or her family. Management shall be accessible to park tenants at all times (24 hours) when park spaces are rented. The manager's residence shall include the business office for the park and at least 1,000 square feet of living area for the manager's family.

(C) *Regulatory compliance required.*

RV parks or campgrounds must maintain compliance with all regulations of the State Department of Community Health and the State Department of Natural Resources that apply to such enterprises. Failure to comply with any such regulation shall constitute a violation of this chapter.

(D) *Greenbelt, fence and setback.*

The entire perimeter of any RV park or campground shall be enclosed by a fence at least four feet high. Further, there shall be a greenbelt planting strip not less than 15 feet wide around the entire site. Said greenbelt shall contain at least one straight or staggered row of deciduous or evergreen trees, spaced not more than 20 feet apart and at least two rows of deciduous or evergreen shrubs that will grow to an ultimate height of at least six feet planted not more than six feet apart. All individual campsites are to be set back at least 75 feet from any street right-of-way or neighboring property line.

(E) *Access and circulation.*

Each park shall be served by not more than one point of access to each abutting street or road. No such access shall require a turn at an acute angle for vehicles moving in the direction intended. Design of curbs and pavements at such access points shall be such as to facilitate easy movements for vehicles with trailers attached. Clear vision areas shall be maintained for drivers, extending 150 feet in each direction on any abutting road and for 25 feet on the park entrance road. Roadways within the park shall be hard surfaced, dust free and at least 24 feet wide for two-way traffic or 12 feet wide for one-way traffic. Parking shall not be permitted on these roadways, and they shall be posted for a maximum speed of ten mph.

(F) *Personal care facilities.*

Each RV park or campground shall include men's and women's restroom and bathing facilities in all-weather, heated structures. These facilities shall include adequate water outlets, washbasins, toilets, showers and waste containers. These facilities shall be provided uniformly through out the park at a ratio not less than one toilet and sink for each eight camping or RV sites. These facilities shall be kept in good working order and each structure shall be cleaned thoroughly daily.

(G) *Other public facilities.*

Each park shall have waste pump-out facilities for recreational vehicles that shall have an approved connection to a municipal sewage collection and treatment system or shall have waste removed by a licensed waste hauler for treatment at a municipal treatment facility. Each park shall be served by a commercial solid waste disposal service, providing on-site storage container(s) large enough to accommodate a three-day accumulation of solid waste with all sites in the park occupied. Said service shall provide pick up of waste at least weekly when the park is operating and frequently enough to insure that said container(s) are never overloaded. Finally, at least 15% of the site, not including the greenbelt and setback areas as defined in this section, shall be devoted to shared open space uses, including, but not limited to, playgrounds, picnic areas, court or field sports, or natural areas. This shall not include parking and vehicle circulation areas.

(H) *Individual campsite requirements.*

Each RV parking site or campsite shall be a minimum of 1,200 square feet in area and shall include the following amenities: an electrical power outlet and fixed facilities for cooking using charcoal or wood as fuel with a fire that is not placed directly upon the ground, unless in a specified metal fire ring in a specified location. Metal trash container with a lid and volume of at least two cubic feet that shall be emptied daily by park personnel to the solid waste facility and a gravel or hard surfaced parking area of at least 200 square feet.

(Ord. passed 7-16-18)

§ 154.121 SEXUALLY ORIENTED BUSINESSES/ADULT MEDIA STORES.

(A) *Intent.*

There are some uses that because of their very nature are recognized as having serious objectionable operational characteristics, particularly when several of them are grouped. Such uses may have deleterious effects upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse affects will not contribute to blighting or downgrade the surrounding neighborhood. These special regulations are itemized in this section. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area or next to residential zones or certain institutional uses.

(B) *Distance restrictions.*

- (1) Sexually oriented businesses or adult media stores shall not be permitted to be established within 1,000 feet of each other. This distance shall be measured from the property lot line of one sexually oriented business or adult media store to the property lot line of the other sexually oriented business or adult media store.
- (2) It shall be unlawful to hereafter establish any sexually oriented business or adult media store, as defined, within 1,500 feet of any agriculturally or residentially zoned property or within 1,500 feet of any religious or educational institution, library, day care center, public park or recreational land use. This distance shall be measured from the property lot line of the sexually oriented

business to the property lot line of the agriculturally or residentially zoned property or the property lot line of any religious or educational institution, public park or recreational land use.

(C) *Signs and public or exterior display.*

- (1) Window displays, signs, decorative or structural elements of buildings shall not include or convey specific examples of actual adult uses, and are limited to the sign provisions of this chapter.
- (2) No sexually oriented business or adult media store shall be conducted in any manner that permits the observation of any material depicting, describing or relating to "specific sexual activities", "specified anatomical areas" or "sexually oriented toys or novelties" (as defined in this chapter) from any public way or from any property not licensed as a sexually oriented business or adult media store. This provision shall apply to any display, decoration, sign, show window, structural elements or other opening.

(D) *Precautionary note to the Zoning Board of Appeals.*

When considering any appeal from a sexually oriented business or adult media store for reduction of spacing or separation standards established herein, the Zoning Board of Appeals shall address each of the following issues and include the findings regarding each point in their minutes.

- (1) *Chapter intent.* The proposed use shall not be contrary to the intent and purpose of this chapter, or injurious to nearby properties.
- (2) *Blighting influence.* The proposed use shall not enlarge or encourage the development of a concentration of such uses or blighting influences.
- (3) *Neighborhood conservation.* The proposed use shall not be contrary to any program of neighborhood conservation, revitalization or urban renewal.
- (4) *Other standards.* The proposed use, and its principal building, shall comply with all other regulations and standards of this chapter.

(Ord. passed 7-16-18)

§ 154.122 SOIL RESOURCE EXTRACTION, MINING AND POND CONSTRUCTION.

(A) *Scope of regulations.*

- (1) This section regulates extraction, filling or repositioning of soil, sand, gravel, clay or other geologic deposit involving disturbance of more than 1,000 cubic yards of material, when such disturbance is not related to construction of a building, structure or parking lot.
- (2) This section also applies to artificial ponds created by soil excavation or intervention in watercourses, surface drainage or groundwater aquifers, regardless of size and whether the creation of the pond is an end in itself or merely a by-product of soil extraction activity.
- (3) Ponds created by embankments or dams across streams or watercourses are not permitted in the city.

- (4) Finally, oil wells are specifically exempted from this section, because they are regulated solely by the State Department of Natural Resources.

(B) *Additional information required for site plan.*

The site plan for any activity regulated by this section must include the following additional information.

- (1) A profile of the proposed excavation, illustrating elevations and changes in slope, with elevations noted in five-foot intervals. If water is expected to accumulate in the excavation, the projected water level must also be shown.
- (2) A soil evaluation report describing the excavation site and any needed drainage or seepage corrections.
- (3) The specifications for any spillway or drain for a proposed, including the proposed methods of foundation preparation or fill placement.

(C) *Excavation site requirements.*

- (1) Avoid sites of ecological significance, such as wetlands or mature forest. If wetlands are to be affected, a state permit may be needed.
- (2) Excavations that create ponds should be located to minimize the chance of pollution from sources such as feedlots, corrals or septic tanks.
- (3) Excavations may be no closer than 50 feet, measured horizontally, to a power line, and may not be within a public utility or transportation easement.

(D) *Construction and operation requirements.*

- (1) An excavation should not change surface drainage or underwater aquifers so as to adversely impact neighboring uses.
- (2) Any pond banks shall have a maximum slope of one foot vertical to four feet horizontal that extends below the projected low water surface elevation to a depth of at least eight feet.
- (3) Minimum designed water depth of a pond must be 15 feet to ensure proper aeration and circulation of the water.
- (4) All required environmental permits shall be obtained and obeyed, including the soil and sedimentation control permit under Public Act 347 of 1972, being M.C.L.A. §§ 324.9101 through 324.9123a.
- (5) Any excavated material not removed from the site shall be graded to a continuous slope that does not exceed one foot vertical to three feet horizontal and arranged to prevent runoff from impacting adjacent properties. Said fill shall blend visually with the surrounding landscape.
- (6) By October 15 of each year, the completed portion of an excavation and any disturbed area around it shall be graded and seeded.

- (7) No machinery or equipment shall operate, and no trucks, trailers or other conveyances shall arrive at any excavation site before 7:00 a.m. or after 8:00 p.m..
- (8) Proper measures shall be taken to minimize the nuisance of traffic noise and flying dust or soil while a site is being excavated.
- (9) When two or more dwellings are located within 200 feet of the edge of any water body on an excavation site or on any parcel, said water body shall be enclosed by a fence at least four feet high with a lockable gate.
- (10) Ponds constructed for recreational purposes must be located behind the principal structure and outside of the rear and side yards.

(Ord. passed 7-16-18)

§ 154.123 WIRELESS COMMUNICATION FACILITIES.

(A) Intent and purpose.

The intent and purpose of these regulations is to accommodate the communications needs of people while protecting the public health, safety and general welfare of the community. These regulations will:

- (1) Facilitate the provision of wireless telecommunication services to the residents and businesses of the city;
- (2) Minimize adverse visual effects of towers through design and siting standards;
- (3) Avoid potential damage to adjacent property from tower failure through structural standards and setback requirements; and
- (4) Maximize the use of existing approved towers and buildings to accommodate new wireless telecommunication facilities in order to reduce the number of towers necessary to serve the community.

(B) Existing towers and/or structural supports.

A wireless communication facility shall require a building permit in all instances and may be permitted in all districts as follows.

- (1) A wireless service facility may locate on any existing commercial guyed tower, lattice tower, monopole, electric utility transmission tower, fire tower or water tower, provided that the installation of the new facility does not increase the height of the existing structure except as provided in the height regulations in this chapter. Such installations shall be permitted by right in all zoning districts and be permitted through city staff review.
- (2) Towers supporting amateur radio antennas and conforming to all applicable provisions of this chapter shall be allowed in the rear yard of parcels. Amateur towers shall not support any commercial use antennas.

- (3) Commercial or municipal towers conforming to all applicable provisions of this chapter shall be allowed only on the following sites by right and shall be permitted through the site plan review procedures outlined in this chapter:
 - (a) Church sites, when camouflaged as steeples or bell towers;
 - (b) Park sites, when compatible with the nature of the park; and
 - (c) Government, school, utility and institutional sites, according to the statement of priority of users and minimum requirements for use of city-owned properties.
- (4) Wireless telecommunication antennas on roofs, walls and existing towers may be approved by the city staff provided the antennas meet the requirements of this chapter after submittal of a final site plan and a report prepared by a licensed professional engineer indicating the existing structure or tower's suitability to accept the antenna and the proposed method for affixing the antenna to the structure. Complete details of all fixtures and couplings and the precise point of attachment shall be indicated.

(C) *Newly constructed towers.*

A wireless communication facility shall require a building permit in all instances and may be permitted in all districts as follows.

- (1) Newly constructed towers in residentially zoned areas are only permitted if they are towers supporting amateur radio antennas and conforming to all applicable provisions of this chapter. Amateur radio towers shall only be allowed in the rear yard of parcels. Amateur towers shall not support any commercial use antennas.
- (2) Newly constructed towers in business or industrial district areas are allowed by special use permit under the following situations. The City Commission finds that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a one and one-half mile radius of the proposed tower location due to one or more of the following reasons:
 - (a) The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed engineer, and the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost;
 - (b) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost;
 - (c) Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer; and/or
 - (d) Other unforeseen reasons make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

(D) Collocation.

- (1) Licensed carriers shall share wireless service facilities and sites where feasible and appropriate, thereby reducing the number of wireless service facilities that are stand-alone facilities.
- (2) All applicants for a special use permit for a wireless service facility shall demonstrate a good faith effort to collocate with other carriers.
- (3) Such good faith effort includes:
 - (a) A survey of all existing structures that may be feasible sites for collocating wireless service facilities;
 - (b) Contact with all the other licensed carriers for commercial mobile radio services operating in the county; and
 - (c) Sharing information necessary to determine if collocation is feasible under the design configuration most accommodating to collocation.
- (4) In the event that collocation is found to be infeasible, a written statement of the reasons for the lack of feasibility shall be submitted to the city.
- (5) The city may retain a technical expert in the field of RF engineering to verify if collocation at the site is not feasible or is feasible given the design configuration most accommodating to collocation. The cost for such a technical expert will be at the expense of the applicant. The city may deny a special use permit to an applicant who has not demonstrated a good faith effort to provide for collocation.

(E) Tower construction.

- (1) Any proposed commercial wireless telecommunication service tower shall be designed, structurally, electrically and in all respects to accommodate both the applicant's antennas and comparable antennas for at least two additional users.
- (2) Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights. Towers shall be constructed to ANSI EIA TIA-222-F Structural Standards for Steel Antenna Towers and Antenna Supporting Structures and National Building Code construction standards for steel structures.

(F) Tower, and accessory building design.

Proposed or modified towers and antennas shall meet the following design requirements.

- (1) Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.
- (2) Commercial wireless telecommunication service towers shall be of a monopole design unless the City Commission determines that an alternative design would better blend into the surrounding environment.

- (3) All utility buildings and structures accessory to a transmission structure shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district. Ground-mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

(G) *Tower setbacks.*

Towers shall conform to each of the following minimum setback requirements.

- (1) Towers shall meet the setbacks of the underlying zoning district with the exception of industrial zoning districts, where towers may encroach into the rear setback areas, provided that the rear property line abuts another industrially zoned property and the tower does not encroach upon any easements.
- (2) Towers shall be set back from planned public rights-of-way as shown on the city's Master Plan by a minimum distance equal to one-half of the height of the tower including all antennas and attachments.
- (3) Towers shall not be located between a principal structure and a public street, with the following exceptions:
 - (a) In industrial zoning districts, towers may be placed within a side yard abutting an internal industrial street; and
 - (b) On sites adjacent to public streets on all sides, towers may be placed within a side yard abutting a local street.
- (4) A tower's setback may be reduced or its location in relation to a public street varied at the discretion of the City Planning Commission to allow the integration of a tower into an existing or proposed structure such as a church steeple, light standards, power line support device or similar structure.
- (5) Towers and associated structures, including fencing, may not be constructed within 500 feet of a dwelling unit, except where they are being collocated on existing towers or structures.

(H) *Tower height.*

In all zoning districts, the maximum height of any tower, including antennas and other attachments, shall not exceed 150 feet, except as granted by the Zoning Board of Appeals.

(I) *Tower lighting.*

Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots or similar areas may be attached to the tower.

(J) *Signs and advertising.*

The use of any portion of a tower for signs or other forms of advertising other than warning or equipment information signs are prohibited.

(K) *Abandoned or unused towers or portions of towers.*

Abandoned or unused towers or portions of towers shall be removed as follows.

- (1) All abandoned or unused towers and associated facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the Zoning Administrator. A copy of the relevant portions of a signed lease that requires the applicant to remove the tower and associated facilities upon cessation of operations at the site shall be submitted at the time of application. In the event that a tower and associated facilities are not removed within 12 months of the cessation of operations at a site, the tower and associated facilities may be removed by the city and the costs of removal assessed against the property.
- (2) Unused portions of towers above a manufactured connection shall be removed within six months of the time of antenna relocation. The replacement of portions of a tower previously removed requires the issuance of a new special use permit.
- (3) If the abandoned status of a tower or facility is contested, it is the obligation of the owner or lessee to provide documentation that the tower is currently in use within 30 days of written notification of abandoned status.

(L) *Interference with public safety telecommunications.*

- (1) No new or existing telecommunications service shall interfere with public safety telecommunications.
- (2) All applications for new service shall be accompanied by an inter-modulation study that provides a technical evaluation of existing and proposed transmission and indicates all potential interference problems.
- (3) Before the introduction of new service or changes in existing service, telecommunication providers shall notify the city at least ten calendar days in advance of such changes and allow the city to monitor interference levels during the testing process.

(M) *Modifications.*

A modification of a wireless service facility may be considered equivalent to an application for a new wireless service facility and will require a special use permit when the following events apply:

- (1) The applicant and/or co-applicant wants to alter the terms of the special use permit by changing the wireless service facility in one or more of the following ways:
 - (a) Change in the number of facilities permitted on the site; and/or
 - (b) Change in the technology used for the wireless service facility.

- (2) The applicant and/or co-applicant wants to add any equipment or additional height not specified in the original design filing.

(N) *Site plan submission requirements.*

(1) General filing requirements.

- (a) Name, address and telephone number of applicant and any co-applicants as well as any agents for the applicant or co- applicants;
- (b) Co-applicants may include the landowner of the subject property, licensed carriers and tenants for the personal wireless service facility; and
- (c) Original signatures for the applicant and all co-applicants applying for the special permit. If the applicant or co-applicant will be represented by an agent, original signature authorizing the agent to represent the applicant and/or co-applicant. Photo reproductions of signatures will not be accepted.

(2) Location filing requirements.

- (a) Identify the subject property by including the municipality as well as the name of the locality, name of the nearest road or roads, and street address, if any;
- (b) Tax map and parcel number of subject property;
- (c) Zoning district designation for the subject parcel; and
- (d) A line map to scale showing the lot lines of the subject property and all properties within 300 feet and the location of all buildings, including accessory structures, on all properties shown.

(3) Siting filing requirements.

- (a) A one-inch equals 40-feet vicinity plan showing the following:
 - 1. Property lines for the subject property;
 - 2. Property lines of all properties adjacent to the subject property within 300 feet;
 - 3. Tree cover on the subject property and adjacent properties within 300 feet, by dominant species and average height, as measured by or available from a verifiable source;
 - 4. Outline of all existing buildings, including purpose (e.g., residential buildings, garages, accessory structures and the like) on subject property and all adjacent properties within 300 feet;
 - 5. Proposed location of antenna mount and equipment shelter(s);
 - 6. Proposed security barrier, indicating type and extent as well as point of controlled entry;

7. Location of all roads, public and private, on the subject property and on all adjacent properties within 300 feet, including driveways proposed to serve the personal wireless service facility;
 8. Distances, at grade, from the proposed personal wireless service facility to each building on the vicinity plan;
 9. All proposed changes to the existing property, including grading, vegetation removal and temporary or permanent roads and driveways; and
 10. Representations, dimensioned and scale, of the proposed mount, antennas, equipment shelters, cable runs, parking areas and any other construction or development attendant to the personal wireless service facility.
- (b) Siting elevations, or views at-grade from the north, south, east and west for a 50-foot radius around the proposed personal wireless service facility plus from all existing public and private roads that serve the subject property. Elevations shall be at either one-quarter inch equals one foot or one-eighth-inch-equals-one-foot scale and show the following:
1. Antennae, mounts and equipment shelter(s), with total elevation dimensions and AGL of the highest point;
 2. Security barrier. If the security barrier will block views of the personal wireless service facility, the barrier drawing shall be cut away to show the view behind the barrier;
 3. Any and all structures on the subject property; and
 4. Existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned.
- (4) Design filing requirements.
- (a) Equipment brochures for the proposed personal wireless service facility such as manufacturer's specifications or trade journal reprints shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
 - (b) Materials of the proposed personal wireless service facility specified by generic type and specific treatment (e.g., anodized aluminum, stained wood, painted fiberglass and the like). These shall be provided for the antennas, mounts, equipment shelters, cables, as well as cable runs, and security barrier, if any.
 - (c) Dimensions of the personal wireless service facility specified for all three directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters and security barrier, if any.
 - (d) Landscape plan including existing trees and shrubs and those proposed to be added, identified by size of specimen at installation and species.
 - (e) If lighting of the site is proposed, the applicant shall submit the manufacturer's computer-generated point-to-point printout, indicating the horizontal foot candle levels at grade, within

the property to be developed and 25 feet beyond the property lines. The printout shall indicate the locations and types of luminaries proposed.

(Ord. passed 7-16-18)

§ 154.124 SPECIAL USE FOR GRID SYSTEMS.

Utility grid wind energy systems, on-site use wind energy system over 60 feet high, and anemometer towers over 60 feet high.

(A) *Intent and purpose.*

The intent and purpose of these regulations for the utility grid wind energy systems, on-site use wind energy systems over 60 feet high, and anemometer towers over 60 feet high shall meet the following standards in addition to the general special use standards (§ 154.110 and § 154.111). These regulations will:

- (1) Facilitate the safe development of wind conversion energy on the scale that supports the state utility grid or for those larger installations for on-site use;
- (2) Minimize adverse visual effects of towers through design and siting standards; and
- (3) Avoid potential damage to adjacent property from tower failure through structural standards and setback requirements.

(B) *Property setback.*

- (1) Anemometer tower setback shall be the greater distance of the following:
 - (a) The setback from property lines of the respective zoning district;
 - (b) The setback from the road right-of-way; and
 - (c) A distance equal to the height of the tower from property lines or from the lease unit boundary, whichever is less.
- (2) Utility grid and on-site use wind energy system setback shall be greater distance the following:
 - (a) The setback from property lines of the respective zoning district;
 - (b) The setback from the road right-of-way; and
 - (c) A distance equal to the 110% of the height of the system including the top of the blade in its vertical position from property lines or from the lease unit boundary, whichever is less.
- (3) An operations and maintenance office building, a sub-station, or ancillary equipment shall comply with any property set-back requirement of the respective zoning district. Overhead transmission lines and power poles shall comply with the setback and placement requirements applicable to public utilities.

(C) *Sound pressure level.*

The sound pressure level shall not exceed 55 dB(A) measured at the property lines or the lease unit boundary, whichever is farther from the source of the noise. This sound pressure level shall not be exceeded for more than three minutes in any hour of the day. If the ambient sound pressure level exceeds 55 dB(A), the standard shall be ambient dB(A) plus 5 dB(A).

(D) *Safety.*

Shall be designed to prevent unauthorized access to electrical and mechanical components and shall have access doors that are kept securely locked at all times when service personnel are not present.

- (1) All spent lubricants and cooling fluids shall be properly and safely removed in a timely manner from the site of the wind energy system.
- (2) A sign shall be posted near the tower or operations and maintenance office building that will contain emergency contact information.
- (3) Signage placed at the road access shall be used to warn visitors about the potential danger of falling ice.
- (4) The minimum vertical blade tip clearance from grade shall be 20 feet for a wind energy system employing a horizontal axis rotor.

(E) *Post-construction permits.*

Construction codes, towers and interconnection standards shall comply with all applicable state construction and electrical codes and local building permit requirements.

(F) *Pre-application permits.*

- (1) Utility infrastructure: shall comply with Federal Aviation Administration (FAA) requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950 as amended, being M.C.L.A. §§ 259.431 et seq.), the Michigan Tall Structures Act (Public Act 259 of 1959 as amended, being M.C.L.A. §§ 259.481 et seq.) and local jurisdiction airport overlay zone regulations. The minimum FAA lighting standards shall not be exceeded. All tower lighting required by the FAA shall be shielded to the extent possible to reduce glare and visibility from the ground. The tower shaft shall not be illuminated unless required by the FAA. Utility grid wind energy systems shall comply with applicable utility, the State Public Service Commission and Federal Energy Regulatory Commission interconnection standards.
- (2) Environment.
 - (a) The site plan and other documents and drawings shall show mitigation measures to minimize potential impacts on the natural environment including, but not limited to wetlands and other fragile ecosystems, historical and cultural sites, and antiquities, as identified in the environmental analysis.

- (b) Comply with applicable parts of the Michigan Natural Resources and Environmental Protection Act (Public Act 451 of 1994, being M.C.L.A. §§ 324.101 et seq.) including, but not limited to:
1. Part 31 Water Resources Protection (M.C.L.A. §§ 324.3101 et seq.)
 2. Part 91 Soil Erosion and Sedimentation Control (M.C.L.A. §§ 324.9101 et seq.)
 3. Part 301 Inland Lakes and Streams (M.C.L.A. §§ 324.30101 et seq.)
 4. Part 303 Wetlands (M.C.L.A. §§ 324.30301 et seq.) as shown by having obtained each respective permit with requirements and limitations of those permits reflected on the site plan.

(G) *Performance bond.*

Performance bond, pursuant to § 154.135(B)(3)(j), shall be provided for the applicant making repairs to public roads damaged by the construction of the wind energy system.

(H) *Utilities.*

Power lines should be placed underground, when feasible, to prevent avian collisions and electrocutions. All above-ground lines, transformers or conductors should comply with the Avian Power Line Interaction Committee (APLIC, <http://www.aplic.org/>) published standards to prevent avian mortality.

(I) *Application.*

The following standards apply only to utility grid wind energy systems.

- (1) *Visual impact.* Utility grid wind energy system projects shall use tubular towers and all utility grid wind energy systems in a project shall be finished in a single, non-reflective matte finished color. A project shall be constructed using wind energy systems of similar design, size, operation and appearance throughout the project. No lettering, company insignia, advertising or graphics shall be on any part of the tower, hub or blades. Nacelles may have lettering that exhibits the manufacturer's and/or owner's identification. The applicant shall avoid state or federal scenic areas and significant visual resources listed in the local unit of government's plan.
- (2) *Avian and wildlife impact.* Site plan and other documents and drawings shall show mitigation measures to minimize potential impacts on avian and wildlife, as identified in the avian and wildlife impact analysis.
- (3) *Shadow flicker.* Site plan and other documents and drawings shall show mitigation measures to minimize potential impacts from shadow flicker, as identified in the shadow flicker impact analysis.
- (4) *Decommissioning.* A Planning Commission approved decommissioning plan indicating:
 - (a) The anticipated life of the project;
 - (b) The estimated decommissioning costs net of salvage value in current dollars;

- (c) The method of ensuring that funds will be available for decommissioning and restoration; and
 - (d) The anticipated manner in which the project will be decommissioned and the site restored.
- (5) *Complaint resolution.* A Planning Commission approved process shall be put in place to resolve complaints from nearby residents concerning the construction or operation of the project.
- (6) *Electromagnetic interference.* No utility grid wind energy system shall be installed in any location where its proximity to existing fixed broadcast, retransmission or reception antennas for radio, television or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception, unless the applicant provides a replacement signal to the affected party that will restore reception to at least the level present before operation of the wind energy system.

(J) *Installation.*

No utility grid wind energy system shall be installed in any location within the line of sight of an existing microwave communications link where operation of the wind energy system is likely to produce electromagnetic interference in the link's operation unless the interference is insignificant.

(Ord. passed 7-16-18)

(VII) SITE PLAN REVIEW

§ 154.135 GENERAL PROVISIONS.

Various provisions of this chapter require review of site plans before certain types of administrative approval may be granted. This section defines the procedures and standards to be used for such a review.

(A) *Situations requiring a formal site plan review.*

- (1) The City Planning Commission must review and approve site plans before granting approval to special use permits, except in those cases such as bed and breakfasts and outdoor assembly where the City Administrator judges a site plan to be unnecessary.
- (2) In addition, and in the case of new development, site plan review before the City Planning Commission is required for any project meeting one of the following conditions:
 - (a) The proposed project will have more than two dwelling units;
 - (b) The proposed project is in a business zoning district; or
 - (c) The proposed project is in an industrial district. In the case of existing development, a site plan review is required when:
 1. The project involves increasing the footprint by 10% or more of any residential structure with more than two units, or any business or industrial structure or use;
 2. The project involves expansion of a legal nonconforming use, building or structure under the terms of this chapter. Illegal or unacceptable nonconforming uses may not expand; or
 3. The project is a special use.
- (3) *Required.* At no time shall a site plan review be required as a part of the decision process for a rezoning. This is because the decision to rezone property should be based on consideration of its effects on long-range plans for the city, and on the merits of the proposed zoning district, and the uses it would allow, as they relate to the subject property and surrounding area.

(B) *Site plan review process.*

- (1) *Application deadlines.* If a zoning application requires a site plan review by the Planning Commission, a complete application package must be received at least 30 days before the date of a Planning Commission meeting in order to be reviewed at said meeting. If a site plan review is being conducted for a special use permit or subdivision plat, the application timetable specified for that process applies.
- (2) *Application material.* Applications requiring site plan review must be accompanied by a fee as established by the City Commission, and by at least ten 11-inch by 17-inch copies of a site plan that meets the following requirements stipulated below. The application will not be reviewed until the complete application package has been submitted, including the fee.

- (3) *Site plan requirements.* All applicants shall complete the site plan review checklist. The site plan review checklist is available at the city offices. Site plans shall conform to the provisions approved on the checklist. All site plans must bear the stamp of a licensed engineer or architect with civil engineering or architecture qualifications. Note that any proposed construction, landscaping, retention of natural features or other property conditions depicted in the site plan submission will be relied upon by the Planning Commission in its review. Therefore, these conditions become requirements for approval of the site plan. Failure to abide by such conditions constitutes a violation of the terms of the site plan approval.
- (a) *Scale.* The site plan must be drawn to a consistent scale of not less than one inch equals 50 feet for sites of three acres or less, or one inch equals 200 feet for larger sites.
- (b) *Identification.* The applicant's name, address and telephone number and the name and address of the firm(s) responsible for preparation of the site plan must be included. If the applicant does not own the property, the owner must be identified and must sign a statement certifying that the applicant is acting in the owner's behalf.
- (c) *Property information.* The site plan must accurately depict the subject property and land adjacent to and across any thoroughfare from it, including all existing and proposed easements or rights-of-way. Zoning of the site, and of adjacent properties, must be identified. A legal description and computation of the area of the property must accompany the site plan. Where more than one description exists for a parcel of land, the legal description on file with the County Register of Deeds will be the legal description upon which a site plan decision is based.
- (d) *Site features.* The site plan should depict existing environmental conditions, including the locations of wooded areas or isolated trees over six inches in diameter, topography, drainage features showing the type and direction of flow, wetlands, any existing structures, including those proposed for removal, and other significant conditions. The approximate location and use of structures and the location of the nearest driveways on adjacent or opposing parcels should be shown.
- (e) *Transportation features.* The site plan must show the location and surface type of all existing and proposed public and private roads, access drives, internal vehicle circulation areas, parking lots (including number and location of handicapped parking spaces), sidewalks (required for all development), loading areas or docks, truck bays and refuse pickup stations.
- (f) *Shared access.* The Planning Commission must require shared access between and among uses where feasible, excluding single-family residential uses. Feasibility is determined with respect to the physical design of the site and not the effort or costs involved with achieving joint access. This requirement applies to driveways and access drives associated with site redevelopment or new construction. In the case of new development, a joint driveway easement must be signed by all property owners involved prior to a construction permit being issued. Driveways must be designed to allow joint access in the future, where feasible, and an easement to allow future use of the drive for joint access must be signed at the time of site plan approval. Shared drives must be shown on site plans at the time of review by the Planning Commission. Refusal to design a site with provisions for joint access or refusal to

participate in a joint access easement is justification for site plan denial by the Planning Commission.

- (g) *Utilities.* The site plan must show the location and size of all existing and proposed public utilities. Water line information shall include locations of existing and proposed fire hydrants and valves. Sanitary sewer information shall include location of any pumping stations and approximate location of manholes. Storm drainage information shall include any enclosed drains, flow restrictors and on-site retention. The site plan must also include any existing or proposed private utilities, such as natural gas, electricity, telephone and cable television.
 - (h) *Structures.* The site plan must show the location and dimensions, including height, of all proposed buildings, accessory structures and related features. For multi-family housing developments, the number of units in each building must be identified. Schematic plans and elevations of all structures exceeding 5,000 square feet of total floor area must be included. The site plan should also show the location, arrangement, dimensions and type of proposed signs, lighting, landscaping, dumpsters, screening, fences and decorative walls.
 - (i) *Supplementary material.* The site plan shall be complemented by any additional information that, in the Zoning Administrator's discretion, is important for the site plan review process. This could include, but not be limited to, an assessment of the proposed project's impact on environmental, historic social or economic conditions; traffic studies; or proposed measures to control or mitigate such impacts as noise, smoke, particulates, vibration, odors or fire hazards.
 - (j) *Performance bond.* Further, the Planning Commission is empowered to require and at its option may require a performance bond or certified check in an amount equal to the estimated cost of improvements associated with the project. Such performance guarantee shall be deposited with the City Clerk at the time of the issuance of the permit authorizing the activity or project to insure faithful completion of the improvements indicated with the approved site development plan; if not, the performance bond shall be forfeited. The city shall rebate a proportional share of the deposit, when requested by the depositor, based on the percent of improvements completed, as attested to by the depositor and verified by the City Administrator. The City Administrator may, at his or her discretion, call upon professional assistance from the City Engineer, or Building Inspectors. In cases where the provisions above have not been met, the amount of the aforementioned performance guarantee shall be used by the city to return the property to a safe and healthy condition and the balance, if any, shall be returned to the applicant.
- (4) Staff review of site plan.
- (a) *Persons involved.* Before the site plan is reviewed by the Planning Commission, the City Building Inspector, Engineer, or contracted engineering services, Public Works Director and Auburn/Williams Fire Chief, or their designees, shall be given an opportunity to review and comment upon it. In addition, the Zoning Administrator may submit the site plan to any other Department of City government or County or State agencies that he or she believes would have an interest in some aspect of the proposed project. Staff members wishing to comment upon the site plan must transmit their comments in writing to the Zoning Administrator at least five (5) days before the Planning Commission meeting at which the site plan is to be

reviewed. After receiving any staff comments, the Zoning Administrator shall recommend to the Planning Commission what action should be taken

- (b) *Standards to be used.* Reviewers shall address the considerations identified by the review standards in this chapter. If a site plan review is being conducted for a proposed special use permit, the additional special use permit review standards listed for the particular use and zoning district shall be considered also.

- (5) *Planning Commission review of site plan.* The Planning Commission shall address the site plan review at a public meeting. A public hearing will be held only if any party submits a written request to the City Clerk prior to the Planning Commission meeting at which the site plan is to be considered. In such cases, the public shall be heard before the Planning Commission acts upon the site plan; however, a site plan review does not require either a public hearing or special notification of anyone. The findings of a staff review of the site plan and any public comments shall be taken into consideration by the Planning Commission, but are not binding upon it in any way. In the interest of providing a timely response to the applicant, the Planning Commission must take one of the following actions at the meeting during which the site plan review is conducted:

- (a) *Approval.* An affirmative vote of the majority of Planning Commission members present at the meeting is necessary to approve a site plan;
- (b) *Conditional approval.* The Planning Commission may elect to attach conditions to its approval of a site plan. Conditions must be justified by one or more requirements of this chapter, or by provisions of other local, state or federal laws. These conditions, together with the regulatory authority and reasoning that justifies them, must be identified in the motion for site plan approval and communicated to the applicant in writing. The conditions shall become a part of the site plan, as inseparably as if they were part of the applicant's original submission. Approval of any proposed site plan that must also receive approvals from other public agencies must obtain approvals from those agencies before seeking site plan review. This shall include any variances that must be issued by the City Zoning Board of Appeals. Approval of a variance for conditions that differ from those depicted on the site plan must be obtained prior to site plan review by the Planning Commission; or
- (c) *Denial with explanation.* Failure to comply with one or more of the review standards is the only justification for denial of a site plan. The vote of a majority of Planning Commission members present at the meeting in which the site plan is reviewed is required to deny it. The motion to deny must state which of the review standards was not met by the site plan, and how the plan failed to meet the standard. The motion to deny may also suggest methods by which the shortcoming might be corrected. The applicant shall be notified in writing of the Planning Commission's denial of the site plan, with the full text of the motion to deny reproduced in the communication.

- (6) Deviations from approved site plan.

- (a) It is recognized that unforeseen circumstances can necessitate changes in a project during its development. Therefore, minor deviations from an approved site plan are permitted if the Zoning Administrator determines that all site plan review standards have been complied with.

- (b) However, if the Zoning Administrator finds that a deviation from the approved site plan does not comply with the review standards, he or she shall notify the permit holder immediately, the City Building Inspector, and the Planning Commission, in writing that the site plan approval has been suspended. The permit holder's notice shall be delivered by certified mail. If construction has begun, a stop-work order shall be issued by the Building Inspector, affecting that portion of the project that is not in compliance with the site plan review standards.
 - (c) Once a site plan approval for a project has been suspended, the permit holder has the option of changing the project plans to conform to the review standards, or of restarting the site plan review process. When the issue has been resolved, the Zoning Administrator shall send a written notice to the permit holder, the Building Inspector and the Planning Commission that the project's site plan has again been approved.
 - (d) This provision should not be construed to prohibit phased development of a project, provided that each phase complies with the requirements of the review standards and with the approved site plan.
 - (e) If any deviations from an approved site plan are made, an "as built" version of the site plan shall be provided to the Zoning Administrator before the Building Inspector issues final approval for the project and before any performance guarantee may be fully refunded.
- (7) *Record to be maintained.* The record relating to any approved site plan shall be maintained by the Zoning Administrator. This record shall include an official copy of the final site plan as it was approved by the Planning Commission, dated and signed by the permit holder, the Planning Commission Chairperson and the Zoning Administrator. The record shall also include documentation of any conditions attached to the site plan approval and evidence of the satisfaction of these conditions. It shall also include documentation of any allowed deviations from the approved site plan, dated and signed by the permit holder and the Zoning Administrator.
- (8) *Time Limits.*
- (a) *Deadline to Commence Construction.* An application for a zoning permit for a project approved by site plan approval shall be filed with the zoning administrator within two (2) years from the date of approval of the site plan. If a zoning permit is not issued within two (2) years, site plan approval shall expire.
 - (b) *Deadline for Completion.* A project approved by site plan approval shall be completed within two (2) years from the date that the zoning permit was issued by the zoning administrator. If an occupancy permit is not granted within two (2) years, site plan approval shall expire. The Planning Commission may grant approval for up to five (5) years per phase in the case of multi-phased development.
 - (c) *Extensions.* The Planning Commission may grant two (2) extensions for an additional one year per extension for preliminary and final site plan approval and two (2) extensions for up to an additional two (2) years per extension for completion of an approved site plan if the applicant submits a request for an extension prior to expiration of the approval and can demonstrate that suitable, continual progress has been made on the project.

(C) *Site plan review standards.*

All site plan reviews shall use only the following set of standards to judge whether the site plan should be approved or denied. No off-site improvements can be required as conditions for site plan approval, unless the applicant had volunteered to construct such improvements as documented by his or her original site plan drawing(s); however, if the lack of such off- site improvements will create unacceptable conditions, said lack is sufficient justification for denial of a site plan.

- (1) *District regulations.* The project must comply with the applicable district regulations regarding use, dimensions, off-street parking and any other aspects. (When the site plan review is being conducted as part of the consideration process for a special use permit or a planned unit development, the use of the site will be addressed after the site plan review. Therefore, it must be presumed for this purpose that the use of the site will conform to the district regulations.)
- (2) *Supplementary regulations.* The project must comply with any and all of the supplementary regulations that may apply to it.
- (3) *Special use standards.* If the site plan review is being conducted for a proposed special use permit, any special use standards relating to the proposed use must be satisfied.
- (4) *Building arrangements.* Site plans will be evaluated on the basis of scale, circulation of air, provisions of adequate access to and around buildings for police and fire protection services, establishment of pleasant vistas, arrangements conducive to enhancing the environmental quality of the site when developed, minimizing the extent of impervious ground cover and minimizing the destruction of natural features that contribute to environmental quality.
- (5) *Transportation.* Transportation facilities serving the parcel must be sufficient to provide safe and efficient access to the parcel and circulation within it. Consideration shall be given to road rights-of-way, surface type, number of lanes, driveway design and location, vehicular circulation within the parcel, parking, snow removal from transportation facilities, public transit, pedestrian circulation, emergency vehicle access and accessibility for handicapped persons.
- (6) *Driveways.* All driveways serving customer or employee parking lots shall provide two-way traffic, unless otherwise part of a one-way entrance and exit system. All driveways shall be a minimum of 20 feet wide. A lesser width may be permitted if it can be proven that the driveway will be increased to 20 feet due to a joint arrangement with an adjacent property owner. Driveways must have a raised curb that continues to the edge of the travel portion of the public street if curbing is in place or planned for the public right-of-way. Except for large parking lots, driveways shall be limited to one per development.
- (7) *Utilities.* Public utilities, including water, sewer and storm drainage facilities, must be adequate to serve the proposed use, or sufficient provisions shall be made to provide these services on the site. Private utility services, including electricity, telephone, natural gas and cable television, must also be sufficient to serve the needs of the project. When the adequacy of any public utility service to the site is in question, the input of the appropriate public utility provider shall be sought.
- (8) *Signs and lighting.* Lighting is intended to illuminate parking and vehicular areas for the purpose of increasing the safety of the users. Appropriate lighting standards should be located on separate ground-mounted standards adjacent to or the parking lot or vehicular use areas.

- (9) *Fire protection.* The proposed project must comply with applicable fire safety regulations. Also, current City Fire Department personnel and equipment must be sufficient to serve the project. Finally, location, number and capacity of fire hydrants must be adequate to serve fire suppression needs.
- (10) *Environment.* Natural features of the landscape should be retained wherever practicable to furnish a buffer between the project and adjoining property(ies) or help to control erosion, contain storm water runoff, absorb noise, deflect wind currents, reduce glare or otherwise benefit the general health, safety or appearance of the neighborhood. Any buildings, fences, lighting, vegetation or other features that are introduced into the landscape should be designed to complement the site's surrounding environment and enhance the positive features of the project. The site plan should be developed with the goal of controlling any negative impacts the project may have, such as noise, smoke, vibration, odor, glare, heat or dust so that they will not be discernible beyond the property boundaries. Further, projects shall fully adhere to applicable environmental regulations promulgated by the State Department of Natural Resources or other agencies.
- (11) *Storm drainage.* Surface drainage, otherwise referred to as sheet drainage, to the right-of-way, or adjacent properties is unacceptable.
- (12) *Consistency with ordinance intent.* The site plan should be generally consistent with the purpose and objectives of this chapter, as stated in § 154.002, and with the purpose of the district in which the subject parcel is located, as expressed in the intent and purpose table in § 154.030.

(Ord. passed 7-16-18)

(VIII) ADMINISTRATION, ENFORCEMENT AND AMENDMENTS

§ 154.150 PEOPLE INVOLVED IN THE ZONING PROCESS.

The provisions of this chapter shall be carried out by the City Planning Commission, the Zoning Board of Appeals, the City Commission, and the City Zoning Administrator in conformance with applicable state enabling legislation.

(A) *Zoning Administrator.*

- (1) The City Commission, with the recommendation of the Planning Commission, shall employ a Zoning Administrator to carry out day-to-day administration and enforcement of this chapter. The City Commission may designate the Building Inspector as the Zoning Administrator. Conditions of the Zoning Administrator's employment, including compensation, shall be established by the City Commission. Additional staff may be employed, under the supervision of the Zoning Administrator, to assist with administration and enforcement of this chapter.
- (2) The Zoning Administrator's duties shall include the following items and any other tasks that may be assigned by the City Commission or provisions of this chapter.
 - (a) *Accept and record applications, issue and record permits.* All applications for site plans shall be submitted to the Zoning Administrator who shall keep a record of all applications that have been submitted and their disposition. When all applicable provisions of this chapter have been met regarding any application, the Zoning Administrator shall allow a building permit to be issued for the proposed use. When conditions are not met, the Zoning Administrator shall consult with the applicant to determine the proper course of action (see "review process" table in § 154.151(G)). The Zoning Administrator shall maintain a record of all applications, including documentation for each.
 - (b) *Issue written denial.* When any application for a site plan is denied, the Zoning Administrator shall provide the applicant with a written denial, stating the reasons for the denial.
 - (c) *Notice of hearings.* Whenever a zoning matter is the subject of a public hearing before the Planning Commission or the Zoning Board of Appeals, the Zoning Administrator shall prepare notices of the hearing and disseminate said notices as required by this chapter.
 - (d) *Inspections.* The Zoning Administrator shall be empowered to make inspections of buildings or premises to carry out enforcement of this chapter.
 - (e) *Record nonconforming uses.* The Zoning Administrator shall record all nonconforming uses existing at the effective date of this chapter.
 - (f) *Record special uses.* The Zoning Administrator shall keep a record of all special use permits issued under the terms of this chapter.
 - (g) *Record interpretations of chapter.* The Zoning Administrator shall maintain a concise record of all interpretations of this chapter rendered by the Zoning Board of Appeals. Interpretations of this chapter do not include dimensional or administrative issues. This record shall be

consulted whenever questions arise concerning interpretation of any provision of this chapter to determine whether any applicable precedents have been set.

- (h) *Public information.* The Zoning Administrator shall respond to inquiries and dispense information or copies of this chapter to make the public aware of and familiar with the provisions of this chapter. Public awareness and acceptance of this chapter will help to maintain compliance with it.
- (i) *Respond to complaints.* The Zoning Administrator shall respond within five business days, whenever possible, to any complaint regarding an alleged violation of the terms or conditions of this chapter or any permit issued pursuant to it. The Zoning Administrator shall provide a report at each regular Planning Commission meeting summarizing the nature and disposition of complaints that have been received. A written record of all complaints, responses and dispositions of the complaint will be maintained.
- (j) *May not change chapter.* Under no circumstances is the Zoning Administrator permitted to make changes in this chapter or to vary the terms of this chapter.

(B) Planning Commission.

- (1) *Membership.* The Planning Commission shall be composed of nine members, appointed by the Mayor with the approval of the City Commission.
- (2) *Terms of office.* The term of service for each member shall be three years. Rotation of membership is encouraged.
- (3) *Rules of procedure.* The Planning Commission shall adopt its own rules of procedure as may be necessary to conduct its meetings and carry out its function. The Commission shall choose its Chairperson, Vice Chairperson and Secretary.
- (4) *Meetings.* The Planning Commission shall meet monthly and by resolution shall determine the time and place of meetings. All meetings shall be properly noticed and open to the public.
- (5) *Per diem or expenses.* Members of the Planning Commission may be compensated for their services as provided by the City Commission. The Planning Commission may make and administer regulations relative to compensation for the travel of its members and employees when engaged in the performance of activities authorized by the Planning Commission.
- (6) *Development plan.* The Planning Commission shall make and adopt a basic plan as a guide for the development of the city. Plan contents, adoption, amendment, approval by the County Planning Commission, hearing and publication shall be according to M.C.L.A. §§ 125.3101 through 125.3702 and M.C.L.A. §§ 125.3801 through 125.3885, as amended.
- (7) *Zoning ordinance.* The zoning ordinance shall be based on a plan designed to promote the public health, safety and general welfare.
- (8) *Administration and enforcement.* The Planning Commission shall be responsible for the following administrative and enforcement activities under this chapter.

- (a) *Site plan approval.* The Planning Commission shall review site plans and issue its approval, conditional approval or denial.
- (b) *Special use permits.* The Planning Commission shall conduct a public hearing on any application for a special use permit. Following a public hearing, the Planning Commission shall review and approve or deny said application. The Planning Commission shall also take any necessary action to revoke a special use permit.
- (c) *Rezoning or amendment.* The Planning Commission shall conduct public hearings for proposals to rezone property or amend the text of this chapter. Following a public hearing, the Planning Commission shall make its recommendation regarding the proposed rezoning or text change to the City Commission. The Planning Commission may initiate a text change or rezoning, subject to the requirements for notice, hearing and City Commission approval.

(C) *Zoning Board of Appeals.*

See § 154.165 and § 154.166.

(D) *City Commission.*

- (1) On recommendation of the Planning Commission, the City Commission has adopted the zoning ordinance, making it the enforceable policy of city government.
- (2) Likewise, the City Commission may amend the text of this chapter or the boundaries of zoning districts (rezoning).
- (3) The City Commission may review all zoning decisions of the Planning Commission. The City Commission shall, by resolution, set fees to be charged for any administrative action under this chapter. The Commission may also act to waive any fee.

(Ord. passed 7-16-18)

§ 154.151 ADMINISTRATIVE PROCESSES.

(A) *Building permit required.*

The issuance of a building permit, showing compliance with this chapter, signifies compliance with the requirements of this chapter. A building permit must be obtained from the Building Official before any of the following activities may legally take place:

- (1) Occupancy and use of vacant land (including parking lot construction);
- (2) Any change in the use of a parcel of land or a building, including any construction or structural alteration of a building that requires issuance of a building permit by the City Building Inspector;
- (3) Any use of land or a building that would be identified as a use by special use permit by the Uses Table in § 154.030, for the zoning district in which the parcel is located; and
- (4) Any change of a nonconforming use or building.

(B) *Application for building permit.*

Application for a building permit shall be made ten days before construction of a new or enlarged building or structure, or a new or enlarged use of a parcel, is intended to begin. Form and content of the application package shall be as specified by the following material:

- (1) Application form.
 - (a) Applicants for a building permit shall submit a zoning application form with all requested information completely filled in.
 - (b) If the City Building Inspector also acts as Zoning Administrator, the Inspector may elect to accept information submitted for a building permit without duplicating it on the building application form.
- (2) *Property information.* The building application form must be accompanied by a copy of a property survey, deed or tax records sufficient to allow identification of the parcel in the City Assessor's property maps. When the applicant is anyone other than the property owner identified by the Assessor's records, evidence of the owner's concurrence or a change in ownership must also be submitted.
- (3) Plot plan.
 - (a) The Building Application Form must also be accompanied by a plot plan drawn at size and scale sufficient to clearly identify the exact dimensions of the parcel, all abutting streets, alleys or easements, and the size, position and height of all existing and proposed buildings or structures thereon.
 - (b) The Zoning Administrator may also require any other information deemed necessary for the proper enforcement of this chapter.

(C) *Application review process.*

- (1) On submission of an application for a site plan, the Zoning Administrator will review the application material as described by the Review Process Table in division (G) below.
- (2) Whenever possible, it is desirable for this review to be conducted with the applicant present to facilitate any necessary explanation.
- (3) The review will address each question identified by the Review Process Table in order, moving through each column in the question from left to right.

(D) *Record maintained.*

The Zoning Administrator shall keep a record of each application for a site plan that has been submitted, including the disposition of each one. This record shall be a public record, open for inspection upon request.

(E) *Validity of building permit.*

- (1) A building permit remains in effect for a period of one year from the date it is issued. By that time, the activity authorized by the permit must have begun.
- (2) This means that any use of land or of an existing building must be underway, or a building permit for any new construction must have been issued and construction commenced.
- (3) The validity of a building permit may be extended by the Zoning Administrator not more than one time, for a period not to exceed one additional year.
- (4) Said extension must be requested in writing by the permit holder before the expiration of the initial permit period.

(F) *Voiding of a building permit.*

- (1) If the permit holder fails to initiate the activity authorized by the building permit by the end of the one-year extension, the building permit is automatically null and void.
- (2) Any additional rights associated with the building permit that have been granted by the Planning Commission or the Zoning Board of Appeals, such as special use permits or variances, expire together with the building permit.
- (3) Any performance guarantee shall be refunded to the permit holder unless the failure to initiate activity has resulted in costs to the city that were to be covered by the guarantee. If any amount of the guarantee remains after said costs are satisfied, the balance of the guarantee shall be released and returned to the permit holder.
- (4) Re-issuance of a building permit that has expired requires a new building application form to be filed with the Zoning Administrator and processed without consideration of any previous action.

(G) *Review process table. This table follows on the next two pages.*

Review Process Table; Initial Review Process

<i>Review Process Table; Initial Review Process</i>					
<i>Question</i>	<i>Refer To</i>	<i>If All Standards Are Met, Next Step</i>	<i>If Standards Are Not Met</i>		
			<i>Situation</i>	<i>Applicant's Options</i>	<i>Next Step</i>
#1 Is proposed activity permitted in this zoning district?	§ 154.030	Activity is a use by right: go to question #2; or activity is a special use; go to ... Actions Table: Special Use Permit. Continue to Question #2	Activity is permitted in a different zoning district	Request a rezoning	Actions Table: Rezoning
			Activity is not listed for any zoning district	Request an interpretation appeal	Actions Table: Interpretation
			Applicant does not agree with Administrator's finding	Request an administrative appeal	Actions Table: Administrative appeal

Review Process Table; Initial Review Process					
Question	Refer To	If All Standards Are Met, Next Step	If Standards Are Not Met		
			Situation	Applicant's Options	Next Step
			Any situation	Withdraw	Denial letter
#2 Does the parcel meet standards for this zoning district?	§ 154.031 - "Lot Size"	Go to Question #3	Any situation	Request a dimensions variance	Actions Table: Variance
			Applicant does not agree with Administrator's finding	Withdraw Request an administrative appeal	Denial letter Actions Table: Administrative appeal
#3 Does existing or proposed structure or building meet yard and area standards?	§ 154.031	Go to Question #4	Existing facility violates standards	Request a dimensions variance	Actions Table: Variance
				Continue with process as is	Nonconformities
			Proposed facility will violate standards	Request a dimensions variance	Actions Table: Variance
				Amend application to meet all standards	Go to Question #4
			Applicant does not agree with Administrator's finding	Request an administrative appeal	Actions Table: Administrative appeal
			Any situation	Withdraw	Denial letter
#4 Will proposed activity meet parking requirements?	Parking Table and Off-Street Parking Requirements	Go to Question #5	Existing facility violates standards	Request a dimensions variance	Actions Table: Variance
				Continue with process as is	Chapter (III) – Nonconformities
			Proposed facility will violate standards	Request a dimensions variance	Actions Table: Variance
				Amend application to meet all standards	Go to Question #5
				Withdraw	Denial letter
			Applicant does not agree with Administrator's finding	Request an administrative appeal	Actions Table: Administrative appeal

Review Process Table; Initial Review Process					
Question	Refer To	If All Standards Are Met, Next Step	If Standards Are Not Met		
			Situation	Applicant's Options	Next Step
#5 Will proposed activity meet all supplementary regulations?	§ 154.006 through § 154.010	Go to Question #6	Proposed activity will violate measurable standards	Request a dimensions variance	Actions Table: Variance
				Amend application to meet all standards	Go to Question #6
				Withdraw	Denial letter
			Proposed activity will violate non-measurable, written standards	Request a text change	Actions Table: Text change
				Amend application to meet all standards	Go to Question #6
				Withdraw	Denial letter
			Applicant does not agree with Administrator's finding	Request an administrative appeal	Actions Table: Administrative appeal
#6 Has permit fee been paid?	Fee schedule	Issue permit	Fee represents a serious hardship to applicant	Request a fee waiver	Actions Table: Fee waiver
				Withdraw	Denial letter

(Ord. passed 7-16-18)

§ 154.152 ENFORCEMENT.

(A) Responsibility.

The Zoning Administrator shall enforce the provisions of this chapter.

(B) Violations and penalties.

Violations of any provisions of this chapter are declared to be a nuisance per se. Any and all building or land use activities that are considered to be possible violations of the provisions of this chapter, and that are observed by or communicated to a city official or employee, shall be reported to the Zoning Administrator.

- (1) *Inspection of violation.* The Zoning Administrator shall inspect each alleged violation he or she observes or is made aware of and shall order correction, in writing, of all conditions found to be in violation of this chapter.

- (2) *Correction period.* All violations shall be corrected within a reasonable time period determined by the Zoning Administrator, but not to exceed 30 days.
- (3) Action by city attorney.
 - (a) A violation not corrected within this period shall be reported to the City Attorney, who shall initiate procedures to eliminate such violation.
 - (b) Once a violation has been referred to the City Attorney, any legal action that the Attorney deems necessary to restore compliance with all terms and conditions of this chapter is hereby authorized.
- (4) *Cumulative rights and remedies.* The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

(C) *Conflicting regulations.*

In the interpretation, application and enforcement of the provisions of this chapter, whenever any of the provisions or limitations imposed or required by this chapter are more stringent than any other law or ordinance, then the provisions of this chapter shall govern, provided also that whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this chapter, the provisions of such other law or ordinance shall govern.

(Ord. passed 7-16-18)

§ 154.153 AMENDMENT.

(A) *City Commission may amend.*

The regulations and provisions stated in the text of this chapter and the boundaries of zoning districts shown on the zoning district map may be amended, supplemented or changed by ordinance by the City Commission in accordance with the applicable enabling legislation of the state.

(B) *Initiation of amendments.*

Proposals for amendments, supplements or changes may be initiated by the City Commission of its own action, by the Planning Commission or by petition of one or more persons having an interest, by ownership or option to purchase, in property to be affected by the proposed amendment.

(C) *Amendment procedure.*

- (1) Petition to City Clerk and payment of fee.
 - (a) Each petition by one or more owners or their agents for an amendment shall be submitted upon an application of standard form to the City Clerk.
 - (b) A fee as established by the City Commission shall be paid at the time of application to cover costs of necessary advertising for public hearings and processing of the amendment request.

- (c) The City Clerk shall transmit the application to the Planning Commission for recommended action.
- (2) *Recommendation.* The Planning Commission shall consider each proposed amendment in terms of the likely effect of such proposal upon the development plans for the community as well as in terms of the merits of the individual proposal. The Planning Commission may recommend any additions or modifications to the original amendment petition.
- (3) *Public hearing.* Before voting on any proposed amendment to this chapter, the Planning Commission shall conduct a public hearing, with notice being given as specified by the following section.
- (4) *Notice requirements for public hearing.* Preparation, publication and distribution of notices for the public hearing shall be the responsibility of the City Clerk.
 - (a) *Content.* Every notice of said hearing shall contain all information required by § 154.154.
 - (b) *Distribution.*
 - 1. *Published.* Notice shall be given by one publication in a newspaper of general circulation in the community, printed not less than 15 days before the date of such hearing.
 - 2. *Certified mail.* Not less than fifteen (15) days notice shall also be given by certified mail to each public utility company servicing the community, at the mailing address identified by each company for the purpose of receiving such notice, if they request notification.
 - 3. *Other mailed notice.* In any instance involving the rezoning of one or more parcels, or when the owner or other party having an interest in any parcel has requested a text change, notice of the proposed amendment shall be mailed to the owner of the property in question and to all persons residing, doing business or owning property within 300 feet of the premises in question. These persons shall be identified as specified by § 154.154.
 - 4. *Affidavit of mailing.* An affidavit of mailing, identifying all parties to whom notice has been sent, shall be prepared and filed with other material relating to the proposed amendment prior to the Planning Commission meeting at which the hearing is to be conducted.
 - 5. *Bay County Planning Commission.* Following the conclusion of the public hearing and review by the City Planning Commission, the proposed amendment and any applicable zoning district map may be submitted to the County Planning Commission for their review. The approval of the County Planning Commission shall be presumed, conclusively, unless such Commission notifies the City Commission of its approval or disapproval within 30 days of its receipt of the amendment.
 - 6. *Amendment to conform to court decree.* An amendment for the purpose of conforming a provision of this chapter to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the City Commission and the notice of the adopted amendment published without referring the amendment to any other board or agency provided for in this chapter.

7. *City Commission change.* If the City Commission deems advisable any changes to the amendment recommended by the Planning Commission, it shall refer these changes back to the Planning Commission for a report thereon within 30 days. The City Commission may deny or adopt the amendment with or without changes, by a majority vote of its membership, following the Commission's standard procedures for adoption of ordinances.
 8. *Resubmittal.* No application for a rezoning that has been denied by the City Commission shall be resubmitted for a period of one year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions which, upon inspection by the City Commission, are found to be valid.
- (5) *Standards for Approval for Text Amendment.* In the case of a proposal to amend the zoning ordinance text, the Planning Commission must find:
- (a) The change is necessary to clarify a provision of the ordinance, or
 - (b) The change is necessary to correct a mistake in the ordinance, or
 - (c) The change is necessary to implement a goal or policy of the village master plan, or
 - (d) The change is necessary to improve administration of the ordinance or to better serve the community.
 - (e) In addition to one (1) or more of the above findings, the Planning Commission must determine that the requested amendment is in compliance with the village master plan or that a mistake in the plan, or changes in conditions or village policy have occurred that are relevant to the request. If the Planning Commission recommends approval of a request that is not in compliance with the current plan due to a mistake or change in conditions or policy, it shall immediately initiate an amendment to the plan to address the identified mistake or change.
- (6) In the case of a proposed zoning map amendment (rezoning) the Planning Commission must find one of the following:
- (a) The requested amendment is in compliance with the village master plan or that a mistake in the plan, or changes in conditions or village policy have occurred that are relevant to the request. If the Planning Commission recommends approval of a request that is not in compliance with the current plan due to a mistake or change in conditions or policy, it shall immediately initiate an amendment to the plan to address the identified mistake or change.
 - (b) The property cannot be reasonably used as it is currently zoned and the proposed request represents the most suitable alternative zoning classification based on the Master Plan.
- (7) *Adjoiners challenge.* Upon presentation of a protest petition meeting the requirements of this subsection, an amendment to a zoning ordinance which is the object of the petition shall be passed only by a two-thirds (2/3) vote of the City Commission. The protest petition shall be presented to the City Commission before final legislative action on the amendment, and shall be signed by one of the following:

- (a) The owners of at least twenty (20) percent of the area of land included in the proposed change.
- (b) The owners of at least twenty (20) percent of the area of land included within an area extending outward one hundred (100) feet from any point on the boundary of the land included in the proposed change.

(D) Conditional rezoning agreements

- (1) *Authority.* The City Commission may, after a public hearing by the City Planning Commission, enter into an agreement with a property owner to rezone property pursuant to the authority contained in Michigan Compiled Law Section 125.3405, being part of the Michigan Zoning Enabling Act.
- (2) *Application.* Any offer to enter into a conditional rezoning agreement shall be submitted to the City Clerk along with a rezoning agreement fee, in an amount established by the City Commission. Whenever a petitioner offers to enter into a rezoning agreement, the person shall be the fee owner of the premises concerned or else have the fee owner subscribe to the offer. Proposed rezoning agreements may only be initiated by a property owner/applicant and not by the City.
- (3) *Pre-hearing meeting.* Whenever an application for a conditional rezoning agreement is submitted, a pre-hearing meeting shall be scheduled between the applicant and the Planning Commission. At the pre-hearing meeting, the applicant shall fully explain the agreement being proposed. The Planning Commission and the applicant shall discuss the proposed agreement and then put it into appropriate form for a public hearing.
- (4) *Public hearing and recommendation.* After due notice, a public hearing in compliance with all regular procedural rezoning requirements shall be conducted by the Planning Commission as to the proposed rezoning agreement. The Commission shall subsequently adopt recommendations as to the approval, approval with revisions, or denial of the proposed rezoning agreement.
- (5) *City Commission.* Upon receipt of the recommendations of the City Planning Commission, the City Commission shall undertake consideration of the proposed rezoning agreement. Any decision by the City Commission which results in a rezoning agreement shall be incorporated in a written document duly executed by the City Commission and the property owner. The proposed agreement shall be reviewed for legal sufficiency by the City Attorney before to final approval. Any such agreement shall be recorded with the Register of Deeds and shall run with the land. The City shall either record the agreement or shall receive verification that the applicant has recorded the agreement.
- (6) *Standards for decision.* In deciding whether or not to approve a proposed rezoning agreement, the Planning Commission and the City Commission shall base their decisions on the following factors:
 - (a) The terms of the offer must be reasonably related to the property covered in the agreement.
 - (b) The proposed land use must be designed in such a way as to be compatible with surrounding land uses.

(c) The proposed land use must be consistent with the goals and policies of the City, including the City Master Plan.

(7) *Limitations on agreements.* A rezoning agreement shall not be used to allow any land uses which would not otherwise be permitted in the proposed new zoning district. Any agreement shall include a specific time period during which the terms of the agreement must be completed.

(8) *Zoning reversion.* If the terms of a zoning agreement are not fulfilled within the time specified in the agreement, the City Commission shall initiate a proposed rezoning to revert the property back to the original classification.

(Ord. passed 7-16-18)

§ 154.154 NOTICE REQUIREMENTS FOR PUBLIC HEARINGS.

(A) *Content.*

Each notice for any public hearing required by this chapter shall include the following information:

- (1) Identification of the applicant, if any;
- (2) Identification of the property that is the subject of the request;
- (3) Nature of the matter to be considered;
- (4) Identification of the public body that will be conducting the public hearing and will decide upon the matter;
- (5) Date, time and place of the public hearing;
- (6) The places and times at which any proposed text and/or map amendment to this chapter may be examined; and
- (7) Statement of where and when written comments will be received concerning the request.

(B) *Notification of residents, businesses or property owners within 300 feet.*

Whenever provisions of this chapter require mailing of public hearing notices to persons who reside, do business or own property within 300 feet of a certain parcel, the mailing list shall be compiled from the following sources:

- (1) The owner(s) of property for which approval is being considered;
- (2) All persons to whom real property is assessed where any part of their parcel lies within 300 feet of the boundary of the property in question; and
- (3) Occupants of all structures where any part of the structure lies within 300 feet. Each dwelling unit or rental area within said structures shall receive one notice; however, separate notice need not be sent for accessory structures where the primary structure also lies within the 300 foot distance.

- (a) If the name of the occupant is not known, the term ***OCCUPANT*** may be used in making notification.
- (b) In the case of a single structure containing more than four dwelling units or other distinct areas, the notice may be mailed to the manager or owner of the structure who shall be requested to post the notice at the primary entrance of the structure.

(Ord. passed 7-16-18)

§ 154.155 SPECIAL ZONING DECISIONS TABLE.

<i>Type of Action</i>	<i>Parties Who May Initiate Action</i>	<i>Body Making Decision</i>	<i>Public Hearing Required?</i>	<i>Published Notice(s); Number of Days Before Hearing</i>	<i>Notice to All Owners and Occupants Within 300 Feet</i>	<i>Body to Which Applicant May Appeal a Denial</i>
Variance	Applicant or Administrator	Zoning Board of Appeals	No; meeting open to public	Reasonable notice	Reasonable notice	Circuit Court only
Interpretation	Applicant or Administrator	Zoning Board of Appeals	No; meeting open to public	Reasonable notice	Reasonable notice	Circuit Court only
Appeal of administrative decision	Any aggrieved party or state, officer, board bureau or dept.	Zoning Board of Appeals	No; meeting open to public	Reasonable notice	Reasonable notice	Circuit Court only
Site plan approval	Applicant or Administrator	Planning Commission	No	Not required	Not required	Planning Comm. After 1 year, or City Commission
Special use permit	Applicant or Administrator	Planning Commission	If requested by property owner within 300 feet	Once, between 5-15 days before date	Once, between 5-15 days before date	Planning Comm. After 1 year, or Circuit Court
Planned unit development	Applicant or Administrator	Planning Commission	Yes	Once, Between 5-15 days before date	Once, between 5-15 days before date	Planning Comm. After 1 year, or Circuit Court

<i>Type of Action</i>	<i>Parties Who May Initiate Action</i>	<i>Body Making Decision</i>	<i>Public Hearing Required?</i>	<i>Published Notice(s); Number of Days Before Hearing</i>	<i>Notice to All Owners and Occupants Within 300 Feet</i>	<i>Body to Which Applicant May Appeal a Denial</i>
Rezoning	Applicant, Planning Commission or City Commission	Planning Commission recommends to City Commission	Yes	Once, not less than 15 days before date	Once, not less than 15 days before date	Planning Commission after 1 year
			If requested by any party	Once, between 5-15 days before date	Not required	Circuit Court
Zoning ordinance or zoning map text change	Applicant, Planning Commission or City Commission	Planning Commission recommends to City Commission	Yes	Once, not less than 15 days before date	Once, not less than 15 days before date	Planning Commission after 1 year
			If requested by any party	Once, not less than 15 days before date	Not required	Circuit Court
Development plan or map change	Applicant, Planning Commission or City Commission	Planning Commission recommends to City Commission	Yes	Once, not less than 15 days before date	Not required	Planning Commission after 1 year or Circuit Court
Fee waiver	Applicant	City Commission	No	Not required	Not required	Circuit Court

(Ord. passed 7-16-18)

(IX)ZONING BOARD OF APPEALS

§ 154.165 GENERALLY.

(A) *Establishment.*

The City Commission, exercising the authority of M.C.L.A. §§ 125.3101 through 125.3702 and M.C.L.A. §§ 125.3801 through 125.3885, as amended, hereby provides that a City Zoning Board of Appeals be established. Upon adoption of this chapter, the Zoning Board of Appeals established under the terms of the previous zoning ordinance shall remain in office, including all members thereof.

(B) *Membership.*

The City Zoning Board of Appeals shall consist of five members. The first member of the Board of Appeals shall be a member of the City Planning Commission; two members shall be property owners within the city. An elected officer of the city may not serve as Chairperson of the Zoning Board of Appeals. An employee or contractor of the City Commission may not serve as a member or employee of the Zoning Board of Appeals. The City Commission shall have the power to remove members of the Board of Appeals for nonperformance of duty or misconduct in office upon written charges and after a public hearing.

(C) *Terms of office.*

Terms of Zoning Board of Appeals members shall be for three years, except for members serving because of their membership on the Planning Commission or City Commission, whose terms shall be limited to the time they are members of said bodies and the period stated in the resolution appointing them. A successor shall be appointed not more than one month after the term for the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term. Rotation of membership is encouraged.

(D) *Rules of procedure.*

The Board of Appeals may adopt its own rules of procedure as may be necessary to conduct its meetings and carry out its function. The Board shall choose its Chairperson, and in the Chairperson's absence, an acting Chair may be appointed.

(E) *Meetings.*

Meetings shall be held at the call of the Chairperson and at such times as the Board of Appeals may determine. A simple majority of the membership of the Board of Appeals shall constitute a quorum and may conduct any items of business brought before the Board. All meetings of the Board shall be open to the public. The Board may declare any meeting, or part of any meeting, a study meeting to pursue matters of business with out comment or interruption from the public in attendance.

(F) *Records.*

Minutes shall be recorded of all proceedings that shall contain evidence and dates relevant to every case considered together with the votes of the members and the final disposition of each case. Such minutes shall be filed in the office of the City Clerk and shall be public records.

(G) *Decisions.*

The Zoning Board of Appeals shall return a decision upon each case within 30 days of the filing of a request or appeal unless a further time is agreed upon by the parties concerned. Any decision of the Zoning Board of Appeals shall not take effect until the expiration of five days after the date of said decision, unless the Board of Appeals certifies on the record that the decision must be given immediate effect for the preservation of property or personal rights.

(H) *Majority vote.*

The concurring vote of a majority of the membership of the Zoning Board of Appeals shall be necessary to decide upon any issue brought before the Board. For example, if three members are present, out of a total of five members, all three must concur to pass a motion.

(I) *Conflict of interest.*

A member of the Zoning Board of Appeals shall disqualify himself or herself from discussion and voting in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest shall constitute misconduct in office.

(J) *Duties.*

The City Zoning Board of Appeals shall have the power to act on those matters where this chapter provides for an administrative review, interpretation or variance as defined in this section. The Board of Appeals shall not have the power to alter or change the zoning district classification of any property, or to make any change in the terms or intent of this chapter.

- (1) *Administrative review.* The Board of Appeals shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or by any other official administering or enforcing provisions of this chapter.
- (2) *Interpretation.* The Board of Appeals shall have the power to interpret, upon request, the provisions of this chapter in such a way as to carry out the intent and purpose of this chapter.
- (3) *Variances.* The Board of Appeals shall have the power to authorize variances from any quantifiable requirements of this chapter where practical difficulties or unnecessary hardships prevent carrying out the strict letter of this chapter. Creation of nonconforming lots is prohibited.

(Ord. passed 7-16-18)

§ 154.166 ADMINISTRATIVE ACTIONS BY THE ZONING BOARD OF APPEALS.

(A) *Duties of the Board of Appeals.*

The Board of Appeals may only hear requests for a variance, administrative review or interpretation of this chapter or zoning map. Circumstances resulting from an act of the applicant, after adoption of this chapter, shall not be allowed to be heard by the Board of Appeals.

- (1) *Variance.* The Zoning Board of Appeals is empowered to grant variances to such requirements as lot area and width regulations, yard and depth regulations, and off-street parking and loading space requirements. Any requirement of this chapter that can be expressed in terms of numbers may be brought before the Zoning Board of Appeals to be considered for a variance.
- (2) *Administrative review.* The Zoning Board of Appeals is empowered to review and reverse or modify any order, decision or determination made by an administrative official charged with enforcing or administering this chapter. The Board is not empowered to overturn decisions of the Planning Commission regarding special use permits, including such permits for planned unit developments. The Board may not overturn the denial of a site plan in connection with any special use permit proceedings.
 - (a) *Requests for administrative review.* An Administrative Review by the Zoning Board of Appeals may be requested by any person aggrieved, or by any officer, department, or board of the local government. Any such request must be made in writing not more than twenty-one (21) days after the date of the Zoning Administrator's decision. The request shall be filed with the Zoning Administrator and shall specify the grounds for the review. The Zoning Administrator shall immediately transmit to the Chairperson of the Board of Appeals any papers constituting the record upon which the action being reviewed was taken
 - (b) *Stay.* An administrative review shall stay all proceedings in furtherance of the action being reviewed, except as follows. If the Zoning Administrator certifies in writing to the Zoning Board of Appeals, after a request for an administrative review has been filed, that a stay would cause imminent peril to life or property, the proceedings shall not be stayed unless a restraining order is issued by the Zoning Board of Appeals or by court action.
 - (c) *Standards for review.* In exercising the authority for administrative review, the ZBA shall reverse an administrative decision only based on one of the following criteria:
 1. The action or decision was arbitrary or capricious, or
 2. The action or decision was based on an erroneous finding of a material fact, or
 3. The action or decision constituted an abuse of discretion, or
 4. The action or decision was based on erroneous interpretation of the zoning ordinance or zoning law.
- (3) *Interpretation.*
 - (a) The Zoning Board of Appeals may interpret provisions of this chapter as outlined below.

- (b) Each such interpretation shall establish the precedent for future treatment of the issue being addressed.
- (c) To achieve the objective of consistent enforcement of this chapter, whenever an interpretation question arises that has been addressed previously by the Zoning Board of Appeals, the earlier interpretation shall apply without requiring further action by the Board. Interpretation issues do not include dimensional variance issues.
- (d) The Zoning Administrator shall keep a concise record of all interpretations made by the Zoning Board of Appeals to facilitate such reference.
 - 1. The Board may determine the precise location of the boundary lines between Zoning Districts using the standards contained in § 154.027.
 - 2. The Board may classify any activity that is not specifically mentioned in the Uses Table in § 154.030 for any Zoning District as a Use by Right or Special Use within at least one Zoning District, provided that said classification shall be consistent with the classification of similar uses and with the purpose and intent of each Zoning District.
 - 3. The Board may determine the off-street parking and loading space requirements of any use for which these requirements are not determinable using the information provided in the parking Chapter (IV) including the standard for interpretation in Section 606.A.
 - 4. The Board may interpret any portion of this Ordinance when the Zoning Administrator is unable to clearly determine its intent or effect using the standards in § 154.003 of this ordinance.

(B) *Conditions for granting a variance.*

A variance may be granted when any one of the following special conditions can be demonstrated clearly:

- (1) There are practical difficulties or unnecessary hardships that prevent carrying out the strict letter of this chapter. These hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land;
- (2) There are exceptional circumstances or physical conditions such as narrowness, shallowness, shape or topography of property involved; or, due to the intended use of the property, that will not apply to other property or uses in the same zoning district. Circumstances resulting from an act of the applicant, after the adoption of this chapter, shall not be allowed a variance; or
- (3) Variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.

(C) *Fees.*

A fee as established by the City Commission shall be paid to the City Treasurer at the time of filing application with the Board of Appeals. The purpose of such fee is to cover, in part, the necessary advertisements, investigations and other expenses incurred by the Board of Appeals in connection with the appeal.

(D) *Rules for Zoning Board of Appeals actions.*

- (1) A public hearing must be held by the Zoning Board of Appeals prior to making a decision on a variance, an administrative review or interpretation that relates to a specific parcel; mailed notice shall be given not less than five days nor more than 15 days before the date of the meeting at which the action will be considered. The contents and distribution of said notice shall be as specified by this chapter.
- (2) Any decision by the Zoning Board of Appeals must not be contrary to the public interest or to the intent and purpose of this chapter.
- (3) In no way may a variance, site plan approval or finding of an administrative review be construed to allow the establishment within a zoning district of any use that is not permitted by right or by special use permit within that zoning district. The Zoning Board of Appeals may only expand the list of permitted uses for any zoning district as a result of an interpretation regarding a use that is not listed anywhere in the Uses Table in § 154.030.
- (4) Prior to any decision by the Board of Appeals, the Planning Commission may comment on the issue before the Board and provide a written recommendation of action.
- (5) In making any decision, the Zoning Board of Appeals must endeavor to avoid causing a substantial adverse effect upon property values in the immediate vicinity of the subject property. Nor shall such actions have the effect of substantially impacting property values for land in the zoning district in which the subject property is located.
- (6) Any action brought before the Zoning Board of Appeals may relate only to a single parcel that must be under control of the applicant. If the applicant is not the owner of the property, evidence must be provided that the owner concurs with the request for Zoning Board of Appeals action.
- (7) Approval by the Zoning Board of Appeals of any request may not be granted simply to prevent an economic loss. Improving an owner's chance to profit from sale of a parcel is not an objective of this chapter.
- (8) Any request that has been denied wholly or in part by the Zoning Board of Appeals may not be resubmitted for a period of one year from the date of the last denial; however, if new evidence or changed conditions are found, the Board may elect to rehear a case, subject to all notice requirements defined by the Actions Table.
- (9) The Board of Appeals may attach any reasonable conditions to the approval of any request to secure the objectives and purposes of this chapter. The breach of any such condition shall automatically invalidate any permits granted pursuant to the Zoning Board of Appeals action. When it attaches any conditions to the approval of a request, the Board of Appeals may require that a bond of ample sum be furnished to ensure compliance with the conditions imposed. Said bond shall not exceed \$5,000.
- (10) A variance must be necessary to overcome practical difficulties or unnecessary hardships that prevent carrying out the strict letter of this chapter. These hardships or difficulties are to be evaluated in terms of the applicant's ability to physically locate a permitted use on the particular parcel of land. Creation of a nonconforming lot is prohibited.

- (11) When a variance is being considered to overcome unique circumstances or physical conditions regarding the configuration of the property involved, these circumstances or conditions must not have resulted from any act of the applicant or property owner subsequent to the adoption of this chapter.
- (12) A variance granted under the provisions of this chapter becomes a condition of any permit granted pursuant to the variance or approval. If a building permit issued pursuant to such action is allowed to expire under the provisions of this chapter, any rights granted by the action expire together with the building permit.
- (13) The minutes of the Zoning Board of Appeals meeting at which any decision was made regarding a variance, administrative review or interpretation shall include the grounds used by the Board in making said decision, and any conditions that may have been attached to authorization for issuance of a building permit.
- (14) If the specific conditions relating to a certain class of property are so general or recurrent in nature as to make similar variances a perennial issue for the Board of Appeals, the Board shall suggest a general regulation for such conditions for the Planning Commission's consideration.
- Distribution:
- (a) *Published.* Notice shall be given by one publication in a newspaper of general circulation in the community, printed not less than 15 days before the date of such hearing.
 - (b) *Certified mail.* Not less than 20 days' notice shall also be given by certified mail to each public utility company servicing the community, at the mailing address identified by each company for the purpose of receiving such notice, if they request notification.
 - (c) *Other mailed notice.* In any instance involving the rezoning of one or more parcels, or when the owner or other party having an interest in any parcel has requested a text change, notice of the proposed amendment shall be mailed to the owner of the property in question and to all persons residing, doing business or owning property within 300 feet of the premises in question. These persons shall be identified as specified by § 154.154.
 - (d) *Affidavit of mailing.* An affidavit of mailing, identifying all parties to whom notice has been sent, shall be prepared and filed with other material relating to the proposed amendment prior to the Planning Commission meeting at which the hearing is to be conducted.
 - (e) *County Planning Commission.* Following the conclusion of the public hearing and review by the City Planning Commission, the proposed amendment and any applicable zoning district map may be submitted to the County Planning Commission for its review. The approval of the County Planning Commission shall be presumed, conclusively, unless such Commission notifies the City Commission of its approval or disapproval within 30 days of its receipt of the amendment.
 - (f) *Amendment to conform to court decree.* An amendment for the purpose of conforming a provision of this chapter to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the City Commission and the notice of the adopted amendment published without referring the amendment to any other board or agency provided for in this chapter.

- (g) *City Commission change.* If the City Commission deems advisable any changes to the amendment recommended by the Planning Commission, it shall refer these changes back to the Planning Commission for a report thereon within 30 days. The City Commission may deny or adopt the amendment with or without changes, by a majority vote of its membership, following the Commission's standard procedures for adoption of ordinances.
- (h) *Resubmittal.* No application for a rezoning that has been denied by the City Commission shall be resubmitted for a period of one year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions which, upon inspection by the City Commission, are found to be valid.

(Ord. passed 7-16-18)

(X) WIND ENERGY CONVERSION SYSTEMS

§ 154.180 PURPOSE.

The regulation of wind energy conversion systems is intended to provide for an alternative source of power generation while protecting the health, safety or welfare of residents. This subchapter addresses issues such as height, construction, minimum distances from lot lines and noise generated. As shown below, there is a distinction between on-site wind energy systems vs. utility grid wind energy systems.

(Ord. 190, passed 6-7-2010)

§ 154.181 SCOPE OF REGULATIONS.

Wind energy conversion systems may be erected, relocated, enlarged, structurally changed or altered in accordance with the provisions of this subchapter.

(Ord. 190, passed 6-7-2010)

§ 154.182 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words and phrases not defined by these definitions but defined in § 154.005 shall be given the meanings set forth in § 154.005.

AMBIENT. The sound pressure level exceeded 90% of the time or L90.

ANEMOMETER TOWER. A freestanding tower containing instrumentation such as anemometers that is designed to provide present moment wind data.

APPLICANT. The person or entity filing an application under this subchapter.

dB(A). The sound pressure level in decibels. It refers to the "a" weighted scale defined by ANSI. A method for weighting the frequency spectrum to mimic the human ear.

DECIBEL. The unit of measure used to express the magnitude of sound pressure and sound intensity.

FAA. Federal Aviation Administration.

HEIGHT FOR WIND GENERATORS. The height of the wind energy conversion system measured from grade to the tip of the rotor blade or assembly at its highest point or blade tip height.

IEC. International Electrotechnical Commission: the leading global organization that prepares and publishes international standards for all electrical, electronic and related technologies.

ON-SITE USE WIND ENERGY SYSTEM. A land use for generating electric power from wind and is an accessory use that is intended to primarily serve the needs of the consumer at that site.

PEDESTAL. A structure no taller than 12 feet that is designed and constructed primarily for the purpose of supporting one wind turbine.

ROOF MOUNTED. Any part of a wind energy conversion system that is located on the roof of a building, fire or parapet walls, stage lofts, chimneys, smokestacks, water tower or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain a building.

ROTOR. An element of a wind energy system that acts as a multi-bladed airfoil assembly, thereby extracting, through rotation, kinetic energy directly from the wind.

SHADOW FLICKER. Alternating changes in light intensity caused by the moving blade of a wind energy system casting shadows on the ground and stationary objects, such as, but not limited to, a window at a dwelling.

SYSTEM OWNER. The entity or entities having controlling or majority equity interest in the wind energy conversion system, including their respective successors and assignees.

TOWER. Any structure, including its supports, that is ground mounted, taller than 12 feet, and designed and constructed primarily for the purpose of supporting one or more wind energy conversion systems. This includes self supporting lattice towers, guyed lattice towers or monopole towers.

UTILITY GRID WIND ENERGY SYSTEM. A land use for generating power by use of wind at multiple tower locations in a community and includes accessory uses such as but not limited to a SCADA tower, electric substation. A **UTILITY GRID WIND ENERGY SYSTEM** is designed and built to provide electricity to the electric utility grid.

WIND ENERGY SYSTEM. A land use for generating power by use of wind; utilizing use of a wind turbine generator and includes the turbine, blades and tower as well as related electrical equipment. This does not include wiring to connect the wind energy system to the grid. See also **ON-SITE USE WIND ENERGY SYSTEM** and **UTILITY GRID WIND ENERGY SYSTEM**.

(Ord. 190, passed 6-7-2010)

§ 154.183 ON-SITE WIND ENERGY DEVELOPMENT STANDARDS.

All on-site wind energy conversion systems and supporting anemometer towers, if under 60 feet in height, shall conform to the following standard.

(A) Purpose.

Designed to primarily serve the needs of a home, farm or small business.

(B) Height.

Shall have a height of 60 feet or less. Applicants may request special use approval from the Planning Commission to waive height restrictions for towers located at school, institutional or governmental properties.

(C) Property setback.

- (1) The distance between an on-site use wind energy system and the owner's property lines shall be equal to 110% of the height of the wind energy system including the top of the blade in its vertical position.
- (2) If a system is installed on a roof, the setback shall be calculated based on the total system height above the roof, not including the structure below the point it is mounted on the roof.
- (3) The distance between an anemometer tower and the owner's property lines shall be equal to the height of the tower. No part of the wind energy system structure, including guy wire anchors, may extend closer than ten feet to the owner's property lines, or the distance of the required setback in the respective zoning district, whichever results in the greater setback. Wind energy conversion systems shall not be located between the front lot line and the front wall of a dwelling.

Figure 1: Ground systems

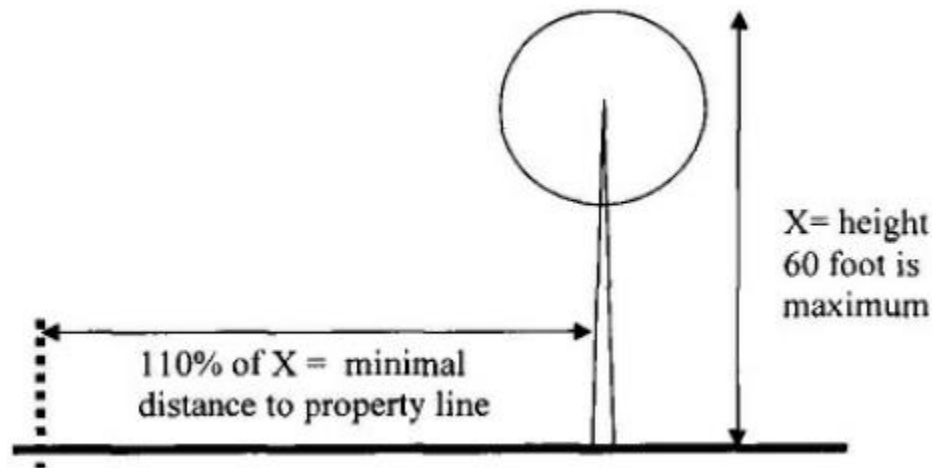
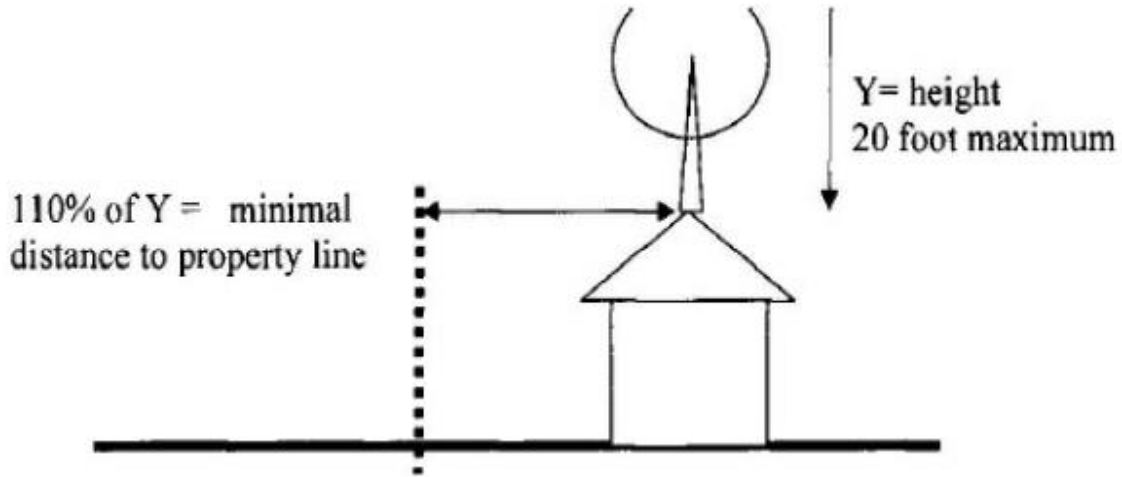


Figure 2: Roof Mounted



(D) Sound pressure level.

On-site use wind energy systems shall not exceed 55 dB(A) at the property line closest to the wind energy system. This sound pressure level may be exceeded during short-term events such as utility outages and/or severe wind storms. If the ambient sound pressure level exceeds 55 dB(A), the standard shall be ambient dB(A) plus 5 dB(A).

(E) Construction codes and towers.

On-Site Use wind energy systems including towers shall comply with all applicable state construction and electrical codes and local building permit requirements. On-site use wind energy systems including towers shall comply with Federal Aviation Administration (FAA) requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, M.C.L.A. §§ 259.431 et seq.), the Michigan Tall Structures Act (Public Act 259 of 1959, M.C.L.A. §§ 259.481 et seq.), and local jurisdiction airport overlay zone regulations.

(F) Interconnection standards.

An interconnected on-site use wind energy system shall comply with the State Public Service Commission and Federal Energy Regulatory Commission standards. Off-grid systems are exempt from this requirement.

(G) Braking.

An on-site use wind energy system shall have automatic braking, governing or a feathering system to prevent uncontrolled rotation or over speeding.

(H) Lightning protection.

All wind towers shall have lightning protection.

(I) *Guy wires.*

If a tower is supported by guy wires, the wires shall be clearly visible to a height of at least six feet above the guy wire anchors.

(J) *Blade to ground clearance.*

The minimum vertical blade tip clearance from grade shall be 20 feet for a wind energy system employing a horizontal axis rotor.

(K) *Engineering approval.*

Engineering considerations in this subchapter shall involve the approval of a certified engineer. That shall include, but not be limited to: FAA compliance; airport zoning; tall structures; public service commission; federal energy regulations; braking; and lightning protection. The structural integrity shall conform to the design standards of the International Electrical Commission, specifically:

- (1) IEC 61400- 1 Wind Turbine Safety and Design; and/or
- (2) IEC 61400- 2 Small Wind Turbine Safety;
- (3) IEC 61400-22 Wind Turbine Certification; and
- (4) IEC 61400-23 Blade Structure Testing or any similar successor standards.

(L) *Illumination.*

Wind energy conversion systems may not be artificially lighted unless otherwise required by the FAA or approved authority or authorized by the Planning Commission.

(M) *Access.*

- (1) *Ground access.* Towers that are not roof-mounted shall be enclosed with a six-foot tall fence or the base of the tower or pedestal shall not be climbable for a distance of 12 feet.
- (2) *Roof access.* When roof mounted wind energy conversion systems are meant to be accessed by the public, the Planning Commission or City Manager may require additional guards or warnings to ensure safety.

(N) *Unsafe or inoperative systems.*

- (1) Any wind energy conversion systems found to be unsafe by a City Building Official shall be repaired by the system owner to meet all code requirements or be removed as directed by the city.
- (2) If any wind energy conversion systems are not used for a period of 12 months, the system owner will be notified by certified mail to set forth reasons for the operational difficulty and provide a reasonable timetable for corrective action. If one is not provided to the satisfaction of the city, the landowner shall remove the wind energy conversion system(s) with 60 days of receipt of a certified mail notice to remove.

(O) *Signal interference.*

Wind energy conversion systems shall not interfere with communication systems such as, but not limited to, radio, telephone, television, satellite or emergency communication.

(P) *Number.*

Wind energy conversion systems in residential areas may consist of one to five wind turbines, tower or pedestals and their associated control or conversion electronics.

(Ord. 190, passed 6-7-2010)

§ 154.199 PENALTY.

- (1) Every person, whether as principal agent, servant, employee or otherwise, including the owners of any building, structure or premise or part thereof where any violation of this chapter shall exist or shall be created, who shall violate or refuse to comply with any of the provisions of this chapter, shall be guilty of maintaining a nuisance per se and upon conviction thereof shall be punished by a fine of not less than \$100, and not more than \$500 by imprisonment for a term not to exceed 90 days, or by both such fine and imprisonment, within the discretion of the court.
- (2) For each and every day the violation continues beyond the correction, a separate offense shall be declared.
- (3) Additionally, the proper court shall have power and authority to issue an injunctive order in connection with any violation of the provisions of this chapter.

(Ord. passed 7-16-18)